AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

318-814
16-Vols
G.S.P.

12-21-79
Vol. 44—No. 247
BOOK 1:
PAGES
75615-76020
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federal register

Book 1 of 2 Books
Friday, December 21, 1979

NOTE:

Due to a shortage of newsprint, today's **Federal Register** is printed on a higher quality paper. As supplies become available, the **Federal Register** will resume the use of newsprint.

Highlights

75740 **Crime and Drug Abuse** Justice/LEAA announces competitive research grants program

75727 **Energy Allowance Program** HEW/SSA will have $1.2 billion for distribution to aid low income persons during the winter heating season; effective 12–21–79

75720 **National Long-Term Care Program** HEW/Sec'y intends to make available approximately $18 to $20 million for fiscal year 1980 to develop, fund and evaluate channeling demonstration projects

75723, 75724 **Follow Through Program** HEW/OE invites applicants to participate in technical assistance and noncompeting continuation project awards; apply by 2–29–80 (2 documents)

75689 **Technical and Supervisory Assistance Program** USDA/FmHA list specific policies for use of fiscal year 1980 grants and sets preapplication deadline to 2–15–80

75648 **National School Lunch** USDA/FNS proposes to eliminate certain restrictions on the use of program funds by participating schools; comments by 2–19–80

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

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Area Code 202–523–5240

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75645 **Energy Crisis Assistance** CSA issues an amendment to implement the fiscal year 1980 supplemental appropriation for emergency fuel assistance; effective 12–21–79

75956 **Residential Conservation Service** DOE/Solar proposes rules to encourage the installation of energy saving measures and renewable resource measures; comments by 2–19–80; hearing 1–21–80 (Part VI of this issue)

75689 **Nutrition Programs for the Elderly** USDA/FNS issues a notice stating an increase of 43.00 cents per meal

75659 **Nitrates in Bacon** HEW/FDA proposes exception from the color additive definition; comments by 2–19–80

75687 **Magnetic Tapes** Administrative Committee of the Federal Register issues notice announcing sales of the **Federal Register** and annual Code of Federal Regulations

76024 **Housing Assistance Payments Programs** HUD/FHC proposes to amend fair market rents for all market areas; comments by 2–19–80 (Part VIII of this issue)

76176 **Mobile Homes** HUD/NVACP proposes to amend its rules to set out more detailed regulations to govern investigations and adjudicative proceedings; comments by 1–21–80 (Part IX of this issue)

75621 **Banking** FRS adopts final rule regarding maximum rates of interest payable; effective 1–1–80

75625 **Savings Accounts; Revised Rates** FHLBB publishes rule which will provide additional returns to savers; effective 1–1–80

75673 **Medicaid Investigation Program** HEW/HCFA proposes to establish uniform procedures to verify services billed; comments by 2–19–80

75769 **Sunshine Act Meetings**

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75914 **Part III, MSPB**
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75952 **Part V, Labor/MSHA and ESA**
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Rules and Regulations

Federal Register
Vol. 44, No. 247
Friday, December 21, 1979

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 212, 213, 214, and 317

Competitive Service and Competitive Status; Excepted Service; Senior Executive Service; Appointment, Reassignment, Transfer and Development in the Senior Executive Service

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: These interim regulations (1) exclude the Senior Executive Service from the definitions of the competitive and excepted services, (2) define the Senior Executive Service and establish the criteria for designating career reserved positions and (3) prescribe conditions on the use of limited emergency and limited term appointments in the Senior Executive Service, which was established under the Civil Service Reform Act of 1978.

DATES: Effective Date: December 21, 1979 and until final regulations are issued. Comment Date: Written comments will be considered if received no later than February 19, 1980.

ADDRESS: Send written comments to the Associate Director, Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: John W. Vincent, (202) 632-6820.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

A new Part 214 was added to Title 5, Code of Federal Regulations, on June 29, 1979, (44 FR 37888) to recognize the establishment of the Senior Executive Service by title IV of the Civil Service Reform Act of 1978. At that time, all sections except one were reserved. These new regulations set out those sections. They also exclude the Senior Executive Service from the definitions of the competitive and excepted service in Parts 212 and 213.

In Part 214:

—Subpart A incorporates the statutory requirements defining the Senior Executive Service.
—Subpart B defines the terms used in the Part. It also sets out the authority of each agency to determine which of its positions meet the definition for coverage in the Senior Executive Service and the authority of the Office of Personnel Management to review agency designations and make a final determination as to coverage.
—Subpart C sets out the procedures by which an agency can request exclusion of the entire agency, or units thereof, from the Senior Executive Service.
—Subpart D notes that the only types of positions in the Senior Executive Service are general and career reserved positions. It lists the two categories of positions that must be career reserved: (1) certain former Executive Schedule positions and (2) positions that must be filled by a career appointee to ensure impartiality, or the public's confidence in the impartiality of the Government. It then sets out the criteria for determining whether a position falls in category (2). It notes that the head of the agency is responsible for designating career reserved positions in accordance with the criteria. It sets out the authority of the Office of Personnel Management to direct an agency to change a general position to career reserved. It also requires that an agency obtain prior approval of the Office of Personnel Management to change the designation of an established career reserved position to general or an established general position to career reserved. Among other things, this requirement assures that agencies do not improperly switch career reserved positions to general in order to make noncareer appointments. Finally, the part gives the Office of Personnel Management the authority to establish a minimum number of career reserved positions for individual agencies so that it can assure the Government-wide floor on such positions prescribed by 5 U.S.C. 3133(e) is met.

In Part 317, the conditions are described under which an agency may make a limited term or limited emergency appointment. Particular points to note are the following:

—5 U.S.C. 3394(b) requires the Office of Personnel Management approval before an agency may use a limited appointment authority. The regulations allow the Office to sign an agreement with an agency which may want to make limited appointments under specified circumstances (e.g., two-year rotating assignments to bring in persons from universities to a scientific organizationa within the agency) without having to get Office approval for each appointment.
—5 U.S.C. 3132(a) (5) and (6) state that limited term and limited emergency appointments are "nonrenewable." The regulations interpret this provision to mean that an appointee may not get a new appointment to his/her current position that would extend the appointment beyond the maximum limit authorized by the Office of Personnel Management, but that an appointment made for less than the maximum period may be extended to the maximum without Office approval.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

PART 212—COMPETITIVE SERVICE AND COMPETITIVE STATUS

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

(1) Section 212.101(a)(1) is revised to read as follows:

§ 212.101 Definitions.

(a) * * *

(1) All civilian positions in the executive branch of the Federal Government not specifically excepted from the civil service laws by or pursuant to statute, by the President, or by the Office of Personnel Management, and not in the Senior Executive Service; and

* * * * *

(5 U.S.C. 2102)

PART 213—EXCEPTED SERVICE

(2) Section 213.101(a) is revised to read as follows:

§ 213.101 Definitions.

In this chapter:

(a) Excepted service has the meaning given that term by section 2103 of title 5, United States Code, and includes all positions in the executive branch of the Federal Government which are specifically excepted from the

competitive service by or pursuant to statute, by the President, or by the Office of Personnel Management, and which are not in the Senior Executive Service.

* * * * *

(5 U.S.C. 2103)

(3) Part 214 is being revised to read as follows:

PART 214—SENIOR EXECUTIVE SERVICE

Subpart A—Principal Statutory Requirements

214.101 Principal statutory requirements.

Subpart B—General Provisions

214.201 Definitions.

Subpart C—Exclusions

214.301 Exclusions.

Subpart D—Types of Positions

214.401 Types of positions.
214.402 Career reserved positions.
214.403 Change of position type.

Authority: 5 U.S.C. 3132.

Subpart A—Principal Statutory Requirements

§ 214.101 Principal statutory requirements.

This subpart incorporates the statutory requirements defining the Senior Executive Service.

5 U.S.C. 2101a states:

"The 'Senior Executive Service' consists of Senior Executive Service positions (as defined in section 3132(a)(2) of this title)."

5 U.S.C. 3132(a) states:

(1) "agency" means an Executive agency, except a Government corporation and the General Accounting Office, but does not include—

(A) any agency or unit thereof excluded from coverage by the President under subsection (c) of this section; or

(B) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, as determined by the President, an Executive agency, or unit thereof, whose principal function is the conduct of foreign intelligence or counterintelligence activities;

(2) "Senior Executive Service position" means any position in an agency which is in GS–16, 17, or 18 of the General Schedule or in level IV or V of the Executive Schedule, or an equivalent position, which is not required to be filled by an appointment by the President by and with the advice and consent of the Senate, and in which an employee—

(A) directs the work of an organization unit;

(B) is held accountable for the success of one or more specific programs or projects;

(C) monitors progress toward organizational goals and periodically evaluates and makes appropriate adjustments to such goals;

(D) supervises the work of employees other than personal assistants; or

(E) otherwise exercises important policy-making, policy-determining, or other executive functions; but does not include—

(i) any position in the Foreign Service of the United States;

(ii) an administrative law judge position under section 3105 of this title; or

(iii) any position in the Drug Enforcement Administration which is excluded from the competitive service under section 201 of the Crime Control Act of 1976 (5 U.S.C. 5106 note; 90 Stat. 2425).

Subpart B—General Provisions

§ 214.201 Definitions.

In this chapter:

"Agency" has the meaning given that term by section 3132(a)(1) of title 5, United States Code, as set out in § 214.101.

"Equivalent position" as used in section 3132(a)(2) of title 5, United States Code, means a position under any pay system where the level of the duties and responsibilities of the position and the rate of pay are comparable to that of a position at GS–16, –17, or –18, or at Executive Level IV or V.

"Senior Executive Service" has the meaning given that term by section 2101a of title 5, United States Code, and includes all positions which meet the definition in section 3132(a)(2) of title 5, as set out in § 214.101.

§ 214.202 Authority to make determinations.

(a) Each agency is responsible for determining, in accordance with Office of Personnel Management guidelines, which of its positions should be included in the Senior Executive Service.

(b) Agency determinations may be reviewed by the Office of Personnel Management, which has the authority to make final determinations.

Subpart C—Exclusions

§ 214.301 Exclusions.

If not excluded from the Senior Executive Service by section 3132(a) (1) or (2) of title 5, United States Code, an agency, or unit thereof, may be excluded only under the provisions of section 3132 (c) through (f) of title 5.

Subpart D—Types of Positions

§ 214.401 Types of positions.

There are two types of positions in the Senior Executive Service:

(a) General positions, which may be filled by a career, noncareer, limited emergency, or limited term appointee.

(b) Career reserved positions, which may be filled only by a career appointee.

§ 214.402 Career reserved positions.

(a) The head of each agency is responsible for designating career reserved positions in accordance with the regulations in this section.

(b) A position shall be designated as a career reserved position if:

(1) The position (except a position in the Executive Office of the President):

(i) Was under the Executive Schedule, or the rate of basic pay was determined by reference to the Executive Schedule, on October 12, 1978;

(ii) Was specifically required under section 2102 of title 5, United States Code, or otherwise required by law to be in the competitive service; and

(iii) Entailed direct responsibility to the public for the management or operation of particular government programs or functions; or

(2) The position must be filled by a career appointee to ensure impartiality, or the public's confidence in the impartiality, of the Government.

(c) The head of an agency shall use the following criteria in determining whether paragraph (b)(2) of this section is applicable to an individual position:

(1) Career reserved positions include positions the principal duties of which involve day-to-day operations, without responsibility for or substantial involvement in the determination or public advocacy of the major controversial policies of the Administration or agency, in the following occupational disciplines:

(i) Adjudication and appeals;

(ii) Audit and inspection;

(iii) Civil or criminal law enforcement and compliance;

(iv) Contract administration and procurement;

(v) Grants administration;

(vi) Investigation and security matters; and

(vii) Tax liability, including the assessment or collection of taxes and the preparation or review of interpretative opinions.

(2) Career reserved positions also include:

(i) Scientific or other highly technical or professional positions where the duties and responsibilities of the specific position are such that it must be filled by a career appointee to insure impartiality, or the public's confidence in impartiality, of the Government.

(ii) Other positions requiring impartiality, or the public's confidence in impartiality, as determined by an agency in light of its mission.

(d) The Office of Personnel Management may review agency designations of general and career reserved positions. If the Office finds that an agency has designated any

position as general that should be career reserved, it shall direct the agency to make the career reserved designation.

(e) The minimum number of positions in the Senior Executive Service Governmentwide that must be career reserved is 3,571 as determined by the Director of the Office of Personnel Management under section 3133(e) of 5 U.S.C. To assure that this figure is met, the Office may establish a minimum number of career reserved positions for individual agencies. An agency must maintain or exceed this number unless it is adjusted by the Office.

§ 214.403 Change of position type.

An agency may not change the designation of an established position from career reserved to general, or from general to career reserved, without the prior approval of the Office of Personnel Management.

PART 317—APPOINTMENT, REASSIGNMENT, TRANSFER AND DEVELOPMENT IN THE SENIOR EXECUTIVE SERVICE

(4) Part 317 is amended by reserving Subparts C, D, and E, and by adding Subpart F, to read as follows:

Subpart F—Limited Emergency and Limited Term Appointments

Sec.

317.601 Authorization and duration
317.602 Conditions of appointment
317.603 Selection of limited appointees
317.604 Reassignment of limited appointees
317.605 Tenure of appointees

Authority: 5 U.S.C. 1302, Pub. L. 95–454

Subpart F—Limited Emergency and Limited Term Appointments

§ 317.601 Authorization and duration.

(a) An agency may make a limited appointment only with the specific authorization of the Office of Personnel Management for use of the appointing authority.

(b) Each use of a limited appointment authority must be approved individually by the Office unless the agency has an agreement with the Office authorizing the agency to make limited appointments on its own under specified circumstances.

(c) The Office may authorize an agency to make a limited emergency appointment not to exceed 18 months to a position established to meet a bona fide, unanticipated, urgent need.

(d) The Office may authorize an agency to make a limited term appointment not to exceed 3 years to a position the duties of which will expire at the end of the period.

§ 317.602 Conditions of appointment.

(a) A limited appointment may be made only to a general position.

(b) A limited appointment is not renewable. If an agency initially made the appointment for less than the maximum period authorized by the Office of Personnel Management, however, the agency may extend the appointment to the maximum period without the approval of the Office. The Office must be notified of the extension.

(c) A limited term or limited emergency appointee may not be appointed to, or continue to hold, a position under such an appointment if, within the preceding 48 months, the individual has served more than 36 months, in the aggregate, under any combination of limited term and limited emergency appointments.

§ 317.603 Selection of limited appointees.

An agency may make a limited appointment without the use of merit staffing procedures. The appointee, however, must meet the qualifications requirements for the position, as determined in writing by the appointing authority.

§ 317.604 Reassignment of limited appointees.

An agency may make the following reassignments of limited appointees to positions for which qualified without the prior approval of the Office of Personnel Management. The Office must be notified of the reassignment, however.

(a) An agency may reassign a limited emergency appointee to another general position established to meet a bona fide, unanticipated, urgent need, except that the appointee may not serve in one or more positions in the agency under such appointment in excess of 18 months.

(b) An agency may reassign a limited term appointee to another general position the duties of which will expire at the end of 3 years or less except that the appointee may not serve in one or more positions in the agency under such appointment in excess of 3 years.

§ 317.605 Tenure of appointees.

(a) A limited appointee does not acquire status within the Senior Executive Service on the basis of the limited appointment.

(b) An agency may terminate a limited appointment at any time.

(c) The employment of a limited appointee ends automatically on the expiration of the appointment if the appointment has not been terminated earlier.

(d) An employee who, without a break in service, received a limited appointment from a permanent civil service position held under a career or career conditional appointment (or an appointment of equivalent tenure) outside the Senior Executive Service and whose limited appointment is terminated for reasons other than misconduct, neglect of duty, or malfeasance shall be entitled to be placed in his/her former position or a position of like status, tenure, and grade.

(5 U.S.C. 1302, Pub. L. 95–454)

[FR Doc. 79-39107 Filed 12-20-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

Food Stamp Act of 1977; Implementation Schedule and Certification Requirements; Corrections

AGENCY: Food and Nutrition Service, USDA.

ACTION: Food Stamp Program—Corrections.

SUMMARY: In 44 FR 45880 (August 3, 1979) § 272.1(g)(7) was incorrectly titled Amendment 142. The correct title is Amendment 149. Also § 272.1(g) *Implementation,* Amendments 141 and 146 were given the same subparagraph number and Amendments 147 and newly designated 149 were therefore misnumbered. In addition, the September 25, 1979 rulemaking has a sentence inadvertently deleted from § 273.2(f)(9)(i); and § 273.12(a)(1)(vi) was worded incorrectly.

FOR FURTHER INFORMATION CONTACT: Larry Carnes, Chief, Regulations and Policy Section, Program Development Division, Food and Nutrition Service, USDA, Washington, D.C. 20250, (202) 447–9075.

1. Therefore, § 272.1(g) should be corrected as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* ***

(3) *Amendment 146* ***

(4) *Amendment 141* ***

(5) *Amendment 147* ***

(6) *Amendment 149* ***

* * * * *

2. Sections 273.2(f)(9)(i) and 273.12(a)(1)(vi) should read as follows:

§ 273.2 Application processing.

* * * * *

(f) *Verification.* ***

(9) *Verification subsequent to initial certification.*

(i) *Recertification.* At recertification, the State agency shall verify a change in income, medical expenses or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than $25 since the last time they were verified. State agencies may verify income, actual utility expenses, or medical expenses claimed by household which are unchanged or have changed by $25 or less, provided verification is, at a minimum, required when information is questionable as defined in paragraph (f)(2) of this section. All other changes reported at the time of recertification shall be subject to the same verification procedures as apply at initial certification. Unchanged information, other than income and medical or utility expenses, shall not be verified at recertification unless the information is questionable as defined in paragraph (f)(2) of this section.

* * * * *

§ 273.12 Reporting changes.

(a) *Household responsibility to report.*

(1) ***

(vi) Any change of more than $25 for deductible medical expenses.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2027))

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

Dated: December 14, 1979.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 79–39058 Filed 12–20–79; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 231]

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 December 23–29, 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: December 23, 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 December 18, 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 easier.

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 appraised 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.

Section 910.531 is added as follows:

§ 910.531 Lemon regulation 231.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period December 23, 1979, through December 29, 1979, is established at 180,000 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: December 19, 1979.

D. S. Kuryloski,

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

[FR Doc. 79–39435 Filed 12–20–79; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 926

Tokay Grapes Grown in San Joaquin County, Calif.; Amendment of Expenses for 1979–80 Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the previously approved expenses for the 1979–80 fiscal period of the Industry Committee which locally administers the Federal marketing order covering Tokay grapes grown in California. This action is based upon recommendations submitted by the Industry Committee, which indicate that an increase in the amount of expenses authorized is necessary.

DATES: Effective April 1, 1979–March 31, 1980.

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

SUPPLEMENTARY INFORMATION: *Findings.* This amendment is issued under the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon recommendations and information submitted by the Industry Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee reports that market development expenditures for the 1979–80 fiscal period will be greater than earlier anticipated because the Tokay grape packout this season has exceeded earlier estimates, resulting in a need to increase the amount of expenses previously approved (44 FR 47757).

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), in that this increase in the amount of expenses previously authorized is necessary to enable the committee to meet obligations which are now accruing. The increase in

authorized expenditures will not necessitate an increase in the rate of assessment.

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, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone: 202–447–5975.

Therefore, paragraph (a) of § 926.219 *Expenses, Rate of Assessment, and Carryover of Unexpended Funds* (44 FR 47757) is amended to read as follows:

§ 926.219 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonably and are likely to be incurred by the Industry Committee during fiscal period April 1, 1979, through March 31, 1980, will amount to $164,957.50.

* * * * *

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

Dated: December 14, 1979.

D. S. Kuryloski,

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

[FR Doc. 79–39108 Filed 12–20–79; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1133

[Milk Order No. 133]

Milk in the Inland Empire Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues for the months of January and February 1980 a prior suspension which increased the limit on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to unregulated manufacturing plants and still be priced under the order. The suspension is based on a cooperative association's proposal for increased diversion limits that was considered at a public hearing held on June 12–13, 1979, in Spokane, Washington. As announced in its October 31 recommended decision, the Department has tentatively concluded that the diversion limits should be increased. A final decision is pending. The suspension will enable producers who have been regularly associated with the market to continue to have their milk pooled and priced under the order pending the completion of the amendatory proceeding.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing: Issued May 14, 1979; published May 18, 1979 (44 FR 29088).

Suspension order: Issued August 15, 1979; published August 20, 1979 (44 FR 48646).

Recommended decision: Issued October 31, 1979; published November 6, 1979 (44 FR 64087).

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Inland Empire marketing area.

It is hereby found and determined that for the months of January and February 1980 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1133.13(c) (1) and (2), the words "50 percent in any of the months of September through March, and", and "in any of the months of April through August."

Statement of Consideration

This action, based on a public hearing held for this order on June 12–13, 1979, at Spokane, Washington, extends for the months of January and February 1980 a present suspension order which increases the limit on the amount of producer milk that may be diverted from pool plants to nonpool plants by a cooperative association or a proprietary handler operating a pool plant. The current suspension applied to the months of September through December 1979. In the case of a cooperative, the limit is increased from 50 percent to 70 percent of its total member milk received at all pool plants or diverted therefrom. For the operator of a pool plant, the higher 70 percent limit would apply to the producer milk received at the plant or diverted therefrom if the diverted milk is from producers who are not members of a cooperative that had diverted milk. The order now permits diversions of up to 50 percent of such receipts for the months of September through March and 70 percent for all other months.

The supension was requested in a post-hearing brief filed by Northwest Dairymen's Association (NWDA), a cooperative which handles most of the market's reserve milk supplies. At the hearing, NWDA proposed that the diversion limit during September through February be increased to 70 percent and during March through August to 80 percent. The cooperative requested in its brief that diversion limits be suspended pending completion of the amendatory proceeding. On the basis of this request, diversion limits were suspended for the months of September through December 1979.

A recommended decision in this proceeding was issued on October 31, 1979. The decision recommended that diversion limits be increased to 70 percent during September through February and to 80 percent during March through August. A final decision has not been issued yet.

Pending completion of this proceeding, a continuation of the present suspension is appropriate, as it will accommodate the pooling and efficient handling of reserve milk supplies for the market.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the market otherwise could be excluded from the marketwide pool thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date;

(c) The need for changing the diversion limits was considered at a public hearing held on June 12–13, 1979, where all interested parties had an opportunity to participate in this rulemaking proceeding; and

(d) This suspension continues a present suspension which will expire at the end of December 1979.

It is therefore ordered that the aforesaid provisions of the order are hereby suspended for the months of January and February 1980.

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

Effective date: January 1, 1980.

Signed at Washington, D.C., on December 17, 1979.

P. R. "Bobby" Smith,

Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 79-39226 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 75

Contagious Equine Metritis (CEM); Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to release a quarantine on one premises and to place a new quarantine on three premises in the Commonwealth of Kentucky because of the existence of contagious equine metritis (CEM). CEM, a communicable disease of equidae has been diagnosed among breeding thoroughbred horses in certain areas of the Commonwealth of Kentucky. In order to protect the equine industry of the United States from this highly contagious and communicable disease and the integrity of the export of equidae from the United States, it is necessary to quarantine certain premises in the Commonwealth of Kentucky and to permit the interstate movement of such quarantined animals only in accordance with the provisions established in the regulations. The intended effect of these amendments is to stop the spread of CEM in the United States.

EFFECTIVE DATE: December 18, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Ralph C. Knowles, USDA, APHIS, VS, Federal Building, Room 738, Hyattsville, MD 20782, 301-436-8433.

SUPPLEMENTARY INFORMATION: Contagious equine metritis (CEM), a highly contagious and communicable disease of equidae, has been diagnosed in the Commonwealth of Kentucky among breeding horses of the thoroughbred breed.

Section 75.7(a) of the regulations (9 CFR 75.7(a)), is amended to remove the quarantine for CEM from one portion of the premises of Claiborne Farm in Bourbon County and to place a quarantine on a different portion of the premises of the Claiborne Farm in Bourbon County, Kentucky. Additionally, new quarantines for CEM are placed on a portion of the Murty Farm in Fayette County and on an additional portion of the Beaconsfield Farm in Scott County, Kentucky. The imposition of these quarantines is necessary because it has been determined that CEM exists on such premises. The removal of a quarantine on premises presently quarantined is necessary because CEM has been determined not to exist on such premises.

Accordingly, Part 75, Title 9, Code of Federal Regulations, is amended as follows:

1. In § 75.7(a)(1), relating to the State of Kentucky, paragraph (ii)(B), relating to Bourbon County, is amended to read:

§ 75.7 Areas quarantined.

(a) * * *
(1) * * *
(ii) * * *

(B) That portion of the premises of Claiborne Farm located 1.4 miles south of the intersection of U.S. Highway 68 and Kentucky Highway 627 on the east side of Kentucky Highway 627 to the entrance, then follow the main farm road .65 mile to the veterinarians' barn on the left, then from the northeast corner of this barn, travel 50 feet north to the corner post of paddock Number 2 to the quarantined area described as beginning at the corner post, then in a northeast direction approximately 145 feet along a double fence, then again in a northeast direction approximately 235 feet along a double fence, then in a southeast direction approximately 185 feet along a double fence, then in a southwest direction approximately 230 feet along a double fence to the point of beginning, containing approximately .9 acre.

* * * * *

2. In § 75.7(a)(1), relating to the State of Kentucky, a new paragraph (iv)(P), relating to Fayette County is added to read:

§ 75.7 Areas quarantined.

(a) * * *
(1) * * *
(iv) * * *

(P) That portion of the premises of Murty Farm located in the northwest corner of the junction formed by Van Meter Road and U.S. Highway 60, which is 1.4 miles west of the intersection of U.S. Highway 60 and Kentucky Highway Number 4, then from the southeast corner of the permanent structure known as the bunkhouse, travel 20 feet south to the quarantined area described as beginning at the corner post of paddock 5D, then in a south direction approximately 170 feet along the lane fence, then in a west direction approximately 160 feet along the lane fence, then in a north direction approximately 240 feet along a double fence, then in an east direction approximately 90 feet along a double fence, then in a south direction approximately 70 feet along a fence line behind the bunkhouse, then in an east direction approximately 70 feet along a fence line to the point of beginning, containing approximately .75 acre, known as paddock 5D.

* * * * *

3. In § 75.7(a)(1), relating to the State of Kentucky, paragraph (x)(A), relating to Scott County, is amended to read:

§ 75.7 Areas quarantined.

(a) * * *
(1) * * *
(x) * * *

(A) That portion of the premises of Beaconsfield Farm located in the northwest corner of intersection U.S. Highway 460 and Kentucky Highway 922, then from the entrance barn (barn No. 2), proceed 150 feet due west to the gate of the paddock, described as beginning at the paddock gate; then, north along the fence along the west side of the lane approximately 320 feet; then, west along the double fence approximately 300 feet; then, south approximately 800 feet along the fence bordering the east side of the pond; then, east approximately 300 feet along a fence line; then along the fence line on the west side of the lane approximately 450 feet to the point of beginning, containing approximately 5.5 acres.

The second quarantined area is described as beginning at the northeast corner post of the first quarantined area, then in an east direction approximately 900 feet along a cultivated field, behind the tobacco barn and main residence, to the northwest corner post of another paddock, then in a south direction approximately 800 feet along a fence line, then in a west direction approximately 900 feet along a cultivated field, behind a trailer residence, to the southeast corner post of the first quarantined area, then in a north direction approximately 800 feet along the east fence line of the first quarantined area to the point of beginning, containing approximately fifteen (15) acres, including a tobacco barn, two residences, an antebellum log house and a barn.

* * * * *

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended; (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126), 37 FR 28464, 28477; 38 FR 19141.)

CEM is a highly contagious and communicable disease of equidae. The quarantining of additional areas in Kentucky is necessary to prevent the spread of CEM from these areas.

Additionally, the removal of the quarantine over a certain area of Kentucky because CEM has been determined not to be present in such area, relieves unnecessary restrictions on persons moving certain horses interstate from such area in Kentucky. Consequently, these amendments must be made effective immediately to accomplish their purposes in the public interest.

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.**

Note.—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 Dr. J. K. Atwell, Assistant Deputy Administrator, APHIS, VS, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 75. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 18th day of December 1979.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-39225 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0267; Reg. Q]

Maximum Rates of Interest Payable

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System has adopted three amendments to Regulation Q. The first amendment creates a new time deposit category with a maturity of 2½ years or more. Member banks are authorized to pay interest on this new nonnegotiable time deposit at a ceiling rate of three quarters of one percent below the average 2½ year yield for United States Treasury securities as determined monthly by the United States Treasury. No minimum denomination is required for this new deposit category. As part of this action, the Board is eliminating the four-year or more time deposit with a ceiling rate tied to the average yield on four-year United States Treasury securities which member banks were authorized to offer effective July 1, 1979. The second amendment increases the ceiling rate of interest payable by member banks on time deposits with maturities of 90 days or more, but less than one year from 5½ percent to 5¾ percent. The third amendment permits members to pay interest on Individual Retirement Account/Keogh (H.R. 10) Plan and governmental unit funds at the same rate permitted mutual savings banks and savings and loan associations when such funds are invested in 26-week $10,000 money market time deposits or the new 2½ year time deposit. These actions are being taken to provide additional returns to savers.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452-3625) or Anthony F. Cole, Senior Attorney (202/452-3612), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On May 30, 1979, the Board of Governors adopted amendments to Regulation Q designed to help small savers obtain a higher return on their deposits (44 FR 32646). These amendments included raising the savings deposit ceiling rate by one-quarter of one percent to 5¼ percent, creation of a new four-year or more time deposit whose ceiling rate is tied to the rate paid on four-year U.S. securities, elimination of minimum denomination requirements (except for the $10,000 minimum required for the 26-week money market certificate), and reduction of the penalties for early withdrawal of time deposit funds. In announcing these actions, the Board stated that consideration would be given toward the end of this year to determine whether further adjustments in interest rate ceilings would be appropriate. After consultation with the other Federal financial regulatory agencies, the Board has amended Regulation Q (12 CFR 217) to: (1) create a new time deposit category with a maturity of 2½ years or more and with a maximum ceiling rate of interest based on the average 2½ year yield on Treasury securities; (2) increase the ceiling rate of interest payable on time deposits with maturities of 90 days or more but less than one year from 5½ percent to 5¾ percent; and (3) permit member banks to pay interest on IRA/Keogh and governmental unit funds at the same rate permitted mutual savings banks and savings and loan associations when such funds are invested in 26-week $10,000 money market time deposits or the new 2½ year time deposit. The Board believes that these amendments, in conjunction with those adopted by the other Federal financial regulatory agencies, will enable savers to obtain higher rates of return on their savings and will increase the flow of funds to the nation's depository institutions, as well as encourage individuals to save for their retirement.

I. 2½ Year Fixed Rate, Variable Ceiling Time Deposit

Beginning January 1, 1980, member banks will be permitted to offer a nonnegotiable time deposit with a maturity of 2½ years or more at a ceiling rate tied to the average 2½ year yield on United States Treasury securities. The ceiling rate in effect during a particular month will apply to all newly issued time deposits of this category even if a member bank issues the new time deposit with maturities in excess of 2½ years. The ceiling rate for new deposits will be determined monthly, but the ceiling rate applicable to outstanding deposits will not change during the life of the deposit. Although no minimum denomination will be required, member banks are free to establish a minimum denomination requirement for this new category of deposit. The existing fixed ceiling time deposits with maturities of 2½, 4, 6 and 8 years or more at ceiling rates of 6½, 7¼, 7½ and 7¾ percent, respectively, are not affected by this action and will remain in effect. As part of this action the Board is eliminating, effective January 1, 1980, the 4-year or more time deposit with a ceiling rate tied to the average yield on 4-year United States Treasury securities. Member banks were authorized to offer this deposit effective July 1, 1979 (12 CFR 217.7(g)). However, outstanding deposits of this category are not affected by this action.

Beginning the first day of every month, a member bank will be permitted to pay interest on new deposits with maturities of 2½ years or more at a ceiling rate of three quarters of one percent (75 basis points) below the average 2½ year yield for U.S. Treasury securities as announced by the Treasury. This ceiling rate will remain in effect for all instruments issued during the month until the first day of the next month when a new ceiling rate will go into effect for instruments issued on or

after that date. Member banks are permitted to compound and compute interest on this deposit in accordance with any of the methods authorized by section 217.3 of Regulation Q. The average 2½ year yield on U.S. Treasury securities will be announced three business days prior to the effective date (the first day of the month) and will represent an average of the 2½ year yields for the previous five business days.

Member banks will be permitted to pay interest on time deposits of this category which consist of funds deposited to the credit of, or in which the entire beneficial interest is held by, a governmental unit or an individual pursuant to an IRA agreement or Keogh (H.R. 10) Plan, at a ceiling rate equal to the ceiling rate equal to the ceiling rate payable on the same category of deposit by any Federally insured savings and loan association or mutual saving bank.

The Board believes that this action creating a shorter term time deposit instrument with a ceiling rate tied to market rates of interest will increase the amount of savings maintained by depositors. With respect to this new deposit category, member banks should maintain data such as rates paid and amounts issued in a manner that facilitates reporting to the Board.

II. Ceiling Rate on 90-Day Time Deposits

Regulation Q currently provides that no member bank shall pay interest at a rate in excess of 5½ percent on a time deposit with a maturity of 90 days or more but less than one year (12 CFR § 217.7(b)). This ceiling rate has been equal to the ceiling rate in effect for savings deposits at thrift institutions since July 1, 1979. Prior to the July 1 savings rate increase, the member bank 90-day time deposit ceiling rate was one-quarter of one percent higher than the maximum rate payable on savings deposits at thrifts.

Commercial banks historically have competed actively in the 90-day time deposit market and hold approximately 14 per cent of their small denomination time deposits in such accounts. In this regard, the agencies did not intend that their actions last July would affect the competitive balance between commercial banks and thrifts. Accordingly, the Board has amended Regulation Q to increase the maximum rate of interest payable by member banks on time deposits with maturities of more than 90 days but less than one year to 5¾ per cent, one-quarter of one per cent above the ceiling rate of interest payable on savings deposits by thrift institutions. This action will restore the pre-existing competitive balance and will enable savers to obtain higher returns on their funds. The new ceiling rate may be paid only on certificates of deposit entered into or renewed on or after January 1, 1980. However, for purposes of administrative convenience, beginning January 1 member banks may pay interest on all funds in 90-day to 1-year time deposit, open accounts at a rate of 5¾ per cent.

III. IRA/Keogh (H.R. 10) Plan and Governmental Unit Time Deposits

The Board amended Regulation Q effective July 6, 1977, to create a new category of IRA/Keogh Plan time deposit with a maturity of three years or more and no minimum denomination. Member banks are authorized to pay interest on such time deposits at a ceiling rate of 8 per cent, which is the highest fixed ceiling rate that may be paid on time deposits under $100,000 by any Federally insured commercial bank, mutual savings bank, or savings and loan association. The Board's action was taken to accommodate the Congressional objective expressed in the Employee Retirement Income Security Act of 1974 (Pub. L. 93–406) of encouraging individuals to save for their retirement by enabling an IRA or Keogh Plan participant to obtain the highest possible return on retirement savings regardless of the type of depository institution selected by the depositor.

While this special category of deposit is available only for IRA and Keogh depositors, IRA and Keogh funds may be deposited in any form of deposit account, including the 26-week $10,000 money market certificate, so long as the Regulation Q minimum maturity and minimum denomination requirements are satisfied. However, where an individual elects to deposit IRA and Keogh funds in a 26-week money market certificate, thrift institutions have a rate advantage over commercial banks in view of the existence of the differential in the ceiling rates payable on such accounts by thrifts and commercial banks when the Treasury bill rate is below 9 per cent. The Board regards the maintenance of this differential with respect to IRA or Keogh funds as inconsistent with the objectives of maximizing the total amount of earnings on retirement savings that Congress sought to encourage through establishment of IRA and Keogh programs. Since preferred tax and interest rate treatment was given to IRA/Keogh plans to encourage savings for retirement, and not to extend a competitive advantage for particular class of financial institution, the Board has amended Regulation Q (12 CFR § 217.7(f)) to permit member banks to pay interest on new 26-week $10,000 money market certificates which consist of IRA or Keogh funds at a ceiling rate equal to the ceiling rate payable on the 26-week money market certificate by any Federally insured savings and loan association or mutual savings bank regardless of the level of the Treasury bill rate. However, the terms of existing IRA/Keogh time deposits may not be modified until such deposits muture. (As discussed above, similar action is being taken with respect to the new 2½ year certificate.)

The Board amended Regulation Q, effective November 27, 1974, to create a new category of time deposit for funds of public units. Pursuant to section 217.7(d), member banks are authorized to pay interest on any time deposit which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, a governmental unit at a ceiling rate of 8 per cent, which is the highest fixed ceiling rate that may be paid on time deposits under $100,000 by any Federally insured commercial bank, mutual savings bank or savings and loan association. This action was taken in light of the increase in 1974 in Federal deposit insurance to $100,000 on governmental unit time deposits. The increased insurance made thrift institutions more competitive with commercial banks. The Board's action to permit member banks to pay interest on such funds at the same rates as thrifts, was intended to maintain the competitive balance among financial institutions, as well as to provide additional depository alternatives for governmental units.

While this special category of deposit is available only for governmental units, public funds may be deposited in any form of deposit account, including the 26-week $10,000 money market certificate, so long as the Regulation Q minimum maturity and minimum denomination requirements are satisfied. However, where a public unit elects to deposit funds in a 26-week $10,000 money market certificate, thrift institutions may have a rate advantage over commercial banks in view of the existence of the differential when the Treasury bill rate is below 9 per cent. The Board regards maintenance of the differential with respect to public unit time deposit funds as inconsistent with the objectives of maintaining competitive equality and maximizing depository alternatives for governmental units. Accordingly, the Board also has amended Regulation Q (12 CFR § 217.7(f)) to permit member banks to pay interest on new 26-week $10,000

money market certificates which consist of public funds at a ceiling rate equal to the ceiling rate payable on the 26-week money market certificate by any federally insured savings and loan association or mutual savings bank. However, the terms of existing governmental unit time deposits may not be modified until such deposits mature. (As discussed above, similar action is being taken with respect to the new 2½ year certificate.)

The Board's actions were taken at this time after consultation with the other Federal financial institution regulatory agencies. In order to provide increased returns to savers as rapidly as possible, the Board finds that application of the notice and public participation provisions of 5 U.S.C. § 553 to these actions would be contrary to the public interest and that good cause exists for making these amendments effective in less than thirty days.

These amendments are adopted pursuant to the Board's authority under section 19(j) of the Federal Reserve Act (12 U.S.C. § 371b) to prescribe limitations on the rates of interest that may be paid by member banks on time and savings deposits.

Effective January 1, 1980, Regulation Q (12 CFR § 217.7(b), (f) and (g)) is amended as follows:

§ 217.7 Maximum rates of interest payable by member banks on time and savings deposits.

* * * * *

(b) *Fixed ceiling time deposits of less that $100,000.* Except as provided in paragraphs (a), (d), (e), (f), and (g), no member bank shall pay interest on any time deposit at a rate in excess of the applicable rate under the following schedule:

Maturity and Maximum Percent

30 days or more but less than 90 days—5¼.
90 days or more but less than 1 year—5¾.
1 year or more but less than 2½ years—6.
2½ years or more but less than 4 years—6½.
4 years or more but less than 6 years—7¼.
6 years or more but less than 8 years—7½.
8 years or more—7¾.

* * * * *

(f) *26-week money market time deposits of less than $100,000.* Except as provided in paragraphs (a), (b) and (d), a member bank may pay interest on any nonnegotiable time deposit of $10,000 or more, with a maturity of 26 weeks, at a rate not to exceed the rate established (auction average on a discount basis) for United States Treasury bills with maturities of 26 weeks issued on or immediately prior to the date of deposit. Rounding such rate to the next higher rate is not permitted. A member bank may not compound interest during the term of this deposit. A member bank may offer this category of time deposit to all depositors. However, a member bank may pay interest on any nonnegotiable time deposit of $10,000 or more with a maturity of 26 weeks which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by:

(1) The United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or

(2) An individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) 408, 401,

at a rate not to exceed the ceiling rate payable on the same category of deposit by any Federally insured savings and loan association or mutual savings bank.

(g) *Time deposits of less than $100,000 with maturities of 2½ years or more.* Except as provided in paragraphs (a), (b), (d) and (e), a member bank may pay interest on any nonnegotiable time deposit with a maturity of 2½ years or more than is issued on or after the first day of each month at a rate not to exceed three quarters of one per cent below the average 2½ year yield for United States Treasury securities as determined and announced by the United States Department of the Treasury three business days prior to the first day of such month. The average 2½ year yield will be rounded by the United States Department of the Treasury to the nearest 5 basis points. A member bank may offer this category of time deposit to all depositors. However, a member bank may pay interest on any nonnegotiable time deposit with a maturity of 2½ years or more which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by:

(1) The United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or

(2) An individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) §§ 408, 401,

at a rate not to exceed the ceiling rate payable on the same category of deposit by any Federally insured savings and loan association or mutual savings bank.

By order of the Board of Governors, December 14, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-39229 Filed 12-20-79; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Parts 301, 305, 306, 325, and 330

Deletion of Regulations

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: FDIC has eliminated four of its regulations—Part 301 (Introductory), Part 305 (Payment of Insured Deposits), Part 306 (Receiverships and Liquidations), and Part 325 (Introductory). These regulations are basically informational in nature and contain little or no operative language. Their removal is a "housecleaning" measure, in accordance with the FDIC's stated policy of simplifying its regulations and eliminating any unnecessary provisions. FDIC has also deleted §§ 330.13 and 330.14 of its rules governing deposit insurance coverage because they are outdated.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, FDIC, 550 17th Street, N.W., Washington, D.C. 20429, (202) 389-4237.

SUPPLEMENTARY INFORMATION: On September 10, 1979, FDIC published in the **Federal Register** (44 FR 52691) a notice of a proposed rulemaking which would eliminate Parts 301, 305, 306, and 325 as well as sections 330.13 and 330.14 of its regulations. Written public comment was invited until November 9, 1979. The only written comment received was from the American Bankers Association. It fully supported the proposed deletions.

Under section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819), the FDIC Board of Directors hereby deletes Parts 301, 305, 306, and 325 (12 CFR Parts 301, 305, 306, and 325) and sections 330.13 and 330.14 (12 CFR §§ 330.13, 330.14) of its rules and regulations. The requirement of section 553(d) of Title 5 of the United States Code (5 U.S.C. 553(d)) regarding deferred effective date was not followed in connection with the adoption of the deletions because the deletions do not relate to substantive rules and will not have any significant impact on the operations of FDIC-insured banks.

By order of the Board of Directors, December 17, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79-39230 Filed 12-20-79; 8:45 am]

BILLING CODE 6714-01-M

12 CFR Parts 303, 304

Applications, Requests, Submittals, Notices of Acquisition of Control and Forms, Instructions, and Reports

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Board of Directors of the FDIC has amended §§ 303.11(a)(9) and 303.13 (f) and (h) in order to expand or to alter delegations of certain of its approval and reporting authority relating to merger applications. Section 303.11(a)(9) has also been amended to clarify the definition of the term " 'phantom' bank merger" as it appears in FDIC regulations.

The Board has also corrected § 304.3(a) to conform it to amendments disposing of the requirement that Form 83 be filed with applications for insurance by "phantom" banks. The amendments were made at 44 FR 3258, January 16, 1979, and subsequently inadvertently omitted in 44 FR 17995, March 26, 1979. The Board has also amended footnote 1 accompanying § 304.3(a) to conform it to the amendment of the definition of "phantom" bank merger in § 303.11(a)(9).

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Katharine H. Haygood, Attorney, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. (202-389-4433).

SUPPLEMENTARY INFORMATION: Section 303.11(a)(9) has been amended to grant to the FDIC Director of the Division of Bank Supervision or, when such Director so directs, the FDIC Regional Director, the authority to approve not only merger applications involving "phantom" bank mergers but also merger applications involving other corporate reorganizations as the term is defined in the regulation. The authority to deny such applications has been retained by FDIC's Board of Directors. In footnote 2a to § 303.11(a)(9) the definition of the term " 'phantom' bank merger" has been amended to indicate that the merger concerned must involve a newly chartered bank or corporation and an existing operating bank and must be for the purpose of corporate reorganization and have no effect under Bank Merger Act standards (12 U.S.C. 1828(c)). Section 303.13(f) has been amended to grant the Director of the Division of Bank Supervision or, when such Director so directs, the Regional Director, the authority to furnish to the Federal Reserve System and to the Comptroller of the Currency competitive factor reports which deal not only with "phantom" bank mergers but also with other bank mergers which are corporate reorganizations and which are required to be approved by one of those agencies. The term "corporate reorganization" is defined here in the same manner as in § 303.11(a)(9).

Section 303.13(h) grants the Director of the Division of Bank Supervision the authority, exclusive of the authority granted in § 303.13(f), to furnish to the Federal Reserve System and the Comptroller of the Currency competitive factor reports on all mergers required to be approved by one of those agencies if all of the appropriate FDIC Divisions or Offices conclude that the merger will have "no significant effects on competition." The Board has also amended § 304.3 in order to conform it to changes made in 44 FR 3258, January 16, 1979, which were inadvertently omitted in a subsequent publication in 44 FR 17995, March 26, 1979. These changes dispose of the requirement that Form 83 be submitted in applications for insurance by nonmember banks formed in connection with "phantom" bank mergers. Further amendment of footnote 1 of § 304.3 was necessary because of the amendment here of the definition of "phantom" bank merger in footnote 2a of § 303.11(a)(9).

These amendments are being made pursuant to the authority set forth in 12 U.S.C. 1819. The Board of Directors of the Federal Deposit Insurance Corporation has determined that these changes either are procedural in nature, serve to reduce a burden on applicants, or serve to clarify terminology and that therefore the notice and public procedure requirements of 5 U.S.C. 553 (b) and (d) are not necessary, and further, that there is good cause for waiving the delayed effective date specified in 5 U.S.C. 553(d) because there will be no adverse impact on the general public by doing so.

Accordingly, 12 CFR §§ 303.11, 303.13 and 304.3 are amended as follows:

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, AND NOTICES OF ACQUISITION OF CONTROL

1. Paragraph (a) (9) of § 303.11 is amended to read:

§ 303.11 Delegation of authority to act on certain applications and on notices of acquisition of control.

(a) * * *

(9) Applications for "phantom" bank mergers[2a] and other mergers which are corporate reorganizations, that is, transactions involving banks controlled by the same holding company or transactions involving banks and their subsidiaries which would have no effect on competition or otherwise have significance under relevant statutory standards as set forth in 12 U.S.C. 1828(c). This authority shall extend to the approval but not to the denial of such applications;

* * * * *

2. Paragraphs (f) and (h) of § 303.13 are amended to read:

§ 303.13 Other delegations of authority.

* * * * *

(f) *Competitive factor reports on corporate reorganization bank mergers.* The Board of Directors has delegated to the Director of the Division of Bank Supervision, or, where confirmed in writing by the Director of the Division of Bank Supervision, to the Regional Director of the Region in which the applicant bank[1a] is located, the authority on behalf of the Board of Directors to furnish required reports to the Board of Governors of the Federal Reserve System or the Comptroller of the Currency on the competitive factors involved in any "phantom" bank merger[1b] and other mergers that are corporate reorganizations (*i.e.*, transactions involving banks controlled by the same holding company or transactions involving banks and their subsidiaries which would have no effect on competition or otherwise have significance under relevant statutory standards as set forth in 12 U.S.C. 1828(c)).

* * * * *

(h) *Competitive factor reports of "no significant effects on competition."* In addition to the authority delegated in paragraph (f) of this section, the Board of Directors has delegated to the Director of the Division of Bank Supervision the authority on behalf of the Board of Directors to furnish to the Board of Governors of the Federal Reserve System of the Comptroller of the Currency reports on the competitive

[2a] As used in paragraphs (a)(9) and (10) of this section, the term " 'phantom' bank merger" applies to any merger or other transaction involving an existing operating bank and a newly chartered bank or corporation which is for the purpose of corporate reorganization and which would have no effect on competition or otherwise have significance under the relevant statutory standards as set forth in 12 U.S.C. 1828(c).

factors involved in any merger required to be approved by one of those agencies, if all of the appropriate Divisions or Offices of the Corporation are of the view that the proposed merger would have no significant effects on competition.

* * * * *

PART 304—FORMS, INSTRUCTIONS, AND REPORTS

3. Paragraph (a) of § 304.3 is amended by deleting the fourth sentence and substituting therefor the following, and by revising the accompanying footnote to read as follows:

§ 304.3 Forms and instructions

* * * * *

(a) * * * Applications filed on Form 82 must be accompanied by a certified copy of the proposed articles of incorporation or association. In addition, applications filed on Form 82 by proposed banks other than nonmember banks formed in connection with "phantom" bank mergers[1] must be accompanied by the requisite number of properly executed Forms 83. * * *

* * * * *

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

By Order of the Board of Directors, December 17, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79-39233 Filed 12-20-79; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 526

[No. 79-639]

Limitations on Rate of Return; Revised Rates on Savings Accounts

Dated: December 13, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: In order to provide additional returns to savers and to enable savings institutions to continue to attract funds necessary for the provision of home financing, the Board has determined to adopt the following amendments:

(1) Authorize a new variable ceiling account with no minimum amount, a minimum term of 30 months, and a maximum rate one-half percent below the average 2½ year rate based on the yield curve for United States Treasury Securities as determined by the U.S. Department of the Treasury. The new account replaces the 4-year variable ceiling account that was authorized July 1, 1979.

(2) Increase to 6 percent the maximum authorized rate on notice accounts and accounts with a minimum term of 90 days. Notice accounts outstanding on the effective date of these amendments may begin receiving 6 percent on that date.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: John R. Hall, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202–377–6445).

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, after consulation with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the United States Department of the Treasury, has determined to amend Part 526 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 526) to provide additional returns to savers and to facilitate continued acquisition of funds by member institutions. The two changes hereby adopted are described below.

First, member institutions are authorized to issue a new fixed rate, variable ceiling account with a minimum term of 30 months and a maximum rate of return ½ percent below the 2½-year rate based on the yield curve for United States Treasury Securities as determined by the U.S. Department of the Treasury. The new certificate replaces the 4-year variable ceiling certificate that may receive a return 1 percent below the 4-year rate based on the yield curve for U.S. Treasury securities, and, effective January 1, 1980, authority to issue the 4-year variable-ceiling certificate is rescinded.

The Board believes this change will offer substantial benefit to small savers by providing the flexibility of a shorter-term investment along with a rate of return that more closely reflects current market rates. Further, member institutions will have a more effective means of attracting funds in times of high interest rates. Consistent with the rules applicable to the 4-year variable ceiling certificate, no additions to a 30-month variable ceiling account may be accepted, and no minimum amount is prescribed. Compounding of earnings is permitted.

Second, the maximum authorized rate of return on notice accounts and accounts with a term or qualifying period of 90 days or more is increased from 5.75 percent to 6.00 percent. This change is consistent with the increased rate of return on passbook accounts that was authorized July 1, 1979, and restores the ½ percent differential between the maximum rates of return on 90-day accounts and passbook accounts that existed prior to July 1, 1979. The Board believes this change is necessary to assure that the 90-day certificate category continues to be an attractive savings alternative.

Because the Board believes that, in view of present economic conditions, it is in the public interest to provide increased returns to savers without delay, the Board has determined that notice and public procedure with respect to such amendments is contrary to the public interest and unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of such amendments for the time specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to their effective date would delay implementation of the amendment, and, for reasons described above, such delay is unnecessary and contrary to the public interest, the Board has determined that the amendments shall become effective as herein set forth.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 526 of the Regulations for the Federal Home Loan Bank System as set forth below.

1. Amend § 526.2(b)(2) to read as follows:

§ 526.2 Maximum rate of return.

* * * * *

(b) *Exceptions.* Notwithstanding any reduction in such maximum prescribed rates, a member may pay a return on any savings account outstanding on the date of such reduction, as follows:

* * * * *

(2) *Certificate account.* At the rate specified in the certificate, for such period, including any renewal period, as the account remains outstanding, except that six month (26 weeks) certificate accounts may not be renewed at any rate in excess of the applicable maximum provided for under § 526.3(a)(8); four year variable rate accounts, issued prior to January 1, 1980, may not be renewed at a rate in excess of the applicable maximum rate provided for under § 526.3(a)(5)(ii); and 30 month variable rate accounts may not be renewed at a rate in excess of the

[1] As used in paragraphs (a) and (f) of this section, the term " 'phantom' bank merger" applies to any merger or other transaction involving an existing operating bank and a newly chartered bank or corporation which is for the purpose of corporate reorganization and which would have no effect on competition or otherwise have significance under the relevant statutory standards as set forth in 12 U.S.C. 1828(c).

applicable maximum rate provided for under § 526.3(a)(4)(ii).

* * * * *

2. Amend § 526.3 by revising subparagraphs (a) (2), (4), and (5) and paragraph (c) thereof, to read as follows:

§ 526.3 Maximum rates of return payable by members on savings accounts.

(a) Except as provided in § 526.3–1 for certificate accounts of $100,000 or more, no member may pay an annual rate of return on a savings account exceeding the applicable maximum percentage, as follows:

* * * * *

(2) 6.00%—notice accounts, except public unit accounts, which may receive a rate of return as prescribed in § 526.3(c), and certificate accounts with a term or qualifying period of 90 days or more.

* * * * *

(4)(i) 6.75%—certificate accounts with a term or qualifying period or 30 months or more.

(ii) One-half of one percent below the average two and one-half year rate based on the yield curve for United States Treasury securities as determined by the U.S. Department of the Treasury immediately prior to the first day of the month—certificate accounts with a term or qualifying period of 30 months or more issued on or after the first day of the month. No addition to any such account shall be accepted during the term of the account.

(5)(i) 7.50%—certificate accounts with a term or qualifying period of 4 years or more.

(ii) 1% below the average four year rate based on the yield curve for United States Treasury securities as determined by the U.S. Department of the Treasury immediately prior to the first day of the month—certificate accounts with a term or qualifying period of 4 years or more issued on or after the first day of the month, provided the account was issued prior to January 1, 1980. No addition to any such account shall be accepted during the term of the account.

* * * * *

(c) *Exceptions as to terms or qualifying periods.* A member may pay a rate of return not exceeding the highest rate permitted under paragraph (a) of this section on (1) a public unit account which is a certificate account with a maturity of 30 days or more or a notice account, or (2) a certificate account which qualifies as a retirement account under subsection 401(d) or 408(a) of the Internal Revenue Code and has a term of 3 years or, in the case of an account issued under subdivision (a)(4)(ii), 30 months; *Provided,* That such accounts issued under subdivision (a)(5)(ii) of this section prior to January 1, 1980, or under subdivision (a)(4)(ii) of this section must meet the maturity requirement, and accounts issued under subparagraph (a)(8) of this section must meet the minimum amount and maturity requirements, prescribed in those provisions.

(Sec. 4, 80, Stat. 824 (12 U.S.C. 1425b); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-39173 Filed 12-20-79; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; New Animal Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for delegations of authority relating to approval of new animal drug applications and their supplements. The authority to approve supplemental new animal drug applications is being redelegated to certain Associate and Deputy Associate Directors within the Bureau of Veterinary Medicine. This action is being taken to relieve the Bureau Director of the need to be involved in evaluating routine supplemental applications and to reduce processing time within the Bureau.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA–340), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: The Associate and Deputy Associate Director for Scientific Evaluation and the Associate and Deputy Associate Director for Surveillance and Compliance of the Bureau of Veterinary Medicine are being delegated authority to approve supplemental applications to new animal drug applications. The authority will be exercised within their assigned area of responsibility.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting," or unless it is not legally permissible.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 5 is amended by revising § 5.83 to read as follows:

§ 5.83 Approval of new animal drug applications and their supplements.

(a) The Director of the Bureau of Veterinary Medicine is authorized to perform all of the functions of the Commissioner of Food and Drugs with regard to the approval of new animal drug applications, and supplements thereto, for new animal drugs submitted pursuant to section 512 of the Federal Food, Drug, and Cosmetic Act.

(b) The Associate and Deputy Associate Director for Scientific Evaluation and the Associate and Deputy Associate Director for Surveillance and Compliance of the Bureau of Veterinary Medicine are authorized to perform all of the functions of the Commissioner of Food and Drugs with regard to the approval of supplemental applications to approved new animal drug applications for new animal drugs submitted pursuant to section 512 of the Federal Food, Drug, and Cosmetic Act.

(c) The Director of the Division of Animal Feeds of the Bureau of Veterinary Medicine and the Chief of the Medicated Feeds Branch of that Division and Bureau are authorized to perform the functions of the Commissioner of Food and Drugs with regard to the approval of applications for animal feeds containing new animal drugs.

Effective date. This regulation becomes effective December 21, 1979.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: December 17, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-39109 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 176

[Docket No. 75F-0255]

Indirect Food Additives; Paper and Paperboard Components; 2-(p-Hydroxyphenyl)Glyoxylohydroximoyl Chloride

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for safe use of 2-(*p*-hydroxyphenyl) glyoxylohydroximoyl chloride as a component of slimicides for use in the manufacture of paper and paperboard. The action is being taken in response to a petition filed by Roussel Corp.

DATES: Effective December 21, 1979; objections by January 21, 1980.

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

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

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of October 3, 1975 (40 FR 45862) announced that a food additive petition (FAP 5H3108) was filed by the Center for Regulatory Services, 2347 Paddock Lane, Reston, VA 22091, on behalf of Roussel Corp., 155 E. 44th St., New York, NY 10017, proposing that § 176.300 *Slimicides* (21 CFR 176.300) be amended to provide for the safe use of 2-(*p*-hydroxyphenyl) glyoxylohydroximoyl chloride as a component of slimicides in the manufacture of paper and paperboard intended to contact food.

This slimicide is not now registered for use in the United States, but it is the subject of an application for registration submitted to the U.S. Environmental Protection Agency. Use of this slimicide in the domestic manufacture of paper involves a number of environmental issues that, while unresolved, are not pertinent to its incidental food-contact use in paper and paperboard. This regulation will permit the use of this slimicide by manufacturers in foreign countries in the production of paper and paperboard that is intended for food-contact use in this country.

The agency has evaluated the data in the food additive petition and other relevant material and concludes that the regulations should be amended as set forth below.

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 176.300 is amended in paragraph (c) by alphabetically inserting a new item in the list of substances as follows:

§ 176.300 Slimicides.

* * * * *

(c) * * *

List of substances	Limitations
* * * * *	
2-(*p*-hydroxyphenyl) glyoxylohydroximoyl chloride (CAS Registry No. 34911-46-1).	At a level of 0.02 pound per ton of dry weight fiber.
* * * * *	

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before January 21, 1980 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective December 21, 1979.

Dated: December 12, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-38943 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 701

[Docket No. 75N-0110]

Cosmetic Labeling; Designation of Ingredients; Revocation of Partial Stay and Confirmation of Effective Date

Correction

In FR Doc. 79-36717, appearing in the issue of Friday, November 30, 1979 on page 68823, in the first column, the second line of the effective date paragraph "November 29, 1979" should be corrected to read "November 30, 1979".

BILLING CODE 1505-01-M

21 CFR Part 820

[Docket No. 75N-0140]

Good Manufacturing Practice for Medical Devices; Exemptions or Variances; Guidance on Petitions

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the good manufacturing practice regulations for medical devices. The amendment adds a sentence telling interested persons where to apply for guidance on petitions for exemption or variance from the regulations.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: W. Fred Hooten, Bureau of Medical Devices (HFK-132), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7194.

SUPPLEMENTARY INFORMATION: FDA is issuing an amendment to add a sentence telling how to obtain further information or guidance on petitions for exemption or variance. Because it is nonsubstantive, and does not affect the obligations imposed by the rule, FDA finds it unnecessary to comply with the usual requirements for rulemaking.

PART 820—GOOD MANUFACTURING PRACTICE FOR MEDICAL DEVICES; GENERAL

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 518, 519, 520(f), and 701(a) as amended,

52 Stat. 1049–1051 as amended, 1055, 90 Stat. 562–569 (21 U.S.C. 351, 352, 360h, 360i, 360j(f), and 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 820 is amended in § 820.1 by amending paragraph (d) by adding a sentence at the end of the paragraph, to read as follows:

§ 820.1 Scope.

* * * * *

(d) * * * Guidance is available from the Bureau of Medical Devices, Division of Compliance Programs, Industry Programs Branch (HFK–132), 8757 Georgia Ave., Silver Spring, MD 20910; telephone 301–427–7194.

Effective date. This regulation becomes effective December 21, 1979.

(Secs. 501, 502, 518, 519, 520(f), and 701(a) as amended, 52 Stat. 1049–1051 as amended, 1055, 90 Stat. 564–569 (21 U.S.C. 351, 352, 360h, 360i, 360j(f), 371(a)))

Dated: December 13, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–38892 Filed 12–20–79; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 40

Issuance of Farm Labor Contractor Certificates of Registration and Farm Labor Contractor Employee Identification Cards by States

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: The Commonwealth of Virginia has entered into an agreement with the Secretary of Labor to issue Farm Labor Contractor Certificates of Registration and Employee Identification Cards in compliance with the Farm Labor Contractor Registration Act and regulations issued thereunder. This document adds the Commonwealth of Virginia to the list of states authorized to issue Certificates of Registration and Employee Identification Cards under the Farm Labor Contractor Registration Act which are entitled to the same recognition in all states as if they had been issued by the Department of Labor.

EFFECTIVE DATE: December 17, 1979.

FOR FURTHER INFORMATION CONTACT: Solomon Sugarman, Chief, Branch of Farm Labor Law Enforcement, Office of Fair Labor Standards, Wage and Hour Division, Room S–3504, New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–7531.

SUPPLEMENTARY INFORMATION: The authority conferred by Section 8 of the Farm Labor Contractor Registration Act of 1963, as amended (7 U.S.C. 2047), does not require issuance of regulations to authorize the Department to enter into agreements with states under which states issue Certificates of Registration and Employee Identification Cards. Such agreements are effective upon their execution. The Commonwealth of Virginia has executed such agreement effective December 17, 1979. Under § 40.43(d) of Title 29 CFR, Certificates of Registration and Employee Identification Cards issued by the Commonwealth of Virginia pursuant to their agreement of December 17, 1979, are entitled to the same recognition in all states as if they had been issued by the Department of Labor. Accordingly, the Commonwealth of Virginia is added to the list of states in § 40.43(e) which have executed such agreements in order that all other states may expeditiously recognize Certificates of Registration and Employee Identification Cards issued by the Commonwealth of Virginia under the Farm Labor Contractor Registration Act.

PART 40—FARM LABOR CONTRACTOR REGISTRATION

This document was prepared under the direction and control of Herbert J. Cohen, Assistant Administrator for Fair Labor Standards, Wage and Hour Division, Employment Standards Administration, Department of Labor.

Section 40.43 (e) is amended to read as follows:

§ 40.43 Issuance of farm labor contractor certificates of registration and farm labor contractor employee identification cards by States.

* * * * *

(e) The Secretary in accordance with the provisions of this Section, has entered into an agreement with each State listed herein below;

Florida.
New Jersey.
Virginia.

* * * * *

(8 U.S.C. 2047; Pub. L. 88–582, sec. 8, Sept. 7, 1964; 78 Stat. 923.)

Signed at Washington, D.C. on the 17th day of December, 1979

Ray Marshall,

Secretary of Labor, U.S. Department of Labor.

[FR Doc. 79–39245 Filed 12–20–79; 8:45 am]

BILLING CODE 4510–29–M

Wage and Hour Division

29 CFR Part 775

Coverage of State and Local Government Activities by Federal Minimum Wage and Overtime Law

AGENCY: Wage and Hour Division, Labor.

ACTION: Final interpretation.

SUMMARY: The Supreme Court ruled in *National League of Cities* v. *Usery*, 426 U.S. 833 (1976), that the minimum wage and overtime compensation provisions of the Fair Labor Standards Act could not constitutionally be applied to State and local government employees who are engaged in traditional governmental activities. Pursuant to an enforcement policy and notification procedure approved by the district court on remand, the Department of Labor periodically publishes in the **Federal Register** a list of those governmental functions which it has determined to be nontraditional, and which it believes are therefore still constitutionally subject to the minimum wage and overtime provisions of the Fair Labor Standards Act. This final interpretation sets forth those governmental functions which have been determined to be nontraditional. As new determinations are made, additional functions will be added to the list.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel P. New, Director, Division of Minimum Wage and Hour Standards, Office of Fair Labor Standards, Wage and Hour Division, U.S. Department of Labor, Room S–3508, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone: (202) 523–7043 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Application of the Fair Labor Standards Act to States and Political Subdivisions Prior to National League of Cities

The Fair Labor Standards Act, as originally enacted in 1938, did not apply to employees employed by States or political subdivisions. The first such application was in 1966, when Congress extened the Act's coverage (including the prohibition against sex-based wage differentials adopted by the Equal Pay Act of 1963) to employees of States and other public enterprises engaged in operating transit companies, hospitals, schools and related institutions. The constitutionality of this extension of the Act's coverage was upheld in *Maryland* v. *Wirtz*, 392 U.S. 183.

In 1974, Congress amended the Fair Labor Standards Act to cover virtually

all public sector employees except those specifically exempt as holders of a public elective office or employees appointed by such an office holder to be a "member of his personal staff" or "to serve on a policymaking level" or as an immediate advisor "with respect to the constitutional or legal powers of his office." The 1974 amendments also extended the provisions of the Age Discrimination in Employment Act to all State and local government employees, except those who were elected or appointed by elected officials to their personal staffs or to policymaking positions. (Effective July 1, 1979, the Equal Employment Opportunity Commission assumed responsibility for administering and enforcing the Age Discrimination in Employment Act and the Equal Pay provisions of the FLSA, pursuant to Reorganization Plan No. 1 of 1978, 92 Stat. 3781.)

The National League of Cities Decision

On June 24, 1976, the Supreme Court ruled in *National League of Cities* v. *Usery*, 426 U.S. 833, that the minimum age and overtime provisions of the Fair Labor Standards Act could not constitutionally be applied to State and local government employees who are engaged in traditional governmental activities. The Court expressly overruled its earlier decision in *Maryland* v. *Wirtz* insofar as that decision upheld the application of the Act's minimum wage and overtime provisions to public school and hospital employees. The Court's decision did not affect the continued application of the Act's minimum wage and overtime provisions to employees engaged in activities which are not traditional functions of government, nor did it affect the application to all nonexempt employees (including those engaged in traditional governmental functions) of the Age Discrimination in Employment Act, or of the other substantive provisions of the Fair Labor Standards Act other than its minimum wage and overtime provisions.

Because the Supreme Court did not establish a test for distinguishing between traditional and nontraditional governmental functions for purposes of applying the Act's minimum wage and overtime provisions, the three-judge district court to which the case was remanded requested the Secretary to propose a means of providing interpretative guidance to public employers in identifying the nontraditional functions which are constitutionally subject to the minimum wage and overtime provisions of the Fair Labor Standards Act. The court also indicated that the States and political subdivisions should not be subject to an award for "liquidated damages" (over and above back wages) except as to activities which had already been identified as nontraditional.

Action by the Department of Labor

In response to this request, the Secretary submitted a proposal for the amendment of the Secretary's enforcement policy stated in 29 CFR 775. This proposal was approved by the court and published in the **Federal Register** on June 24, 1977 (see 42 FR 32253), by adding §§ 775.2 and 775.3 to Part 775.

Section 775.2 sets forth the special enforcement policy concerning States and political subdivisions. It is republished in full here for the convenience of those affected by it. Citations to more recent court decisions have been added.

Section 775.3 sets forth a list of those functions of States and their political subdivisions which the Wage and Hour Administrator has determined to be nontraditional. It will be amended from time to time to reflect recent determinations that have been made by the Administrator.

Section 775.4 is a new section. It sets forth a list of those functions of States and their political subdivisions which the Wage and Hour Administrator has determined to be traditional. Although the court did not specifically require such a listing, the Department has decided that it would be desirable to publish one.

These changes also require a change in the table of contents to Part 775.

This document was prepared under the direction and control of Herbert J. Cohen, Assistant Administrator, Office of Fair Labor Standards, Wage and Hour Division, U.S. Department of Labor.

Accordingly, 29 CFR Part 775 is amended by amending the table of contents, §§ 775.2 and 775.3, and by adding a new § 775.4, as follows:

1. The table of contents is amended to read as follows:

Sec.

775.0 General enforcement policy.
775.1 Advisory interpretations announced by the administrator.
775.2 Special enforcement policy concerning States and political subdivisions.
775.3 Nontraditional functions of States and their political subdivisions.
775.4 Traditional functions of States and their political subdivisions.

2. Section 775.2 is amended to read as follows:

§ 775.2 Special enforcement policy concerning States and political subdivisions.

(a) On June 24, 1976, the United States Supreme Court ruled in *National League of Cities, et al.* v. *Usery*, 426 U.S. 833, that the minimum wage and overtime compensation provisions of the Fair Labor Standards Act (FLSA) are not constitutionally applicable to the integral operations of the States and their political subdivisions in areas of traditional governmental functions. Such areas include, among others, schools and hospitals, fire prevention, police protection, sanitation, public health, and parks and recreation. They do not include, among others, the operation of a railroad by a State, 426 U.S. at 854, n.18.

(b) In view of the *National League* decision, the Secretary will not file suit to enforce the minimum wage and overtime compensation provisions of the FLSA against a State or its political subdivisions unless at least 30 days notice has first been given that, in the opinion of the Administrator, the activities in question are not integral operations in areas of traditional governmental functions. Such notice will be provided either by specific notification of the employing body in question or by general notification by publication in the **Federal Register** in the form of amendments to § 775.3. A reasonable opportunity will be allowed the employing body, after the notice of the administrative determination, to come into compliance voluntarily before suit is brought.

(c) Each such notice will be made available to wage-hour reporting services and to any interested person or association, for information or further publication, except for deletions reasonably necessary to protect the privacy of individual employers and employees.

(d) Because of the complexity of the questions raised by the *National League* decision, it would be inappropriate to seek liquidated damages in addition to back pay in cases to enforce the minimum wage and overtime compensation provisions of the Act against States or their political subdivisions, except as to activities determined by prior controlling judicial decision, or by prior administrative ruling published in the **Federal Register**, not to be integral operations in areas of traditional governmental functions. The Secretary will therefore not seek liquidated damages as to activities not covered by such decision or ruling, or for periods of employment prior to the publication of such decision or ruling.

(e) As already noted, the *National League* decision applies only to the minimum wage and overtime compensation provisions of the FLSA. This section and § 775.3 accordingly do not apply to claims arising under:

(1) The Equal Pay Act of 1963 (see *Usery* v. *Allegheny County Institution District,* 544 F.2d 148 (C.A. 3, 1976), cert. denied 430 U.S. 946 (1977); *Usery* v. *Charleston County School District,* 588 F.2d 1169 (C.A. 4, 1977); *Pearce* v. *Wichita County,* 590 F.2d 128 (C.A. 5, 1979); *Marshall* v. *Owensboro-Daviess County Hospital,* 581 F.2d 116 (C.A. 6, 1978); and *Marshall* v. *City of Sheboygan,* 577 F.2d 1 (C.A. 7, 1978)).

(2) The Age Discrimination in Employment Act of 1967 (see *Arritt* v. *Grissell,* 567 F.2d 1267 (C.A. 4, 1977)); *Usery* v. *Bd. of Education of Salt Lake City,* 421 F.Supp. 718 (D. Utah 1976); *Aaron* v. *Davis,* 424 F.Supp. 1238 (W.D. Ark. 1976); and *Remmick* v. *Barnes County,* 435 F.Supp. 914 (D. N.D. 1977).

(3) The child labor provisions of the Fair Labor Standards Act.

(4) The protective provisions of Section 15(a)(3) of the Act, making it unlawful to discriminate against any employee for participating or assisting in FLSA proceedings.

3. Section 775.3 is amended to read as follows:

§ 775.3 Nontraditional functions of States and their political subdivisions.

(a) In the *National League* decision, it was made clear that the operation of a railroad by a State or its political subdivision is not an integral operation in the area of traditional governmental functions. 426 U.S. 833, 854 n.18.

(b) For the purpose of the notice referred to in § 775.2(b), the Administrator has determined that the following functions of a State or its political subdivisions are not traditional. From time to time, this section will be amended to list other such functions determined not to be traditional. The date listed after each function is the date of original publication in the **Federal Register.** This is the effective date of the general notification described in § 775.2(b). However, where an employing body has actual notice on an earlier date of the position taken by the Administrator, that earlier date is the effective date of the specific notification described in § 775.2(b).

(1) Alcoholic beverage stores December 21, 1979.

(2) Off-track betting corporations December 21, 1979.

(3) Local mass transit systems December 21, 1979.

(4) Generation and distribution of electric power December 21, 1979.

(5) Provision of residential and commercial telephone and telegraphic communication December 21, 1979.

(6) Production and sale of organic fertilizer as a by-product of sewage processing December 21, 1979.

(7) Production, cultivation, growing or harvesting of agricultural commodities for sale to consumers December 21, 1979.

(8) Repair and maintenance of boats and marine engines for the general public December 21, 1979.

4. There is added to Part 775 a new § 775.4, which reads as follows:

§ 775.4 Traditional functions of States and their political subdivisions.

(a) In the *National League* decision, it was made clear that schools and hospitals, fire prevention, police protection, sanitation, public health, and parks and recreation are traditional functions or activities of States and their political subdivisions.

(b) In addition, the Administrator has determined that the following functions of a State or its political subdivisions are traditional (From time to time, this section will be amended to list other such functions determined to be traditional.)

(1) Libraries.

(2) Museums.

(52 Stat. 1060, as amended; (29 U.S.C. 201 *et seq.*))

Signed at Washington, D.C. this 18th of December 1979.

Donald Elisburg,

Assistant Secretary for Employment Standards.

[FR Doc. 79-39320 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-27-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Procedural Regulations; 706 Designation

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on designation of one State and Local Fair Employment Practices Agency so that it may handle employment discrimination charges within its jurisdiction, filed with the Commission.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Franklin F. Chow, telephone 202-634-6040, Equal Employment Opportunity Commission (State and Local), 2401 E. Street, N.W., Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION: Publication of this amendment to § 1601.74(a) effectuates the designation of the following agency as a 706 Agency: North Dakota Department of Labor[1]

Notice of proposed designation was published in the November 9, 1979 issue of the **Federal Register,** "44 FR 65082" with notice that written comments must have been filed with the Commission on or before November 26, 1979.

The Commission received no comments within the prescribed period for filing written comments regarding the proposed designation of the above agency. The listing of North Dakota Commission on Labor as a Notice Agency is deleted. With the modification for the above mentioned agency, § 1601.74 (a) and (b) are amended and published as follows:

§ 1601.74 Designated and notice agencies.

(a) The designated 706 agencies are:

Alaska Commission for Human Rights
Alexandria (Va.) Human Rights Office
Allentown (Pa.) Human Relations Commission
Anchorage (Alaska) Equal Rights Commission
Arizona Civil Rights Division
Augusta/Richmond County (Ga.) Human Relations Commission
Austin (Tex.) Human Relations Commission
Baltimore (Md.) Community Relations Commission
Bloomington (Ind.) Human Rights Commission
Broward County (Fla.) Human Relations Division
California Fair Employments Practices Commission
Charleston (W. Va.) Human Rights Commission
Clearwater (Fla.) Office of Community Relations
Colorado Civil Rights Commission
Colorado State Personnel Board
Commonwealth of Puerto Rico Department of Labor
Connecticut Commission of Human Rights and Opportunity
Corpus Christi (Tex.) Human Relations Commission
Dade County (Fla.) Fair Housing and Employment Commission
Delaware Department of Labor
District of Columbia Office of Human Rights
East Chicago (Ind.) Human Relations Commission
Evansville (Ind.) Human Relations Commission
Florida Commission on Human Relations

[1] The North Dakota Department of Labor has been proposed as a 706 Agency for all charges except charges alleging retaliation under Section 704(a) of Title VII. For these types of charges it shall be deemed a "Notice Agency," pursuant to 29 CFR 1601.71(c).

Fort Wayne (Ind.) Metropolitan Human Relations Commission
Fort Worth (Tex.) Human Relations Commission
Gary (Ind.) Human Relations Commission
Georgia Office of Fair Employment Practices
Howard County (Md.) Human Rights Commission
Hawaii Department of Labor and Industrial Relations
Idaho Commission on Human Rights
Illinois Fair Employment Practices Commission
Indiana Civil Rights Commission
Iowa Commission on Civil Rights
Jacksonville (Fla.) Community Relations Commission
Kansas Commission on Human Rights
Kentucky Commission on Human Rights
Lexington-Fayette (Ky.) Urban County Human Rights Commission
Lincoln (Nebr.) Commission on Human Rights
Madison (Wis.) Equal Opportunities Commission
Maine Human Rights Commission
Maryland Commission on Human Relations
Massachusetts Commission Against Discrimination
Michigan Civil Rights Commission
Minneapolis (Minn.) Department of Civil Rights
Minnesota Department of Human Rights
Missouri Commission on Human Rights
Montana Commission for Human Rights
Montgomery County (Md.) Human Relations Commission
Nebraska Equal Opportunity Commission
Nevada Commission on Equal Rights of Citizens
New Hampshire Commission for Human Rights
New Jersey Division on Civil Rights, Department of Law and Public Safety
New Mexico Human Rights Commission
New York City (N.Y.) Commission on Human Rights
New York State Division on Human Rights
North Dakota Department of Labor
Ohio Civil Rights Commission
Oklahoma Human Rights Commission
Omaha (Nebr.) Human Relations Department
Oregon Bureau of Labor
Orlando (Fla.) Human Relations Department
Pennsylvania Human Relations Commission
Philadelphia (Pa.) Commission on Human Relations
Pittsburgh (Pa.) Commission on Human Relations
Prince George's County (Md.) Human Relations Commission
Rhode Island Commission for Human Rights
Rockville (Md.) Human Rights Commission
St. Louis (Mo.) Civil Rights Enforcement Agency
St. Paul (Minn.) Department of Human Rights
St. Petersburg (Fla.) Office of Human Rights
Seattle (Wash.) Human Rights Commission
Sioux Falls (S. Dak.) Human Relations Commission
South Bend (Ind.) Human Rights Commission
South Carolina Human Affairs Commission
South Dakota Division of Human Rights
Springfield (Ohio) Human Relations Department
Tacoma (Wash.) Human Rights Commission
Tennessee Commission for Human Development
Utah Industrial Commission
Vermont Attorney General's Office, Civil Rights Division
Virgin Islands Department of Labor
Washington Human Rights Commission
West Virginia Human Rights Commission
Wheeling (W. Va.) Human Rights Commission
Wichita (Kans.) Commission Civil Rights
Wisconsin Equal Rights Division, Department of Industry, Labor and Human Relations
Wyoming Fair Employment Practices Commission

(b) The designated Notice Agencies are:

Arkansas Governor's Committee on Human Resources
Ohio Director of Industrial Relations
Raleigh (N.C.) Human Resources Department, Civil Rights Unit

(Sec. 713(a) 78 Stat. 265 (42 U.S.C. 2000e–12(a))

Signed at Washington, D.C. this 18th day of December, 1979.

For the Commission.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

[FR Doc. 79-39155 Filed 12-20-79; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 166

Reporting Procedures on Defense Related Employment

AGENCY: Office of the Secretary of Defense.

ACTION: Amendment of final rule.

SUMMARY: This rule is the fiscal year 1979 update of the section listing DoD contractors receiving negotiated contract awards of $10 million or more. The regulation is published to comply with the provisions of Section 410, Pub. L. 91–121, November 19, 1969.

EFFECTIVE DATE: September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Cynthia V. Springer, Office of the Director for Information Operations and Reports, Washington Headquarters Services, The Pentagon, Washington, D.C. 20301. Telephone (202) 697–3182.

SUPPLEMENTARY INFORMATION: In FR Doc. 70–15846 published in the **Federal Register** on November 25, 1970 (35 FR 18040), the Office of the Secretary of Defense published a final rule establishing criteria, prescribing procedures, and assigning responsibilities for monitoring the program within the Department of Defense. Subsequently, paragraph (a) and (d) of § 166.11, which constitutes the list of DoD contractors receiving negotiated contract awards for $10 million or more, was updated for fiscal years 1971 (36 FR 18464); 1972 (37 FR 18727); 1973 (38 FR 25990); 1974 (39 FR 32985); 1975 (40 FR 44135); 1976 (41 FR 20466); 1977 (43 FR 1617); and 1978 (44 FR 3049).

Accordingly, § 166.11 of this part is revised to read as follows:

§ 166.11 Department of Defense contractors receiving negotiated contract awards of $10 million or more.

Fiscal Year 1979:

A A I Corp.
A J Industries, Inc.
A M General Corp.
Action Mfg. Co.
Actus Corp.
Adobe Refining Co.
Advanced Technology, Inc.
Aerojet General Corp.
Aerospace Corp. (The)
Airesearch Mfg. Co. of Arizona
Airesearch Mfg. Co. of California
Airlift International Inc.
Aleutian Constructors
Algernon Blair, Inc.
Altama Delta Corp.
American Development Corp.
American Electronic Laboratories, Inc.
American Home Products Corp.
American Pouch Food Co., Inc.
American Telephone & Telegraph Co.
Amex Systems, Inc.
Amoco Oil Co.
Amron Corp.
Analytic Sciences Corp.
Argo Systems, Inc.
Arinc Research Corp.
ARO, Inc.
Ashland Oil, Inc.
Atacs Corp.
Atlantic Richfield Co.
Atlas Processing Co.
Automation Industries, Inc.
AVCO Corp.
AVCO Everett Research Laboratory
Avondale Shipyards, Inc.
Ayer N W ABH International, Inc.
B D M Corp.
B D M Services Co.
Baltimore Gas & Electric Co.
Bates Ted & Co., Inc.
Bath Iron Works Corp.
Battelle Memorial Institute
Bauer Max Meat Packer
Beech Aircraft Corp.
Bendix Corp.
Bendix Field Engineering Corp.
Boeing Aerospace Co.
Boeing Co.
Boeing International, Inc.
Boeing Services International, Inc.
Boeing Vertol Co.
Bolt Beranek & Newman, Inc.
Booz Allen & Hamilton, Inc.
Borg Warner Corp.
Brooks & Perkins, Inc.
Brunswick Corp.
Bulova Watch Co., Inc.
Bunker Ramo Corp.
Burroughs Corp.
C D I Corp.

California Microwave, Inc.
California, University of
Calspan Corp.
Caltex Oil Products Co.
Campbell Soup Co.
Carnation Co.
Carolina Engine & Equipment Co.
Carolina Power & Light Co.
Chamberlain Mfg. Corp.
Chandler Evans Corp.
Charles Stark Draper Laboratories, Inc.
Chesapeake & Potomac Telephone Co.
Chevron U S A, Inc.
Chromalloy American Corp.
Chrysler Corp.
Cincinnati Electronics Corp.
Coastal Dry Dock Repair
Coastal States Marketing, Inc.
Coastal States Trading, Inc.
Coloney Wayne H, Inc.
Colt Industries, Inc.
Communications Satellite Corp.
Computer Sciences Corp.
Comtech Laboratories, Inc.
Conoco, Inc.
Conrac Corp.
Contraves Goerz Corp.
Control Data Corp.
Cubic Corp.
Curtiss Wright Corp.
Cutler Hammer, Inc.
Data Design Laboratories
Data Products Corp.
Day & Zimmerman, Inc.
Dayton, University of
Delta Refining Co.
Douglas Oil Co. of California
Drake Construction Co.
Dynalectron Corp.
Dynamics Research Corp.
E G & G, Inc.
E S L, Inc.
E Systems, Inc.
Eastern Canvas Products, Inc.
Eastman Kodak Co.
Edgington Oil Co.
Edo Corp.
Electrospace Systems, Inc.
Emerson Electric Co.
Energy Specialists, Inc.
Engineering Research, Inc.
Ensign Bickford Co.
Etowah Mfg. Co., Inc.
Exxon Corp.
F M C Corp.
Fairchild Camera & Instrument Corp.
Fairchild Industries, Inc.
Federal Electric Corp.
Felec Services, Inc.
Ferrulmatic, Inc.
Flanigan James J Shipping Corp.
Flinchbaugh Products, Inc.
Florida Power & Light Co.
Ford Aerospace & Communications
Fortec Constructors
G T E Sylvania, Inc.
Garrett Corp.
General Dynamics Corp.
General Electric Co.
General Foods Corp.
General Motors Corp.
General Research Corp.
General Time Corp.
Getty Oil Co.
Gibbs & Cox, Inc.
Gilbraltar Fabrics, Inc.
Gladieux Refinery, Inc.
Global Associates
Golden Eagle Refining Co., Inc.
Goodrich B F, Co.
Goodyear Aerospace Corp.
Gould, Inc.
Grumman Aerospace Corp.
Guam Oil & Refining Co., Inc.
Gulf Oil Corp.
H & S Corp.
H I T Co.
H R B Singer, Inc.
Haehn Construction Co.
Hamilton Technology, Inc.
Harris Corp.
Harsco Corp.
Hawaiian Independent Refinery, Inc.
Hayes International Corp.
Hazeltine Corp.
Heckethorn Mfg. Co.
Henrys Hickory House
Hercules, Inc.
Hess Oil Virgin Island Corp.
Hewlett Packard Co.
Honeywell, Inc.
Honeywell Information Systems, Inc.
Hughes Aircraft Co.
I C I Americas, Inc.
I T T Gilfillan, Inc.
Illinois Institute of Technology
Ingersoll Rand Co.
Institute for Defense Analysis
Intercontinental Mfg. Co.
International Business Machines Co.
International Harvester Co.
International Telephone & Telegraph Corp.
Interstate Electronics Corp.
Itek Corp.
Jackson Oil Co.
Jacksonville Shipyards, Inc.
Jets Services, Inc.
Johns Hopkins University
Johnson Al Construction Co.
Jones J A Construction Co.
Kaiser Aerospace & Electronics Co.
Kaman Aerospace Corp.
Keco Industries, Inc.
Kentron Hawaii, Ltd.
Kings Point Mfg. Co.
Kraft, Inc.
Kuras, Alterman Corp.
La Barge, Inc.
Landmark Beef Processors, Inc.
Lansdowne Steel & Iron Co.
Lear Siegler, Inc.
Linkabit Corp.
Lite Industries, Inc.
Litton Industries, Inc.
Litton Systems, Inc.
Lockheed Corp.
Lockheed Electronics Co., Inc.
Lockheed Missiles & Space Co., Inc.
Lockheed Shipbuilding & Construction
Logicon, Inc.
Loral Corp.
Magnavox Co.
Magnavox Government & Industrial Electronics Co.
Man Tech Corp.
Management & Technical Services Co.
Maremont Corp.
Marine Transport Lines, Inc.
Marinette Marine Corp.
Marion Corp.
Marquardt Co.
Martin Marietta Aluminum Sales, Inc.
Martin Marietta Corp.
Mason & Hanger Silas Mason Co.
Mason Chamberlain, Inc.
Massachusetts Insititute of Technology
Mayer, Oscar & Co., Inc.
McDonnell Douglas Corp.
Metal Trades, Inc.
Metric Systems Corp.
Mine Safety Appliances Co.
Minnesota Mining & Mfg. Co.
Mitre Corp.
Mobil Oil Corp.
Motorola, Inc.
National Beef Packing Co.
National Steel & Shipbuilding Co.
Navajo Refining Co.
New Mexico State University
Newport News Shipbuilding & Dry Dock Co.
Norris Industries, Inc.
North Pole Refining Co.
Northrop Corp.
Northrop Worldwide Aircraft Services, Inc.
Northwest Airlines, Inc.
Norton Co.
O K C Trading Co.
Olin Corp.
Oshkosh Truck Corp.
P & B Services
P P G Industries, Inc.
Paccar, Inc.
Pacific Architects & Engineers, Inc.
Pacific Gas & Electric Co.
Pacific Northern Oil Corp.
Pacific Refining Co.
Pan American World Airways, Inc.
Parker Hannifin Corp.
Parsons, Ralph M. Co., Inc.
Pennsylvania State University
Perkin Elmer Corp.
Philip Morris, Inc.
Phillips Petroleum Co.
Planning Research Corp.
Pneumo Corp.
Potomac Research, Inc.
Powerine Oil Co.
Pride Refining, Inc.
Procter & Gamble Distributing Co.
Q E D Systems, Inc.
Quiller Construction Co., Inc.
R & D Associates
RCA Alaska Communications, Inc.
RCA Corp.
RCA Global Communications, Inc.
R E D M Corp.
Rand Corp.
Raytheon Co.
Reelfoot Packing Co.
Reflectone, Inc.
Remington Arms Co.
Reynolds, R. J. Industries, Inc.
Ridgecrest Engineering Co.
Right Away Foods Corp.
Rochester, University of
Rockwell International Corp.
Rohr Industries, Inc.
Rosenblatt, M. Son, Inc.
S C I Systems, Inc.
S R I International
Salem Packing Co., Inc.
Sanders Associates, Inc.
Santa Barbara Research Center
Science Applications, Inc.
Seaboard World Airlines, Inc.
Servidone Construction Corp.
Shell Oil Co.
Sierra Research Corp.

Simplex Wire & Cable Co.
Singer Co.
Smith, L. H., Oil Corp.
Southern California, University of
Southern Packaging & Storage Co.
Southern Union Refining Co.
Southwest Marine, Inc.
Southwest Truck Body
Southwestern Refining Co., Inc.
Space Services of Georgia, Inc.
Sparton Corp.
Sperry Corp.
Standard Mfg. Co.
Stanford University
Stewart Warner Corp.
Summa Corp.
Sun Chemical Corp.
Sun Co., Inc.
Sundstrand Corp.
Supreme Beef Co., Inc.
Swift & Co.
System Development Corp.
Systems Consultants, Inc.
Systems Research Laboratories, Inc.
T R W, Inc.
Tektronix, Inc.
Teledyne Brown Engineering
Teledyne C A E
Teledyne Electronics
Teledyne, Inc.
Teledyne Industries, Inc.
Teletype Corp.
Tesoro Alaskan Petroleum Corp.
Texas Instruments, Inc.
Texas, University of
Textron, Inc.
Thiokol Corp.
Tiger International, Inc.
Todd Shipyards Corp.
Tonkawa Refining Co.
Total Petroleum, Inc.
Tracor, Inc.
Tracor Marine, Inc.
Trans International Airlines, Inc.
Treadwell Corp.
Trinidad Corp.
Turner Construction Co.
U T L Corp.
Union Carbide Corp.
Uniroyal, Inc.
United States Lines Co.
United Technologies Corp.
Utah, University of
Value Engineering Co.
Vanderbilt Shirt Co., Inc.
Vanguard Oil & Service Co.
Varian Associates
Varo, Inc.
Vought Corp.
Wallace B E Products Corp.
Walters E & Co., Inc.
Washington, University of
Watkins Johnson Co.
Western Electric Co., Inc.
Western Gear Corp.
Western Union International, Inc.
Western Union Telegraph Co.
Westinghouse Electric Corp.
Whittaker Corp.
Wilke William F Inc.
Williams Clyde & Associates
Williams Research Corp.
Wilson & Co., Inc.
World Airways, Inc.
Wylie C E Construction Co.
Wyoming Refining Co.
Xerox Corp.
Zapata Marine Services, Inc.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

December 18, 1979.

[FR Doc. 79-39259 Filed 12-20-79; 8:45 am]
BILLING CODE 3810-70-M

Department of the Air Force

32 CFR Part 845

Claims and Litigation; Counsel Fees and Other Expenses in Foreign Tribunals

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

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising Part 845 of Chapter VII, title 32, of the Code of Federal Regulations. This revision establishes the criteria and assigns the responsibility for providing counsel, bail, payment of court costs and other necessary and reasonable expenses incident to representation in civil and criminal proceedings before foreign courts and foreign administrative forces, which involve members of the Armed Forces, civilian personnel and dependents. It implements DOD Directive 5525.1, January 20, 1966.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFOFMATION CONTACT: Major Thomas Geraci, telephone (202) 695-9631.

Title 32 of the Code of Federal Regulations is amended by revising Part 845 to read as follows:

PART 845—COUNSEL FEES AND OTHER EXPENSES IN FOREIGN TRIBUNALS

Sec.

845.1 Purpose.
845.2 Statutory authority.
845.3 Responsibility.
845.4 Criteria for the provision of counsel and payment of expenses in criminal cases.
845.5 Provision of bail in criminal cases.
845.6 Criteria for the provision of counsel and payment of expenses in civil cases.
845.7 Procedures for hiring counsel and obligating funds.
845.8 Payment of counsel fees and other expenses.
845.9 Appropriated funds chargeable.
845.10 Reimbursement.
845.11 Correspondence.

Authority: Sec. 8012, 70A Stat. 488, sec. 1037, 72 Stat. 1445; 10 U.S.C. 8012, 1037.

Note.—This part is derived from chapter 2 of Air Force Regulation 110-12, December 1, 1978.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 845.1 Purpose.

This part establishes criteria and assigns responsibility for the provision of counsel, for the provision of bail, and for the payment of court costs and other necessary and reasonable expenses incident to representation in civil and criminal proceedings, including appellate proceedings, before foreign courts and foreign administrative agencies, which involve members of the Armed Forces, civilian personnel and dependents. Payment of fines is not authorized hereunder.

§ 845.2 Statutory authority.

10 U.S.C. 1037 provides authority for employment of counsel, and payment of counsel fees, court costs, bail, and other expenses incident to representation of persons subject to the Uniform Code of Military Justice before foreign tribunals. For personnel not subject to the Uniform Code of Military Justice, funds for similar expenses may be made available in cases of exceptional interest to the service concerned, upon prior application through the Judge Advocate General of the service concerned, to the appropriate service secretary.

§ 845.3 Responsibility.

(a) Requests for provision of counsel, provision of bail, or payment of expenses will ordinarily be made by the defendant or accused through appropriate channels to the officer exercising general court-martial jurisdiction over him. This officer shall determine whether the request meets the criteria prescribed herein and, based upon such determination, shall take final action approving or disapproving the request. Within their geographical areas of responsibility, major commands in the interest of obtaining prompt and effective legal service may appoint as approval authority, instead of the officer exercising general court-martial jurisdiction, any subordinate officer having responsibility in a particular country for personnel subject to foreign criminal jurisdiction.

(b) Notwithstanding the criteria prescribed below, an officer exercising approved authority may, in his discretion, deny a request for the provision of counsel, provision of bail or payment of expenses, where the otherwise eligible requestor is in an absent without leave or deserter status at the time of the request, or otherwise

is not then subject to United States military control, and there is no reasonable basis for the belief that the requestor will return to United States military control at the conclusion of the proceedings of service of an adjudged sentence, if any.

§ 845.4 Criteria for the provision of counsel and payment of expenses in criminal cases.

Requests for the provision of counsel and payment of expenses in criminal cases may be approved in pretrial, trial, appellate and posttrial proceedings in any one of the following criminal cases:

(a) Where the act complained of occurred in the performance of official duty; or

(b) Where the sentence which is normally imposed includes confinement, whether or not such sentence is suspended; or

(c) Where capital punishment might be imposed; or

(d) Where an appeal is made from any proceeding in which there appears to have been a denial of the substantial rights of the accused; or

(e) Where conviction of the offense alleged could later form the basis for administrative discharge proceedings for misconduct as a result of civil court disposition; or

(f) Where the case, although not within the criteria established in paragraphs (a), (b), (c), (d), or (e) of this section, is considered to have significant impact upon the relations of US forces with the host country or is considered to involve any other particular US interest.

§ 845.5 Provision of bail in criminal cases.

Funds for the posting of bail or bond to secure the release of personnel from confinement by foreign authorities before, during, or after trial may be furnished in all criminal cases. Safeguards should be imposed to assure that at the conclusion of the proceedings or on the appearance of the defendant in court, the bail or bond will be refunded to the military authorities. Bail will be provided only to guarantee the presence of the defendant and will not be provided to guarantee the payment of fines or civil damages. Local US military authorities are expected to provide bail, in any case, only after other reasonable efforts have been made to secure release of pretrial custody to the US.

§ 845.6 Criteria for the provision of counsel and payment of expenses in civil cases.

Requests for provision of counsel and payment of expenses in civil cases may be granted in trial and appellate proceedings in either of the following civil cases:

(a) Where the act complained of occurred in the performance of official duty; or

(b) Where the case is considered to have a significant impact upon the relations of US forces with the host country or is considered to involve any other particular US interest. No funds shall be provided under this part in cases where the United States of America is in legal effect the defendant, without prior authorization of the Judge Advocate General.

§ 845.7 Procedures for hiring counsel and obligating funds.

(a) The selection of individual trial or appellate counsel will be made by the defendant. Such counsel shall represent the individual defendant and not the US Government. Selection shall be made from approved lists of attorneys who are qualified, competent and experienced in trial practice, and admitted for full practice, on their own account, before the courts of the foreign country involved. Normally, these lists will be coordinated with the local court or bar association, if any, and the appropriate US Diplomatic or Consular Mission and should include only those attorneys who are known or reputed, to comply with local attorney fee schedules or guides approved or suggested by local bar associations and should not exceed amounts paid under similar circumstances by nationals of the country where the trial is held. No fee may include any amount in payment for services other than those incident to representation before judicial and administrative agencies of the foreign country in the particular case for which the contract is made, and in no event may any contract include fees for representation in habeas corpus or related proceedings before tribunals of the United States. When appropriate and reasonable in the case, the payment of expenses, in addition to counsel fees, may include court costs, bail costs, charges for obtaining copies of records, printing and filing fees, interpreter fees, witness fees, and other necessary and reasonable expenses. Expenses will not include the payment of fines or civil damages, directly or indirectly.

(b) Whenever possible, the officer responsible under § 845.3 (or his designee), acting on behalf of the United States of America, shall enter into a written contract with the selected counsel. The contract will cover counsel fees, and, when appropriate, may cover other costs arising in defense of the case only in the court of first instance and will not include fees for representation on appeal. If the case is appealed to higher tribunals, supplemental agreements shall be executed for each appeal. A copy of the contractual agreement shall serve as the obligating document.

(c) If, for example, because of unusual circumstances or local customs, it is not practicable to enter into a written contract as in paragraph (b) of this section, action will be taken to record the agreement reached between the officer responsible under § 845.3 (or his designee) and the selected counsel. This requirement may be met by a letter of commission or letter of understanding, executed between the officer responsible under § 845.3 (or his designee) and the selected counsel, or by a written request for legal services expressly or impliedly accepted by the selected counsel. Any such document shall contain, if possible, an agreed estimate of counsel fees and reasonable expenses and a statement that both fees and expenses will conform to those paid by local nationals under similar circumstances and will not exceed local fee schedules, if any. If this document does not include an agreed estimate of counsel fees and other reasonable expenses, an estimate will be provided by the contracting officer. A copy of the document, together with the estimate, will be furnished the accounting component and will serve as the commitment document for the reservation of funds.

(d) The provision of counsel and payment of expenses under this part is not subject to the provisions of the Defense Acquisition Regulation (Subchapter A, Chapter I of this title). However, the contract clauses set forth in Part 5, Section VII, Defense Acquisition Regulation, may be used as a guide in contracting.

(e) Because of the desirability of timely procedural action, it is suggested that there be designated, from among the judge advocates on the staffs of officers responsible under § 845.3, contracting officers with contracting authority limited to agreements described in this section. The effect of this designation would be to combine within one office the duties of contracting officer and judge advocate.

(f) Nothing in this part shall be construed as prohibiting the selection of qualified local counsel employed by the United States Government, if the serviceman freely selects such counsel.

§ 845.8 Payment of counsel fees and other expenses.

Payment of bills submitted by the selected counsel and other costs shall be made in accordance with the general provision of AFM 177–102 (Commercial Transactions at Base Level), relating to

payment of contractual obligations and pertinent disbursing regulations. All payments under these procedures will be in local currency. Acceptance of services procured under these procedures shall be certified to by the officer responsible under § 845.3 (or his designee). Payments of bail may be made when authorized by such officers. Such authorization shall be in the form of a directing letter or message citing 10 U.S.C. 1037.

§ 845.9 Appropriated funds chargeable.

Authorized expenses incurred incident to implementation of the policies set forth in this part, including transportation and per diem expenses of trial observers, interpreters, and local counsel employees, shall be paid from appropriated funds of the service to which the defendant belongs. Payments shall be made from the appropriation current at time of payment, unless obligations for authorized costs have previously been established. Refunds shall be processed as appropriation refund. Such funds are chargeable to the base for operation and maintenance purposes (O&M or R&D, as applicable).

§ 845.10 Reimbursement.

No reimbursement will ordinarily be required from individuals with respect to payments made in their behalf under this part. However, prior to the posting of bail on behalf of a defendant, a signed agreement shall be secured from him wherein he agrees to remit the amount of such bail or permit the application of so much of his pay as may be necessary to reimburse the Government in the event that he willfully causes forfeiture of bail. In the event of such forfeiture, bail provided under this part shall be recovered from the defendant in accordance with that agreement. The agreement should include a statement that it does not prejudice the defendant's right to appeal to the Comptroller General of the United States and the courts after such payment or deduction has been made, if he considers the amount erroneous.

§ 845.11 Correspondence.

Judge advocates who advise officers responsible under § 845.3 are authorized to correspond directly with each other and with the Judge Advocate General of the service concerned for advice with regard to payment of counsel fees and other expenses.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-39235 Filed 12-20-79; 8:45 am]

BILLING CODE 3910-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1378-7]

Approval and Promulgation of State Implementation Plans; Approval of PSD Plan for North Dakota

AGENCY: Environmental Protection Agency.

ACTION: Final rule; Correction.

SUMMARY: The purpose of this action is to change section numbers 52.2620 and 52.2630 to 52.1820 and 52.1829, respectively, of Title 40, Part 52, of the Code of Federal Regulations for the PSD SIP revision for North Dakota. The final rulemaking was published in the Federal Register on November 2, 1979 (44 FR 63102).

EFFECTIVE DATE: The effective date of this rulemaking is December 21, 1979.

ADDRESSES: Copies of the SIP revision and an EPA evaluation of the revision will be available at the offices of the EPA listed below.

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.

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

FOR FURTHER INFORMATION CONTACT: David S. Kircher, Chief, Planning & Operations Section, Air Programs Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711.

This rulemaking action is issued under the authority of Section 110 of the Clean Air Act as amended.

Dated: December 10, 1979.

Roger L. Williams,

Regional Administrator.

[FR Doc. 79-39150 Filed 12-20-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1374-4]

Approval and Promulgation of Implementation Plan; Michigan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This action approves a revision to the Michigan State Implementation Plan (SIP) which was published in a Notice of Proposed Rulemaking on July 12, 1979 (44 FR 26765). The revision extends the date that the Detroit Edison Company is required to bring sulfur dioxide emissions from coal fired boilers at its Monroe County Generating Station, in the City of Monroe, Monroe County, Michigan, into compliance with certain regulations contained in the federally approved Michigan SIP. Any extension of SIP compliance dates for major sources of pollution must be approved as SIP revisions before they become effective (42 U.S.C. Section 7410). This revision extends the date for compliance from January 1, 1980 to January 1, 1985. In the interim, the Commission established a sulfur dioxide emission limitation which is equivalent to burning coal with a sulfur content of 3.0% at full load for the period beginning six months after July 7, 1977 and ending December 31, 1979. From December 31, 1979 until January 1, 1985, the Commission established a sulfur dioxide emission limitation which is equivalent to the Company burning 2.3% coal on a maximum 24-hour basis. In addition, the Company is required to install adequate monitors, measure and record the fuel firing rate at each boiler, and submit data from above to the Michigan Department of Natural Resources. The supporting documentation demonstrates that this SIP revision will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards for sulfur dioxide.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Joel Morbito, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6059.

SUPPLEMENTARY INFORMATION: The Detroit Edison Company operates a coal-fired, steam powered electric generating station in Monroe County, Michigan. The plant is commonly known as the Monroe Power Plant. On April 20, 1976 Edison made application to the Michigan Department of Natural Resources Air Pollution Control Commission (Commission) for an extension of the date that the Monroe Power plant had to be in compliance with the sulfur dioxide emission limits specified in Tables 3 and 4 of Rule 336.49 of the State of Michigan Air Pollution Control Commission Rules and Regulations for Air Pollution.

On November 8, 1976, the Company revised its request and requested that the Commission establish a sulfur dioxide emission limit for the Monroe Plant which is equivalent to burning coal with a sulfur content of 3.0% a full load for the period beginning 6 months after July 7, 1977 and ending on December 31, 1979. The Company

requested further that the Commission establish for the period January 1, 1980 to January 1, 1985 a sulfur dioxide emission limit for the Monroe Plant which is equivalent to burning coal with a sulfur content of 2.3% by weight at 12,000 BTU/lb. of coal.

A public hearing was held in this matter on April 18, 1977, in conformity with a notice of hearing requirement set forth in 40 CFR, Part 51.4. The Commission signed the Order on July 7, 1977 and on December 12, 1977 formally submitted it to the U.S. Environmental Protection Agency (USEPA) as a revision to the Michigan SIP.

Pursuant to Section 110 of the Clean Air Act, the Administrator of the USEPA must approve Administrative Orders which extend compliance dates for major sources as revisions to the SIP before they may become effective. 42 U.S.C. Section 7410.

On July 12, 1979 (44 FR 40655) the Administrator published the Order as a proposed revision to the Michigan SIP and invited comment. Interested parties were given until August 13, 1979 to submit written comments on the proposed SIP revision. The only comments received were those of the Detroit Edison Company urging approval of the proposed revision.

Final approval of the Michigan Air Pollution Control Commission's Order as a revision to the Michigan SIP is the subject of today's rulemaking. The Order, which extends the date for complying with Rule 336.49 was submitted to the USEPA after notice and public hearings were held in accordance with the procedural requirements of 40 CFR, Parts 51.4 and 51.6. The Order extends the compliance date for meeting sulfur dioxide emission limitations to January 1, 1985, subject to certain conditions which are as follows:

(A) Sulfur Dioxide Control Program and Emission Limitations

(1) Commencing six months from the effective date of this Order, the Company shall not burn any fuel at the Power Plant which:

(a) Results in sulfur dioxide emissions greater than 1,580 tons per calendar day. The intent of this subparagraph is to be equivalent to burning coal at the Power Plant of 3.0 percent sulfur by weight, 12,000 BTU/pound of coal at 3,200 megawatts gross load.

(b) Results in sulfur dioxide emissions greater than 5.60 pounds per million BTU heat input per calendar day. The intent of this subparagraph is to be equivalent to burning coal at the Power Plant of 3.5 percent sulfur by weight at 12,000 BTU/pound of coal.

(2) After January 1, 1980 and continuing until January 1, 1985, the Company shall not emit or cause the emission of sulfur dioxide in excess of a maximum of 3.68 pounds per million BTU heat input calculated on a calendar day basis. The intent of this subparagraph is to be equivalent to burning coal at the Power Plant of 2.3 percent sulfur by weight at 12,000 BTU/pound of coal.

(3) By January 1, 1982, the Company shall submit to the staff an acceptable control strategy including increments of progress for the Power Plant which shall provide for compliance with the emission limits specified in Table 3 R 336.49, by not later than January 1, 1985. It is the intent of the Company and Staff to incorporate the elements of this control strategy into either a new or amended Consent Order.

(4) By January 1, 1985, the Company shall not emit or cause the emission of sulfur dioxide in excess of a maximum of 1.60 pounds per million BTU heat input calculated on a 24-hour average basis, unless an alternate compliance date is established for the Power Plant by subsequent amendment to the State Implementation Plan [as published in the **Federal Register** at 40 CFR 50].

(5) Annually from the date of final adoption of Section 5(A)(4), the Company shall submit to Staff (and upon request to the Commission) a report of the Company's progress towards complying with this Consent Order. Any developments which would preclude compliance by the Company with Section 5(A)(4) shall be immediately transmitted in writing to the Staff and the Commission.

(B) Monitoring

(1) The Company shall operate a reasonable number of ambient air quality monitors in such manner and at such locations as specified by the Chief of the Air Quality Division, Department of Natural Resources.

(2) The Company shall install by January 1, 1978 for testing and certification purposes in-stack emission monitors for measuring sulfur dioxide and plume opacity. These monitors will be placed in operation as soon as possible, but not later than Janury 1, 1980.

(3) The Company shall demonstrate the adequacy of the in-stack sulfur dioxide monitor by measuring and providing fuel analysis in a manner approved by the Chief of the Air Quality Division, Department of Natural Resources.

(4) The Company shall measure and record the fuel firing rate at each boiler at the Power Plant.

(5) Beginning in 1977, the Company shall conduct periodic source emission tests for particulates from each unit. The tests shall be conducted at approximately 18-month intervals and in accordance with the Commission approved procedures.

(C) Data Reporting

The Company shall submit data from the aforementioned ambient air quality monitors, in-stack monitors, fuel analysis, fuel firing rate and particulate testing in such format and at such intervals as specified by the Chief of the Air Quality Division, Department of Natural Resources, subject to the Company having the opportunity to appeal such requirements to the Commission. If the Company fails to submit the above data as specified, such failure shall constitute a violation of this Order unless the Company promptly provides the Commission with an acceptable reason for such failure.

(D) Excursions Above Air Quality Standards

In the event that either the Company or the Staff determines at any time that any one of the sulfur dioxide monitors referred to in paragraph (B)(1), above, or any one similar monitor operated by the Staff or the Wayne County Health Department in Wayne or Monroe Counties, measures an ambient sulfur dioxide excursion [an excursion is a single ambient concentration above 365 $\mu g/m3$ (0.14 ppm) calculated on a running 3-hour average], then the Company shall:

(1) Within 45 days reduce the mass rate of sulfur dioxide emission from the Power Plant according to the following applicable formula:

(a) For an excursion of the running 3-hour average:

$$\text{Interim Reduction} = 110 - \frac{130{,}000}{\text{Excursion}}$$

Where:

Excursion = maximum 3-hour running average ($\mu g/m3$)

(b) For an excursion of the running 24-hour average:

$$\text{Interim Reduction} = 110 - \frac{36{,}500}{\text{Excursion}}$$

Where:

Excursion = maximum 24-hour running average ($\mu g/m3$)

It is understood that the Interim Reduction shall be applied as a percentage to the mass rate of sulfur dioxide emission corresponding to the emission during the excursion. It is further understood that the Interim Reduction shall remain in effect until

such time as the Company is in compliance with the emission limits specified in Table 3 of R 336.49. The Company and Staff further agree that additional Interim Reductions may be required in the event of a subsequent excursion. The Interim Reduction, however, shall not result in a sulfur dioxide emission limit that would be more stringent than the requirements of Table 3 of R 336.49.

The Company will be relieved of this Interim Reduction requirement if: (a) it demonstrates to the Commission's satisfaction, utilizing the procedure attached hereto as Appendix I, that the Power Plant's contribution to the excursion is less than 20 percent; or (b) it has received the Commission's approval to implement and does implement an alternate interim emission reduction program. Further, the Company may be relieved of this Interim Reduction if it demonstrates to the Commission's satisfaction that the excursion was likely caused by an unusual release of sulfur dioxide by a source other than the Power Plant. Notwithstanding possible relief from the Interim Reduction requirement, the Company shall still be required to comply with paragraphs (D)(2) and (3), following.

(2) Within four (4) months, submit an acceptable program to the Commission in writing which provides for compliance with the emission limits of Table 3 of R 336.49. The Company will be relieved of the requirement to submit such a program if it demonstrates to the Commission's satisfaction by utilizing the procedure attached thereto as Appendix I, that the Power Plant's contribution to the excursion was greater than 10%. Determining compliance with this section shall be made in accordance with the following examples:

Measured value of the excursion	Permitted 10 percent contribution of power plant
Total=400 μg/m3	40 μg/m3 or less.

Notwithstanding the provision of (D)(3), below, the Company will not be required to implement such a program unless between the date of excursion to which the Power Plant's contribution was greater than 10% and January 1, 1985, a second excursion occurs to which the Power Plant's contribution was also greater than 10%. It is the intent of the parties to develop and enter into the Consent Order referred to in (D)(3), below, after the first excursion, but not to implement the program until after the second excursion. (3) Within seven (7) months enter a Consent Order with the Commission, for implementation of the program referred to in paragraph (D)(2), above. The Company will be relieved from the requirements to enter into the Consent Order and implement the program submitted in paragraph (D)(2), above, if it successfully makes the demonstration referred to in (D)(2), above. The Company may be relieved from the requirements to submit an acceptable program, enter into the Consent Order and implement the program submitted in (D)(2), above, if it demonstrates to the Commission's satisfaction that the excursion was likely caused by an unusual release of sulfur dioxide by a source other than the Power Plant.

6. Modification or revocation of order

(A) The Staff and the Company agree that the entry of this Consent Order is without prejudice to the Company's rights to petition the Commission for modifications of any provision of this Consent Order in the event that the Company, for any good cause, including the impact of compliance with the terms of this Order, believes that a reconsideration is appropriate.

(B) The Commission may modify or revoke this Order granting an extension of the dates for compliance with Tables 3 and 4 if the Commission deems it necessary for any of the following reasons:

(1) The Commission determines that the person granted the extension has not adequately complied with the terms, conditions and requirements of the Order issued by the Commission, including but not limited to monitoring, reporting and fuel specifications.

(2) The Commission determines that the public health, safety or welfare may be adversely affected by any further compliance extension.

(3) The Commission determines that further reductions in the Power Plant's sulfur dioxide emissions would allow the location of a new source or modification of an existing source, and without the reduction the new source or modification of an existing source would not be permitted. However, such reduction shall not be greater than that necessary to permit the location of the new source or the modification to the existing source, and such reduction shall not be more stringent than the requirements of Table 3 of R 336.49.

(4) The Commission determines that the original data submitted by the applicant on the application requesting an extension is materially inaccurate.

(5) The Commission determines that federal law or rules would prohibit or make unlawful further extension.

7. Staff and the Company both acknowledge that a public hearing on this abatement program was held on April 18, 1977. Both Staff and the Company hereby consent to enforcement of this Stipulation and Final Order in the same manner and by the same procedures for all final orders entered pursuant to Section 16 of Act 257 of the Public Acts of 1972, being Section 336.26 of the Michigan Compiled Laws, incuding but not limited to, enforcement by legal action brought under 1972 PA 257 and/or 1970 PA 127.

Final approval of the Order as a SIP revision is effective upon publication (date of publication). The Administrator finds good cause for making this revision effective immediately as the Order is already effective in the State of Michigan and federal approval imposes no additional requirement on the affected source.

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.

After review of all relevant materials, the Administrator has determined that the revision meets the requirements of Section 110 (a)(3) of the Clean Air Act and USEPA regulations in 40 CFR Part 51.6. The revision is legally enforceable, will not interfere with attainment or maintenance of the NAAQS and has been subjected to reasonable notice and public hearing. Accordingly the revision is approved.

This Final Rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Part 52 of Chapter 1, Title 40, Code of Federal Regulations, the table in 52.1175 is amended by adding a new entry in paragraph (e) as follows:

Subpart X—Michigan

§ 52.1175 Compliance schedules.

* * * * *

(e)

* * * * *

Source	Location	Regulations involved	Date schedule adopted	Final compliance date
* * * *	*	*	*	*
Detroit Edison (Monroe plant)	Monroe County	336.49	July 7, 1977	Jan. 1, 1985.
* * * *	*	*	*	*

(42 U.S.C. § 7410)

Dated: December 13, 1979.

Douglas Costle,

Administrator.

[FR Doc. 79-39148 Filed 12-20-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[FRL 1378-5; PP 7F1925/R226]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Tebuthiuron

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide tebuthiuron in or on rangeland grass forage at 20 parts per million (ppm) and the meat, fat, and meat byproducts of cattle, goats, horses, and sheep at 2 ppm. The regulation was requested by Elanco Products Company. This rule establishes maximum permissible levels for residues of the herbicide tebuthiuron in or on rangeland grass forage and the meat, fat, and meat byproducts of cattle, goats, horses, and sheep.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Taylor, Product Manager, (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/755-7013).

SUPPLEMENTARY INFORMATION: On June 14, 1977, notice was given (42 FR 30423) that Elanco Products Co., Division of Eli Lilly Co., P.O. Box 1750, Indianapolis, IN 46206, had filed a pesticide petition (PP 7F1925) with the EPA. This petition proposed that 40 CFR 180 be amended to establish tolerances for combined residues of the herbicide tebuthiuron (*N*-[5-(1,1-dimethlethyl)-1,3,4-thiadiazol-2-yl]-*N,N'*-dimethylurea) and its metabolites *N*-[5-(2-hydroxy-1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N'*-dimethylurea, *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N*-methylurea, *N*-[5-(2-hydroxy-1-dimethylethyl)-1,3,4-[thiadiazol-2-yl]-*N*-methlurea, and *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N'*-hydroxymethyl-*N*-methylurea in or on grasses (pasture and rangeland) and grass hay at 20 parts per million (ppm); tebuthiuron (*N*-[5-(1,1-dimethylethyl-1,3,4-thiadiazol-2-yl]-*N,N'*-dimethylurea) and its metabolites 1-[5-(1,1-dimethlethyl)-1,3,4-thiadiazol-2-yl]-urea, *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N'*-hydroxymethyl-*N*-methylurea, *N*-[5-(1,1-dimethlethyl)-1,3,4-thiadiazol-2-yl]-*N*-methylurea, 5-(1,1-dimethylethyl)-2-methylamino-1,3,4-thiadiazol, and 2-(1,1-dimethylethyl)-5-amino-1,3,4-thiadiazol in meat, fat, and meat byproducts of cattle, goats, horses, and sheep at 2 ppm; tebuthiuron (*N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N'*-dimethylurea) and its metabolites *N*-[5-(2-hydroxy-1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N'*-dimethylurea, *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N*-methylurea, 1-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-urea, and *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N'*-hydroxymethyl-*N*-methylurea in milk at 1 ppm.

Subsequently, the petitioner amended the petition by (a) withdrawing the proposed tolerances in or on milk at 1 ppm and pasture and rangeland grasses at 20 ppm; (b) changing "grass hay" at 20 ppm to read "rangeland grass forage" at 20 ppm; and (c) expressing the tebuthiuron metabolites in terms of tebuthiuron and its metabolites containing the dimethylethyl thiadiazole moiety. No comments were received in response to this notice of filing.

The petition now proposes the establishment of tolerances for the combined residues of the herbicide tebuthiuron (*N*-[5-1,1-dimethylethyl)1,3,4-thiadiazol-2-yl]-*N,N'*-dimethylurea) and its metabolites containing the dimethylethyl thiadiazole moiety in or on rangeland grass forage at 20 ppm and the meat, fat, and meat byproducts of cattle, goats, horses, and sheep at 2.0 ppm.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data evaluated include a rat oral LD_{50} equal to 644 ± 27 (standard error of mean) milligrams per kilogram of body weight (mg/kg bw); a 2-year rat feeding study with a no-observed-effect level (NOEL) of 400 ppm (20 mg/kg bw/day) and a minimum-effect level (MEL) of 800 ppm; a 2-year mouse oncogenicity study (negative at 1,600 ppm, the highest fed level); a 2-year rat oncogenicity study (negative at 1,600 ppm, the highest fed level); a rabbit teratology study (negative at 25 mg/kg bw, the highest fed level); a rat teratology study (negative at 1,800 ppm); a rat dominant-lethal study (negative for mutagenicity at 75 mg/kg bw); an Ames mutagenicity test (negative at up to 1 mg/ml of medium); rat, dog, and rabbit metabolism studies; a 162-day cattle feeding study (negative at 30 ppm); a 1-month chicken feeding study (negative at 1,000 ppm); and a 3-generation rat reproduction study in which an NOEL was not established since at the lowest level fed (400 ppm; 20 mg/kg bw/day), the body weights of weanlings were significantly depressed.

There have not been any permanent tolerance etablished previously for tebuthiuron. An acceptable daily intake (ADI) for man and a maximum permissible intake (MPI) for man are not available and cannot be calculated for tebuthiuron because an NOEL cannot be established at this time from the rat 3-generation reproduction study.

It is the judgment of theAgency's scientists that as dose levels are lowered, the weight depression effect noted in the reproduction study probably would diminish regularly to a level where it could not be measured. Because the observed adverse effect is considered a minor one and because the expected level of exposure to humans is less than 1/5,000 of the dose level that produced that effect, the requested tolerances are considered adequate to protect the public health.[1]

The company has agreed in writing to provide an additional multi-generation reproduction study which includes lower dosage levels in order to establish an unequivocal NOEL. The results of this study are expected to be received by the Agency in 24 months. At that time the Agency will re-evaluate these tolerances.

Data considered desirable but lacking are further mutagenicity data which will be deferred until the amounts and kinds of mutagenicity data required for the establishment of tolerances are determined by this Agency. In addition, the use restrictions further limit human or domestic animal exposure. There are no pending actions against registration

[1] The reproduction study's MEL (20 mg/kg bw/day) divided by the calculated theoretical maximum residue contribution (TMRC) to an average daily diet for an adult, 0.0037 mg/kg bw/day.

of the pesticide. The nature of the residues of the pesticide is known and an adequate analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes. No other considerations are involved in establishing the proposed tolerances.

Secondary residues are likely to occur in meat, fat, and meat byproducts of cattle, goats, horses, and sheep. Therefore section 180.6(a)(1) applies. Residues are not likely to occur in eggs, meat, fat, and meat byproducts of poultry since no poultry feed items are involved (section 180.6(a)(3) applies). There is no milk tolerance proposed. The use is for application to rangeland. The intent is to upgrade the range for grazing beef cattle. Although the proposed label would allow dairy cattle to graze on treated land after a two-year post-treatment interval, dairy cattle probably would not be grazed on this type of range in any event. The label permits hay cutting two years after treatment. The hay could be used for dairy cattle feed. The two year restriction is intended to reduce the potential for residues in the hay and preclude any problem of residues in milk. For these reasons, the proposed use of tebuthiuron on rangeland would not likely result in residues occurring in milk.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the tolerances of 20 ppm in or on rangeland grass forage and 2.0 ppm in the meat, fat, and meat byproducts of cattle, goats, horses, and sheep established by amending CFR 180 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication in the **Federal Register**, file written objections with the Hearing Clerk, EPA, Rm. M–3708 (A–110), 401 M St., SW., Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: December 13, 1979.

Statutory Authority: Section 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, is amended by adding the new section 180.390 to read as follows:

§ 180.390 Tebuthiuron; tolerances for residues.

Tolerances are established for residues of the insecticide tebuthiuron (*N*-[5-1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N'*-dimethylurea) and its metabolites containing the dimethylethyl thiadiazole moiety in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Cattle, fat	2
Cattle, mbyp	2
Cattle, meat	2
Goats, fat	2
Goats, mbyp	2
Goats, meat	2
Grass, rangeland, forage	20
Horses, fat	2
Horses, mbyp	2
Horses, meat	2
Sheep, fat	2
Sheep, mbyp	2
Sheep, meat	2

[FR Doc. 79-39149 Filed 12-20-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5753]

List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Federal Insurance Administration, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATE: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Room 5150, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) For acquisition and construction of buildings, and

(2) For buildings located in a special flood hazard area identified by the Director of Federal Emergency Management Agency.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction of buildings in these areas unless the community has entered the program. The denial of such financial assistance has no application outside of the identified special flood hazard areas of such flood-prone communities.

Prior to July 1, 1975, the statutory requirement for the purchase of flood insurance did not apply until and unless the community entered the program and the special flood hazard areas were identified by the issuance of a flood insurance map. However, after July 1, 1975, or one year after identification, whichever is later, the requirement applies to all communities in the United States that are identified as having special flood hazard areas within their community boundaries, so that, no such financial assistance can legally be provided for buildings in these areas unless the community has entered the program.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Insurance Administrations's (FEMA) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number and a FIRM by the letter "R" following the community number. If the FIA withdraws a FHBM for any reason the insurance purchase requirement is

suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 44 CFR Part 59 et seq.).

As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication. Accordingly, Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations is amended as follows:

1. Present § 65.6 is revised to read as follows:

§ 65.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).* The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 5149
40 FR 17015
40 FR 20798
40 FR 46102
40 FR 53579
40 FR 56672
41 FR 1478
41 FR 50990
41 FR 13352
41 FR 17726
42 FR 8895
42 FR 29433
42 FR 46226
42 FR 64076
43 FR 24019
44 FR 815
44 FR 6383
44 FR 18485
44 FR 25636
44 FR 34120
44 FR 52835
44 FR 57094
44 FR 75639

(b) *Flood Insurance Rate Maps (FIRM's).* The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 17015
41 FR 1478
42 FR 49811
42 FR 64076
43 FR 24019
44 FR 25636
44 FR 52835

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made pursuant to § 65.6:

FIA Map Rescission

State	Community name and No.	County	Hazard ID date	Rescission date	Reason
California	Town of Colma, 060316A, C	San Mateo	May 2, 1975	Nov. 1, 1979	1A
Iowa	City of Macedonia, 190772	Pottawattamie	Dec. 10, 1976	Nov. 1, 1979	1
Iowa	City of Stanwood, 190056A, C	Cedar	May 14, 1976	Nov. 1, 1979	1A
Iowa	City of Traynor, 190816	Pottawattamie	Mar. 26, 1976	Nov. 1, 1979	1
Kansas	City of Alden, 200291C	Rice	Dec. 27, 1974	Nov. 1, 1979	1A
Kentucky	City of Cedarville, 210355A	Pike	Sept. 29, 1978	Nov. 1, 1979	3
Missouri	City of Vienna, 290647C	Maries	Feb. 7, 1975	Nov. 1, 1979	1A
Missouri	Town of Warson Woods, 290393A, C	St. Louis	Aug. 6, 1976	Nov. 1, 1979	1A
North Dakota	City of Oakes, 380246C	Dickey	Feb. 14, 1975	Nov. 1, 1979	1A
California	City of Atwater, 060189A, C	Merced	July 25, 1975	Nov. 1, 1979	1A
Pennsylvania	Township of West Mahoning, 421723	Indiana	Jan. 24, 1975	Nov. 1, 1979	1
Utah	Town of Huntsville, 490168A	Weber	June 21, 1974	Nov. 1, 1979	1
California	City of Alhambra, 060095A, C	Los Angeles	Nov. 21, 1975	Nov. 15, 1979	1A
California	City of Azusa, 065015A	Los Angeles	Apr. 23, 1976	Nov. 15, 1979	1
California	City of Claremont, 060109A	Los Angeles	May 24, 1974	Nov. 15, 1979	1
California	City of Duarte, 065029	Los Angeles	July 19, 1974	Nov. 15, 1979	1
California	City of Glendale, 065030A	Los Angeles	May 7, 1976	Nov. 15, 1979	1
California	Hidden Hills, 060125A	Los Angeles	Apr. 23, 1976	Nov. 15, 1979	1A
California	City of Industry, 065035A	Los Angeles	June 11, 1976	Nov. 15, 1979	1
California	City of LaVerne, 060133C	Los Angeles	Mar. 6, 1979	Nov. 15, 1979	1
California	City of Monrovia, 065046A	Los Angeles	Apr. 23, 1979	Nov. 15, 1979	1
California	City of Pasadena, 065050A	Los Angeles	July 16, 1976	Nov. 15, 1979	1
California	City of Piedmont, 060011A, C	Alameda	Sept. 26, 1975	Nov. 15, 1979	1A
California	City of Rancho Palos Verdes, 060464A	Los Angeles	Jan. 28, 1977	Nov. 15, 1979	1
California	City of Sierra, 065059A	Los Angeles	Aug. 13, 1976	Nov. 15, 1979	1
California	Town of Trinidad, 060436	Los Angeles	May 14, 1976	Nov. 15, 1979	1
California	City of Walnut, 065069	Los Angeles	July 16, 1976	Nov. 15, 1979	1
North Dakota	City of Mohall, 380241C	Renville	Sept. 19, 1975	Nov. 15, 1979	1A
South Dakota	City of Lead, 46190	Lawrence	Feb. 7, 1975	Nov. 15, 1979	1
Ohio	Village of Tontogany, 390755	Wood	Apr. 18, 1975	Nov. 15, 1979	1
Pennsylvania	Township of Deer Creek, 422476A	Mercer	July 16, 1976	Nov. 15, 1979	1
Pennsylvania	Borough of Laporte, 422057	Sullivan	Dec. 20, 1974	Nov. 15, 1979	1
Pennsylvania	Borough of Portersville, 422355	Butler	Jan. 10, 1979	Nov. 15, 1979	1
Texas	Village of Dickinson, 481497C	Galveston	June 22, 1975	Aug. 27, 1979	3

KEY TO SYMBOLS

E—The community is participating in the Emergency Program. It will remain in the Emergency Program without a FHBM.
C—The community is participating in the Emergency Program. It will be converted to the Regular Program without an FIA map.
R—The community is participating in the Regular Program.
1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
1A. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
2. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.
3. The Community lacked land-use authority over the special flood hazard area.
4. A more accurate FIA map is the effective map for this community.
5. The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.) A new FHBM will be prepared and distributed.
6. The Flood Insurance Rate Map was rescinded because of inaccurate flood elevations contained on the map.
7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.
8. The T&E or H&E Map was rescinded.
9. A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed.

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

Issued: December 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-39043 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872, (In Alaska and Hawaii call Toll Free (800) 424–9080), Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR § 67.4(a) (presently appearing at its former Title 24, Chapter X, § 1917.4(a) of the Code of Federal Regulations). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60 (formerly 24 CFR Part 1910).

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

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arizona	Mesa, City, Maricopa County (Docket No. FI–2716)..	Salt River	Downstream Corporate Limits	*1,184
			North Dobson Road	*1,194
			North Country Club Drive (Extended)	*1,218
			North Center Street (Extended)	*1,227
		Sheet flow from Gila River Water Shed:		
		Tempe Canal	West Guadalupe Road	*1,195
			West Main Street	*1,202
		Consolidated Canal	East Southern Avenue	*1,250
			East Main Street	*1,253
			East Brown Road	*1,257
		Eastern Canal	East Southern Avenue	*1,285
			East Broadway	*1,288
			East University Drive	*1,290
		RWDC Canal	East Main Street	*1,345
	Maps available at the City Hall, Mesa, Arizona.			
Maine	Gardiner (City), Kennebec County (Docket No. FI–5137).	Kennebec River	Gardiner Randolph Bridge—200 feet upstream from centerline	*29
		Cobbosseecontee Stream	Winter Street Bridge—10 feet upstream from centerline	*29
			Maine Central Railroad Bridge—65 feet downstream from centerline	*35
			Maine Central Railroad Bridge—25 feet upstream from centerline	*40
			Yorktowne Paper Company Dam—100 feet downstream from centerline.	*63
			Yorktowne Paper Company Dam—25 feet upstream from centerline	*75
			Former S.D. Warren Company Dam—100 feet downstream from centerline.	*96
			Former S.D. Warren Company Dam—25 feet upstream from centerline.	*129
			Gardiner Water District Dam—65 feet downstream from centerline	*129
			Gardiner Water District Dam—25 feet upstream from centerline	*139
			Interstate Highway 95 Bridge—at centerline	*139
	Maps available at City Hall, Church Street, Gardiner, Maine 04345.			
New Jersey	Union Beach, Borough, Monmouth County (Docket No. FI–5154).	Raritan Bay	Entire Shoreline	*12
		Thorn's Creek (Backwater from Waackaack Creek).	Conrail	*6
			Maps available at the Borough Hall, Florence Avenue, Union Beach, New Jersey..	

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Virginia	Dumfries, Town, Prince William County (Docket No. FI-3351).	Quantico Creek	Farley Boulevard—U.S. Route 1 (Downstream)	*13
			Farley Boulevard—U.S. Route 1 (Upstream)	*19
			Main Street—U.S. Route 1 (200 feet upstream)	*20
			Corporate Limits (Upstream)	*25
		Unnamed Tributary to Quantico Creek.	Dominion Drive	*31
			Eby Street	*50
			400 feet above Eby Street	*56
			800 feet above Eby Street	*63
Maps available on the bulletin board, Town Hall, 101 South Main Street, Dumfries, Virginia.				
Virginia	Smyth County (Docket No. FI-4966).	Middle Fork Holston River	Interstate Route 81	*1,944
			State Route 638	*1,953
			U.S. Route 11	*1,974
			State Route 645	*1,986
			State Route 659	*2,064
			Confluence of Hungry Mother Creek	*2,080
			State Route 691 (Upstream Side)	*2,167
			State Route 693 (Upstream Side)	2,194
			State Route 689 (Upstream Side)	*2,210
			Confluence of Bear Creek	*2,256
			Confluence of Shupe Hollow Creek	*2,288
			State Route 626 (Upstream Side)	*2,303
			Flowing Springs Road	*2,337
		Sulphur Spring Creek	Chilhowie Corporate Limits	*1,947
			150' upstream of State Route 640	*1,952
		Carlock Creek	U.S. Route 11	*1,952
			Carlock Creek Road	*1,952
			State Route 774 (Upstream Side)	*1,958
			Private Road at River Mile 0.62	*1,963
		Staley Creek	Marion Corporate Limits	*2,196
			State Route 16	*2,257
			Private Road at River Mile 2.68	*2,302
			State Route 688 (Upstream Side)	*2,335
			State Route 689	*2,377
			State Route 740	*2,415
		North Fork Holston River	Downstream County Boundary	*1,676
			400' upstream of State Route 91	*1,714
			Confluence of Elkhorn Branch	*1,737
			400' upstream of State Route 633	*1,748
		Turkey Run Creek	State Route 91 (Upstream Side)	*1,731
			900' upstream of State Route 91	*1,751
			1,350' upstream of State Route 91	*1,776
			2,200' upstream of State Route 91	*1,807
			2,550' upstream of State Route 91	*1,828
			State Route 91 (Upstream 3,250')	*1,863
		South Fork Holston River	State Route 674 (Upstream Side)	*2,558
			State Route 674 (Upstream 1,000')	*2,563
			Confluence of Slemp Creek	*2,568
		Dickey Creek	State Route 601 (Upstream Side)	*2,571
			State Route 695 (Upstream Side)	*2,609
			State Route 695 (Upstream 1,900')	*2,637
		Slemp Creek	Confluence with South Fork Holston River	*2,568
			Confluence of Cressy Creek	*2,577
		Cressy Creek	State Route 601	*2,586
			State Route 16 (Upstream Side)	*2,593
			Confluence of Quarter Branch	*2,596
		Quarter Branch	500' above confluence with Cressy Creek	*2,609
			Confluence of Unnamed Tributary	*2,616
			Confluence of Unnamed Tributary (Upstream 900')	*2,637
		Cedar Branch	State Route 632 (Upstream)	*1,713
			State Route 632 (Upstream 1,000')	*1,730
			State Route 632 (Upstream 1,850')	*1,750
			State Route 632 (Upstream 2,550')	*1,765
			State Route 632 (Upstream 3,300')	*1,780
			State Route 632 (Upstream 4,100')	*1,800
			Saltville Corporate Limits (Extended)	*1,843
Maps available at the Office of the County Administrator, Marion, Virginia.				

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

Issued: December 10, 1979.

Gloria M. Jimenez,

Federal Insurance Administration.

[FR Doc. 79-39236 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA 5712]

Letter of Map Amendment for San Bernardino County, Calif., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final Rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included San Bernardino County. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for San Bernardino County, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 060270 Panel 8740A, published on October 23, 1979 in Vol. 44 No. 206, indicates that Lots 1 through 9 and 13 through 22, Tract 10044, San Bernardino County, California, as recorded in Book 145, Pages 99 through 101 of Maps, in the Office of the Recorder, San Bernardino County, California, are located within the Special Flood Hazard Area.

Map No. H & I 060270 Panel 8740A is hereby corrected to reflect that Lots 2 through 9 and 13 through 21 of the above mentioned property are not within the Special Flood Hazard Area identified on September 29, 1978. These lots are in Zone C.

This map is also corrected to reflect that the structures on Lots 1 and 22 of the above mentioned property are not within the Special Flood Hazard Area identified on September 29, 1978. These structures are in Zone C.

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

Issued: December 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-39186 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FI-3012]

Letter of Map Amendment for the City of Oklahoma City, Okla., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Oklahoma City, Oklahoma. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Oklahoma City, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 405378A Panel 124, published on June 29, 1977, in FR 33226, indicates that Lots 1 and 2, Block 21A; Lots 4 through 7, Block 22A; and Lots 4 through 14, Block 23A, Section 2, Oakcliff Addition, Oklahoma City, Oklahoma, as recorded in Book 44, Page 100, in the Office of the Clerk, Oklahoma County, Oklahoma, are within the Special Flood Hazard Area.

Map No. H & I 405378A Panel 124 is hereby corrected to reflect that Lot 2, Block 21A, and Lots 5 through 7, Block 22A, of the above mentioned property are not within the Special Flood Hazard Area identified on February 2, 1979. These lots are in Zone C. Lot 1, Block 21A, and Lots 8 through 14, Block 23A, of the above mentioned property are not within the Special Flood Hazard Area identified on February 2, 1979, with the exception of the areas designated for Drainage Easement on the recorded plat map cited above. These lots are in Zone C. In addition, the structures on Lot 4, Block 22A, and Lots 4 through 7, Block 23A, of the above mentioned property are not within the Special Flood Hazard Area identified on February 2, 1979. These structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR

17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: December 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-39187 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA 5712]

Letter of Map Amendment for the City of Salem, Oreg., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Salem, Oregon. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Salem, Oregon, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872, (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 410167 Panel 0005B, published on October 23, 1979 in 44 FR 61026, indicates that Lot 3, Block 7; and Lot 15, Block 9, Battle Creek Estates No. 3, Salem, Oregon, recorded as Instrument Number 23269 in Town Plats Volume 32, Page 29, in the Office of the Recorder, Marion County, Oregon, are within the Special Flood Hazard Area.

Map No. H & I 410167 Panel 0005B is hereby corrected to reflect that the structures on the above mentioned lots are not within the Special Flood Hazard Area identified on June 15, 1979. These structures are in Zone C.

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

Issued: December 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-39188 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FI-3012]

Letter of Map Amendment for the Borough of Tamaqua, Pa., Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Borough of Tamaqua, Pennsylvania. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Borough of Tamaqua, Pennsylvania, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 21, 1979.

FOR INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–6570 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waiver the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

§ 70.7 [Amended]

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 425389A, Panel No. 01, published on June 29, 1977, in 42 FR 33230 indicates that a 0.190 acre parcel of land located at the northeast corner of Broad and Pine Streets, Middle Ward, Borough of Tamaqua, Schuylkill County, Pennsylvania, as recorded in Book 1270, Pages 47 through 51, in the Office of the Recorder of Deeds of Schuylkill County, Pennsylvania, is located within the Special Flood Hazard Area.

Map No. H & I 425389A, Panel No. 01, is hereby corrected to reflect that the existing structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on October 31, 1975. The structure is in Zone B.

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

Issued: December 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-39189 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FI-3012]

Letter of Map Amendment for the City of Mesquite, Tex., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Mesquite, Texas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Mesquite, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 485490A Panel 05, published on May 18, 1977, in 42 FR 33234, indicates that Lot 1, Block 25, and Lots 36 and 37, Block 26, Meadowdale No. 5, Mesquite, Texas, as recorded in Volume 78166, Page 1176, in the Office of the Recorder, Dallas County, Texas, are located within the Special Flood Hazard Area.

Map No. H & I 485490A Panel 05 is hereby corrected to reflect that the structures on the above mentioned property are not within the Special Flood Hazard Area identified on September 26, 1975. These structures are in Zone C.

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

Issued December 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-39190 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1061

Emergency Energy Conservation Program; Energy Crisis Assistance Program

AGENCY: Community Services Administration.

ACTION:FINAL RULE.

SUMMARY: The Community Services Administration (CSA) is filing an amendment to the final rule on the Energy Crisis Assistance Program published in the Federal Register on Thursday, October 11, 1979 (44 FR 58876) This amendment is required to implement the fiscal year 1980 supplemental appropriation for emergency fuel assistance (Pub. L. 96–126) and to implement policy changes directed by Congress.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Edward J. Freel or Mr. Wallace Lumpkin, 2000 K Street, N.W., Suite 350, Washington, D.C. 20006, Telephone: (202) 254–9833, Teletypewriter: (202) 254–6218.

SUPPLEMENTARY INFORMATION: Pub. L. 96–126, signed by the President on November 27, 1979, provides $150 million to supplement the $250 million already appropriated for the Emergency Crisis Assistance program (ECAP). In addition, states may choose to supplement ECAP with funds granted by the Department of Health, Education, and Welfare (HEW) through election of Plan "C" as set forth in HEW's supplemental energy allowance program (See FR Vol. 44, No. 232, November 30, 1979). Congress also directed CSA to make changes in the present regulation to:

(1) Give priority to households experiencing significant increases in heating fuel costs;

(2) Serve persons who have paid fuel bills;

(3) Provide flexibility to Governors, with CSA approval, to set increased maximum levels of assistance;

(4) Provide outreach services for persons receiving unemployment compensation and for American Indians; and

(5) Require a program end date of June 30, 1979.

The specific intent of Congress with regard to the FY'80 Energy Crisis Assistance Program has been set forth in its supplemental ECAP appropriation. In order to ensure that all FY'80 ECAP grants, including those made from the initial $250 million appropriation, are administered in accordance with this Congressional intent, the amendment to the final ECAP rule of October 11, 1979, shall govern all FY'80 ECAP funds. All grants made pursuant to the supplemental appropriation will be contingent upon grantees' agreement to administer all FY'80 ECAP funds in accordance with the changes made by this amendment. The rule of October 11, 1979 (45 CFR 1061.70), as amended herein, will also govern grants made by HEW to Governors where they elect to supplement existing ECAP grants with additional HEW funds.

Grantees shall amend their policies and procedures to conform to the changes contained herein and to any subsequent changes which may be made in order that the initial $250 million program and this supplemental program will be administered in a consistent manner.

CSA is waiving the comment period provided for in Executive Order 12044 and is making the amendment effective immediately because any further delay would be impracticable and contrary to the public interest. Additional delay would render it impossible to serve many of the poor during the onset of the cold winter months. For these same reasons, an emergency exception to the regulatory analysis provisions in Executive Order 12044 is appropriate. Further, this is not a significant rule because it only makes minor changes in

the October 11, 1979 rule and does not impose significantly different burdens on grantees.

(Sec. 602, 78 Stat. 530 (42 U.S.C. 2942))

Graciela (Grace) Olivarez,
Director.

PART 1061—CHARACTER AND SCOPE OF SPECIFIC PROGRAMS

45 CFR Part 1061 is amended by amending Subpart 1061.70, "Energy Crisis Assistance Program" as follows:

1. Section 1061.70–2 is revised to read as follows:

§ 1061.70–2 Applicability.

This Subpart is applicable to Energy Crisis Assistance Program (ECAP) grants funded under section 222(a)(5) of the Economic Opportunity Act of 1964, as amended, if administered by the Community Services Administration and to grants awarded by the Department of Health, Education, and Welfare to supplement ECAP grants made by the Community Services Administration.

2. Section 1061.70–7 is amended by revising paragraphs (a)(1)(ii), (a)(2) introductory text, and paragraph (a)(3); by adding paragraphs (a)(4) and (a)(5); and by revising paragraph (b) to read as follows:

§ 1061.70–7 How a local program is operated.

(a) * * *

(1) * * *

(ii) To carry out this mandate effectively, local delivery systems must notify, inform, and contact persons, including those individuals receiving unemployment compensation, potentially eligible for this program through, for example, the use of outreach workers, community groups, decentralized intake and certification systems, mass mailings, radio and T.V. spots, use of community newspapers, church bulletins, etc. In the State Funding Plan, the Governor must describe how outreach services will be provided to potential clients eligible for services. Expenses for these activities are to be included as administrative costs.

(2) Serving the elderly. On all grants made by CSA highest priority should be placed on serving the elderly. Therefore, local program operators should offer special services. Suggested activities include:

* * * * *

(3) *Serving renters.* This program is also intended to serve renters who are experiencing an energy related crisis. Renters who pay for their fuel indirectly as well as directly are eligible for assistance through ECAP. In the State Funding Plan, the Governor must indicate how renters will be served.

(4) *Heating fuel costs priority.* Priority will be given to those households experiencing significant increases in heating fuel costs over the last year. In establishing such priority grantees should take into consideration the extent to which increases in rent are cause by increases in heating fuel costs.

(5) *Serving American Indians.* This program is also intended to serve American Indians who are not provided service through the special set-aside program as provided for in Section 1061.70–11(a). State Funding Plans should indicate how such services will be provided.

(b) *Limitations on payments.* The sum of all assistance under this program made to and/or on behalf of any household shall not exceed the actual amount needed to ameliorate the households energy related problem or $400 whichever is less, unless a Governor elects to set assistance limits at a higher or lower level and/or provide for varying the maximum assistance level. If the Governor elects to make such a change he/she must provide in the State Funding Plan a justification including the specific criteria used as the basis for changing or varying the limits of assistance level within the state, such as climate, fuel and low-income population. While energy allowances, such as payments to SSI or AFDC recipients under the HEW Energy Assistance Program, received by a household may not be considered as income for purposes of determining income eligibility, any allowances received shall be taken into consideration in determining the assistance to be provided. The total amount of the energy allowances and/or assistance under this program should not exceed the amount needed to ameliorate the household energy problem or the maximum level or assistance in the state, whichever is lower.

* * * * *

3. Paragraphs (a), (b), and (d) of § 1061.70–8 are revised to read as follows:

§ 1061.70–8 What these funds can be used for.

(a) Payments to vendors and suppliers of fuel, goods, and other services. Where an eligible household has paid its fuel bills, level of assistance equal to those bills should be provided in forms of assistance as described in (b), (c), and (d) of this section.

(b) The establishment of lines of credits with fuel/utility vendors for the benefit of eligible households. The Governors may provide limitations on the use of lines of credits such as: limiting the line of credit to the elderly and the handicapped only, establishing a specific duration on a future credit to the elderly and varying the maximum level not to exceed the state approved maximum. The Governor must describe in the State Funding Plan how futures credits will be used in that particular state.

* * * * *

(d) Where necessry to prevent hardship or danger to health, the provision of immediate assistance in the form of goods or services such as emergency fuel deliveries, warm clothing, blankets, temporary shelter, emergency repairs to housing such as patching a roof or replacing a broken window, food, medicines or other supportive services such as rent. Funds under this program shall not be used to weatherize homes.

4. Paragraphs (a), (b), and (c) of § 1061.70–9 is revised to read as follows:

§ 1061.70–9 Who is eligible to participate in this program.

(a) *Income Eligibility.* Households with incomes at or below 125% of the CSA Poverty Guidelines and households whose heads receive SS shall be eligible for assistance under this program. No state may change these income eligibility guidelines. Receipt of energy allowances shall not preclude eligibility under the Energy Crisis Assistance Program nor shall energy allowances be considered as income in determining income eligibility.

(b) *Program Eligibility.* The Governor must specify certain program eligibility criteria by defining what constitutes an energy-related crisis in that particular state. Where a Governor wants to establish such eligibility criteria, he/she must provide an explanation and justification in the State Funding Plan for the eligibility criteria selected as well as a description of the procedures to be used in determining the program eligibility. The Governor may not require proof of unpaid fuel bills or notices of termination of utility service as criteria for eligibility under this program. The Governor also has the

option to use income eligibility criteria as the sole eligibility criteria. Energy allowances shall be taken into consideration in determining program eligibility as indicated Section 1061.70–7 Paragraph (b) of this subpart.

(c) *Income Disregard.* Payments made under this program are not to be considered as income or resources for purposes of determining eligibility or benefits under any income maintenance program including, but not limited to public assistance, veterans benefits, food stamps, or Supplemental Security Income.

* * * * *

5. Section 1061.70–10 is revised to read as follows: **§ 1061.70–10 Termination of program.**

No funds under this program may be obligated after June 30, 1980. For this program "obligation" shall mean certification for assistance by the program operator of a specific eligible household.

[FR Doc. 79–39378 Filed 12–20–79; 8:45 am]
BILLING CODE 6315–01–M

Proposed Rules

Federal Register
Vol. 44, No. 247
Friday, December 21, 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 210

National School Lunch Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend 7 CFR Part 210, National School Lunch Program regulations to eliminate certain restrictions on the use of program funds by participating schools. These restrictions are not in effect for the Special Milk Program and the School Breakfast Program. This amendment would eliminate the contradictions inherent in applying different requirements included in a single school food service operation.

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

ADDRESS: Comments should be sent to Margaret O'K. Glavin, Director, School Programs Division, USDA, FNS, Washington, D.C. 20250, (202) 447–8130.

Comment Period

Interested persons are invited to submit written comments on the proposed amendment to the above address. To be assured of consideration, comments must be received on or before February 19, 1980. All written submissions received will be available for public inspection at the School Programs Division, Food and Nutrition Service, during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) (7 CFR 1.27(b)).

SUPPLEMENTARY INFORMATION: 7 CFR Part 210.7(b) of the National School Lunch Program (NSLP) regulations, entitled "Use of Funds," requires that only funds from sources other than Federal or children's payments for lunches shall be used to finance out of State travel of school lunch personnel or the purchase of passenger automobiles. These restrictions on the use of funds have been determined to be inconsistent with OMB Circular A–102. Moreover, neither 7 CFR Part 215, Special Milk Program (SMP) regulations nor 7 CFR Part 220, School Breakfast Program (SBP) regulations contains a similar provision. This contradiction is compounded by the fact that all three programs may operate in an individual School Food Authority and that income accruing to each program is held in a single food service account. This regulation proposes to rectify this inconsistency by amending Part 210 to delete the restriction on the use of Federal funds or children's payments under the National School Lunch Program for out of State travel of school lunch personnel or the purchase of automobiles.

Accordingly, 7 CFR Part 210 is proposed to be amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Section 210.7(b) is amended to read as follows:

§ 210.7 Use of funds.

* * * * *

(b) Income accruing to the lunch program in any school shall be used only for Program purposes; Provided, however, That such income shall not be used to purchase land, to acquire or construct buildings, or to make alterations of existing buildings.

(Catalog of Federal Domestic Assistance No. 10.555, National Archives Reference Services.)

Note. This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those critieria. A Draft Impact Analysis has been prepared and is available from Margaret O'K. Glavin, Director, School Program Division, USDA, FNS, Washington, D.C. 20250.

(Sec. 10, P.L. 89–642, (80 Stat. 889))

Dated: December 14, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79–39056 Filed 12–20–79; 8:45 am]

BILLING CODE 3410–30–M

7 CFR Part 273

[Amdt. No. 159]

Food Stamp Act of 1977; SSI/Food Stamp Joint Application Processing

AGENCY: Food and Nutrition Service, USDA.

ACTION: Reduction of comment and implementation periods for a proposed rulemaking.

SUMMARY: On December 7, 1979 (44 FR 70684), the Department proposed regulations implementing section 11(i)(2) of the Food Stamp Act of 1977. This section requires the joint processing of pure SSI households for food stamps. The Action Alliance of Senior Citizens, Inc., has brought suit against the Secretaries of Agriculture, and Health, Education and Welfare in the United States District Court for the Eastern District of Pennsylvania seeking prompt implementation of section 11(i)(2). As a result of this suit and subsequent settlement negotiations with the plaintiffs, the Department is reducing the comment period on the December 7 proposed regulations to forty-six days. This time period should provide ample opportunity for interested parties to comment upon the proposed regulations.

This comment period is, therefore, being shortened in accordance with emergency procedures as authorized by Executive Order 12044 and Secretary's Memorandum No. 1955. It has been determined by Robert Greenstein that, in view of the foregoing, an emergency situation exists which warrants the reduction of the period for comment.

Also, as a result of settlement negotiations with the plaintiffs, the Department is reducing the proposed implementation period by thirty days. It is proposed that the final rules be implemented on the first day of the month following the ninetieth day after publication, rather than one hundred and twenty days as originally proposed. The Department believes this reduction is feasible, especially because the greatest burden of training and preparation will be borne by the Social Security Administration, whose officials have assured the Department that it can complete its work in approximately three months. However, if comments from parties other than the Department or the Social Security Administration show that it would not be possible to implement the final regulations in this

time, the Department will give consideration thereto, and may seek to reopen any agreement that may be reached in the lawsuit.

DATES: Comments on the December 7 proposed rulemaking must be received on or before January 22, 1980, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Larry R. Carnes, Chief, Regulations and Policy Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250; 202–447–9075.

(91 Stat. 958 (7 U.S.C. 2011–2027))

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

Dated: December 14, 1979.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 79–38934 Filed 12–20–79; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area; Proposed Termination of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of proposed termination of certain rules.

SUMMARY: This action gives notice to all interested parties that the Secretary is considering terminating the base-excess plan used in distributing returns to producers whose milk is priced under the Oregon-Washington milk order. More than half of the producers in the market have indicated that they no longer support the use of the payment plan. The proposed termination would become effective February 1, 1980. Written comments are invited on whether the payment plan should be terminated.

DATE: Comments are due on or before January 7, 1980.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the termination of certain provisions of the order regulating the handling of milk in the Oregon-Washington marketing area is being considered.

All persons who desire to submit written data, views, or arguments in connection with the proposed termination should file the same with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than January 7, 1980. All documents should be filed in duplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be terminated are as follows:

§ 1124.19 [Revoked]

1. Delete § 1124.19 in its entirety.

§ 1124.30 [Amended]

2. In § 1124.30, *Reports of receipts and utilization,* remove the phrase "including the total quantities of base milk and excess milk" in paragraph (a)(1).

§ 1124.31 [Amended]

3. In § 1124.31, *Payroll reports,* remove paragraph (a)(4) in its entirety.

§§ 1124.65, 1124.66 [Revoked]

4. Delete §§ 1124.65 and 1124.66 in their entirety and the center heading *"Determination of Base"* immediately preceding § 1124.65.

§ 1124.71 [Amended]

5. In § 1124.71, *Computation of uniform and weighted average prices,* remove in paragraph (a)(6) the words "prior to February 1970" and the word "and" at the end of the paragraph; and delete paragraph (b) in its entirety.

§ 1124.82 [Amended]

6. In § 1124.82, *Payments from the producer-settlement fund,* remove in paragraph (a) the words "or (b), whichever is applicable,".

§ 1124.83 [Amended]

7. In § 1124.83, *"Location differentials to producers and on nonpool milk,"* remove in paragraph (a) the words "and the uniform price for base milk computed pursuant to § 1124.71(b)(2)".

Statement of Consideration

The proposed action would terminate the base and excess plan effective February 1, 1980. The base-excess plan is a method of apportioning the total value of milk in the market among producers on the basis of their marketings of milk during a representative period.

The plan now provides that for milk delivered during the 12 month period beginning February 1 of each year, producers are paid according to the amount of "base" they earn through deliveries during the market's four lowest months of production of the preceding calendar year. Deliveries of producers in excess of their "base" are paid for at a lower price than for base milk.

In the absence of the base-excess plan, a single uniform price would be paid directly to producers or, in the case of producers participating in the Oregon State base plan, to the Director of the Milk Audit and Stabilization Division, Oregon State Department of Agriculture, for subsequent payment to the participating producers.

The termination of the base-excess plan was requested by Mayflower Farms, and is supported by Dairymen's Creamery Association, Inc., and Tillamook County Creamery Association. Together, these three cooperative associations represent a majority of the producers on the market.

In its request for termination, Mayflower indicated that the base-excess plan is impeding the free movement of milk between the neighboring Oregon-Washington and Inland Empire markets. The cooperative, which has producers and plants in both markets, states that marketing and consumption patterns frequently will dictate that milk be shifted between the two markets. According to the cooperative, its ability to make such shifts would be enhanced if both orders contained the same kind of uniform price provisions.

Because more than half of the producers in the market no longer support the use of a base-excess plan for distributing returns to producers, it is questionable whether such provisions are carrying out the intent of the Act. Accordingly, consideration is being given to the termination of the payment plan.

Signed at Washington, D.C., on December 14, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79–39256 Filed 12–20–79; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1430

Price Support Program for Milk; Terms and Conditions of 1979–80 Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal announces that the Secretary of Agriculture is considering the semiannual adjustment of the support price for milk, as required by law. The Food and Agriculture Act of 1977 requires that the Secretary adjust semiannually the support price for milk to reflect any estimated change in the parity index during such semiannual period. The Secretary may also consider other matters pertaining to the milk support program, including (1) the allocation of any change in the support price between CCC purchase prices for butter and nonfat dry milk, (2) the determination of the whey value used in calculating CCC's purchase price for cheese, (3) the determination of the manufacturing margins used in calculating CCC's purchase prices, and (4) the determination of the sales for unrestricted use.

DATE: Comments must be received on or before February 18, 1980, to be assured of consideration.

ADDRESS: Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 5741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: S.E.T. Bogan (ASCS) 202–447–3571.

SUPPLEMENTARY INFORMATION: Section 201 (c) of the Agricultural Act of 1949, as amended, provides as follows: "The price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefore as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. Notwithstanding the forgoing, effective for the period * * * ending September 30, 1981, the price of milk shall be supported at not less than 80 per centum of the parity price therefor. Such price support shall be provided through purchases of milk and the products of milk."

Section 201 (d) of the Act, as amended, provides as follows: "Effective for the period * * * ending September 30, 1981, the support price of milk shall be adjusted by the Secretary at the beginning of each semiannual period after the beginning of the marketing year to reflect any estimated change in the parity index during such semiannual period. * * * Any adjustment under this subsection shall be announced by the Secretary not more than 30-days prior to the beginning of the period to which it is applicable."

On November 28, 1979, legislation was enacted which increases the minimum level of support from 75 to 80 percent of parity through September 30, 1981 and extends for the same period the required semiannual adjustment.

The objective of the program is to support prices of manufacturing grade milk, which, except as influenced by the price support program, are arrived at competitively. Manufacturing grade milk as a percent of total milk marketed has been declining as more producers have become eligible to market fluid grade milk. In 1978 manufacturing grade milk constituted only 17 percent of total milk marketings. However, the dairy price support program remains the foundation of the entire price structure for fluid and manufacturing grade milk sold by farmers. Fluid milk consumption represents 44 percent of milk marketings. Thus, more dairy products are made from fluid grade than manufacturing grade milk.

The program to support prices of manufacturing grade milk is achieved through purchases of butter, American cheese and nonfat dry milk at prices calculated to enable plant operators to return the support price to the farmer. At times of significant price support purchases the purchase prices for these products become the floor for market prices of these dairy products. Reliance is placed on competition among manufacturers to assure the average price received by manufacturing grade producers to be at least the support price. Since most of the fluid milk prices are based on prices paid for manufacturing milk the price support program undergirds all milk and dairy product prices.

In the absence of a support program, the surpluses of milk above commercial demand for milk and for the manufactured products could result in severely reduced prices to milk producers. With such depressed prices, the rate of producers leaving dairying would be accelerated and increased herd culling would result, thereby curtailing productive capacity. While downward adjustments to dairy cow numbers could be achieved relatively rapidly, rebuilding would take significantly longer—as much as several years—resulting in sharp dislocations throughout the industry as well as higher prices at the retail level.

On October 1, 1978, the support price was set at 80 percent of parity, which was $9.64 per hundredweight for milk of 3.5 percent fat content, or $9.87 for milk of national average fat content (3.67%). This was in accordance with the Food and Agriculture Act of 1977 which required a minimum level of support of 80 percent of parity through March 31, 1979. On April 1, 1979, the support price was increased to $10.51 per hundredweight for milk of 3.5 percent content, or $10.76 for milk of 3.67 percent fat content. This support price was 77.8 percent of parity as of April 1, and 87.3 percent of parity as of October 1, 1978, the beginning of the marketing year. This reflected a 9 percent increase in the parity index (index of prices paid by farmers for commodities and services, interest, taxes and wage rates) from October 1, 1978 to April 1, 1979.

Effective October 1, 1979, the level of support was set at 80 percent of parity, which was $11.22 per hundredweight for manufacturing grade milk of 3.5 percent fat content or $11.49 per hundredweight for milk of national average fat content, 3.67 percent. This level of support was determined necessary in order to assure an adequate supply of milk to meet current and future needs and to reflect changes in the cost of production.

The index of prices paid by farmers for commodity, services, interest, taxes and wage rates (the parity index) was 862 on October 1, 1979 and it is projected that it will be 919 on April 1, 1980. This is about a 6.6 percent increase. A corresponding 6.6 percent increase in the support price would be $11.96 per hundredweight, an increase of $.74.

Milk production for the 1978–79 marketing year was 122.8 billion pounds and is projected at 124.5 for the 1979–80 marketing year. During October 1978 through May 1979 milk production was the same as a year earlier. In June it was one percent above a year earlier and in September it reached 2.9 percent above year-earlier levels. In October milk production was up 2.5 percent.

Commercial consumption of milk and dairy products is projected to total 121.2 billion pounds, milk equivalent, an increase of only .8 billion over 1978–79, about half of last year's increase. CCC net removals of dairy products during the 1979–80 marketing year are projected to be 3.4 billion pounds, milk equivalent.

Proposed Rule

Notice is hereby given that the Secretary of Agriculture is considering the semiannual adjustment in the level of the support price for milk as required by law, and the prices and terms of purchase by CCC of butter, cheese and nonfat dry milk, including factors used in calculating the dairy product purchase prices, such as: (1) the allocation of any change in the support price between CCC purchase prices for butter and nonfat dry milk, (2) the determination of the whey value used in calculating CCC's purchase price for cheese, (3) the determination of the manufacturing margins used in calculating CCC's purchase prices, and (4) the determination of the sales markup for CCC-owned dairy products offered for sale for unrestricted use.

You are invited to submit in writing to the Director, Procurement and Sales Division, data, views and recommendations concerning the determinations to be made. In order to be assured of consideration, all submissions must be received by the Director not later than February 18, 1980. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Procurement and Sales Division, ASCS, USDA, Room 5741 South Building, during regular business hours (8:15 a.m.-4:45 p.m.).

This notice of proposed rule making is issued under authority of Section 201(c) and (d) of the Agricultural Act of 1949, as amended, (63 Stat. 1051, as amended; 7 U.S.C. 1446); and Sections 4 and 5 of the Commodity Credit Corporation Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714b and 714c).

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from the Director, Procurement and Sales Division, ASCS, USDA, Room 5741 South Building, P.O. Box 2415, Washington, D.C. 20013.

Signed at Washington, D.C., on December 14, 1979.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-39105 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-05-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Emergency Planning; Notice of Workshops

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of workshops for review of NRC emergency planning.

SUMMARY: The Nuclear Regulatory Commission approved on December 5, 1979, publication for public comment proposed rule amendments to 10 CFR Part 50 and Appendix E dealing with the development of emergency plans at nuclear power plants. The proposed rule was published in the **Federal Register** on December 19, 1979 (44 FR 75167).

The Commission has determined that four regional workshops with appropriate State and local officials and utility representatives should be held during the public comment period to discuss the feasibility of the various portions of proposed amendments, their impact, and the procedures proposed for complying with their provisions.

The NRC will use the information from these workshops to evaluate the proposed rule changes.

DATES: Workshops will be held:

January 15—New York, New York;
January 17—San Francisco, Calif.;
January 22—Des Plaines, Ill.;
January 24—Atlanta, Ga.

ADDRESSES: The workshops will be held from 8:30 a.m. to 5:00 p.m. at the following locations on the dates given below:

January 15—Roosevelt Hotel, Madison & 45th Street, New York, New York;

January 17—Bellevue Hotel, 505 Geary Street, San Francisco, California;

January 22—Ramada O'Hare Inn, 6600 N. Mannheim Road, Des Plaines, Illinois;

January 24—Downtown Holiday Inn, 175 Piedmont, NE, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: A Morrongiello, Office of Standards Development, NRC, (301) 443-5966.

Agenda for Emergency Preparedness Workshops

Morning Session–8:30 a.m.

Introduction

Purpose & Scope of Meeting
Background-Reason for proposed Rule
Proposed Rule provides for Federal/State/Local planning for emergencies
NRC Emergency Planning requirements-concurrence required

Presentation of Proposed Rule

Rationale for and description of proposed rule
Criteria to be met for concurrence
Who must have concurrence
Review and concurrence procedures
Differences in requirements for emergency planning zones, ie. plume exposure zone compared to ingestion pathway zone

Federal Emergency Management Agency (FEMA)

Role in overall emergency preparedness

Public Affairs

Role of public affairs officials in an emergency, coordination between "responders" and the media

Questions and Comments From General Public

Afternoon Session—1:00 p.m.

Discussion Points:

Requirement that State and local emergency response plans be concurred in by the NRC as a condition of operating license issuance. (NRC concurrence in State and local plans is not required at the construction permit stage.) Additionally:

a. An operating plant may be required to shutdown if a State or local emergency plan has not received NRC concurrence within 180 days of the effective date of the final amendments, or January 1, 1981, whichever is earlier.

b. An operating plant may be required to shutdown if a State or local emergency plan does not warrant continued NRC concurrence and is not corrected within 4 months of notification of NRC concurrence withdrawal. (Discussion will include consideration of alternative proposed rules for permitting continued operation or issuance of operating licenses for an interim period where there are no concurred in plans or concurrence has been withdrawn).

Requirement that emergency planning be expanded to cover "Emergency Planning Zones"

Requirement that detailed emergency planning implementing procedures be submitted to NRC for review

The requirement that specified "Emergency Action Levels" be used by the applicant, State and local authorities

Dissemination to the public of basic emergency planning information

Provisions for prompt alerting of the public and instructions for public protection

Requirements for having Emergency Operations Center

Requirement for providing redundant communications systems

Requirement for providing specialized training to licensee and local emergency support personnel

Requirement for maintaining up-to-date plans

What measures can compensate for various deficiencies?

Closing Session

Individual statements/comments by participants and public

Concluding statement by NRC

Adjourn—5:00 p.m.

These workshops are being held to obtain the views of, and to provide the opportunity for discussion among, State

and local officials and utility companies; however, all sessions will be open to public attendance and observation on a space available basis. Reports on the proceedings of these meetings will be filed in the NRC Public Document Room, 1717 H St., NW, Washington, D.C.

Dated at Bethesda, Maryland, this 13th day of December 1979.

For the Nuclear Regulatory Commission

Guy A. Arlotto,

Acting Director, Office of Standards Development, U.S. Nuclear Regulatory Commission.

[FR Doc. 39014 Filed 12-20-79; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Parts 50 and 51

Proposed Rulemaking on the Storage and Disposal of Nuclear Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Designation of Presiding Officer.

SUMMARY: The Commission has selected Marshall E. Miller, Esq., a full-time member of the Atomic Safety and Licensing Board, to be the presiding officer for this proceeding. Mr. Miller's authority and responsibilities shall be as set forth in the Notice of Proposed Rulemaking which initiated this proceeding. 44 FR 61372 (October 25, 1979).

FOR FURTHER INFORMATION CONTACT: Marshall E. Miller (301) 492-7659.

For the Commission.

Dated: December 14, 1979.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-39015 Filed 12-20-79; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 309

Proposed Amendment Conforming Existing Regulations to the Right to Financial Privacy Act of 1978

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Proposed rule.

SUMMARY: The Board of Directors of the FDIC proposes to make several changes in Part 309 of FDIC's regulations dealing with the disclosure of confidential information. The proposed changes are being made in order to bring Part 309 into conformance with recent federal legislation restricting access by federal agencies to financial records of bank customers and transfer of those records to other agencies once access is granted. In addition, the term "bank" as used in Part 309 is being enlarged to include foreign banks. This change is necessitated by the passage of federal legislation affecting foreign banks operating in the United States.

DATE: Comments must be received by February 19, 1980.

ADDRESS: Please send your comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Pamela E. F. LeCren, Attorney, Legal Division (202-389-4433).

SUPPLEMENTARY INFORMATION: On November 10, 1978, Congress passed the Financial Institutions Regulatory and Interest Rate Control Act of 1978 "FIRIRCA" (Pub. L. 95-630, 92 STAT. 3641). The Right to Financial Privacy Act of 1978, ("Title XI" of FIRIRCA, 12 U.S.C. 3401 *et seq.*) necessitates certain changes in Part 309 of FDIC's regulations. Part 309 governs the ability of the FDIC to disclose information it holds to the public, state agencies and other federal agencies. The proposed changes will bring Part 309 into conformance with the requirements of Title XI regarding the handling of information derived from the accounts of bank customers. As a result of the changes, any transfer of identifiable bank customer financial records to a "nonsupervisory" federal agency (with the exception of certain exempt transfers) will require (1) post-transfer notification to the customer whose records were transferred that the transfer was made and (2) certification that the transfer was in connection with a legitimate law enforcement inquiry.

On September 17, 1978 the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*) became law. The International Banking Act requires certain branches of foreign banks to be insured by the Federal Deposit Insurance Corporation and amends the Federal Deposit Insurance Act in certain other particulars. Because of the passage of the International Banking Act, it is necessary to amend the definition of the term "bank" as used in Part 309 of FDIC's regulations.

The proposed changes apply only to internal administrative procedures of FDIC and would have no effect on any insured bank. In particular, it would not affect the recordkeeping or reporting requirements or the competitive status of the banks. In view of this fact and because the changes are mandated by law, FDIC has concluded that a cost-benefit analysis of the changes is unnecessary.

In consideration of the foregoing, and pursuant to the authority granted the FDIC by 12 U.S.C. 1819, it is proposed that certain sections of 12 CFR Part 309 be amended as follows:

1. Section 309.2 is amended so that paragraph (a) reads as follows:

§ 309.2 Definitions.

* * * * *

(a) The term "bank", as used in § 309.6, includes banks that have applied to the Corporation for Federal deposit insurance, closed banks, presently operating banks, foreign banks, branches of foreign banks, and all affiliates of any of the foregoing.

* * * * *

2. Section 309.2(c) is revised to read as follows:

§ 309.2 Definitions.

* * * * *

(c) The words "disclose" or "disclosure," as used in § 309.6, mean to give access to a record, whether by producing the written record or by verbal discussion of its contents. Where the Corporation employee authorized to release Corporation documents makes a determination that furnishing copies of the documents is necessary, the words "disclose" or "disclosure" include the furnishing of copies of documents or records. In addition, "disclose" or "disclosure" as used in § 309.6 is synonymous with the term "transfer" as used in the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*).

* * * * *

3. The following new paragraph (h) is added to § 309.2:

§ 309.2 Definitions

* * * * *

(h) The term "customer financial records," as used in § 309.6, means an original of, a copy of, or information known to have been derived from, any record held by a bank pertaining to a customer's relationship with the bank but does not include any record that contains information not identified with or identifiable as being derived from the financial records of a particular customer.

4. The first three sentences of § 309.6(c) are deleted and the following substituted therefor:

§ 309.6 Disclosure of exempt records by corporation personnel.

* * * * *

(c) *Disclosure authorized.* Exempt records of the Corporation may be disclosed in accordance with the

following conditions and requirements. Except as otherwise provided hereafter, disclosures authorized by § 309.6 (c)(1), (2)(i), (4)(i) and (ii), and (5) may be made on a routine or periodic basis without request. Routine or periodic disclosures may be made under the authority of § 309.6(c)(3), (4)(iii), and (6) without any further request only if a written request for the records is received which asks that the record be furnished to the requestor on a routine or periodic basis and the Corporation employee authorized to disclose the record determines that routine or periodic disclosure is appropriate. Except as therwise provided in § 309.6(c)(3) or (4), no disclosure of customer financial records on a routine or periodic basis may be made to a federal agency under § 309.6(c)(3) or (4) unless certification and notice as required by those sections are made with each separate disclosure.

* * * * *

5. Section 309.6(c)(3) is revised to read as follows:

§ 309.6 Disclosure of exempt records by corporation personnel.

* * * * *

(c) Disclosure authorized. * * *

(3) *Reports of examination and other exempt records— disclosure to Federal financial institution supervisory agencies.* (i) Except as provided in subparagraph (3) (ii) of this paragraph, the Director of the Corporation's Division of Bank Supervision, or anyone designated by him in writing, may disclose to any officer or employee of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and Federal Reserve Bank, the Federal Home Loan Bank Board, any Federal Home Loan Bank, the Federal Savings and Loan Insurance Corporation, the Secretary of the Treasury, and the National Credit Union Administration any report of examination of a bank or any other exempt records. (ii) Examination reports or other exempt records containing information derived from customer financial records may be disclosed to any agency listed in subparagraph (i) of this paragraph if (A) the General Counsel, or anyone he designates in writing, has determined that disclosure is required by law; or (B) the requesting agency has authority to examine the financial condition or business operations of the bank which maintained the records and states in its written request for disclosure the statutory basis for this authority; or (C) the information derived from bank customer financial records is deleted or rendered unidentifiable with respect to any particular customer; or (D) the certification and notice requirements as set out in § 309.6(c)(4)(iv)(B) are met.[11] (iii) Before information is released pursuant to § 309.6(c) (3), it is the responsibility of the Corporation employee authorized to disclose the information to make a determination that the person making the request is authorized to request the record on behalf of the requesting agency and that the records are requested for a legitimate financial institution supervisory or regulatory purpose.

* * * * *

6. Section 309.6(c)(4) is revised to read as follows:

§ 309.6 Disclosure of exempt records by corporation personnel.

* * * * *

(c) *Disclosure authorized.* * * *

(4) *Reports of examination and other exempt records—disclosure to non-financial institution supervisory agencies.* (i) Reports of apparent criminal irregularities pertaining to suspected violations of law which affect the safety or soundness of a bank may be disclosed to a federal prosecuting or investigatory authority without giving notice and certification as set out in § 309.6(c)(4)(iv)(B) even if they contain information derived from customer financial records: *Provided,* That the contents of the report are not so detailed as to substitute for access to the records themselves.[12] (ii) The Director of the Corporation's Division of Bank Supervision, or anyone designated by him in writing, may disclose to the proper federal or state prosecuting or investigatory authorities copies of exempt records pertaining to irregularities discovered in banks which are believed to constitute violations of any Federal or State civil or criminal law, or unsafe or unsound banking practices: *Provided,* That whenever copies of exempt records are disclosed to federal prosecuting or investigatory authorities that are customer financial records, notice and certification as set out in § 309.6(c)(4)(iv)(B) are made. (iii) Subject to the restrictions contained in subparagraph (4)(iv) of this paragraph pertaining to disclosure of customer financial records to federal agencies, the Director of the Corporation's Division of Bank Supervision, or anyone designates by him in writing, may disclose to any authorized officer or employee of any federal or state agency or authority, for good cause shown, reports of any examination of a bank or other exempt records. Such records shall be disclosed only in response to a written request which: (A) is signed by an authorized official of the agency making the request; (B) indentifies the record or records to which access is requested; and (C) gives the reasons for the request. (iv) The Director of the Corporation's Division of Bank Supervision, or anyone he designated in writing, may disclose information known to have been derived from customer financial records that appears in a report of examination or other FDIC records to any federal agency: *Provided,* That (A) the General Counsel, or anyone he designates in writing, has determined that disclosure is required by law; or (B) disclosure is pursuant to a written request that indicates the information is relevant to a legitimate law enforcement inquiry within the jurisdiction of the requesting agency and: (*1*) The Director of the Division of Bank Supervision, or anyone designated by him in writing, certifies pursuant to § 1112(a) [13] of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*) that the records are believed relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency *and* (*2*) a copy of such certification and the notice required by § 1112(b) [14] of the Right to Financial Privacy Act of 1978 is sent within fourteen days of the

[11] In addition, examination reports or other exempt records containing information derived from customer financial records may be disclosed to the Secretary of Treasury where the request is in connection with the Bank Secrecy Act or the Currency and Foreign Transactions Reporting Act (Pub. L. 91–508, Title I and II).

[12] In accordance with the guidelines provided by the Department of Justice in a letter dated July 17, 1979 to Chairman Sprague from Benjamin K. Civiletti, the following information may be transferred under § 309.6(c)(4)(i): the name(s) and address(es) of the suspect(s) and his/her (their) relationship with the financial institution or supervisory agency, if any; the identity of the financial institution(s) or office(s) involved: the specific offense(s) suspected; the name(s) and address(es) of the account holder(s) and the account number(s) and type(s) of account(s) in which evidence of the suspected offense(s) is located; and a general description (dates and any suspicious circumstances) of the transaction(s) involved in the suspected offenses.

[13] The form of notice generally is as follows. Additional information may be added.

Pursuant to 1112(a) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412), I, (appropriate title) hereby certify that the financial records described below were transferred to (agency or department) in the belief that they were relevant to a legitimate law enforcement inquiry, within the jurisdiction of the receiving agency

[14] The form of certification generally is as follows. Additional information may be added.

Dear Mr./Ms.————————: Copies of, or information contained in, your financial records lawfully in the possession of the Federal Deposit Insurance Corporation have been furnished to (*agency or department*) pursuant to the Right to Financial Privacy Act of 1978 for the following purpose:————————. If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Right to Financial Privacy Act of 1978 or the Privacy Act of 1974.

disclosure to the customer whose records are disclosed;[15] or (C) the information derived from bank customer financial records is deleted or rendered unidentifiable with any particular customer; or (D) the information is sought by the General Accounting Office in connection with an investigation, examination, or audit directed at a federal agency; or (E) the request falls within § 1113(g) of the Right to Financial Privacy Act. Notwithstanding the language of § 309.6(c)(4)(iv)(B), a written request is not required for the Director of the Division of Bank Supervision, or anyone he designates in writing, to disclose records pursuant to § 309.6(c)(4)(iv)(B) so long as certification and notice as required by that subsection are made.

7. Section 309.6(c)(7)(iii) is revised by deleting the first sentence thereof and substituting the following therefor:

§ 309.6 Disclosure of exempt records by corporation personnel.

* * * * *

(c) *Disclosure authorized.* * * *

(7) *Reports of examination and other exempt records—disclosure by banks or other third parties.* * * *

(iii) With respect to any disclosure that is authorized under § 309.6(c)(7), the Director of the Corporation's Division of Bank Supervision shall only permit disclosure of records upon determining that good cause exists. If the report of examination or other exempt record contains information derived from bank customer financial records, disclosure is to be authorized only upon the condition that the requesting party comply with any applicable provision of the Right to Financial Privacy Act of 1978.

* * * * *

8. Section 309.6(c)(8) is revised to read as follows:

§ 309.6 Disclosure of exempt records by corporation personnel.

* * * * *

(c) *Disclosure authorized.* * * *

(8) *Production of exempt records and testimony of Corporation personnel.* (i) The Corporation's General Counsel, or anyone designated by him in writing, may (A) produce or authorize the production of any exempt record in response to a valid judicial subpoena, court order, or other legal process, and (B) authorize any officer, employee, or agent of the Corporation to appear and testify regarding an exempt record at any administrative or judicial hearing or proceeding where he has been served with a valid subpoena, court order, or other legal process requiring him to testify. Customer financial records may not be disclosed to any federal agency that is not a Federal financial supervisory agency pursuant to subparagraph (8)(i) of this paragraph unless notice to the customer and certification as required by section 1112(a) and (b) of the Right to Financial Privacy Act of 1978 have been given except where dislosure is in connection with a proceeding to which the federal agency, employee, officer, or agent, and the customer are parties, or disclosure is in response to a grand jury subpoena or when the records are sought pursuant to an administrative subpoena issued by an administrative law judge in an adjudicatory proceeding subject to 5 U.S.C. 554 to which the receiving federal agency, employee, officer, or agent, and the customer are parties. (ii) The General Counsel, or anyone designated by him in writing, may produce or authorize the production of any exempt record sought in connection with any hearing or proceeding without the service of a judicial subpoena, or other legal process requiring production, if he determines that the records are relevant to the hearing or proceeding and that production is in the best interests of justice. In the case of customer financial records, disclosure to any federal agency pursuant to subparagraph (8)(ii) of this paragraph that is not a Federal financial supervisory agency may be made only when the records are sought under the Federal Rules of Civil or Criminal Procedure or comparable rules of other courts and in connection with litigation to which the receiving federal agency, employee, officer, or agent, and the customer are parties. Where the General Counsel authorizes the production of any exempt record or the testimony of any officer, employee, or agent of the Corporation relative thereto pursuant to § 309.6(c)(8), he shall limit the authorization to so much of the record or testimony as is relevant to the issues at the hearing or proceeding, and he shall give his authorization only upon fulfillment of such conditions as he deems necessary to protect the confidential nature of the record consistent with any requirement that it be produced and made a part of the record of the hearing or proceeding.

By Order of the Board of Directors, December 17, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79-39234 Filed 12-20-79; 8:45 am]

BILLING CODE 6714-01-M

[15] Whenever a federal agency has obtained a court-ordered delay of the customer notice, the notice shall be sent immediately upon the expiration of the court-ordered delay.

12 CFR Part 339

Loans in Areas Having Special Flood Hazards

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed revision of regulation.

SUMMARY: As a part of its regulatory reform program for improving the quality of its regulations, FDIC proposes to revise Part 339 of its regulations. Part 339 relates to the flood insurance protection that is required for certain loans that are made in areas having special flood hazards. The proposed revision is intended to simplify the regulation by restructuring it for easier reading and by eliminating unnecessary and outdated provisions. In addition, minor technical amendments have been made to the part to conform it to the requirements of the International Banking Act of 1978.

DATE: Comments must be received by February 19, 1980.

ADDRESS: Interested persons are invited to submit written data, views, or arguments regarding this proposal to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, FDIC, (202) 389-4237.

SUPPLEMENTARY INFORMATION: In the proposed Part 339 revision, the following changes were made:

1. A definitions section has been added to eliminate the repetitious use of lengthy phrases throughout the regulation.

2. The term "bank" is defined to include insured State branches of foreign banks as required by the International Banking Act of 1978.

3. The remainder of the regulation, except the sample notices, has been rewritten or rearranged for easier reading. The changes would not have any significant impact on insured banks. In particular, they would not affect the recordkeeping requirements or the competitive status of the banks. Therefore, no cost/benefit analysis has been undertaken.

Accordingly, the FDIC Board of Directors does hereby propose to revise Part 339 of Title 12 of the Code of Federal Regulations as set forth below.

PART 339—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Sec.

339.1 Authority and scope.
339.2 Definitions.

Sec.

339.3 Requirement to purchase flood insurance.
339.4 Exemption.
339.5 Records of compliance.
339.6 Notice of special flood hazard and of the availability of Federal disaster relief assistance.

Authority: Secs. 102(b) and 202(b), Pub. L. 93-234, 87 Stat. 978, 982 as amended by Secs. 704(a) and 703(a), Pub. L. 95-128, 91 Stat. 1145 (42 U.S.C. 4012a(b), 4106(b)); Sec. 1364, Pub. L. 93-383, 88 Stat. 739 (42 U.S.C. 4104a).

§ 339.1 Authority and scope.

The part is issued under section 1364 of the Housing and Community Development Act of 1974 and Sections 102(b) and 202(b) of the Flood Disaster Protection Act of 1973 as amended by Section 703 of the Housing and Community Development Act of 1977. Its provisions apply to loans secured by improved real estate or mobile homes made by insured State nonmember banks and insured State branches of foreign banks.

§ 339.2 Definitions.

(a) The term "bank" means an insured State nonmember bank and an insured State branch of a foreign bank.

(b) The term "loan" means an extension of credit secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards.

§ 339.3 Requirement to purchase flood insurance.

No bank shall make, increase, extend, or renew any loan secured by property located in an area in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance. The amount of the insurance must be at least equal to the outstanding principal balance of the loan or the maximum limit of coverage made available with respect to the particular type of property under the Act, whichever is less.

§ 339.4 Exemption.

Notwithstanding the provisions of § 339.3 of this Part flood insurance shall not be required on any State-owned property that is covered under an adequate policy of self-insurance satisfactory to the Secretary of Housing and Urban Development who shall publish and periodically revise the list of States falling within the exemption provided by this section.

§ 339.5 Records of compliance.

Each bank shall maintain in connection with all extensions of credit secured by improved real estate or a mobile home sufficient records to indicate the method used by the bank to determine whether such loans fall within the provisions of § 339.3 or § 339.4 of this part.

§ 339.6 Notice of special flood hazard and of the availability of Federal disaster relief assistance.

(a) *Notice Requirement.* In making, increasing, extending, or renewing a loan, each bank shall mail or deliver a written notice to the borrower stating: (1) that the property securing the loan is or will be located in an area identified as a flood hazard area (or in lieu of such notification, the bank may obtain satisfactory written assurance from the seller or lessor that the seller or lessor has notified the borrower, prior to the execution of any agreement for sale or lease, that the property securing the loan is or will be located in such as area) and (2) whether Federal disaster relief assistance will be available for the property in the event the property is damaged by a flood in a federally declared disaster. The notice must be mailed or delivered as soon as feasible but not later than 10 days in advance of closing of the transaction (or not later than the bank's commitment if any, if the period between commitment and closing is less than 10 days). Each bank shall require the borrower, prior to closing, to provide the bank with a written acknowledgement that the borrower realizes the property securing the loan is or will be located in an area so identified and that the borrower has received the required notice regarding Federal disaster relief assistance.

(b) *Sample Notices.* An insured State nonmember bank providing written notice containing the language presented below within the time limits prescribed in paragraph (a) of this section will be considered to be in compliance with the notice requirements of paragraph (a) of this section.

(1) *Notice to Borrower of Special Flood Hazard Area.* Notice is hereby given to ———— that the improved real estate or mobile home described in the attached instrument is or will be located in an area designated by the Secretary of the Department of Housing and Urban Development as a special flood hazard area. This area is delineated on ————'s Flood Insurance Rate Map (FIRM) or, if the FIRM is unavailable, on the Flood Hazard Boundary Map (FHBM). This area has a 1 percent chance of bing flooded within any given year. The risk of exceeding the 1 percent chance increases with time periods longer than one year. For example, during the life of a 30-year mortgage, a structure located in a special flood hazard area has a 26 percent chance of being flooded.

(2) *Notice to Borrower about Federal Disaster Relief Assistance. (i) Notice in participating communities.* The improved real estate or mobile home securing your loan is or will be located in a community that is now participating in the National Flood Insurance Program. In the event such property is damaged by flooding in a federally declared disaster, Federal disaster relief assistance may be availabe. However, such assistance will be unavailable if your community has been identified as a flood-prone area for one year or longer and is not participating in the National Flood Insurance Program at the time the assistance would be approved. This assistance, usually in the form of a loan with a favorable interest rate, may be available for damages incurred in excess of your flood insurance.

(ii) *Notice in nonparticipating communities.* The improved real estate or mobile home securing your loan is or will be located in a community that is not participating in the National Flood Insurance Program. This means that such property is not eligible for Federal flood insurance. In the event the property is damaged by flooding in a federally declared disaster, Federal disaster relief assistance will be unavailable if your community has been identified as a flood-prone area for one year or longer. Such assistance may be available only if, at the time the assistance would be approved, your community is participating in the National Flood Insurance Program or has been identified as a flood-prone area for less than one year.

By Order of the Board of Directors, December 17, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79-39231 Filed 12-20-79; 8:45 am]
BILLING CODE 6714-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 122

Servicing of Business Loans by Lenders

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: Present regulations are at variance with SBA's policy of encouraging the continued servicing of

SBA loans by the private lender to the fullest extent possible, both before and after purchase of the loan by SBA. The proposed change in the regulations provides that the lender, with SBA's written consent, may continue to service the SBA loan until SBA makes a written request for the transfer of loan servicing to SBA.

DATE: Comments must be received on or before January 21, 1980.

ADDRESS: Comments, submitted in triplicate, are to be addressed to: Peter F. McNeish, Acting Associate Administrator, for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, (202) 653–6632.

FOR FURTHER INFORMATION CONTACT: Timothy F. O'Leary, Deputy Director, Office of Portfolio Management, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, (202) 653–6429.

SUPPLEMENTARY INFORMATION: The proposed change conforms the regulation to existing SBA policy. Therefore, there is no need to have a 60-day comment period; thirty days will suffice.

Accordingly, notice is hereby given that pursuant to the authority contained in section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, it is proposed to amend § 122.20(d) of Part 122, Chapter I, Title 13 of the Code of Federal Regulations, to read as follows:

§ 122.10 Loan administration.

* * * * *

(d) When SBA completes the purchase of its share of a guaranteed loan the financial institution shall assign the note and the other loan instruments to SBA and loan servicing shall become the responsibility of SBA; *Provided, however,* That with SBA's written consent the financial institution may continue to service the loan and be the holder of the note and the other loan instruments until SBA makes a written request for the transfer of loan servicing to SBA; the financial institution shall assign and deliver to SBA all loan instruments immediately after the receipt of such a transfer request from SBA.

(Catalog of Federal Domestic Assistance Program No. 59.012, Small Business Loans)

A. Vernon Weaver,

Administrator.

[FR Doc. 79-39161 Filed 12-20-79; 8:45 am]

BILLING CODE 8025-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

Space Transportation System; Use of Small Self-Contained Payloads

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed Rule.

SUMMARY: NASA proposes to issue a policy concerning the use of small self-contained payloads (SSCP's). The policy establishes conditions of use, reimbursement procedures and flight scheduling mechanisms. The policy's intended effect is to ensure equitable allocation of space in the SSCP program to the three groups of users—educational, commercial and governmental.

DATE: Comments or suggestions regarding the proposed policy should be submitted in writing not later than February 19, 1980.

ADDRESS: Comments may be mailed to the Office of Space Transportation System Operations, NASA Headquarters, Washington, D.C. 20546 or delivered to Room 400, 600 Independence Avenue, Washington, D.C. between 8:00 AM and 4:30 PM. Comments received may also be inspected at Room 400 between 8:00 AM and 4:30 PM.

FOR FURTHER INFORMATION CONTACT: Donna Miller, STS Operations, National Aeronautics and Space Administration, Washington, D.C. 20546 (202–755–2427).

SUPPLEMENTARY INFORMATION: This policy establishes conditions of use, reimbursement procedures, and flight scheduling mechanisms for implementing the policy. The policy allocates specified amounts of available space to three user groups—educational, commercial, and governmental—to assure access by all these groups to the SSCP Program. It should be noted that the price contained herein has been fixed for the first three full fiscal years of STS operations in real year dollars. This is a change from the original provisions of Subparts 1214.1 and 1214.2 where the price was quoted in 1975 dollars and was subject to actual escalation. Because some potential SSCP users have deposited earnest money with NASA prior to development of a detailed policy, such users are offered a one-time opportunity to withdraw from the program if they find the policy conditions unacceptable.

PART 1214—SPACE TRANSPORTATION SYSTEM

1. 14 CFR Part 1214 is amended by adding a new Subpart 1214.9 reading as follows:

Subpart 1214.9—Use of Small Self-Contained Payloads

Sec.

1214.900 Scope.
1214.901 Relation to Subparts 1214.1 and 1214.2.
1214.902 Definitions.
1214.903 Conditions of use.
1214.904 Reimbursement policy.
1214.905 Flight scheduling.
1214.906 Transfer of ownership, apportionment and assignment of services.
1214.907 Reflight guarantee.
1214.908 Patent and data rights.
1214.909 Damage to payloads.
1214.910 Special provisions for users who made earnest money deposits prior to publication of this Subpart 1214.9.
1214.911 Small self-contained payload standard services.

Authority: Sec. 203, Pub. L. 85–568, 72 Stat. 429, as amended (42 U.S.C. 2473).

Subpart 1214.9—Use of Small Self-Contained Payloads

§ 1214.900 Scope.

This Subpart 1214.9 sets forth the policy on STS services which are provided by NASA to users of small self-contained payloads (SSCP's).

§ 1214.901 Relation to Subparts 1214.1 and 1214.2.

This Subpart 1214.9 governs the provisions of STS services for SSCP's and Subparts 1214.1 and 1214.2 are not applicable.

§ 1214.902 Definitions.

(a) U.S. Government users are defined as all agencies of the U.S. Government, including NASA.

(b) SSCP's are small (200 pounds or less and 5 cubic feet or less) scientific research and development payloads flown on a space-available basis in a NASA-supplied standard container under the provisions of this Subpart 1214.9. Such payloads may be composed of one or more experiments in the same container.

(c) Classes of SSCP's are defined as follows:

(1) Class I payloads are payloads flown for scientific educational purposes by a recognized educational institution or in support of a recognized broad-participation scientific educational process (e.g., science fairs). Users with Class I payloads are encouraged to publish results of their work in the open literature.

(2) Class II payloads are payloads that do not come under the Class I definition and are flown by users other than U.S. Government users. A multiclass payload containing a Class II experiment will be considered a Class II payload.

(3) Class III payloads are payloads flown by U.S. Government users that do not come under the Class I definition. A multiclass payload containing Class I and III experiments only will be considered a Class III payload.

(d) A small self-contained payload user is an individual or entity that has either signed a launch services agreement with NASA or is eligible to enter into negotiations to do so on the basis of payment (by the user or others) of earnest money to NASA (or, in the case of a U.S. Government user, has submitted a letter of intent). If more than one individual or entity enters into a joint venture or other arrangement to fly their experiments in one NASA container, one individual or entity shall be designated by them as their agent. This agent shall be the sole "user" for that payload, with full authority to represent every individual or entity which has an interest in that container.

(e) Standard services provided to all SSCP users are listed in § 1214.911.

(f) Optional services are additional services provided to individual users at the request of the user and at the discretion of NASA. The price of optional services shall be negotiated.

§ 1214.903 Conditions of use.

(a) Users' payloads must be flown in a NASA-supplied standard container.

(b) SSCP's shall be used only to conduct experiments of a scientific research and development nature.

(c) All users shall be required to furnish NASA with sufficient information to ensure Shuttle safety. NASA shall reserve the right to inspect and/or test any and all materials, components, and elements of the payload at any time.

(d) All users shall be required to furnish NASA with sufficient information to verify peaceful purposes and NASA's and the U.S. Government's continued compliance with law and the Government's obligations.

(e) NASA shall reserve the right to reject any payload which, in the opinion of the NASA Administrator, would be contrary to the spirit of this program or NASA's mission.

(f) To assure humane treatment, all experiments using live animals must have the approval of the Life Sciences Division, Office of Space Science, NASA Headquarters.

§ 1214.904 Reimbursement policy.

(a) *Earnest money.* (1) Earnest money shall be paid to NASA by users (except U.S. Government users) with Class I or Class II payloads prior to launch services contract negotiations. The earnest money, which will be $500 per payload, shall be applied to the user's price or retained by NASA.

(2) U.S. Government users shall submit a letter of intent, signed by an authorized party, to initiate the process of contracting for an SSCP flight.

(b) *Reimbursement by non-NASA users.* (1) All users shall be charged on a fixed-price basis.

(2) The price shall remain fixed for all payloads covered by launch services agreements signed through the third full fiscal year of STS operations. During this period, the price for standard services shall be as designated below. As show, users who request assignment to a flight of seven or more days duration shall pay an additional fee for each payload.

Max payload weight, lb.	Max payload vol. cubic feet	Price for standard services	
		1 thru 6-day flight	7-or more day flight
200	5.0	$19,000	$25,000
100	2.5	9,500	12,500
60	2.5	6,000	7,500

(3) Subsequent to the first three full fiscal years, NASA shall annually adjust the prices for the flight of SSCP payloads. Such adjustments shall not affect launch services agreements already in force.

(4) NASA shall be reimbursed an amount which is the sum of the price for standard services and the price for optional services.

(5) At the time a launch services agreement is signed, the user shall reimburse NASA an amount which, when added to the earnest money, brings the user's total payment up to the sum of:

(i) 50% of the price of standard services for a single payload or first payload covered by the agreement, plus 10% of the price for standard services of subsequent payloads covered by the agreement.

(ii) 100% of the price of optional services agreed upon for a single payload or the first payload covered by the agreement.

(6) For the second and each subsequent payload covered by the agreement, the user shall reimburse NASA 100% of the price of optional services agreed upon, plus an additional 40% of the price for standard services at the later of:

(i) The time of signing of the launch services agreement; or

(ii) Eighteen months before the earliest acceptable launch date for each payload.

(7) With the exception of payment for any prenegotiated post-flight services, the balance for each payload shall be paid to NASA on the date designated by NASA for delivery of the payload to the launch site. Payment for post-flight services shall be due on receipt of NASA's billing.

(c) *Postponement.* (1) A postponement by the user shall be defined to occur if the user:

(i) Refuses to accept a tentative flight assignment which, in NASA's judgment, meets the user's stated needs; or

(ii) Fails to deliver the payload to the launch site by the designated time; or

(iii) Declines or is unable to fly the payload on a given flight after having accepted a tentative flight assignment; or

(iv) Requests a delay in the earliest acceptable launch date for a payload. (Only changes to later dates shall be permitted.)

(2) *Postponement fees for non-NASA users.* (i) Users who postpone the flight of a payload shall reimburse NASA a postponement fee which is the sum of the estimated cost of optional services to be repeated and a fee for standard services.

(ii) A user may postpone the flight of a payload once without incurring a fee for standard services.

(iii) If the second and subsequent SSCP user-initiated postponements occur before the date designated for payload delivery to the launch site, the fee for standard services shall be 5% of the price for standard services. If the second and subsequent user-initiated postponements occur on or after the date designated for payload delivery to the launch site, the fee for standard services shall be 20% of the price for standard services.

(iv) Postponement fees shall be payable on receipt of NASA's billing.

(3) *Rescheduling after a postponement by the user.* Rescheduling of a payload after a user postponement shall be accomplished by establishing a new earliest acceptable launch date. A rescheduled payload shall retain its original position in the flight assignment queue awaiting tentative flight assignment.

(4) A user may not postpone after the container is installed in the Shuttle.

(d) *Cancellation fees for non-NASA users.* (1) Users who cancel the flight of a payload shall reimburse NASA a cancellation fee which is the sum of the estimated cost of optional services and

a fee for standard services. In addition, NASA shall retain the earnest money paid for the payload.

(i) If a user cancels after signing a launch services agreement but before the date designated for payload delivery to the launch site, the fee for standard services shall be 10% of the user's standard services price.

(ii) If a user cancels on or after the date designated for payload delivery to the launch site, the fee for standard services shall be 50% of the user's standard services price.

(2) A user may not cancel after the container is installed in the Shuttle.

(3) If flight of a payload which has been previously postponed is cancelled, the cancellation fee shall be the larger of the cancellation fee which would have been applicable at the time of any prior postponement or the cancellation fee calculated at the time of cancellation.

(4) Cancellation fees shall be payable on receipt of NASA's billing.

§ 1214.905 Flight scheduling.

(a) NASA receipt of the user's earnest money or letter of intent for one or more payloads shall be the basis for defining the payload(s) position in a temporary queue designated as the earnest money queue.

(b) Within 60 days of payment of earnest money or submission of letter of intent, the user, with NASA concurrence, shall designate the Class (I, II, III) of the payload(s). If the user fails to designate the class of the payload(s) within 60 days, the earnest money payment date shall be redefined to be the date of the class designation.

(c) If the user changes a payload's user class designation subsequent to the 60 day period or after signing a launch services agreement, the earnest money payment date shall be redefined to be the date of the user class change.

(d) Signing of a launch services agreement shall enter the payload(s) covered by the agreement into a flight assignment queue. The payload's position in this queue is determined as follows:

(1) If a launch services agreement is signed within 18 months after NASA receipt of earnest money or letter of intent, the payload shall remain ahead of all payloads that entered the earnest money queue later than it did.

(2) If the launch services agreement is not signed within 18 months after NASA receipt of earnest money or letter of intent, the payload shall remain ahead of only those payloads covered by other launch services agreements signed after the agreement covering the subject payload is signed.

(3) If the user elects to sign more than one launch services agreement, the provisions of § 1214.905(d)(1) and § 1214.905(d)(2) shall apply to each agreement signed.

(e) The launch services agreement shall designate:

(1) The Number of payloads covered by the agreement.

(2) The user class of each payload covered by the agreement.

(3) The nature and size of each payload.

(4) The minimum flight duration of each payload.

(5) Any other restrictions on the type of Shuttle flight appropriate for flying each payload.

(6) The price for standard services to be provided.

(7) The optional services to be provided and the price for these services.

(8) Any apportionment or assignment of each payload.

(9) The user's earliest acceptable launch date for each payload.

(f) Approximately one year before a planned Shuttle launch, NASA shall estimate the number of spaces available for SSCP's, make tentative flight assignments, and establish dates for payload delivery to the launch site.

(g) Payload tentative flight assignment shall be made on a rotation basis by user class. The continuing rotation sequence by class shall be II, I, II, III. If no payloads of a given class are available at the time of tentative flight assignment, a payload of the next class in the rotation shall be assigned to the available space.

(h) When making tentative flight assignments, NASA shall consider only those payloads whose earliest acceptable launch dates are on or before the Shuttle "firm launch date" as defined in § 1214.102(c)(2). (Shuttle flights normally occur on the "firm launch date" or within 60 days thereafter.)

(i) Users' payloads within each class shall be assigned on the basis of the user's positions in the flight assignment queue for that class with the following exceptions:

(1) To the extent that payloads are available, all space on flights of seven or more days duration shall be assigned to users who have contracted for such flights.

(2) If the available flight does not meet the user's requirements defined pursuant to §§ 1214.905(e)(4) and 1214.905(e)(5), the user shall not be assigned to the flight but shall retain his/her position in the flight assignment queue until a suitable flight becomes available.

(3) Subsequent to the flight of a user's payload, that user shall not be entitled to fly another payload in that class until 10 other SSCP's (all classes combined) have been flown or there are no other SSCP's available for launch.

(j) Once an SSCP user's payload has been given a tentative flight assignment, it shall not be bumped from a flight as a result of another SSCP user's subsequent signing of a launch services agreement or another SSCP user's postponement.

(k) SSCP payloads tentatively assigned to a flight may be bumped by NASA as a result of other Shuttle operational considerations. Should this be necessary, bumping shall be done on a last-on, first-bumped basis.

(l) Paylods being reflown pursuant to § 1214.907 and paylods bumped by NASA after tentative flight assignment subsequently shall have flight assignment priority, in that order, over all other SSCP's in the same flight-duration category, including those already assigned to other flights.

(m) The date for payload delivery to the launch site shall normally be two months before the Shuttle "firm launch date." However, NASA may designate a later date.

(n) Users shall not use third-party or joint venture arrangements to attempt to circumvent the intent of this paragraph.

§ 1214.906 Transfer of ownership, apportionment and assignment of services.

(a) Prior to the signing of a launch services agreement, users shall be permitted to transfer, to a third party, ownership of the eligibility to enter into negotiations with NASA for the flight of a small self-contained payload, subject to NASA approval of the transfer.

(b) Transfer of ownership shall not result in a change in position in the earnest money queue.

(c) Subject to NASA approval, SSCP users shall be permitted to apportion and assign services to others.

(d) U.S. Government users shall not transfer to others the eligibility to negotiate a launch services agreement.

(e) NASA shall negotiate with only one responsible person or entity for the use of each NASA container. At the time the launch services agreement is negotiated, the user shall define any apportionment or assignment of services and identify a single payload manager for the entire payload to be flown in the container. After the launch services agreement is executed, no additional apportionment, assignment, or transfer of ownership shall be permitted without the written approval of NASA.

§ 1214.907 Reflight guarantee.

NASA guarantees one reflight of the user's payload at no additional charge for SSCP standard services if, through no fault of the user, the mission orbit is

not attained and if the payload returns safely to Earth or a second essentially identical payload is provided by the user. Users entitled to a reflight shall be entitled, at no additional charge, to any planned but unused and undamaged optional SSCP services from the flight for which the reflight is provided.

§ 1214.908 Patent and data rights.

NASA will not acquire rights to inventions, patents, or proprietary data privately funded by a user, or arising out of activities for which a user has reimbursed NASA under the policies set forth herein. However, in certain instances in which the NASA Administrator has determined that activities may have a significant impact on the public health, safety, or welfare, NASA may obtain assurances from the user that the results will be made available to the public on terms and conditions reasonable under the circumstances.

§ 1214.909 Damage to payloads.

The user's price does not include a contingency or premium for damage that may be caused to a payload through the fault of the U.S. Government, its contractors, or other STS users. The U.S. Government, therefore, shall assume no risk for damage or loss to the user's payload. The user shall assume that risk or obtain insurance protection against that risk.

§ 1214.910 Special provisions for users who made earnest money deposits prior to publication of this Subpart 1214.9.

(a) Within 30 days after final publication NASA shall supply a copy of this Subpart 1214.9 to all users who have made earnest money deposits.

(b) Users may request in writing a refund of their earnest money provided the request is received by NASA within 90 days after final publication of this Subpart 1214.9. There shall be no subsequent refund of earnest money.

(c) Users who elect to continue with SSCP programs shall, within 90 days after final publication of this Subpart 1214.9, notify NASA in writing of the user's proposed class for each payload covered by earnest money.

(d) Payloads covered by a launch services agreement signed within 18 months after final publication of this Subpart 1214.9 shall retain the appropriate queue position established by payment of earnest money.

(e) Payloads not covered by a launch services agreement signed within 18 months after final publication of this Subpart 1214.9 shall be governed by the provisions of § 1214.905(d)(2).

§ 1214.911 Small self-contained payload standard services.

The following are standard services provided for small self-contained payloads:

(a) Flight in a NASA flight-qualified standard container.

(b) Use of a NASA shipping container.

(c) One "on" and one "off" signal provided on each of three NASA-provided inputs to the container.

(d) Choice of one standard NASA container atmosphere (vacuum, breathing air, inert gas, inert gas vented in space).

(e) Limited consultation on space systems provided by NASA at designated NASA centers.

(f) NASA payload safety reviews at a designated NASA center (Safety shall not be compromised. Unusually complex safety reviews or testing/analysis require additional funding.)

(g) Pre-integration storage of the payload at KSC.

(h) Limited access to the payload prior to integration.

(i) Installation of the payload in the container and removal of the payload from the container after flight.

(j) Installation of the container in the Shuttle and removal of the container from the Shuttle after flight.

(k) KSC launch.

(l) On-orbit payload operational time consistent with the primary STS mission.

(m) Brief postflight documentation of the STS mission profile and payload operational times.

(n) Return of payload to the user at the launch site.

Robert A. Frosch,

Administrator.

December 13, 1979.

[FR Doc. 79-39146 Filed 12-20-79; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 70

[Docket No. 79P-0077]

Nitrites in Bacon; Proposed Exception From the Color Additive Definition and Request for Information on Other Meat Products That May Qualify for the Exception to the Color Additive Definition

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to declare that nitrites in bacon are not "color additives" under the Federal Food, Drug, and Cosmetic Act because they qualify for the exception to the "color additive" definition covering substances used solely for a purpose or purposes other than coloring. FDA also intends to except the use of nitrites in other meat products from the "color additive" definition if those uses can also be shown to qualify for the exception to the definition provided in the act. The tentative conclusions that FDA is proposing to make final in this proceeding were reached by the agency in response to a citizen petition.

DATE: Comments by February 19, 1980.

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: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-473-5690.

SUPPLEMENTARY INFORMATION:

I. Background

On June 12, 1978, Public Citizen, Inc., and two individuals filed suit in Federal court to establish, among other things, that nitrites (including sodium nitrate ($NaNO_3$) and potassium nitrate (KNO_3) and sodium nitrite ($NaNO_2$) and potassium nitrite (KNO_2)) used in the production of bacon are "color additives" within the meaning of section 201(t)(1) of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 321(t)(1)). (See *Public Citizen* v. *Foreman*, 471 F. Supp. 586 (D.D.C. 1979).)

The court declined to rule on the color additive status of nitrites in bacon and stated that before judicial review could occur the question must be presented to FDA for an initial determination. Subsequently, Public Citizen and four others filed with FDA a citizen petition asking the agency to declare that nitrites in bacon are color additives, and therefore may not be used until they have been approved under the color additive provisions of the act (21 U.S.C. 376) (Ref. 1).

FDA responded to the citizen petition by letter on June 29, 1979 (Ref. 2). FDA's response to the petition was based on a thorough analysis of the "color additive" definition in section 201(t)(1) of the act as it applies specifically to the use of nitrites in bacon. Section 201(t)(1)

defines the term "color additive" as follows:

(t)(1) The term "color additive" means a material which—

(A) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source, and,

(B) when added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with other substances) of imparting color thereto; except that such term does not include any material which the Secretary, by regulation, determines is used (or intended to be used) solely for a purpose or purposes other than coloring.

In responding to the citizen petition, FDA reached the following tentative conclusions about the application of this definition to nitrites in bacon: (1) as the petitioners contended, nitrites in bacon are capable of "imparting color" within the meaning of section 201(t)(1) of the act; but (2) contrary to the petitioners' contentions, nitrites in bacon qualify for the exception to the definition for substances determined to be "* * * used (or intended to be used) solely for a purpose or purposes other than coloring" and thus are not properly regulated as color additives (Ref. 2). The response to the petition stated that the agency would initiate rulemaking to implement these tentative conclusions; and that is the purpose of this proposal.

II. The Proposal

The first issue that must be resolved in this proceeding is whether nitrites in bacon are in fact "capable * * * of imparting color" within the meaning of the "color additive" definition. FDA's tentative conclusion on this point is being put at issue here because it represents a change from the agency's and the U.S. Department of Agriculture's (USDA's) previous position that nitrites in bacon "fix" rather than "impart" color. FDA's previously held view that nitrites only "fix" color was based, at least in part, on the fact that the color resulting from the use of nitrites in bacon and other meat products is similar to, and sometimes nearly indistinguishable from, the color of the freshly slaughtered meat. The citizen petition, which argued that the color effect of nitrites is a color imparting effect, forced the agency to focus more closely than it had before on the actual chemical process involved in producing the color effect and to consider whether that process amounts to "imparting" color.

In response to the citizen petition, FDA concluded tentatively that nitrites do impart color to red meat, including bacon. The chemical process by which the FDA believes this occurs is discussed in detail, and depicted schematically, in the appendix to FDA's response to the citizen petition (Ref. 2). In sum, nitrites "impart" color by combining with a substance already in the meat (myoglobin) to form another substance (nitric oxide myoglobin) that, upon heating, yields a third substance (nitrosyl hemochrome), which is pink in color. Were it not for the use of nitrites, the meat would have a brown color after heating rather than the pink attributed by the presence of nitrosyl hemochrome. Nitrites thus "impart" color by giving the meat a color after heating that it would not otherwise have.

FDA solicits comments on its conclusion that nitrites impart color to bacon and other red meats. This conclusion is important because it plays a central role in the evaluation of the color additive status of nitrites in bacon. Due to FDA's tentative conclusion that nitrites do impart color, it was necessary for the agency, in responding to the citizen petition, to consider whether nitrites in bacon qualify for the statutory exception to the color additive definition. If, however, the agency had concluded, or concludes as a result of comments received on this proposal, that nitrites do not impart color to bacon, it is not necessary even to consider the applicability of the exception clause. A substance that does not "impart" color within the meaning of section 201(t)(1) of the act is not a "color additive."

Having concluded tentatively that nitrites do "impart" color, the agency must consider whether nitrites in bacon qualify for the exception to the "color additive" definition for substances determined to be "* * * used (or intended to be used) solely for a purpose or purposes other than coloring."

That is the second issue to be resolved in this proceeding. The agency is proposing to determine, by regulation, as it tentatively concluded in response to the citizen petition, that nitrites in bacon qualify for this exception and thus are not color additives. The reasoning underlying this determination is explained fully in FDA's response to the citizen petition (Ref. 2). It will be summarized here.

This issue requires the agency to interpret and apply the exception clause in section 201(t)(1) of the act, including its use of the term "solely," in the context of the unusual, perhaps unique, set of facts surrounding the use of nitrites in bacon (and perhaps other processed red meat products). FDA assumes for purposes of its analysis that manufacturers desire the coloring effect of nitrites in bacon. However, the clearly predominant purpose for adding nitrites to bacon (as reflected by the amount required to accomplish it) is not coloring but preservation: a level of about 120 parts per million (ppm) of nitrites is required to preserve bacon (see 43 FR 20992 (May 16, 1978)); a level of only 10 to 30 ppm is required to color it.

When used at proper levels, nitrites effectively inhibit the outgrowth of *Clostridium botulinum* spores, thus preventing the formation of the toxin that causes botulism. It is this preservative (antibotulism) function for which USDA regulations affirmatively require nitrites in bacon at the 120-ppm level (see 9 CFR 318.7(b)). When nitrites are used in bacon at a level of 120 ppm for preservation, the coloring effect occurs unavoidably as an incident of the preservative use; the manufacturer must accept the coloring effect whether it is desired or not.

The legal basis for allowing the preservative use of nitrites in meat (at levels up to 200 ppm) lies in pre-1958 USDA regulations approving that use. This USDA "prior sanction," which was upheld by the court in *Public Citizen* v. *Foreman, supra* at 591–3, excludes nitrites in meat from the definition of "food additive" (see section 201(s)(4) of the act (21 U.S.C. 321(s)(4))) and thus means that nitrites may be used lawfully in meat for preservation purposes without an FDA food additive regulation approving that use.

Against this background, it is clear that if the "color additive" definition were read literally to include nitrites in bacon simply because it imparts color, one of two possible anomalous impacts would result, neither of which could reasonably have been intended by Congress when it enacted the "color additive" definition in 1960. Such a reading would either (1) subject the entire use of nitrites in bacon (all 120 ppm) to regulation under the color additive provisions in section 706 of the act, thereby undoing the prior sanction for nitrites that Congress in effect had just recognized in 1958 when it enacted the "food additive" definition; or (2) subject only the subordinate (10 to 30 ppm) coloring aspect of nitrite use to

section 706, leaving the predominant (120 ppm) preservative aspect untouched and, presumably, still prior-sanctioned.

There is no evidence in the legislative history or elsewhere that Congress intended either of these odd results. When Congress enacted the color additive definition and included the term "solely" in the exception clause, it recognized that some substances could have both food additive-type (for example, preservative) and coloring uses (see, for example, 106 Cong. Rec. 13312–3 (June 25, 1960)), but it apparently did not foresee the peculiar circumstance presented by nitrites in bacon (and perhaps other processed red meat products)—that is, a color-imparting substance being put to a prior-sanctioned, food additive-type use (preservation) at a level far exceeding that required to accomplish an unavoidable coloring effect. Because the regulation of such a substance as a color additive on the basis of its incidental coloring effect would have anomalous and unforeseen consequences, it is appropriate for FDA, as the agency responsible for administering the statute, to give section 201(t)(1) of the act a reasonable interpretation that avoids the anomalous and unintended consequences, comports with the intent of Congress, and permits the agency to carry out its statutory responsibilities.

In this case, it is reasonable to read the exception clause in section 201(t)(1) of the act as permitting the agency to except nitrites in bacon (and perhaps other processed red meat products), by regulation, from the "color additive" definition, even though the agency assumes the coloring effect is desired. As noted earlier, the preservative function of nitrites in bacon (and perhaps other processed red meat products) clearly and objectively predominates over the coloring function in terms of the amount required to accomplish each function. The only apparent congressional policy underlying inclusion of the term "solely" in the exception clause was to save FDA from having to make subjective judgments about a manufacturer's primary purpose in using a substance that is capable of performing both food additive (for example, preservative) and coloring functions (106 Cong. Rec. 13312–3 (June 25, 1960)). In the case of a substance like nitrites, which accomplishes one of its functions as an unavoidable incident of another clearly and objectively predominant function, that congressional policy can be carried out by focusing, for purposes of applying the exception clause, on the clearly and objectively predominant function—in this case, preservation. In this way, FDA can properly make a straightforward and objective determination that nitrites are used in bacon (and perhaps other processed red meat products) "solely" for preservation: the coloring effect has absolutely no impact on the amount of nitrites that are used or, indeed, on whether they are used at all.

Therefore, FDA is proposing to determine that nitrites in bacon are "* * * used (or intended to be used) solely for a purpose or purposes other than coloring." This determination is one that is, by the language of section 201(s)(1) of the act, expressly left to FDA. Section 201(t)(1) clearly gives FDA sufficient discretion to make that determination, as it has done here, in a reasonable way that carries out congressional purposes and avoids absurd consequences.

The approach taken here is consistent with the approach FDA has taken in the past when a strictly literal reading of the exception clause would have had anomalous and clearly unintended consequences (see § 70.3(f) (21 CFR 70.3(f)), in which FDA excepted food ingredients such as chocolate from the "color additive" definition notwithstanding their desired coloring effects).

In its response to the citizen petition (Ref. 2, pp. 8–10), FDA acknowledged that its historical application of the exception clause (as reflected in § 70.3(f)), as well as the agency's specific application of the exception clause to nitrites in bacon, appear to conflict with § 70.3(g) of the regulations, which provides as follows:

> (g) For a material otherwise meeting the definition of "color additive" to be exempt from section 706 of the act, on the basis that it is used (or intended to be used) solely for a purpose or purposes other than coloring, the material must be used in a way that any color imparted is clearly unimportant insofar as the appearance, value, marketability, or consumer acceptability is concerned. (It is not enough to warrant exemption if conditions are such that the primary purpose of the material is other than to impart color.)

FDA pointed out in its response to the citizen petition that it knew of no instance in which § 70.3(g) had been the basic for either issuing or declining to issue a regulation excepting a color-imparting substance from the "color additive" definition, and, further, that it could find no evidence in its records of the original intent underlying § 70.3(g). FDA thus concluded that § 70.3(g) must either be regarded as a no-longer viable historical artifact (which should be amended or revoked) or be given a reading that makes it consistent with § 70.3(f). FDA intends to issue a proposal in the near future that will resolve the status of § 70.3(g).

FDA invites comments on the legal theory underlying its conclusion that nitrites in bacon are properly excepted from the "color additive" definition. FDA's reasoning is discussed in detail in the response to the citizen petition (Ref. 2). Unless persuaded that the legal theory or its factual premises are invalid, the agency intends to apply that theory to other meat products, as explained below.

III. Other Meat Products

FDA is proposing to except nitrites in bacon from the "color additive" definition because they are prior-sanctioned substances that accomplish their coloring effect as an unavoidable incident of their prior-sanctioned preservative use and at levels substantially below those required to accomplish their preservative purpose. Under these criteria, there are likely to be uses of nitrites in meat products other than bacon that also qualify for the exception to the "color additive" definition. For example, it is reported that a level of 156 ppm of sodium nitrite is required to prevent the growth of *Clostridium botulinum* in canned cured perishable products such as canned ham (Ref. 3), while, as in the case of bacon, a level of only 10 to 30 ppm is required to accomplish the coloring effect in such products (Refs. 4, 5, and 6).

FDA is prepared to except the use of nitrites in meat products other than bacon from the "color additive" definition if manufacturers or other interested persons can demonstrate that these other uses qualify for the exception in the same way nitrites in bacon do. Persons attempting to make this demonstration should submit to FDA, at a minimum, the following data and information, with supporting documentation and references from the scientific literature where appropriate: (1) the identities of the meat products in which nitrites are used; (2) the level at which nitrites are used in each product; (3) the level of nitrites required to accomplish the intended perservative effect in each product; and (4) the level of nitrites required to accomplish the coloring effect in each product.

In addition, it must be demonstrated that each use of nitrites for which exception from the "color additive" definition is sought actually plays a meaningful role in preservation of the product. If, for example, nitrites are used at a preservative level in a canned product that has been rendered commercially sterile by a retort process, it may not be possible for the agency to

determine that the nitrites are "used * * * solely for a purpose or purposes other than coloring."

If, in response to this proposal, FDA receives factual submissions that are intended to demonstrate that uses of nitrites in meat products other than bacon qualify for the exception to the "color additive" definition, the agency will provide an additional 30 days for interested persons to comment on those factual submissions. If the submissions are adequate to establish that one or more nonbacon uses of nitrites qualify for the exception, those uses will be included in the regulation issued on the basis of this proposal.

When FDA's proposed conclusion that nitrites impart color to red meat (proposed § 70.70) becomes final, it will be necessary for the agency to consider what regulatory action should be taken, if any, under the color additive provisions of the act (21 U.S.C. 376) against uses of nitrites in meat products that have not been determined to qualify for the exception to the "color additive" definition.

FDA received a request that this rulemaking proceeding be handled on an expedited basis and, specifically, that the comment period be limited to 20 days (Ref. 7). FDA concludes that it is not feasible to limit the comment period as requested, because 20 days would not provide an adequate opportunity for interested persons to develop the factual submissions the agency is soliciting concerning meat products other than bacon. FDA considers the normal comment period of 60 days to be necessary and appropriate in this case.

IV. References

The following material is on file with the FDA Hearing Clerk (HFA–305), address above, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

1. Petition to Declare Nitrites In Bacon a Color Additive (FDA Docket No. 79P–0077), March 12, 1979.

2. Letter from Donald Kennedy, Commissioner of Food and Drugs, to William Schultz, Esq., Public Citizen Litigation Group, responding to citizen petition (Docket No. 79P–0077), June 29, 1979.

3. Christiansen, L. N., R. W. Johnston, D. A. Kautter, J. W. Howard, and W. J. Aunan, "Effect of Nitrite and Nitrate on Toxin Production by *Clostridium Botulinum* and on Nitrosamine Formation in Perishable Canned Comminuted Cured Meat," *Applied Microbiology*, 25:357, 1973.

4. MacDougall, D. B., D. S. Mottram, and D. N. Rhodes, "Contribution of Nitrite and Nitrate to the Color and Flavour of Cured Meats," *Journal of Science Food Agriculture*, 26:1743–1754, 1975.

5. Brooks, J., et al., "The Function of Nitrate, Nitrite and Bacteria in the Curing of Bacon and Hams," Department of Scientific and Industrial Research, Food Investigation, Special Report No. 49, 1940.

6. Herring, H. K., "Effect of Nitrite and Other Factors on the Physico-Chemical Characteristics and Nitrosamine Formation in Bacon," *Proc. of the Meat Indus. Res. Conf. 1973*, Chicago, Sponsored by Am. Meat Sci. Assoc. in Coop with AMIF.

7. Letter from William B. Schultz, Esq., Public Citizen Litigation Group, to Sherwin Gardner, Acting Commissioner, FDA, September 5, 1979.

PART 70—COLOR ADDITIVES

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), (t)(1), 402(a), 701(a), 706, 52 Stat. 1046 as amended, 1055, 72 Stat. 1784 as amended, 74 Stat. 397–407 as amended (21 U.S.C. 321(s), (t)(1), 342(a), 371(a), 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 70 be amended as follows:

1. By adding new Subpart D consisting at this time of § 70.70 to read as follows:

Subpart D—Specific Administrative Rulings and Decisions

§ 70.70 Capacity of nitrites in meat products to impart color.

When used in red meat products at levels of 10 to 30 parts per million, or greater, nitrites (including sodium and potassium nitrate and sodium and potassium nitrite) are capable of imparting color to the meat within the meaning of section 201(t)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(t)(1)).

2. By adding new Subpart E consisting at this time of § 70.100 to read as follows:

Subpart E—Exceptions From the Definition of Color Additive

§ 70.100 Nitrites in bacon.

The Commissioner of Food and Drugs hereby determines that, when used in the production of bacon for the purpose of preservation and at a level that is adequate to inhibit the outgrowth of *Clostridium Botulinum*, nitrites (including sodium and potassium nitrate and sodium and potassium nitrite) are being used solely for a purpose other than coloring and thus are not "color additives" within the meaning of section 201(t)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(t)(1).

Interested persons may, on or before February 19, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the econimic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: December 13, 1979.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 79–38936 Filed 12–17–79; 10:26 am]

BILLING CODE 4110–03–M

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21 CFR Part 170

[Docket No. 77N–0222]

Nitrates and Nitrites in Poultry Products; Proposed Declaration That No Prior Sanction Exists

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to declare that no prior sanction granted under the Federal Food, Drug, and Cosmetic Act exists for the use of nitrates and nitrites in poultry products. This proposal is consistent with FDA's longstanding position that no such prior sanction exists and with the results of a recently completed, unsuccessful search of the agency's files for evidence of a valid prior sanction.

DATE: Comments by February 19, 1980.

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: Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION

I. Introduction

The purpose of this rulemaking proceeding is to resolve the question of whether a "prior sanction" granted under the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.) exists for the use of nitrates and nitrites in the manufacture of poultry products. As used in this document, the term "nitrate" includes sodium nitrate ($NaNO_3$) (also known as soda niter, nitrate of soda, and chile saltpeter) and potassium nitrate (KNO_3) (also known

as saltpeter, and nitrate of potash). Similarly, the term "nitrite" includes sodium nitrite ($NaNO_2$) and potassium nitrite (KNO_2).

This rulemaking occurs in the context of FDA's ongoing reexamination of the legal status and safety of nitrates and nitrites in poultry, which FDA announced in a Statement of Policy published in the **Federal Register** of September 2, 1977 (42 FR 44376). The specific question to be resolved in this proceeding has a significant bearing on the legal status of nitrates and nitrites in poultry because the existence of a valid prior sanction for a particular use of a substance in the manufacture of food removes that substance from the act's definition of "food additive" (21 U.S.C. 321(s)), and thereby exempts it from the premarket approval requirement applicable to food additives (21 U.S.C. 348).

Although substances in poultry having prior sanctions cannot be regulated as food additives, they remain subject to the general adulteration provisions of the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), which is administered by the U.S. Department of Agriculture (USDA). Hence, the underlying issue that will be resolved by this rulemaking is not whether nitrates and nitrites in poultry will be regulated at all by FDA and USDA, but rather under which of the available statutory authorities they will be regulated. Regardless of whether a prior sanction exists, FDA believes adequate authority exists under the law to protect the public against any risk that may be posed by the use of nitrates and nitrites in poultry.

This preamble will describe the legal and procedural context in which the need for this rulemaking arises and will explain the reasons for the agency's proposed rule declaring that no prior sanction exists for the use of nitrates and nitrites in poultry. As discussed more fully below, the agency specifically solicits the submission of evidence that tends to contradict the position it takes in this proposal, including, particularly, evidence of specific prior sanctions for the use of nitrates and nitrites in poultry granted under the Federal Food, Drug, and Cosmetic Act. If the agency receives acceptable evidence of any such prior sanction, it will withdraw this proposal and issue a proposed rule recognizing the prior sanction.

II. Legal and Procedural Background

Section 201(s) of the act (21 U.S.C. 321(s)) defines the term "food additive" as follows:

> (s) The term "food additive" means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include—
>
> * * * * *
>
> (4) any substance used in accordance with a sanction or approval granted prior to the enactment of this paragraph pursuant to this Act, the Poultry Products Inspection Act (21 U.S.C. 451 and the following) or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 71 and the following); or
>
> * * * * *

This defintion was added to the act by the Food Additives Amendment of 1958 (Pub. L. 85–929, 72 Stat. 1784–1789), which was enacted into law on September 6, 1958. The purpose of the prior sanction provision in section 201(s)(4) was to make it unnecessary for substances that had already been approved by the government before enactment of the 1958 amendment to go through the premarket testing and approval process that the 1958 amendment made applicable to food additives. Substances excluded from the definition of "food additive" under this provision included not only those approved by FDA under the Federal Food, Drug, and Cosmetic Act but also those approved by USDA under the Poultry Products Inspection Act or the Meat Inspection Act.

As discussed in the September 2, 1977 Statement of Policy, nitrates and nitrites have a long history of use in the manufacuture of poultry products (for both their preservative and coloring effects) that pre-dates the Food Additives Amendment of 1958. FDA, however, has never issued a regulation independently approving the use of nitrites in the commercial preparation of poultry products either as a food additive or a color additive; and the agency has consistently maintained that it has not granted a prior sanction for nitrates and nitrites in poultry products under the Federal Food, Drug, and Cosmetic Act. FDA's only formal recognition of the use of nitrates and nitrites in the commerical preparation of poultry products is in a regulation (§ 170.60(b), 21 CFR 170.60(b)) that was promulgated on the basis of the agency's belief that USDA had granted prior sanctions. In addition, FDA published a proposed regulation in the **Federal Register** of November 3, 1972 (37 FR 23456) that would have specified the conditions under which nitrates and nitrites had been prior-sanctioned by USDA. Until recently, FDA has regarded the presumed USDA prior sanction to provide the legal basis for the commerical use of nitrates and nitrites in poultry.

As explained in the September 2, 1977 Statement of Policy, FDA's belief that USDA had granted prior sanctions for nitrates and nitrites in poultry was upset by an April 22, 1977 letter addressed to the Commissioner of Food and Drugs from the Assistant Secretary of Agriculture for Food and Consumer Services, Ms. Carol Tucker Foreman (Ref. 1). In her letter, Ms. Foreman advised the agency that "[B]ased on our review of available information, it does not appear that there is such a prior sanction or approval of nitrates and nitrites in poultry." The conclusion reached by Ms. Foreman meant that the use of nitrates and nitrites in poultry could no longer be based on the existence of a prior sanction. FDA therefore announced in its September 2, 1977 Statement of Policy that it intended to regulate nitrates and nitrites in poultry as "food additives" under sections 201(s) and 409 of the act. It also announced that, upon submission of appropriate data and information concerning the safety of nitrates and nitrites in poultry products, it would consider issuing food additive regulations to permit the continued use of nitrates and nitrites in poultry on an interim basis pending a full resolution of questions affecting a final decision on their approvability.

Following publication of the September 2, 1977 Statement of Policy, two sets of events occurred that together provide the impetus for this rulemaking:

The first set of events began in November 1977 when FDA received two petitions for the issuance of interim food additive regulations for the use of sodium nitrite in a variety of poultry products. FDA later advised the petitioners of deficiencies in the data accompanying the petitions that needed to be resolved before the petitions could be acted on. Some, but not all, of the deficiencies were corrected, and action on the petitions is pending. (FDA will not act on the petitions until at least early 1980, when the final evaluation is to be completed on a chronic toxicity

study performed for FDA by Dr. Paul M. Newberne of the Massachusetts Institute of Technology. The Newberne study, as initially reported to FDA, found a statistically significant increase in cancer among animals exposed to sodium nitrite in the diet. Questions have been raised about the validity of these results, and the study is currently undergoing intensive scientific review.)

The second significant set of events began on November 2, 1977, one day after the interim food additive petitions were filed with the agency. On that date, one of the petitioners, the Special Poultry Research Committee (SPRC), and a poultry producing, processing, and distributing firm, Tyson Foods, Inc., filed suit in the United States District Court for the Western District of Arkansas against USDA and the Department of Health, Education, and Welfare seeking, among other things, a declaratory judgment that a prior sanction exists for the use of sodium nitrite in poultry products. If the plaintiffs had been successful in establishing the existence of a prior sanction, FDA would not have the authority to regulate nitrates and nitrites in poultry as "food additives." On March 21, 1979, however, the Court in Arkansas dismissed the suit, essentially on the ground that it could not consider the merits of the prior sanction issue until the government had taken some final action premised on the absence of a prior sanction (for example, had actually issued an interim food additive regulation). The plaintiffs appealed the case to the United States Court of Appeals for the Eighth Circuit. On July 20, 1979, the appeal was dismissed pursuant to a joint motion of the parties in which FDA recited its intention to initiate rulemaking to resolve finally the question whether a prior sanction granted under the Federal Food, Drug, and Cosmetic Act exists for nitrates and nitrites in poultry products. *Tyson Foods, Inc., et al.*, v. *USDA et al.*, No. 77–5059 (W.D. Ark., *dismissed* Mar. 21, 1979), *appeal dismissed*, No. 79–1405 (8th Cir. July 20, 1979). By agreeing to dismissal of the appeal on this basis, FDA effectively committed itself to going forward with its already existing plans to initiate this rulemaking.

Ordinarily, FDA resolves the question whether a prior sanction exists for a particular substance at the same time the agency issues a regulation governing the use of the substance (see § 181.5(d), 21 CFR 181.5(d)). The peculiar circumstances surrounding nitrates and nitrites in poultry, however, warrant resolution of the prior sanction issue in this separate proceeding. As explained above, FDA's 1977 Statement of Policy announced a change in the government's position on whether a prior sanction exists. As evidenced by the lawsuit filed in Arkansas, this change has been controversial; and it has led to uncertainty among members of the poultry industry concerning the legal status of their products. The industry's contention that a prior sanction exists also creates uncertainty for FDA and USDA because it brings into question the legal standard by which the agencies must evaluate the safety of nitrates and nitrites in poultry.

The controversy over the existence of a prior sanction must be resolved as a prerequisite to any final FDA action on the pending petitions for interim food additive regulations; and FDA believes that the issue should be resolved in a way that will not disrupt the important ongoing process of evaluating the safety of nitrates and nitrites in poultry. By resolving the prior sanction issue in this separate proceeding, FDA and USDA will be able to move toward final decisions on the safety questions after having already made a final determination about whether to regulate nitrates and nitrities in poultry products under the "food additive" provisions of the Federal Food, Drug, and Cosmetic Act or under the general adulteration provisions of the Poultry Products Inspection Act. When final decisions are reached on the safety questions, the agencies will be able to move promptly toward their implementation under the appropriate statutory authority.

II. Proposal

The sole purpose of this proceeding is to resolve the question whether a prior sanction granted under the Federal Food, Drug, and Cosmetic Act exists for the use of nitrates and nitrites in poultry. As noted earlier, FDA accepts, and considers itself bound by, USDA determinations concerning possible prior sanctions granted by that Department under either the Poultry Products Inspection Act or the Meat Inspection Act. As mentioned earlier, Assistant Secretary Foreman has advised FDA that there does not appear to be a prior sanction for nitrates and nitrites in poultry under those acts.

In this proceeding, FDA proposes to adopt by regulation its position that no prior sanction has been granted under the Federal Food, Drug, and Cosmetic Act. In preparing this proposal, FDA searched its files for documents that relate to the question of whether it granted a prior sanction for nitrates and nitrites in poultry products. The results of this search have been compiled and placed on file with FDA's Hearing Clerk (Ref. 2).

Several of the documents discovered in FDA's files reflect the existence of a prior sanction issued by USDA for nitrates and nitrites in meat products (for example, Tab A, Ref. 2). The bulk of the documents FDA found, however, relate directly to the question of whether FDA ever granted a prior sanction covering poultry products. These documents not only fail to reveal a prior sanction but state explicitly FDA's view prior to enactment of the Food Additives Amendment that the presence of nitrates and nitrites in poultry products renders the products adulterated under the act (Tab G, Ref. 2). These documents, dated before September 6, 1958 and consisting of intra-governmental memoranda as well as letters to private individuals and firms, generally explain FDA's position by stating that FDA considers nitrates and nitrites in poultry to be "added poisonous or deleterious substances," within the meaning of section 402(a) of the act, that are not "necessary" to the production of food, within the meaning of section 406 of the act.

The unapproved status of sodium nitrite in poultry before 1958 was confirmed by FDA at the time the Food Additives Amendment was enacted. At that time, sodium nitrite used as a preservative in fish fillets and poultry products was included on "A Partial List of Chemicals That Have Not Been Shown To Be Satisfactory For Uses That Would Leave Residues In Food." This list became part of the record of the congressional hearings leading to enactment of the Food Additives Amendment (Tab F, Ref. 2).

FDA discovered a few documents in its files that may appear to be inconsistent with the conclusion that no prior sanction exists. Three such documents, all dating from the year 1941, contain the comments of FDA officials on labeling or proposed nomenclature for various poultry products whose preparation was known to include soaking in a brine that contained "saltpeter," sodium nitrate, and/or sodium nitrite (Tab H, Ref. 2). FDA officials who signed those letters expressed no objection to the use of these substances, but their comments were restricted in each instance to technical labeling issues. There is no indication from these documents that the FDA officials considered the safety (and thus lawfulness) of these substances under the adulteration provisions of the Federal Food, Drug, and Cosmetic Act or intended to be expressing approval of their use. FDA does not consider these documents to constitute a prior sanction, especially

when viewed in light of the voluminous, direct evidence of FDA's disapproval of nitrates and nitrites in poultry (Tab G, Ref. 2).

Two documents (Tab I, Ref. 2) allude to a legal theory whereby it might have been possible to justify the use of nitrates and nitrites in poultry products before September 6, 1958 under section 406 of the act. Neither of these documents, however, makes any finding that section 406 did in fact apply; and neither actually expresses approval of any use of nitrates or nitrites in poultry under section 406 or under any other theory. For this reason, these letters cannot be considered a prior sanction.

Among the documents FDA has examined, the letter in Tab I of Ref. 2 signed by FDA's J. K. Kirk (dated March 12, 1945) comes closest to constituting a prior sanction. In responding to an inquiry concerning the use of saltpeter in foods, Mr. Kirk stated: "There is no evidence that in the amounts used it has any adverse effect on the system or is deleterious to health. If evidence were acquired that it were in any way harmful, its use would be prohibited." Although this letter appears to acquiesce in the use of saltpeter (that is, potassium or sodium nitrate) based on a conclusion that saltpeter is not harmful in the amounts used, the letter does not specify what those amounts are; and it is unclear whether the letter contains the explicit approval required for the establishment of a prior sanction. (See 21 CFR 181.5(a).) Moreover, the letter referes only to saltpeter (that is, nitrate); it is thus clearly not a prior sanction for potassium or sodium nitrite.

Even if one or more of the documents in Tabs H and I of Ref. 2 (the most recent of which was issued on October 21, 1953) were found to meet the requirements for prior sanctions, they would not constitute valid prior sanctions because they were superseded by the subsequently issued documents expressing FDA's disapproval of the substances (Tabs F and G, Ref. 2). The prior sanction provision in section 201(s)(4) of the act was intended only to carry forward approvals that were in effect at the time the Food Additives Amendment was enacted; it was not intended to create new approvals on the basis of sanctions that had been given and rescinded before the enactment of the amendment.

In the absence of any acceptable evidence to the contrary, FDA must conclude that no prior sanction granted under the Federal Food, Drug, and Cosmetic Act exists for the use of nitrates and nitrites in poultry. Based on this conclusion, FDA is proposing to amend § 170.60(b) to eliminate any reference to the use of nitrates and nitrites in poultry products as falling within any prior sanction and to add new § 170.70 (21 CFR 170.70) stating that no prior sanction exists. In addition, FDA intends to withdraw its earlier-mentioned November 3, 1972 proposal, which proposed to specify the conditions under which nitrates and nitrites in poultry were thought to be prior-sanctioned.

IV. Opportunity for Comment

FDA solicits comments from all interested persons concerning the question of whether a prior sanction exists under the Federal Food, Drug, and Cosmetic Act for nitrates and nitrites in poultry. FDA is especially interested in receiving comments, and supporting documentation, from those who believe a prior sanction exists. The prior sanction provision of the act, 21 U.S.C. 321(s)(4), is an exception provision, excepting a class of substances from the requirements of a regulatory statute. For that reason, the burden of proof rest, as a matter of law, upon those who contend that a particular use of a substance falls within the exception. *United States* v. *Shock*, 379 F. 2d 29, 33 (8th Cir. 1967); *United States* v. *Allan Drug Corp.*, 357 F. 2d 713, 718 (10th Cir.), *cert. denied* 385 U.S. 899 (1966); *United States* v. *1,048,000 Capsules . . . Afrodex*, 347 F. Supp. 768, 770 (S.D. Tex., 1972), *aff'd*, 494 F. 2d 1158 (5th Cir. 1974).

Persons intending to submit evidence in support of the existence of a prior sanction should refer to FDA's regulations in Part 181 (21 CFR Part 181) interpreting section 201(s)(4) of the act, particularly § 181.5(a):

> A prior sanction shall exist only for a specific use(s) of a substance in food, i.e., the level(s), condition(s), product(s), etc., for which there was explicit approval by the Food and Drug Administration or the United States Department of Agriculture prior to September 6, 1958.

As noted earlier, FDA is considering in this proceeding only the question of whether FDA has granted a prior sanction for nitrates and nitrites under the Federal Food, Drug, and Cosmetic Act. If, in response to this proposal, the agency receives comments relating to the question of whether USDA has issued a prior sanction under the Poultry Products Inspection Act or the Meat Inspection Act, the agency will forward those comments and any supporting documentation to USDA for its consideration and for any action it deems appropriate.

FDA considers it important to the efficient administration and enforcement of the law to finally resolve in this rulemaking the regulatory status of nitrates and nitrites in poultry products. Therefore, in keeping with the policy underlying § 181.5(d), FDA will consider the failure of any person to come forward with proof of an appplicable prior sanction in response to this notice to constitute a waiver of the right to assert or rely on such a prior sanction at any later time.

Finally, in the event acceptable evidence of a prior sanction granted under the Federal Food, Drug, and Cosmetic Act is submitted in response to this proposal, FDA intends to withdraw this proposal and issue a second proposal recognizing the existence of the prior sanction. This course of action would be necessary and appropriate as a means of providing all interested persons an opportunity to comment on the validity of any such proposed prior sanction.

V. References

The following material is on file with the FDA Hearing Clerk (HFA–305), address above, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

1. Letter from Carol Tucker Foreman, Assistant Secretary of Agriculture for Food and Consumer Services, to Donald Kennedy, Commissioner of Food and Drugs, April 22, 1977.

2. Memorandum from Acting Chief, Petitions Control Branch (HFF–334) to Richard Cooper, Chief Counsel, Food and Drug Administration, with accompanying attachments (Tabs A through L), July 18, 1979.

PART 170—FOOD ADDITIVES

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 701(a), 72 Stat. 1784, 52 Stat. 1055 (21 U.S.C. 321(s) and 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 170 be amended as follows:

1. In § 170.60 by revising paragraph (b) to read as follows:

§ 170.60 Nitrites and/or nitrates in curing premixes.

* * * * *

(b) Nitrites and/or nitrates, when packaged separately from flavoring and seasoning in curing premixes, may continue to be used under prior sanctions in the commercial curing of meat and meat products and in accordance with the provisions of §§ 172.170 and 172.175 of this chapter that apply to meat curing preparations for the home curing of meat and meat products, including wild game. As used in this section, the term "nitrite" includes sodium nitrite ($NaNO_2$) and potassium nitrite (KNO_2), and the term

"nitrate" includes sodium nitrate ($NaNO_3$) and potassium nitrate (KNO_3). To assure safe use of such ingredients, the labeling of the premixes shall bear instructions to the user that such separately packaged ingredients are not to be combined until just before use. Encapsulating or coating some or all of the ingredients does not constitute separate packaging.

2. By adding new § 170.70 to read as follows:

§ 170.70 Nitrates and nitrites in poultry products.

The Food and Drug Administration has determined that no prior sanction or approval granted under the Federal Food, Drug, and Cosmetic Act, within the meaning of section 201(s)(4) of that act (21 U.S.C. 321(s)(4)), exists for the use of nitrates or nitrites in the manufacture of poultry products. As used in this section, the term "nitrate" includes sodium nitrate ($NaNO_3$) (also known as soda niter, nitrate of soda, and chile saltpeter) and potasium nitrate (KNO_3) (also known as saltpeter and nitrate of potash). Similarly, the term "nitrite" includes sodium nitrite ($NaNO_2$) and potasium nitrite (KNO_2).

Interested persons may, on or before February 19, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: December 13, 1979.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 79–38935 Filed 12–17–79; 10:30 am]

BILLING CODE 4110–03–M

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21 CFR Part 357

[Docket No. 79N–0379]

Exocrine Pancreatic Insufficiency Drug Products for Over-the-Counter Human Use; Establishment of a Monograph; Notice of Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish conditions under which over-the-counter (OTC) exocrine pancreatic insufficiency drug products are generally recognized as safe and effective and not misbranded. Exocrine pancreatic insufficiency drug products are used to compensate for the insufficient secretion of pancreatic enzymes important to the digestive process. The proposed rule, based on the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, is part of the ongoing review of OTC drug products conducted by the Food and Drug Administration (FDA).

DATES: Comments by March 20, 1980; reply comments by April 21, 1980.

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: William E. Gilbertson, Bureau of Drugs (HFD–510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on November 19, 1978, a report of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products. Under § 330.10(a)(6) (21 CFR 330.10(a)(6)), the Commissioner of Food and Drugs issues (1) a proposed regulation containing the monograph recommended by the Panel, which establishes conditions under which OTC drugs are generally recognized as safe and effective and not misbranded (i.e., Category I); (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs not being generally recognized as safe and effective or would result in misbranding (i.e., Category II); (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify those conditions under either (1) or (2) above (i.e., Category III); and (4) the conclusions and recommendations of the Panel. The Panel's conclusions on exocrine pancreatic insufficiency drug products contained no Category III conditions.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The report has been prepared independently of FDA, and the agency has not yet fully evaluated the report. The Panel's findings appear in this document as a formal proposal to obtain public comment before the agency reaches any decision on the Panel's recommendations. This document represents the best scientific judgment of the Panel members, but does not necessarily reflect the agency's position on any particular matter contained in it. After FDA has carefully reviewed all comments submitted in response to this proposal, the agency will issue a tentative final regulation in the **Federal Register** to establish a monograph for OTC exocrine pancreatic insufficiency drug products.

In accordance with § 330.10(a)(2) (21 CFR 330.10(a)(2), the Panel and FDA have held as confidential all information concerning OTC exocrine pancreatic insufficiency drug products submitted for consideration by the Advisory Review Panel. All this information will be put on public display at the office of the Hearing Clerk, Food and Drug Administration, after January 21, 1980, except to the extent that the person submitting it demonstrates that it still falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD–510) (address given above).

Based upon the conclusions and recommendations of the Panel, FDA proposes the following:

1. That the conditions included in the monograph, under which the drug products would be generally recognized as safe and effective and not misbranded (Category I), be effective 30 days after the date of publication of the final monograph in the **Federal Register.**

2. That the conditions excluded from the monograph because they would cause the drug to be not generally recognized as safe and effective or to be misbranded (Category II), be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph in the **Federal Register,** regardless of whether further testing is undertaken to justify their future use.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the **Federal Register** of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the **Federal Register** of May 11, 1972 (37 FR 9464). In accordance with these regulations, a request for data and information on all active ingredients

used in OTC miscellaneous internal drug products was issued in the **Federal Register** of November 16, 1973 (38 FR 31696). In the **Federal Register** of August 27, 1975 (40 FR 38179) a further notice supplemented the initial notice with a detailed list of ingredients included in OTC miscellaneous drug products.

The Commissioner appointed the following Panel to review the information submitted and to prepare a report under § 330.10(a) (1) and (5) on the safety, effectiveness and labeling of the ingredients in those products:

John W. Norcross, M.D., Chairman
Ruth Eleanor Brown, R.Ph. (resigned May 1976)
Elizabeth C. Giblin, Ed.D.
Richard D. Harshfield, M.D.
Theodore L. Hyde, M.D.
Claus A. Rohweder, D.O.
Samuel O. Thier, M.D. (resigned November 1976)
William R. Arrowsmith, M.D. (appointed March 1976)
Diana F. Rodriguez-Calvert, Pharm.D. (appointed July 1976)

Representatives of consumer and industry interests served as nonvoting members of the Panel. Eileen Hoates, nominated by the Consumer Federation of America, served as the consumer liaison until September 1975, followed by Michael Schulman, J.D. Francis J. Hailey, M.D., served as the industry liaison, and in his absence John Parker, Pharm.D., served. Dr. Hailey served until June 1975, followed by James M. Holbert, Sr., Ph.D. All industry liaison members were nominated by the Proprietary Association.

The following FDA employees assisted the Panel: Armond M. Welch, R.Ph., served as the Panel Administrator. Enrique Fefer, Ph.D., served as the Executive Secretary until July 1976, followed by George W. James, Ph.D., until October 1976, followed by Natalia Morgenstern until May 1977, followed by Arthur Auer. Joseph Hussion, R.Ph., served as the Drug Information Analyst until July 1976, followed by Anne Eggers, R.Ph., M.S., until October 1977, followed by John R. Short, R.Ph.

In order to expand its medical and scientific base, the Panel called upon Ralph B. D'Agostino, Ph.D. (statistics), as a consultant for advice in areas which required particular expertise.

The Advisory Review Panel on OTC Miscellaneous Internal Drug Products was charged with the review of many categories of drugs. Due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents its conclusions and recommendations for exocrine pancreatic insufficiency drug products in this document. This Panel also reviewed the ingredients in these drug products for different labeling claims in another document entitled "OTC Digestive Aid Drug Products," which will be published in a future issue of the **Federal Register**. The review of other categories of miscellaneous internal drug products will be continued by the Panel, and its findings will be published periodically in future issues of the **Federal Register**.

The Panel was first convened on January 13, 1975 in an organizational meeting. Working meetings were held on the following dates (the dates of those meetings which dealt with the topic of this document are in italics): *February 23 and 24, March 23 and 24,* April 27 and 28, June 22 and 23, September 21 and 22, and November 16 and 17, 1975; February 8 and 9, March 7 and 8, April 11 and 12, May 9 and 10, July 11 and 12, and *October 10 and 11,* 1976; *February 20 and 21, April 3 and 4,* May 15 and 16, July 9, 10, and 11, *October 15, 16, and 17,* and *December 2, 3, and 4,* 1977; *January 23, 29, and 30,* March 10, 11, and 12, May 5, 6, and 7, *June 23, 24, and 25, August 4, 5, and 6, September 29, 30, and October 1,* and *November 17, 18, and 19,* 1978.

The minutes of the Panel meetings are on public display in the office of the Hearing Clerk (HFA–305), Food and Drug Administration (address given above).

No person requested an opportunity to appear before the Panel to express his or her views on exocrine pancreatic insufficiency drug products.

The Panel has thoroughly reviewed the literature and data submissions and has considered all pertinent information submitted through November 19, 1978, in arriving at its conclusions and recommendations.

In accordance with the OTC drug review regulations (21 CFR 330.10), the Panel considered OTC drug products to treat exocrine pancreatic insufficiency with respect to the following three categories:

Category I. Conditions under which OTC drug products to treat exocrine pancreatic insufficiency are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC drug products to treat exocrine pancreatic insufficiency are not generally recognized as safe and effective or are misbranded.

Category II. Conditions for which the available data are insufficient to permit final classification at this time.

A. Submission of Data and Information

Pursuant to the notices published in the **Federal Register** of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 38179) requesting the submission of data and information on OTC miscellaneous internal drug products, the following firms made submissions for products used in treating exocrine pancreatic insufficiency.

1. *Submissions by firms.*

Firms and marketed products

Parke-Davis & Co., Detroit, MI 48232.—Panteric capsules, Panteric tablets, Panteric granules.

Hoechst-Roussel Pharmaceuticals, Inc., Somerville, NJ 08876.—Festal tablets.

2. *Classification of ingredients*—a. *Labeled active ingredients contained in marketed OTC exocrine pancreatic insufficiency drug products submitted to the Panel.*

Hemicellulase
Pancreatin

b. *Labeled active ingredients contained in marketed OTC exocrine pancreatic insufficiency drug products which were not submitted but were reviewed by the Panel.*

Pancrelipase

B. Referenced OTC Volumes

The "OTC Volumes" cited throughout this document include submissions made by interested persons in response to the call-for-data notices published in the **Federal Register** of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 38179). All of the information included in these volumes, except for those deletions which are made in accordance with the confidentiality provisions set forth in § 330.10(a)(2), will be put on display after January 21, 1980 in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

C. General Discussion

Under normal circumstances the pancreas secretes a sufficient amount of ensymes into the intestine to account for a major portion of the digestive process. When the pancreas is not functioning properly or is partially removed surgically, lesser amounts of pancreatic digestive enzymes (e.g., lipase for fat digestion, protease for protein digestion, and amylase for starch digestion) are released into the intestine. Because the pancreas has a large functional reserve capacity, malabsorption (due to insufficient digestion) does not occur until the pancreatic enzyme output is reduced by more than 90 percent (Ref. 1), at which point the condition can usually be suspected by the increased fat content in the stool (steatorrhea). For the purpose of this document the Panel,

therefore, defines exocrine pancreatic insufficiency as a condition which requires diagnosis by a physician and in which the symptoms are due to inadequate exocrine pancreatic secretion.

For many years this condition has been effectively treated by the administration of pancreatic preparations consisting of varying proportions of lipase, protease, and amylase activity. The Panel considers these preparations acceptable only when all three of the components are combined into a single dosage form.

According to the National Formulary (N.F.) XIV, pancreatin contains, in each milligram (mg), not less than 25 N.F. Units of amylase activity, not less than 2.0 N.F. Units of lipase activity, and not less than 25 N.F. Units of protease activity. Pancreatin of a higher digestive power may be labeled as a whole-number multiple of the three minimum activities, e.g., the term "triple strength pancreatin" indicates that the preparation contains three times the activity of each enzyme per mg. Pancrelipase, also listed in N.F. XIV, contains, in each mg, not less than 100 N.F. Units of amylase activity, not less than 24 N.F. Units of lipase activity, and not less than 100 N.F. Units of protease activity. The N.F. Units of activity for pancreatin and pancrelipase are defined in the N.F. (Refs. 2 and 3).

With regard to labeling, the Panel has carefully reviewed the submitted labeling claims and has categorized them according to their acceptability. The Panel is aware that there may be other terms that would be acceptable in expressing the same Category I indications.

References

(1) Graham, D. Y., "Enzyme Replacement Therapy of Exocrine Pancreatic Insufficiency in Man," *The New England Journal of Medicine,* 23:1314–1317, 1977.

(2) "The National Formulary," 14th Ed., American Pharmaceutical Association, Washington, DC, pp. 519–521, 1975.

(3) "The National Formulary," 14th Ed., American Pharmaceutical Association, Washington, DC, pp. 523–525, 1975.

D. Combination Policy

The Panel has reviewed FDA's general combination policy on OTC drug products (21 CFR 330.10(a)(4)(iv)) and concurs with this policy for this condition.

This policy is as follows:

An OTC drug may combine two or more safe and effective active ingredients and may be generally recognized as safe and effective when each active ingredient makes a contribution to the claimed effect(s); when combining of the active ingredients does not decrease the safety or effectiveness of any of the individual active ingredients; and when the combination, when used under adequate directions for use and warnings against unsafe use, provides rational concurrent therapy for a significant proportion of the target population.

The Panel insists that all combination products which are used to treat exocrine pancreatic insufficiency must conform to all three requirements of this general combination policy. At the present time, no combination product has been submitted to the Panel, nor is the Panel aware of any such combination product which would satisfy the above requirements.

E. Category I Conditions for Exocrine Pancreatic Insufficiency Drug Products

The following are Category I conditions under which drug products used for the treatment of exocrine pancreatic insufficiency are generally recognized as safe and effective and are not misbranded.

1. *Category I active ingredients—pancreatin or pancrelipase.* The Panel concludes that pancreatin preparations (panreatin or pancrelipase) are generally recognized as safe and effective for OTC use in treating conditions of physician-diagnosed exocrine pancreatic insufficiency in the dosage noted below.

a. *Safety.* The Panel has determined that pancreatin preparations (pancreatin or pancrelipase) are safe in the usual recommended daily dosage of up to 14 grams (g) of triple-strength pancreatin when given in divided doses (Ref. 1). Side effects of nausea, vomiting, and diarrhea may occur at high doses (Ref. 1). Since pancreatin preparations are usually obtained from hogs, they should not be used by those individuals allergic to pork. The Panel recommends that the product labeling for pancreatin preparations contain a warning against to the use of such products by individuals allergic to pork.

b. *Effectiveness.* The pancreatic enzymes are collectively known as pancreatin. Pancreatin is an amorphous substance obtained from fresh hog pancreas. It contains principally amylase, protease, and lipase (Ref. 1) Pancrelipase is obtained in a similar manner; it differs from pancreatin mainly in that it has a higher lipase concentration. Both pancreatin and pancrelipase are employed in the treatment of conditions in which the secreation of pancreatic enzymes is deficient. In the absence of adequate pancreatic enzymes, the patient is unable to properly digest food; and, as a result stools contain excessive amount of undigested foodstuff, expecially fats which lead to steatorrhea, diarrhea, and malnutrition. Pancreatic enzymes, taken by mouth with meals, are effective in controlling these conditions when due to decreased pancreatic secreation (Refs. 2 through 7). However, it should be noted that the pancreas has such a large capacity to produce and secrete the necessary enzymes that, except in patients who have had excessively fatty meals, symptoms of pancreatic insufficiency are rarely noted even when 75 to 80 percent of that organ is removed (Ref. 2).

Although pancreatic enzymes taken by mouth are rapidly inactivated by pepsin in the high acidity of normal gastric juice (Ref. 8), gastric acidity is usually markedly reduced in patients with exocrine pancreatic insufficiency (Ref. 2). Pancreatic enxymes in enteric-coated preparations (designed for release and absorption in the intestines) may be less effective than preparations without such coating (Ref. 2).

The Panel concludes that both pancreatin and pancrelipase are generally recognized as effective for OTC use in treating physician-diagnosed exocrine pancreatic insufficiency.

c. *Dosage.* The Panel concludes that pancreatin preparations (pancreatin or pancrelipase) for OTC use in conditions of prediagnosed exocrine pancreatic insufficiency are safe and effective in the usual and recommended daily dose of up to 14 g of triple-strength pancreatin, or its equivalent, when given in divided doses with meals as recommended by the physician. The proportional activity of amylase, lipase, and protease may vary in these preparations.

d. *Labeling.* The Panel recommends Category I labeling for ingredients used to treat conditions of exocrine pancreatic insufficiency. (See paragraph E.2. below—Category I labeling.)

2. *Category I labeling.* The Panel recommends the following Category I labeling for drug products used to treat exocrine pancreatic insufficiency as being generally recognized as safe and effective and not misbranded:

a. *Indication.* "For the treatment of exocrine pancreatic insufficiency when conducted under the care of a physician."

b. *Warning.* For preparations obtained from pork the following warning should be used: "If you are allergic to pork, do not take this product."

References

(1) AMA Drug Evaluation, 3d Edition, Publishing Sciences Group, Inc., Littleton, MA, pp. 1085–1086, 1977.

(2) Graham, D. Y., "Enzyme Replacement Therapy of Exocrine Pancreatic Insufficiency in Man," *The New England Journal of Medicine,* 23:1314–1317, 1977.

(3) Littman, A., and D. H. Handscom, "Pancreatic Extracts," *The New England Journal of Medicine*, 281:201–204, 1969.

(4) Kalser, M. H., C. A. Leite, and W. D. Warren, "Fat Assimilation After Massive Distal Pancreatectomy," *The New England Journal of Medicine*, 279:570–576, 1968.

(5) Marks, I. N., S. Bank, and E. M. Airth, "Pancreatic Replacement Therapy in the Treatment of Pancreatic Steatorrhea, "*Gut*, 4: 217–22, 1963.

(6) Jordan, P. H., and M. I. Grossman, "Effect of Dosage Schedule on the Efficacy of Substitution Therapy in Pancreatic Insufficiency," *Gastroenterology*, 36:447–451, 1959.

(7) Marks, I. N., and S. Bank, "Treatment of Steatorrhea Due to Pancreatic Insufficiency," *Modern Treatment*, 2:328–334, 1965.

(8) Heizer, W. D., C. R. Cleaveland, and F. L. Iber, "Gastric Inactivation of Pancreatic Supplements," *Bulletin of the Johns Hopkins Hospital*, 116:261–270, 1965.

F. Category II Conditions for Exocrine Pancreatic Insufficiency Drug Products.

The following are Category II conditions under which drug products used for the treatment of exocrine pancreatic insufficiency are not generally recognized as safe and effective or are misbranded.

1. *Category II active ingredient—hemicellulase.* The Panel concludes that hemicellulase is safe for OTC use in the dose noted below, but it is not generally recognized as effective in treating exocrine pancreatic insufficiency.

a. *Safety.* No safety data were submitted. Hemicellulase is obtained from molds such as *Aspergillus oryzae* and *Penicillium notatum* as well as from various other sources (Refs. 1 and 2). Hemicellulase has been utilized as a digestive aid in the intestinal tract in the usual doses of 50 to 100 mg three times daily (Refs. 3 and 4). The Panel concludes that it is safe when used to treat exocrine pancreatic insufficiency in these doses.

b. *Effectiveness.* Hemicellulase is capable of hydrolyzing hemicellulose contained in ingested food plants. However, it has no relationship to the pancreatic enzymes, and it has not been demonstrated to be of value in the treatment of exocrine pancreatic insufficiency.

c. *Evaluation.* The Panel concludes that hemicellulase is generally recognized as safe for OTC use in the dose specified, but its effectiveness has not been demonstrated in treating exocrine pancreatic insufficiency.

2. *Category II labeling.* The following indications require close physician supervision and are, therefore, classified as Category II labeling for OTC use.

a. "Enteritis."

b. "Postgastrectomy syndrome."

c. "Chronic hepatitis."

d. "Gall-bladder disease."

e. "Surgical patients following cholecystectomy, subtotal gastrectomy, and other surgery of the upper gastrointestinal tract, except pancreatectomy."

References

(1) Pigman, W., "Enzymes Acting on Hemicelluloses, Gum, and Wood," *in* "The Enzymes," Vol. 1, Edited by Sumner, J. B., and K. Myrback, Academic Press, New York, pp. 739–744, 1951.

(2) Courtois, J. E., "Some Biochemical Aspects of Cellulases and Hemicellulases," *Glasnik Hemijskog Drugstvaw*, 32:365–388, 1967.

(3) OTC Volume 170034.

(4) OTC Volume 170144.

The Food and Drug Administration has determined that this document is exempt from the requirement of preparing an Environmental Impact Statement as specified under 21 CFR 25.1(f)(4).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended by adding to Part 357 a new Subpart E to read as follows:

PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart E—Exocrine Pancreatic Insufficiency Drug Products

Sec.

357.401 Scope.
357.403 Definition.
357.410 Exocrine pancreatic insufficiency active ingredients.
357.450 Labeling of exocrine pancreatic insufficiency drug products.

Authority: Secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371); (5 U.S.C. 553, 554, 702, 703, 704).

Subpart E—Exocrine Pancreatic Insufficiency Drug Products

§ 357.401 Scope.

An over-the-counter exocrine pancreatic insufficiency drug product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this subpart, in addition to each of the general conditions established in § 330.1 of this chapter.

§ 357.403 Definition.

Exocrine pancreatic insufficiency. A condition in which the symptoms are due to inadequate exocrine pancreatic secretion as diagnosed by a physician.

§ 357.410 Exocrine pancreatic insufficiency active ingredients.

The active ingredient of the product consists of any one of the following when used within the dosage limits established:

(a) Pancreatin.

(b) Pancrelipase.

§ 357.450 Labeling of exocrine pancreatic insufficiency drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as one which treats exocrine pancreatic insufficiency.

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to the phrase: "For the treatment of exocrine pancreatic insufficiency when conducted under the care of a physician."

(c) *Warning.* The labeling of the product contains the following warning under the heading "Warnings": "If you are allergic to pork, do not take this product."

(d) *Directions*—(1) *For products containing Pancreatin, N.F. XIV.* The daily dose is up to 42 grams when given in divided doses with meals as recommended by a physician.

(2) *For products containing Pancrelipase, N.F. XIV.* The daily dose is up to 3.5 grams when given in divided doses with meals as recommended by a physician.

Interested persons are invited to submit their comments in writing (preferably in four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal on or before March 20, 1980. Comments should be addressed to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be accompanied by a supporting memorandum or brief. Comments replying to comments may also be submitted on or before April 21, 1980. Comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed,

and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: December 13, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-39110 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-150-78; EE-101-78]

Reasonable Funding Methods; Amortization of Experience Gains by Pension Plans Funded by Group Deferred Annuity Contracts; Public Hearings on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearings on proposed regulations.

SUMMARY: This document provides notice of public hearings on proposed regulations relating to reasonable funding methods and proposed regulations relating to amortization of experience gains by pension plans funded by group deferred annuity contracts.

DATES: The public hearings will be held on February 21, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by February 7, 1980.

ADDRESS: The public hearings will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines for oral comments on the proposed regulations relating to reasonable funding methods, should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE-150-78), Washington, D.C. 20224. The outlines for oral comments on the proposed regulations relating to the determination of actuarial cost under the minimum funding standards should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE-101-78), Washington, D.C. 20224.

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

SUPPLEMENTARY INFORMATION: The subjects of the public hearings are:

1. Proposed regulations relating to reasonable funding methods under section 412(c)(3) of the Internal Revenue Code of 1954, and section 3(31) of the Employee Retirement Income Security Act of 1974. These proposed regulations appeared in the **Federal Register** for Friday, October 5, 1979 (44 FR 57423).

2. Proposed regulations relating to the determination of actuarial cost under the minimum funding standards under section 412(b)(3) of the Internal Revenue Code of 1954. These proposed regulations appeared in the **Federal Register** for Friday, December 29, 1978 (43 FR 60964).

The rules of § 601.601 (a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearings. Persons who have submitted written comments within the time prescribed in the respective notices of proposed rulemaking and who desire to present oral comments at the respective hearing on such proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by February 7, 1980. Each speaker will be limited to 10 minutes for an oral presentation on each of the above listed proposed regulations for which timely comments have been submitted, exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

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

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 39228 Filed 12-20-79; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Parts 1, 16, 17, and 160

[LR-71-78]

Vinson-Trammell Act; Excess Profits on Contracts for Naval Vessels or Military Aircraft

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of Time for Comments and Requests for a Public Hearing.

SUMMARY: This document provides notice of an extension of time for submitting comments and requests for a public hearing concerning the notice of proposed rulemaking with respect to the Vinson-Trammell Act; Excess Profits on Contracts for Naval Vessels or Military Aircraft. The extended deadline for submission of comments and requests for a public hearing is February 26, 1980.

DATES: Written comments and requests for a public hearing must be delivered or mailed by February 26, 1980.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attn: CC:LR:T (LR-71-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: H. Benjamin Hartley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking published in the **Federal Register** for Friday, October 26, 1979 (44 FR 61611), comments and requests for a public hearing with respect to the proposed rules were to be delivered or mailed to the Commissioner of Internal Revenue, Attention: CC:LR:T (LR-71-78), Washington, D.C. 20224, by December 26, 1979. The date by which comments or requests must be delivered or mailed is hereby extended to February 26, 1980.

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

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 79-39227 Filed 12-20-79; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1379-4]

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

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On April 25, 1978, the Mississippi Air & Water Pollution Control Commission adopted, after public notice and public hearing, a revision to Mississippi's Air Quality Regulations, APC–S–1, Section 4.2(b), concerning the incineration of hydrogen sulfide in gas streams emitted to the atmosphere. This revision provides a more flexible and improved regulation for attaining and maintaining the National Ambient Air Quality Standards for sulfur dioxide. The purpose of this notice is to announce these regulations as proposed rulemaking and to solicit public comment.

DATES: Comments must be received on or before January 21, 1980 to be considered.

ADDRESSES: Written comments on the proposed revisions should be addressed to Mr. Melvin Russell of EPA's Air Programs Branch in Atlanta (see address below). Copies of the materials submitted by Mississippi may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, EPA (PM–213), 401 M Street SW., Washington, D.C. 20406.
EPA Region IV, 345 Courtland Street NE., Atlantic, Georgia 30308.
Mississippi Air & Water Pollution Control Commission, Robert E. Lee Building, Jackson, Mississippi 39205.

FOR FURTHER INFORMATION CONTACT: Mr. Melvin Russell, Air Programs Branch, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308, 404/881–3286.

SUPPLEMENTARY INFORMATION: Following notice and public hearing in conformity with the requirements of 40 CFR 51.4, the Mississippi Air and Water Pollution Control Commission on April 25, 1978, adopted a revision to its Air Quality Regulations, APC–S–1, Section 4.2(b), concerning the incineration of hydrogen sulfide in gas streams emitted to the atmosphere. The intent of this revision was to establish a regulation which does not place unnecessary economic limitation of 2000 ppm sulfur dioxide in the gas stream, but will have very little impact on the environment.

The revision also requires a case-by-care determination for each emission point to ensure that maximum ground level concentrations of sulfur dioxide will be in compliance with the National Ambient Air Quality Standards. This regulatory approach establishes an emission limitation without specifying the type of control required, thereby allowing industry flexibility and incentive to achieve the ambient standard by the most expeditious means while conserving energy and economic resources. The revised regulations were submitted to EPA as proposed plan revisions on July 3, 1978.

EPA reviewed the proposed plan revisions to assess how much, if any, PSD increment would be consumed. This evaluation showed that the new emission limits would cause a violation of the PSD increments around some sources. EPA requested the Mississippi agency to revise the submitted emission limits for those specific areas where violations of the PSD increment were predicted. Mississippi adopted the necessary changes and submitted them to EPA on September 13, 1979. The affected sources, their emission limits are as follows:

Source/permit No.	(Lbs./hr) SO_2 emission limit	H_2S emission limit (grains/100 scf)
Mobil Oil Corp/2840-00006	282.0	1.0
Amerada Hess Corp/2840-00001	78.4	1.0
Amerada Hess Corp/0440-00001		
Flare No. 1	20.8	1.0
Flare No. 2	15.5	1.0
Hess Pipeline/2640-00021	242.4	1.0
American Quasar Petroleum/2840-00024	28.2	1.0
Shell Oil Company/2500-00027	27.6	1.0
Getty Oil Company/1300-00012	0.8	1.0
Shell Oil Company/1300-00014	4.1	1.0
Pierremont Petroleum Co/2420-0007	89.1	1.0
Shell Oil Co/0860-00005-002	125.8	1.0
Pruett & Hughes/0440-00018	62.4	1.0
Getty Oil Co/0440-00011	12.1	1.0
Getty Oil Co/0440-00012	1.8	1.0
Getty Oil Co/0440-00014	17.4	1.0
Crystal Oil Co/1720-00043	65.0	1.0
Continental Oil Co/0440-0009	58.6	1.0
Shell Oil Co/0860-00005-001	169.0	1.0

EPA proposes to approve these new limits as adequate to prevent violations of PSD Increments. The public is invited to participate in this rulemaking by submitting written comments on the proposed revisions (see addresses above). After reviewing all relevant comments received together with all other information available to him, the Administrator will take action on the proposed changes in the Mississippi Air Quality Regulations.

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

Dated: December 7, 1979.

Paul Traina,

Acting Regional Administrator, Region IV.

[FR Doc. 79-39123 Filed 12-20-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1378-8]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. Environmental Protection Agency (USEPA) proposes to approve a revision to the Ohio State Implementation Plan for sulfur dioxide for Wright Patterson Air Force Base. The revision is requested in order to reflect SO2 emission reductions anticipated from an ongoing facility modification program in which new boiler units and stacks are being constructed and older boiler units have been eliminated. The purpose of this notice is to invite public comment on USEPA's proposed revision to the Ohio State Implementation Plan (SIP).

DATE: Comments must be received on or before January 21, 1980. Requests for a public hearing on this revision must be received no later than January 7, 1980.

ADDRESSES: Comments and requests for a hearing should be submitted to Steve Rothblatt, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The Technical Support Document and the docket (5A–79–4) for this revision are in file at the above address and at: Central Docket Section, Room 2903B, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. They may be inspected and copied during normal business hours.

FOR FURTHER INFORMATION CONTACT: Patricia Powell, Assistant Regional Counsel, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6062.

SUPPLEMENTARY INFORMATION: This proposed rule is an amendment to the federally promulgated Ohio State

Implementation Plan (SIP) for sulfur dioxide (SO2). This revision is specifically for sources owned and operated by Wright Patterson Air Force Base (WPAFB). Wright Patterson Air Force Base operates a space heating steam facility. On August 27, 1976, (41 FR 36324) the U.S. Environmental Protection Agency (USEPA) promulgated regulations establishing the SIP for the control of SO2 for the State of Ohio.

On December 27, 1978, Wright Patterson Air Force Base (WPAFB) requested a revision of the Ohio SIP for SO2 for its Dayton facility because SO2 emission reductions were anticipated from a modification of the facility because new boiler units and stacks were being constructed and older boilers units were being eliminated. This SIP is exempted from PSD requirements because the modification does not increase the potential emissions rate of sulfur dioxide. Therefore, it does not contribute to the deterioration of the air quality. Wright Patterson's analysis procedure conformed to USEPA methodology. USEPA's methodology is outlined in the Final Technical Support Document dated August 1976, and in the Supplemental Technical Support Document, dated May 1977.

The rural version of the USEPA RAM model was used to address the air quality impacts of SO2 emissions from the WPAFB boiler units for the existing and final plant configurations. The maximum SO2 concentrations were predicted for both 3 and 24-hour averaging periods. As a result of the proposed revision there will be a large reduction in maximum concentrations because of lower emissions for the final plant configurations. One year of meteorological data was used in model calculations. In August, 1976 the WPAFB facility was modeled with 21 boiler units vented to 19 stacks. The boiler units and stacks for each boiler building are the following:

Building 10271–four boilers, four stacks.
Building 20066–seven boilers, five stacks.
Building 20770–two boilers, two stacks.
Building 0170–five boilers, five stacks.
Building 31240–three boilers, three stacks.

The existing WPAFB plant is restricted to emit less than 1.0 lb. SO2/MMBtu from its 21 boiler units to comply with the National Ambient Air Quality Standards (NAAQS). The final plant configuration will show closure of three of the five buildings and the discontinuation of 17 of the 21 boilers and 17 of the 19 stacks. The reduction of heat capacity will be compensated by construction of three new boiler units and three stacks at Building 1240 and three new boilers and one stack at Building 20770. Thus, the final plant configuration will have the following number of boilers and stacks:

Building 20770–five boilers, one stack.
Building 31240–five boilers, four stacks.

The purpose of the WPAFB SIP revision request is to determine the SO2 emission limitation appropriate for the final plant configuration which will allow the NAAQS to be attained and maintained. The SIP revision analysis has accounted for the phase out of operation and the new plant configuration and has demonstrated the plan will attain and maintain the National Ambient Air Quality Standards (NAAQS).

The following regulations for the control of SO2 for the WPAFB have been found acceptable by USEPA. The supporting data is in the Technical Support Document which is available for review at the above locations. Final promulgation of this revision will follow analysis of the comments and will depend on consistency with section 110 of the Clean Air Act. A 30-day comment period will be observed because the emissions limitation is not significantly changed. Comments are being solicited. Note: The USEPA has determined that this document is not a significant regulation does not require preparation of a regulatory analysis under Executive Order 12044.

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

Subpart KK—Ohio

1. Section 52.1881 is amended by revising paragraph (b)29(ii) as follows:

§ 52.1881 Control Strategy: Sulfur oxides (sulfur dioxide).

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

* * * * *

(29) In Greene County:

* * * * *

(ii) The present or any subsequent owner of the Wright-Patterson Air Force Base in Greene County, Ohio, shall not cause or permit emissions of sulfur dioxide in excess of 2.04 pounds of sulfur dioxide per million BTU from any stack.

* * * * *

Dated: December 13, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79-39124 Filed 12-20-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

Health Services Administration

42 CFR Parts 31, 32, and 35

Medical Care for Members of the Coast Guard, Public Health Service, National Oceanic and Atmospheric Administration, and Former Lighthouse Service, Merchant Marine and Certain Other Persons and Public Health Service Hospital and Clinic Management; Decision To Develop Regulations

AGENCY: Health Services Administration, PHS, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: This notice announces the Public Health Service's intention to propose revisions and editorial changes in the following regulations:

Part 31—Medical, dental, and surgical care for members of the U.S. Coast Guard, the Commissioned Corps of the U.S. Public Health Service (PHS) and the National Oceanic and Atmospheric administration (NOAA), ships' officers, crew members (and dependents) of vessels of the National Ocean Survey (NOS), and members and retired members of the former Lighthouse Service. The regulations provide for the care of these persons at PHS facilities and at non-PHS facilities in the United States and overseas, as required by the PHS Act and Executive Order. This revision is proposed to update the regulations in accordance with current organizational arrangements and management operations.

Part 32—Medical, dental, and surgical care from the Public Health Service (PHS) for seafarers (formerly identified as American seamen) employed on documented vessels of the United States, state school ships, vessels of the U.S. Government, owner-operators of commercial fishing vessels, maritime cadets, foreign seafarers, nonbeneficiaries, and persons afflicted with Hansen's Disease. These regulations provide for the care of these persons at PHS and non-PHS facilities within the United States, as required by the PHS Act. This revision is proposed to update the regulations in accordance with current organizational structure and medical practice.

Part 35—The administration of Public Health Service hospitals and outpatient clinics. The regulations provide for the operation of these facilities by the Surgeon General as required by the Public Health Service Act. This revision

is proposed to update the regulations in accordance with current PHS organizational structure and managerial requirements.

The revision of these Parts will also reflect HEW's commitment to revise and clarify its regulations to promote public understanding of its programs and operations.

FOR FURTHER INFORMATION CONTACT: Mr. Walter W. Ward, Policy Coordination Branch, Bureau of Medical Services, HSA, PHS, HEW, 6525 Belcrest Road, West Hyattsville, Maryland 20782, Telephone: (301) 436–6261.

Dated December 12, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

[FR Doc. 79-39264 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-84-M

Health Care Financing Administration

42 CFR Part 455

Medicaid Agency Fraud Detection and Investigation Program; Verification of Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would establish a uniform procedure to verify whether services billed to the Medicaid program were actually received by recipients. A written verification notice sent to recipients would summarize the services claimed, request a response, and provide a means for the recipient to respond at no cost. Current verification procedures are varied and range from simple notification of services billed to personal interviews with recipients to determine if the services were actually received. The various verification methods are not equally effective. The purpose of the uniform system is to deter fraud and abuse in the Medicaid program and to facilitate detection when it occurs.

DATES: Consideration will be given to written comments or suggestions received by February 19, 1980.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013. In commenting, please refer to OPI–03–P. Comments will be available for public inspection, beginning approximately 2 weeks after publication, in Room 5220 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202) 245–0365.

FOR FURTHER INFORMATION CONTACT: Irwin Cohen, (301) 594–8212.

SUPPLEMENTARY INFORMATION:

Background

Past experience with the Medicare and Medicaid programs indicates that it is necessary to verify with individuals whether services billed were actually rendered. In addition to providing leads in potential fraud or abuse cases, a verification of services program serves as a strong deterrent to potential violators of both programs.

Current Medicare procedures provide that a written notification be sent to each beneficiary for every claim which is paid by the Medicare program. In addition to this 100 percent notification system, a sample of Supplementary Medical Insurance (Part B) claims is audited. Under this external audit procedure, the Medicare carrier selects a sample of one assigned claim per 1,000 assigned claims processed during the month. Each beneficiary in the sample is sent a form requesting that he verify whether the services billed were actually furnished. A self-addressed franked envelope is provided with the form to facilitate a response by the beneficiary. To ensure the maximum number of replies, beneficiaries who do not initially respond are contacted again, either through an additional letter, a telephone call, or a personal interview.

Medicaid regulations at 42 CFR 455.20(a) require that a State Medicaid agency "must have a method for verifying with recipients whether services billed by providers were received." States that receive 75 percent Federal matching funds for the operations of mechanized claims processing and information retrieval system (Medicaid Management Information System—MMIS) are allowed to meet this requirement by following the procedures outlined in 42 CFR 433.113 (which implements Section 1903(a)(3)(B) of the Act).

Under that regulation, each MMIS State is required to send written notice to all, or a sample of, recipients who have received Medicaid services. These "explanation of benefit" forms (sent within 45 days of the payment of the claim) must specify the services furnished, the name of the provider furnishing the service, the date the service was furnished, and the amount billed to Medicaid for the service. Although it is not required by regulation, many States place a statement on the form that directs recipients who desire more information or who did not receive the stated service to contact the State agency. A mailing address or a telephone number is typically provided for this purpose.

Regulations applicable to States that do not receive MMIS funding (42 CFR 455.20(c)) do not specify methods for fulfilling the verification requirement. These regulations only provide that verification may be made by:

1. A random sample of recipients for each provider that is paid significant amounts; and

2. A random sample of recipients for groups of providers that are not paid significant amounts.

The Medical Assistance Manual (Section 6–91–00) provides that verification may be made through written notification, personal interview, or through review and investigation of unusual recipient and provider profiles.

Verification is often little more than notification of services billed. In our view, the failure to request and facilitate response by the recipient is a serious deficiency, particularly in the Medicaid program. The recipient usually has no financial responsibility for Medicaid services, and would therefore be less concerned about billing errors than a Medicare beneficiary who pays deductibles and coinsurance. We believe that a uniform written vertification system for all States will serve as a significant deterrent to fraud and abuse and as an additional source of leads for actual cases of fraud and abuse.

Regulatory Provisions

We are proposing that all States implement a program of written verification of services. This new requirement would parallel existing requirements for the Part B External Audit Program in Medicare.

The verification program would consist of a written notice sent to the Medicaid recipient within 45 days after payment is made for claimed services. Each verification notice would contain the following information: a short summary of the services furnished, the name of the provider, the date and place where the services were furnished, and the amount billed to Medicaid for the services. As under existing requirements, the notice would not specify confidential services (as defined by the State) and no notice would be sent if the only service billed was confidential.

The verification notice would request the recipient to return the form to the agency, noting on it whether the services billed were actually provided to him, and specifying any discrepancies in the

information. A self-addressed, postage paid envelope (or other device that allows the recipient to respond at no cost to himself) would be enclosed for this purpose. State agencies would maintain a record of all verification notices and all responses and would make at least one follow-up by letter, telephone, or personal contact to recipients who do not respond to the initial notice within thirty (30) days. This procedure would demonstrate to the recipient the importance of the verification program and maximize the response rate.

The number of verification notices required to be sent each month would equal one-tenth (1/10) of one percent of the number of claims paid per month. The proposed one in a thousand sampling requirement has been chosen so as not to unduly burden State agencies and to be consistent with the sampling requirements established under the external audit procedure in the Medicare program. However, to ensure States verify a representative sampling of the services rendered and to provide an adequate workload in States with smaller claims processing operations, all States would be required to send at least 300 verification notices monthly. The required minimum of 300 notices would be sent to recipients selected through valid statistical (random) methods developed by the State agency.

State agencies with large claims processing operations (more than 300,000 claims paid per month) would be required to send more than 300 notices per month to meet the one in a thousand sampling requirement. The additional verification notices would be sent to recipients selected through a sampling procedure devised and implemented according to particular State agency needs and initiative. The sampling requirement could be met by a continuation of the random sampling procedures used to send the minimum 300 notices, a random sampling of claims paid from particular providers and/or recipients, a sampling of claims from particular types of services, or any combination of these methodologies. Any type of sampling methodology would be allowable (no requirement for statistical validity) as long as the required number of verification notices (1 for every 1,000 claims paid monthly) was sent. States would also be free to increase sample size at their discretion.

Freedom in devising the sampling methodology would allow States to focus their verification efforts on particular providers, using available indicators of possible fraud or abuse (such as provider profiles). The experience of carriers in the Medicare External Audit Program and of particular State agencies suggests that selective sampling is the most cost efficient means of identifying possible problem providers.

As State agencies gain experience under the verification program, the minimum sampling requirements would be closely monitored to determine their usefulness in a valid and cost effective verification of services program.

State agencies would be required to completely investigate recipient responses indicating possible fraud or abuse as currently required for all fraud and abuse complaints received (see 42 CFR 455.14–455.16). State agencies may also wish to use information gained from the verification program which indicates patterns of possible fraud or abuse from particular providers or types of services in implementing effective pre- and post-payment screening programs.

In States that receive MMIS funding, the proposed verification program would be in addition to the system of sending prompt written notices (explanation of benefit forms) to recipients as required by section 1903(a)(3)(B) of the Act. The minimum number of verification notices required to be sent under the proposed program would usually be substantially less than the number of explanation of benefit forms sent under the MMIS requirement. The proposed verification program aims to increase recipient response by providing for the return of the notice at no cost to the recipient, and by requiring a follow-up procedure for nonrespondents. Because of these differences, we believe that State agencies would find it to their advantage to administer the proposed requirement separately from or only as a component of the MMIS "explanation of benefit" notice requirement. However, if an MMIS State modifies, or has already modified, its prompt written verification program, a single system could fulfill both requirements. Costs of an "explanation of benefit" program which was modified to incorporate the requirements of the proposed verification procedures would continue to be reimbursed with 75 percent FFP as an appropriate MMIS operational expense.

PART 455—PROGRAM INTEGRITY

42 CFR 455.20 is revised to read as follows:

§ 455.20 Recipient verification procedures.

(a) *Basic requirements.* (1) In order to determine whether services billed by providers were actually furnished to recipients, the agency must send verification notices to a sample of those for whom Medicaid payments were made.

(2) The verification procedures must meet the requirements of paragraphs (b) through (g) of this section.

(b) *Sample size and selection.* (1) The number of verification notices sent each month must equal at least one-tenth of one percent (1 for every 1,000) of the number of claims that are paid each month.

(2) If the State pays less than 300,000 claims monthly, at least 300 verification notices must be sent.

(3) The agency must send at least 300 notices to recipients who are selected according to statistically valid sampling techniques. Sampling methodologies used to send additional notices required under paragraph (b)(1) of this section, include, but are not limited to—

(i) A random sampling of all claims paid;

(ii) A random sampling of all recipients;

(iii) A random sampling of all providers;

(iv) A random sampling of claims from particular groups of providers (e.g., high and low volume providers); or

(v) A selective sampling of claims from particular providers.

(c) *Timing and content of notice.* The verification notice must be sent within 45 days from the date the claim is paid and contain the following information:

(1) The services furnished;

(2) The name of the provider furnishing the services;

(3) The place where the services were furnished;

(4) The date on which the services were furnished;

(5) The amount of Medicaid payment for the services; and

(6) The fact that the notice is not a bill.

(d) *Confidential services.* The verification notice must not specify confidential services (as defined by the State) and must not be sent if the only service furnished was confidential.

(e) *Recipient response.* The verification notice must:

(1) Request the recipient to indicate whether he received the services billed and to identify any discrepancies in the information; and

(2) Be accompanied by a stamped addressed envelope (or similar device) that will permit the recipient to reply at no cost to himself.

(f) *Record-keeping and follow-up.* The agency must maintain a record of all verification notices sent and recipient responses. The agency must make at

least one follow-up by letter, telephone, or personal contact to any recipient who does not respond to the notice within 30 days after it is sent.

(g) *Investigation of recipient responses.* The agency must investigate all recipient responses which indicate possible fraud or abuse in accordance with §§ 455.14–455.16.

(h) *MMIS systems.* The written notice system required under § 433.113(b)(2) of this subchapter will fulfill the requirements of this section only if it also complies with paragraphs (b) through (g) of this section.

(Sections 1102 and 1902(a)(4)(A) of the Social Security Act (42 U.S.C. 1302 and 1396a(a)(4)(A)))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: August 28, 1979.

Earl M. Collier, Jr.,

Acting Administrator, Health Care Financing Administration.

Approved: December 6, 1979.

Patricia Roberts Harris,

Secretary.

[FR Doc. 79-38486 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FI-5593]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Correction to proposed rule for the Town of Walkersville, Frederick County, Maryland.

SUMMARY: Due to a typographical error at 44 FR 37634, June 28, 1979, the location listed as 300 feet upstream of driveway to the Microbiological Lab under the Source of Flooding of Glade Creek, should be corrected to read 3,000 feet upstream. The elevation is correct as cited.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5150, 451 Seventh Street, SW, Washington, D.C. 20410

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of proposed determinations of base (100-year) flood elevations for selected locations in the Town of Walkersville, previously published at 44 FR 37634 on June 28, 1979, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a)).

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

Issued: December 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-39237 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 5758]

National Flood Insurance Program; Proposed Base Flood Zone Designation for the Town of Cromwell, Conn.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designation described below.

The prosposed zone designation will be the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspapers of local circulation in the above-named community.

ADDRESSES: Map and other information showing the detailed outlines of the floodprone areas and the proposed zone designation are available for review at the First Selectman's Office, Town Hall, Cromwell, Connecticut.

Send comments to: Mr. Paul R. Harrington, First Selectman, Town of Cromwell, Town Hall, 5 West Street, Cromwell, Connecticut 06416.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6570 or toll free line, (800) 424–8872 or (800) 424–8873.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zone designation (100 year flood) for the Town of Cromwell, Connecticut, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448, 42 U.S.C. 4001–4128, and 44 CFR 67.4(a) (presently appearing at its former Section 24 CFR 1971.4(a)).

The zone designation, together with the flood plain management measures required by § 60.3 (presently appearing at its former Section 24 CFR 1910.3) of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or purusant to policies established by other Federal, State, or Regional entities. The proposed zone will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed 100-year zone designation for selected locations are:

Source of flooding	Location	Zone designation
Mattabasset River	Area between State Route 72 and the dam above Pasco Hill Road.	Zone A 10.

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

Issued: November 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-39251 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office for Civil Rights

45 CFR Part 87

Equal Opportunity in Employment Provisions Applicable to the Public Broadcasting Service, National Public Radio, and Public Telecommunications Entities Receiving Federal Funds From the Corporation for Public Broadcasting

AGENCY: Office for Civil Rights, U.S. Department of Health, Education, and Welfare.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office for Civil Rights (OCR), U.S. Department of Health, Education, and Welfare, seeks public comment on proposed rules to govern administration of the equal opportunity in employment provisions under the Public Telecommunications Financing Act of 1978, Pub. L. 95-567, 92 Stat. 2405. 47 U.S.C. 398. The Act requires that equal opportunity in employment be afforded to all persons, and that no person be subjected to discrimination in employment on the grounds of race, color, religion, national origin, or sex by the Public Broadcasting Service, National Public Radio, and public telecommunications entities receiving Federal funds from the Corporation for Public Broadcasting.

DATES: Comments should be submitted on or before February 19, 1980.

ADDRESS: Comments should be filed with: Director, Office for Civil Rights, U.S. Department of Health, Education, and Welfare, P.O. Box 8219, Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: Wendy B. Pailen, (202) 472-3220.

SUPPLEMENTARY INFORMATION: 1. The Office for Civil Rights (OCR), U.S. Department of Health, Education, and Welfare (HEW) published a *Notice of Decision to Develop Regulations* on March 13, 1979, 44 FR 14582.

2. The Public Telecommunications Financing Act of 1978, Pub. L. 95-567, 92 Stat. 2405, modifies the Communications Act of 1934, *as amended*, 47 U.S.C. 1, *et seq.* (statutory references are to the Communications Act). The equal employment opportunity provisions of the Act:

(i) Require that equal opportunity in employment be afforded to all persons by the Public Broadcasting Service, National Public Radio, and all public telecommunications entities receiving funds from the Corporation for Public Broadcasting (hereinafter referred to as recipients);

(ii) Prohibit discrimination in employment by recipients on the grounds of race, color, religion, national origin, or sex;

(iii) Require the Corporation for Public Broadcasting (hereinafter referred to as "the Corporation") to satisfy itself that applicants for grants or contracts are affording equal opportunity in employment and to monitor the equal employment opportunity practices of recipients; and

(iv) Require the Secretary of Health, Education, and Welfare to promulgate regulations to guide the Corporation and to make final determinations of compliance with the Act.

Organization of the Proposed Regulation

3. The proposed regulation is divided into five subparts. Subpart A contains general provisions. Subpart B sets forth the obligations of recipients under the Act, including prohibited discrimination, affirmative action, and reporting requirements. Subpart C describes the responsibilities of the Corporation for Public Broadcasting and contains the guidelines for making initial determinations of compliance. Subpart D sets forth the responsibilities of the Department of Health, Education, and Welfare including compliance, investigation, conciliation, and enforcement procedures. Subpart E describes the effect of other requirements on this regulation.

Discussion of the Proposed Regulation

4. The Department encourages comment on all sections of the proposed regulation; the following discussion focuses only on those sections within each subpart that raise significant issues.

Subpart A—General Provisions

5. Definitions, § 87.3. The pertinent definition of the Act have been included in the proposed regulation. Of significance are the definitions of "recipient" and "applicant," which include the Public Broadcasting Service, National Public Radio (or any successor organization), and all public telecommunications entities that receive or apply for grants or contracts from the Corporation. As defined by the Act and the proposed regulation, public telecommunications entities are primarily public radio and television licensees that receive production, community service, and other grants or contracts from the Corporation. The proposed regulation does not apply to independent producers and other enterprises not included in the definition of a public telecommunications entity.

6. According to the Corporation's 1978 statistics, a total of 480 stations employing approximately 10,350 full-time employees constitute virtually the entire universe of recipients subject to the provisions of the proposed regulation. There are 163 public television licensees operating 280 stations that receive annual community service grants from the Corporation. Of these stations, approximately 100 have fewer than 50 employees. In public radio, 188 licensees operating 200 stations receive annual community service grants and employ an average of 10 full-time employees. A small number of public telecommunications entities that do not receive an annual community service grant may receive other grants or contracts from the Corporation and are covered by the proposed regulation.

7. Although the industry-wide percentage of minority employment increased from 9.6 percent in 1972 to 13.6 percent in 1978, relatively few minorities are employed in decision-making positions. Minorities hold only 6 percent of the official/managers positions at television stations and 9 percent of these positions at radio stations. In the top three job categories, 59 percent of the radio stations and 33 percent of the television stations employ no minority persons. Industry-wide employment of women also rose significantly between 1972 and 1978, from 26.9 percent to 34.7 percent of all positions. However, as in the case of minority employment, women remain underrepresented in the higher job categories. For instance, only 15.9 percent of the officials in public broadcasting are women.

Subpart B—Obligations of Recipients

8. *Discrimination Prohibited*, § 87.10. The Act prohibits discrimination in employment on the grounds of race, color, religion, national origin, or sex. This section of the proposed regulation details the specific employment activities covered, prohibits retaliation, and provides standards for determining compliance.

9. The Department has patterned the substantive portions of this section after the requirements of other Federal statutes and regulations, and has not created any new or unique standards for recipients. Rather, it is proposed that the Department, the Corporation and recipients be bound by the applicable published policies, interpretations and guidelines for the Equal Employment

Opportunity Commission (EEOC).[1] This avoids duplication and permits a recipient to rely on these EEOC standards in order to assure itself that it is in compliance with this section of the proposed regulation.

10. The Department also intends to rely on the principles developed through court decisions under Title VII of the Civil Rights Act of 1964[2] in determining the remedial actions necessary to achieve compliance. For this reason, a recipient that has discriminated against any person or persons in violation of this section may be required to reinstate, promote, and provide back pay to victims of discrimination as a condition of receiving further Federal funds from the Corporation.

11. *Affirmative Action,* § 87.11. In addition to prohibiting discrimination, the Act requires "equal opportunity in employment." Our regulations interpret this language to require that recipients undertake affirmative action. In considering this legislation, Congress noted the "* * * shameful record of public broadcasting in the area of equal employment opportunities and affirmative action" and recognized the need for the industry to "* * * take steps at all levels to train, recruit and promote minorities and women." [3] Senator Hollings offers further support for affirmative action:

> This bill institutes clear and forceful standards to assure that recipients of Federal money do not discriminate, and that they take affirmative steps to seek out new employees from the minority communities and among women. [4]

Although the Act does not explicity limit affirmative action to minorities and women, the legislative history as discussed above clearly indicates that Congress did not intend to include religious minorities under the affirmative action requirements of the Act.

12. The Department proposes that recipients adopt an affirmative action program and submit reports along with employment data to the Corporation. However, a recipient that demonstrates, through a utilization analysis and employment data, that it fully utilizes women and minorities will not be required to adopt an affirmative action program or submit an affirmative action report to the Corporation. Each affirmative action program will commit the recipient to seek qualified minority and female applicants for each position, eliminate unnecessary eligibility criteria that may impede the employment of minorities or women, encourage the promotion of minorities and women, develop or participate in training programs, and establish a reasonable period of time for achieving the goal of full utilization. The program would not have to be complex, and can be easily implemented by small employers.

13. While recipients that demonstrate full utilization of minorities and women would be exempted from developing a written affirmative action program as discussed in paragraph 12, they must refrain from taking any action that would result in employment discrimination and must periodically review their employment policies and practices to ensure that they do not discriminate against any person on the basis of race, color, religion, national origin, or sex.

14. Recipients that seek to be exempted from the requirement of an affirmative action program must demonstrate full utilization of minorities and women in the overall workforce and in the top three job categories (officials and managers, professionals, and technicians). In establishing full utilization, recipients must conduct utilization analyses that compare the percentages of minorities and women in their workforce with the percentages of women and minorities with the requisite skills in the recipient's labor market areas. Recipients employing fewer than 50 full time employees must conduct separate analyses for minorities as a whole[5] and for women. Recipients that employ 50 or more full time employees must conduct an analysis for women and separate analyses for each minority group.

15. As used in the proposed regulation, the term "requsite skills" means the minimum skills necessary to qualify for an entry-level position in any job category.

16. "Labor market area" is defined in the proposed regulation as the area from which a recipient may reasonably be expected to draw employees. In many cases, the labor market area will be the same as the Standard Metropolitan Statistical Area (S.M.S.A.). When a recipient asserts that the nature of the position being filled requires a broader definition of the labor market area, the recipient must justify its assertion. In determining the participation of minorities and women in the labor market area, recipients may seek the assistance of the Corporation.

17. The Department recognizes that a utilization analysis may indicate that less than one person needs to be hired to reach full utilization. In such instances, the Department proposes that the recipient be deemed to be at full utilization. As a result, several small recipients located in labor market areas with few minority persons would be considered at full utilization in their overall workforce even though they employ no minority persons.[6] However, the absence of minorities in the workforce may be one of the factors considered by the Department in determining whether to review the employment practices of a recipient on its own initiative.

18. Full utilization may also exist in any of the top three job categories of a recipient when the hiring of one additional minority or one additional woman would lead to greater percentages of those groups in the job category than in the labor market area. For instance, a recipient employing one female professional and three male professionals would be fully utilizing women in that category even if women made up 45 percent of professionals in the labor market area.

19. An initial determination of full utilization may be used by a recipient to forego the requirement that it develop and implement an affirmative action program. This application differs from the traditional use of a comparison of workforce and labor market percentages to establish a presumption of discrimination. The Department therefore believes that requiring full utilization to be based on a showing that workforce percentages of women and minorities "are equal to or greater than" their labor market percentages, is appropriate in light of its application.

20. The Department encourages comment on its approach of requiring affirmative action of all recipients that are not fully utilizing minorities and women and on its definition of full utilization, which may exempt some

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[1] Such standards include: Guidelines on Discrimination because of Sex, 29 CFR Part 1604; Guidelines on Discrimination because of Religion, 29 CFR Part 1605; Guidelines on Discrimination because of national Origin, 29 CFR Part 1606; Uniform Guidelines on Employee Selection Procedures, 29 CFR 1607; Affirmative Action Appropriate Under Title VII of the Civil Rights Act of 1964; 29 CFR Part 1608.

[2] 42 U.S.C. 20003e, *et seq.*

[3] H.R. Rep. No. 95–1178 at 38–39.

[4] 124 Cong. Rec. S15441 (daily ed. Sept. 19, 1978)

[5] "Minority" as defined in Section 87.2 of the proposed regulation includes: American Indian or Alaskan Native; Asian or Pacific Islander; Black not of Hispanic origin; and Hispanic. This definition conforms to 28 C.F.R. 42.402(e)(1)–(4) and to Statistical Directive No. 15, "Race and Ethnic Standards for Federal Statistics and Administrative Reporting" of the Department of Commerce, 43 Fed. Reg. 19269 (May 4, 1978).

[6] The most recent employment data of the Corporation for Public Broadcasting identifies 87 public radio stations with no minority employees. However, the average number of employees at these stations is 6.8 employees. Many of these stations in labor market areas with few minorities would be considered fully utilized as to minorities.

smaller recipients from the affirmative action requirements.

21. *Compliance Information,* § 87.12. This section details the reporting requirements of recipients both to the Corporation and to the Department, and requires the maintenance of employment records and information for inspection by the Department.

22. Recipients are required to submit employment reports in the same form as is presently required by the Corporation. The proposed regulation does not impose any new reporting requirements. Virtually all of the entities covered by the proposed regulation apply annually to the Corporation for a community service grant and will continue to report employment data to the Corporation once each year, in connection with this grant. Recipients that apply for more than one grant during the year will be permitted to refer to the employment survey submitted as part of its application for the community service grant, unless the Corporation requests more current data.

23. The Act provides that the Department shall coordinate its data gathering activities with the Federal Communications Commission so that each agency's requirements are based on uniform definitions and categories of information. The proposed regulation does not introduce any new definitions or categories of information but asks for a more detailed breakdown. The Commission's data report form requests the job category, minority status, and sex of its employees; the Corporation's present form requires an additional breakdown of employees by title and salary within each category. This information, which is presently collected by the Corporation, will enable the Corporation and the Department to ensure that employees are being accurately categorized by recipients.

24. The Department is aware that recipients will also have to report data to the Federal Communications Commission and some must also report annually to the EEOC. The Department intends to pursue the development of a memorandum of understanding with the other Federal enforcement agencies to ensure that Federal equal employment opportunity reporting requirements placed on the public broadcasting industry are well coordinated and do not impose an undue burden on recipients.[7]

[7] The recently promulgated rules governing grants under the Public Telecommunication Facilities Program of the U.S. Department of Commerce recognize the need to coordinate equal employment enforcement with HEW, FCC and EEOC through an interagency agreement. 44 Fed. Reg. 30898, May 29, 1979.

25. Recipients that do not demonstrate that they fully utilize minorities and women must report the steps taken to increase the employment of these groups during the prior grant or contract period. Recipients must describe their efforts in detail but need not provide underlying documentation unless requested by the Corporation or Department. Recipients that submit an affirmative action report to the Corporation in connection with their application for a community service grant may refer to that report in applying for any other grants or contracts during the same community service grant year.

26. The Department has concluded that it cannot rely on the affirmative action reports that are submitted to the Federal Communications Commission once every three years. The designation of the Department of Health, Education, and Welfare to oversee the affirmative action performance of the public broadcasting industry is in part the result of Congressional dissatisfaction with the prior efforts of Federal agencies. In the Department's view, the Act contemplates an increased level of compliance activity and supports the requirement of annual reporting by recipients not fully utilizing minorities and women.

Subpart C—Corporation for Public Broadcasting Procedures

27. *Application review,* § 87.20. The Act requires the Corporation to satisfy itself that each applicant for a grant or contract is affording equal opportunity in employment. This section of the proposed regulation includes guidelines for making the initial determination of compliance. Under the proposed regulation the Corporation must review and approve the utilization analyses of recipients that claim full utilization. For those recipients that do not demonstrate full utilization, the Corporation must review the affirmative action reports submitted to assure itself that the applicant has complied with the requirements of the regulation during the prior grant or contract period.

28. The Corporation is obligated to offer technical assistance to applicants and recipients to aid them in complying with all sections of the proposed regulation. It is the Department's view that the Corporation has the requisite expertise to provide the assistance needed by recipients.

29. When the Corporation determines that an applicant is in non-compliance with this regulation, it must refer the matter to the Department and must provide funds to the applicant, if it would have provided such funds in the absence of its determination.

30. *Post-approval monitoring,* § 87.22. The Department does not propose that the Corporation adopt a detailed post-approval monitoring program at this time. Given the routine review of virtually all recipients at the time they apply for the annual community service grant, extensive monitoring by the Corporation does not appear necessary. The regulation does require that all recipients that do not receive a community service grant but receive a long term grant or contract must be reviewed at least once a year. The Corporation and the Department retain the authority to implement a more extensive monitoring program in the future.

Subpart D—Department of Health, Education, and Welfare Compliance Procedures

31. The proposed compliance procedures are similar to those in effect under the Department's Title VI regulations.[8] These procedures provide for compliance reviews, complaint investigations, hearings before an administrative law judge, and appeals to HEW's Civil Rights Reviewing Authority and the Secretary.

However, section 398 of the Act requires two modifications to the compliance procedures presently followed by the Department. First, the Act provides for a mandatory 120-day voluntary compliance period after a final determination of noncompliance. Secondly, it gives the Department the discretion to reduce rather than suspend funds to a noncomplying recipient. The Department is especially interested in the suggestions of the public on the circumstances that would warrant a reduction of funds instead of suspension. One situation being considered by the Department is when an entity such as the National Public Radio or the Public Broadcasting Service is found out of compliance. The heavy reliance of member stations on the programming of these entities may make a reduction of funds appropriate.

Subpart E—Miscellaneous

32. *Effect of other requirements,* § 87.40. A significant number of the recipients covered by the proposed regulation are affiliated with colleges or universities that may exercise some control over their personnel policies. Also, the hiring practices of these recipients may be subject to state civil service laws. Such recipients may not avoid any requirement of the proposed regulation because of a conflicting requirement of an institution with which

[8] 45 CFR Parts 80 and 81.

they are affiliated. The Department also recognizes that recipients affiliated with colleges and universities are frequently covered by other Federal equal employment laws such as Executive Order 11246.

The Department believes, however, that the Act requires that recipients of funds from the Corporation be treated as independent entities. Given the deference that these regulations accord to EEOC's substantive regulations and policies, and the new mandate in Executive Order 12067 for EEOC to coordinate Federal equal employment requirements, this regulation should not create conflicting obligations for recipients.

33. *Compliance with Executive Order 12067.* Pursuant to Executive Order 12067, the notice of proposed rulemaking was rewieved by the Equal Employment Opportunity Commission, the Department of Justice, the Federal Communications Commission, and the Department of Commerce. The majority of the comments received from these agencies have been incorporated into the proposed regulation. The EEOC has reviewed this proposed regulation and has approved it for publication. However, it has asked that the Department specifically solicit comment on the following issues:

(a) *Aggregation of minorities for utilizatin analysis purposes.* Should recipients be allowed to aggregate minority groups for utilization analysis purposes? the Department recognizes that § 87.11(c) of the regulation, which allows recipients with fewer than 50 full-time employees to combine minority groups for the utilization analysis, may sometimes mask the need for affirmative action, for particular minority groups. The Department believes, however, that a separate utilization analysis for each minority group by employers of this size will be more effective because it is more likely to require an increase in the number of minorities than would separate analyses for each minority group. In addition, the more detailed analysis would be unduly burdensome for employers of this size. Therefore, the Department believes that an aggregate utilization procedure is more appropriate for these recipients. Moreover, because the data collection requirements of the proposed regulation provide for information on the employment of each minority group, it will be possible to identify discrimination against a particular group in violation of Section 87.10, and the Department and the Corporation will take appropriate action where discrimination is found. Another aggregation standard that has been considered is limiting aggregation to those minority groups that individually constitute less than five percent of the labor market area. Specific comment is invited on the feasibility of requiring the conducting of separate utilization analyses for each minority group, by employers with less than 50 employees.

(b) *Reporting the educational levels of employees.* Should recipients be required to include data on the educational levels of employees by job category, race and sex, in their employment surveys? Inclusion of these data in the employment survey might enable the Corporation and the Department to determine whether employment policies and practices for women and minorities differ from those for nonminority males with comparable levels of education, in the areas of hiring, promotions and work assignments.

(c) *Exemption of recipients that fully utilize women and minorities from written affirmative action programs and reports.* Should recipients that demonstrate full utilization of women and minorities be exempted from establishing written affirmative action programs and from submitting affirmative action reports to the Corporation? The proposed regulation establishes full utilization as the goal of the affirmative action process. Thus, recipients who demonstrate attainment of this goal are not required to establish a written affirmative action program. However, these recipients will be required to periodically review their employment policies and practices to ensure that they do not discriminate. Further, they will continue to submit an annual employment survey which will enable the Corporation to determine whether full utilization is being maintained. Where recipients fail to maintain full utilization they must reinstate their affirmative action programs.

34. Interested parties are encouraged to submit written comments on the Notice. Comments should be filed on or before February 19, 1980, with: Director, Office for Civil Rights, U.S. Department of Health, Education, and Welfare, P.O. Box 8219, Washington, D.C. 20024. Comments will be available for inspection during regular business hours in Room 5146, Office for Civil Rights, U.S. Department of Health, Education, and Welfare, 330 Independence Avenue, S.W., Wash., D.C. 20201.

Dated: November 29, 1979.

Albert T. Hamlin,

Acting Director, Office for Civil Rights, Department of Health, Education, and Welfare.

Dated: December 8, 1979.

Patricia Roberts Harris,

Secretary, Department of Health, Education, and Welfare.

It is proposed that title 45 of the Code of Federal Regulations be amended by establishing a new part 87, as follows:

PART 87—EQUAL OPPORTUNITY IN EMPLOYMENT PROVISIONS APPLICABLE TO THE PUBLIC BROADCASTING SERVICE, NATIONAL PUBLIC RADIO, AND PUBLIC TELECOMMUNICATIONS ENTITIES RECEIVING FEDERAL FUNDS FROM THE CORPORATION FOR PUBLIC BROADCASTING

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Subpart D—Department of Health, Education, and Welfare Compliance Procedures

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Subpart E—Miscellaneous

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Authority: Pub. L. 95-567, 92 Stat. 2405 (47 U.S.C. 398).

Subpart A—General Provisions

§ 87.1 Purpose and scope.

The purpose of this regulation is to carry out the provisions of section 398 of the Communications Act of 1934, as amended by the Public Telecommunications Financing Act of 1978 (47 U.S.C. 398). Section 398 of the Act requires "equal opportunity in

employment" and prohibits "discrimination in employment" on the grounds of race, color, religion, national origin, or sex by the Public Broadcasting Service, National Public Radio or any successor organization, and all public telecommunications entities receiving Federal funds from the Corporation for Public Broadcasting.

§ 87.2 Definitions.

(a) The following terms shall have the following meanings when used in this regulation:

(1) "Act" means Subpart C of Part IV of the Communications Act of 1934, *as amended*, (47 U.S.C. 396–98).

(2) "Applicant" means the Public Broadcasting Service, National Public Radio or any successor organization, and any public telecommunications entity that submits an application to the Corporation for a grant or contract.

(3) "Commission" means the Federal Communications Commission.

(4) "Corporation" means the Corporation for Public Broadcasting.

(5) "Department" means the Department of Health, Education, and Welfare.

(6) "Director" means the Director of the Office for Civil Rights, of the Department, or the Director's designee.

(7) "Minority" includes: American Indian or Alaskan Native; Asian or Pacific Islander; Black not of Hispanic Origin; and Hispanic.

(8) "Noncommerical telecommunications entity" means any enterprise that:

(i) Is owned and operated by a State, a political or special purpose subdivision of a State, a public agency, or a nonprofit foundation, corporation, or association; and

(ii) Has been organized primarily for the purpose of disseminating audio or video noncommerical educational and cultural programs to the public by means other than a primary television or radio broadcast station, including, but not limited to, coaxial cable, optical fiber, broadcast translators, cassettes, discs, microwave, or laser transmission through the atmosphere.

(9) "Public telecommunications entity" means any enterprise that:

(i) Is a public broadcast station or a noncommercial telecommunications entity; and

(ii) Disseminates public telecommunication services to the public.

(10) "Recipient" means the Public Broadcasting Service, National Public Radio or any successor organization, and all public telecommunications entities receiving Federal funds from the Corporation;

(11) "Secretary" means the Secretary of Health, Education, and Welfare, or the Secretary's designee.

(12) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Island, and the Trust Territory of the Pacific Islands.

Subpart B—Obligations of Recipients

§ 87.10 Discrimination prohibited.

(a) *General.* No person shall be subjected to discrimination in employment by any recipient on the grounds of race, color, religion, national origin, or sex. A recipient shall not take any action or implement any employment policy or practice in a manner that discriminates against any person on the basis or race, color, religion, national origin, or sex.

(b) *Specific.* Each recipient shall periodically review its employment policies and practices to ensure that they are established and implemented in a nondiscriminatory manner, and shall take such steps as are necessary to correct any discriminatory policy or practice. The prohibition against discrimination in employment on the basis of race, color, religion, national origin, or sex extends to but is not limited to the following employment activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, demotion, transfer, layoff, termination, right to return from layoff, and rehiring;

(3) Rates of pay or other forms of compensation;

(4) Job assignment and job classification;

(5) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(6) Training, including selection and financial support for training, participation in apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(7) Employer-sponsored services and activities, including social and recreational programs; and

(8) Any other term, condition, or privilege of employment.

(c) *Retaliation and intimidation prohibited.* A recipient may not retaliate, intimidate, threaten, coerce, or discriminate against any person because the person has opposed a practice forbidden by this regulation, made a complaint, participated in an investigation or hearing under this regulation, or otherwise attempted to obtain any right or privilege secured by this regulation.

(d) *Standards.* In determining whether a recipient has discriminated against any person or persons in violations of this regulation, the Department, the Corporation and recipients shall be bound by applicable published policies, interpretations, and guidelines of the Equal Employment Opportunity Commission, and by applicable case law under Title VII of the Civil Rights Act of 1964.

(e) *Violations of nondiscrimination requirements.* If a recipient has discriminated against any person or persons in violation of this section, it must provide any remedy necessary to correct the discrimination, including, but not limited to, reinstatement, back pay, and retroactive seniority.

§ 87.11 Affirmative action.

(a) *General.* Recipients shall take steps necessary to ensure that all persons are afforded equal opportunity in employment without regard to race, color, national origin, or sex.

(b) *Affirmative action program.* Each recipient shall conduct a utilization analysis to assess the presence of women and minorities in its overall workforce and in its three highest job categories compared to their presence in its labor market area. If the analysis fails to demonstrate full utilization in accordance with paragraph (c) of this section, the recipient must establish and implement a written affirmative action program. An acceptable affirmative action program shall indicate that, and where applicable describe how, the recipient shall do at least the following:

(1) Designate a program administrator, define the responsibility of each level of management and supervision to ensure vigorous enforcement of the program, and establish a procedure to ensure that managerial and supervisory employees meet their obligations under this regulation;

(2) Provide a written notice to persons applying for employment, employees, and recognized employee organizations indicating the recipient's commitment to nondiscrimination and equal employment opportunity and describing the rights of aggrieved persons under this regulation;

(3) Communicate the affirmative action program and employment needs to sources of minority and female employment applicants, including educational institutions in the labor market area with significant minority or female enrollments, and solicit their recruitment assistance in filling each position;

(4) Advertise all positions in minority news media and women's interest news media; and

(5) Conduct a continuing review of all employment policies and practices and adopt measures to ensure equality of opportunity in all occupations and levels of responsibility. Such measures should include:

(i) Eliminating selection and promotion criteria that have a disproportionately adverse effect on the employment opportunities of women and minorities unless the criteria have been validated to show job-relatedness and valid alternative criteria with a lesser adverse effect are unavailable; and

(ii) Establishing or participating in employee training programs that would enhance promotion opportunities for women and minorities.

(6) Establish a reasonable period of time for achieving the goal of full utilization.

(c) *Full utilization of minorities and women.* A recipient is not required to submit an affirmative action program pursuant to subparagraph (b) above if it demonstrates "full utilization of minorities and women." (1) Full utilization of minorities and women exists when a recipient fully utilizes minorities and women in its overall workforce and in each of the following job categories: officials and managers; professionals; and technicians. (2) A recipient that seeks to demonstrate full utilization shall conduct separate utilization analyses for minorities as a whole and for women, except that recipients employing 50 or more full-time employees, must conduct separate utilization analyses for each minority group and for women. A recipient with multiple facilities or stations shall conduct a separate analysis for each minority group if the total number of full-time employees at these facilities is 50 or more. Recipients shall use the data submitted in the employment survey required by § 87.12(a) of this regulation, and labor market data. (3) Full utilization exists when the percentage of minorities and women employed on a full-time basis in the recipient's overall workforce and in the job categories of officials and managers, professionals, and technicians is equal to or greater than the percentages of minorities and women with the requisite skills in the recipient's labor market area. (4) Full utilization will be deemed to exist when the hiring of less than one person would result in full utilization or the hiring of one person would result in higher than full utilization. (5) A recipient's labor market area is the area from which the recipient may reasonably be expected to draw employees. In determining the participation of minorities and women in the labor market area, the recipient may seek the assistance of the Corporation in obtaining current labor market data. However, in the absence of such assistance, a recipient shall perform this analysis to the best of its ability.

§ 87.12 Compliance information.

(a) *Employment survey.* Each application to the Corporation shall include an employment survey that will provide information by job category, job title, and salary, indicating the employment status of minority and women employees. If an applicant demonstrates full utilization in accordance with section 87.11(c) above, it must do so through this survey. Applicants that submit an employment survey in connection with an application for a community service grant need not submit an employment survey with any other application for a grant or contract submitted during the same community service grant year, unless requested by the Corporation or Department. The content and format of the employment survey shall be determined by the Department.

(b) *Affirmative action report.* If an applicant's employment survey does not demonstrate that it fully utilizes minorities and women, the applicant shall submit to the Corporation with its application for a grant or contract, or to the Corporation or Department upon request, a copy of its affirmative action program and an affirmative action report. The affirmative action report shall detail the steps taken to implement the applicant's affirmative action program during the prior grant or contract period. Applicants that submit an affirmative action report in connection with an application for a community service grant need not submit a report with any other application for a grant or contract submitted during the same community service grant year, unless requested by the Corporation or Department. The report shall include at least the following:

(1) The name, authority, and responsibilities of the program administrator;

(2) The names of the sources of minority and female referrals contacted prior to filling each position and a summary of the results of these contacts;

(3) the names of other recruitment sources, including educational institutions in the labor market area with significant minority or female enrollments, contacted prior to filling each position, and a summary of the results of these contacts;

(4) The methods used to advertise each position filled;

(5) The conclusions of the recipient's analysis of its eligibility criteria for each position filled, and an explanation of the criteria;

(6) A copy of the notice provided to all job applicants and all employees;

(7) The opportunities for training and promotion provided to minority, female, and other employees and the results of these efforts;

(8) The time period established for achieving the goal of full utilization;

(9) the existence, status, and disposition of any employment discrimination complaints;

(10) A narrative discussion of the effectiveness of the efforts to increase the employment of minorities and women and, where underutilization persists, the additional steps that will be taken in the coming year to eliminate it; and

(11) Such other information as the Corporation or Department may require.

(c) *Additional reports.* Applicants and recipients shall submit, upon request, additional reports to the corporation or the Department during application reviews and monitoring subsequent to the approval of applications. these reports shall include such information as the Corporation or the Department deems necessary. Each recipient shall also keep such records and other information, as the corporation or department may request, relevant to determining compliance with this regulation.

(d) *Access to sources of information.* Each applicant and recipient shall permit access by the Department, to its facilities and to such of its books, records, accounts, and other sources of information that may be pertinent to determining compliance with this regulation. this access shall be permitted during normal business hours. Asserted considerations of privacy or confidentiality may not operate to bar the Department from evaluating and seeking to enforce compliance with this section. Information of a confidential nature obtained under this regulation shall not be disclosed except when required by law.

Subpart C—Corporation for Public Broadcasting Procedures

§ 87.20 Application review.

(a) *General.* Prior to the approval of any grant or contract, the Corporation shall determine whether the applicant is in compliance with this regulation. If an applicant was found in compliance with

this regulation at the time of its application for a community service grant the Corporation may, in the absence of new indications of a possible violation, deem the applicant in compliance with this regulation as to all other applications submitted during the same community service grant year.

(b) *Guidelines.* In order to make a determination of compliance, the corporation shall review the employment survey, affirmative action report, and take such other steps as the Corporation or department may deem necessary. Compliance exists where:

(1) Full utilization in accordance with § 87.11(c) has been demonstrated; or

(2) An affirmative action program that satisfies all elements of § 87.11(b) is being implemented and the Corporation determines that the recipient has made good faith efforts to achieve full utilization within a reasonable period of time. Factors that shall be considered in making this determination include but are not limited to the size of the workforce, the rate of employee turnover, and the degree of improvement in the utilization of women and minorities; and

(3) The employment survey is complete and appears to be accurate; and

(4) The recipient is complying with all outstanding compliance agreements entered into under this regulation; and

(5) There is no other information indicating a possible violation of this regulation.

(c) *Technical assistance.* The Corporation shall provide current labor market data to applicants and, where it is unable to do so, shall assist applicants in obtaining such data. Further, it shall provide technical asistance upon request. Such technical assistance shall include: assisting in the identification of employment criteria that impede the employment opportunities of women and minorities and of alternative criteria with a lesser adverse effect; aiding in the development of recruitment and training programs to increase the employment of minorities and women; and other actions needed to comply with this regulation.

§ 87.21 Assurances.

The Corporation shall incorporate into each grant agreement or contract with any recipient entered into on or after the effective data of this regulation a statement that the recipient shall comply with the provisions of Section 398 of the Act and this regulation.

§ 87.22 Post-approval monitoring.

The Corporation shall establish and maintain an effective monitoring program that shall include:

(a) An annual review of compliance with the equal employment opportunity requirements of this regulation by recipients of grants or contracts that extend longer than one year. In each annual review the Corporation shall use the procedures and make the determinations set forth in § 87.20(b) of this regulation. When the recipient of a long-term grant or contract also submits an application annually for a grant or contract, the annual review may be conducted in conjunction with the application review.

(b) Such other monitoring activities as the Corporation or the Department may deem necessary to carry out the Corporation's responsibilities under this regulation.

§ 87.23 Initial determination of noncompliance by the Corporation.

(a) If the Corporation determines that an applicant or recipient is not complying with this regulation, the Corporation shall immediately refer the matter to the Director for a final determination of compliance or noncompliance, and shall notify the applicant or recipient. The Corporation shall continue to provide technical assistance, if the applicant or recipient requests it. If the Corporation subsequently determines that the applicant or recipient is complying or will comply with this regulation, it shall notify the Director and the applicant or recipient. This notification shall explain and document the basis for the Corporation's determination, and the Director may thereafter suspend action on the matter.

(b) The Corporation shall continue to fund a recipient that it determines to be in noncompliance with this regulation, pending the final determination of the Department.

(c) The Corporation shall reduce or suspend funds to a recipient if it is directed to do so by the Director in accordance with § 87.33 of this regulation.

§ 87.24 Referral of complaints to the Department.

If the Corporation receives a complaint alleging that a recipient has engaged in a discriminatory employment practice, or receives any other information indicating possible discrimination, the Corporation shall immediately refer the matter to the Director for investigation and a final determination.

§ 87.25 Annual report to the Department.

Beginning in 1981, the Corporation shall submit an annual report to the Secretary on or before the annual reporting date specified by the Act. The report shall:

(a) Describe in detail the steps taken during the preceding fiscal year to carry out the Act;

(b) Contain data from the employment surveys of applicants and recipients in such form as the Secretary may require;

(c) Contain evaluations and information that the Corporation determines is useful in analyzing the progress made by recipients in providing equal employment opportunity; and

(d) Contain such other data as the Department may require.

§ 87.26 Cooperation with the Department.

The Corporation shall provide technical assistance to the Department, upon request, and shall cooperate fully with the Department. The Corporation shall maintain all records and information developed and collected in carrying out its responsibilities under this regulation and shall provide full access to the Department to such records and information.

Subpart D—Department of Health, Education, and Welfare Compliance Procedures

§ 87.30 Conduct of investigations.

(a) *Compliance reviews.* The Director may on his or her own initiative, periodically investigate the practices of recipients to determine whether they are complying with this regulation.

(b) *Complaints.* Any person who believes himself or herself or any specific class of individuals to be subjected to discrimination prohibited by this regulation may individually or through a representative file a written complaint with the Director or with the Corporation. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the Director pursuant to a showing of good cause for the delay.

(c) *Form of complaint.* Each complaint alleging employment discrimination in violation of this regulation should contain the following:

(1) The full name and address of the complainant and, if different, the name and address of the aggrieved person or persons, if any;

(2) The full name and address of the recipient against which the charge is made; and

(3) A clear and concise statement of the facts that gave rise to the allegation of unlawful employment discrimination.

(d) *Investigations.* The Director will promptly investigate whenever a complaint or any other information indicates a possible failure to comply with this regulation. Any investigation by the Director will include, where appropriate, an on-site review of the pertinent practices and policies of the recipient, of the circumstances under which the possible noncompliance occurred, and of other factors relevant to a determination of compliance.

(e) *Investigation of determinations by the Corporation.* When the Corporation reports to the Department that an applicant or recipient is not complying with the regulation the Director shall review the matter. The Director may adopt the determination of the Corporation as the initial finding of the Department, without further investigation.

(f) *Investigative findings.* The Department's initial finding, upon completion of an investigation or review of a determination by the Corporation, will be communicated to the recipient, complainant, and the Corporation in writing.

(g) *Services of the Corporation and Federal agencies.* Before or during an investigation, the Director may use the services of the Corporation, and of appropriate Federal agencies charged with the administration of fair employment practices, and, to the extent relevant, may use the information gethered by these entities.

§ 87.31 Hearings.

(a) *Opportunity for hearing.* If an initial finding of noncompliance is made by the Department, and if voluntary compliance efforts pursuant to § 87.32(a)(2) fail, or no such efforts are made, the recipient shall be given an opportunity for hearing. There shall be an express finding on the hearing record of a violation of this regulation before the Department takes any adverse action against the recipient.

(b) *Hearing procedures.* The procedures applicable to hearings under Title VI of the Civil Rights Act of 1964 apply to hearing procedures under this regulation. The applicable Title VI procedures are found at 45 CFR 80.9–80.10 and 45 CFR Part 81. The decision by the Department resulting from these procedures shall be its final determination of compliance or noncompliance.

(c) *Notice of final determination.* The Department shall send written notice of its final determination to the recipient within 10 days of such determination.

§ 87.32 Voluntary compliance.

(a) *Pre-hearing voluntary compliance.* (1) At any time after an investigation or review of a recipient's compliance status has begun, the Director may engage in conciliation discussions with the recipient. (2) Immediately following an initial finding of noncompliance by the Department, but prior to a hearing, the Director shall engage in voluntary compliance efforts with the recipient if it is determined that conciliation efforts are likely to be successful. The recipient and Director shall have up to 30 days from the date of receipt of the written notice of noncompliance to achieve voluntary compliance. The Director shall approve voluntary compliance plans on behalf of the Department.

(b) *Post-hearing voluntary compliance.* A recipient found to be in noncompliance in a final determination shall have 120 days after receipt of a written notice of the final determination to correct its violations or to execute a compliance agreement that is approved by the Director.

§ 87.33 Suspension or reduction of Federal assistance.

(a) *Suspension of funds.* If the Department makes a final determination that a recipient is in noncompliance with this part and compliance is not achieved through voluntary means within the 120 day period prescribed in § 87.32(b) of this regulation, the Director shall direct the Corporation to suspend further payment of funds under any grant or contract to the recipient. The Corporation shall comply with any such order.

(b) *Reduction of funds.* In certain cases the Director may direct the Corporation to reduce funds to a noncomplying recipient.

(c) *Post-suspension or reduction proceedings.* Procedures applicable to Title VI of the Civil Rights Act of 1964, found at 45 CFR 80.10(g), shall apply to post-suspension or reduction proceedings under this regulation.

§ 87.34 Review of annual reports of the Corporation.

The Director will review the annual reports submitted by the Corporation and, on the basis of his review, may take whatever steps are deemed necessary to effect compliance with this regulation. The Director may request the Corporation to provide additional information to assist in a review, and the Corporation shall comply with this request.

§ 87.35 Judicial review.

Suspension or reduction of funds pursuant to section 398 of the Act is subject to judicial review in accordance with 5 U.S.C. 704.

Subpart E—Miscellaneous

§ 87.40 Effect of other requirements.

(a) *Requirements of other Federal agencies.* The requirements imposed by this regulation are independent of requirements imposed by any other Federal agency pursuant to any other Act of Congress or Federal regulation governing nondiscrimination in employment by recipients.

(b) *Effect of State or local law or other requirements.* The obligation to comply with this regulation is not obviated by any State or local law, merit system, any inconsistent term of a collective bargaining agreement, or any contractural arrangement to which a recipient may be a party, or any other requirement relating to the employment practices of recipients.

[FR Doc. 79-38917 Filed 12-20-79; 8:45 am]
BILLING CODE 4110-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79-325; RM-3444]

FM Broadcast Station in Bernalillo, N. Mex.; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a first Class A FM channel to Bernalillo, New Mexico, in response to a petition filed by RFC Partners. The proposed channel could be used to provide a first local aural broadcast service to the community.

DATES: Comments must be filed on or before February 8, 1980 and reply comments must be filed on or before February 28, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Bernalillo, New Mexico) Notice of Proposed Rule Making.

Adopted: December 10, 1979.

Released: December 18, 1979.

By the Acting Chief, Policy and Rules Division.

1. *Petitioner, Proposal, Comments.* (a) *Notice of Proposed Rule Making* is hereby given concerning amendment of the FM Table of Assignments, Section 73.202(b), of the Commiission's Rules, as it relates to Bernalillo, New Mexico.

(b) A petition for rule making [1] was filed on behalf of RFC Partners ("petitioner"), licensee of AM Station KXEW, Tucson, Arizona, proposing the assignment of either FM Channel 269A or Channel 292A to Bernalillo.[2]

(c) Petitioner asserts that it will apply for the channel, if assigned, and construct a station, if authorized.

2. *Community Data.* (a) *Location.* Bernalillo, seat of Sandoval County, is located in central New Mexico, approximately 27 kilometers (17 miles) north of Albuquerque, New Mexico, and 72 kilometers (45 miles) south of Sante Fe, New Mexico.

(b) *Population.* Bernalillo—2,016; [3] Sandoval County—17,492.

(c) *Local Aural Broadcast Service.* There is no local aural broadcast service in Bernalillo or Sandoval County.

3. *Economic Considerations.* Petitioner states that Bernalillo is the trading center for the surrounding area and bases its economy on manufacturing, wholesale and retail trade, and construction/building trades. According to the Current Population Reports, U.S. Department of Commerce, Bernalillo had a 24% population increase between 1970–1976. Petitioner has submitted demographic data in order to show the need for a first FM channel to Bernalillo.

4. Because the preclusive impact on otherwise possible assignments is substantially less on Channel 269A than on Channel 292A, we are proposing to assign Channel 269A to Bernalillo.

5. In view of the fact that the proposed FM channel could provide the community with a first local aural broadcast service, the Commission proposes to amend the FM Table of Assignments (Section 73.202(b) of the Rules), with regard to Bernalillo, New Mexico, as follows:

City	Channel No.	
	Present	Proposed
Bernalillo, New Mexico		269A

6. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *NOTE:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before February 8, 1980, and reply comments on or before February 28, 1980.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or oral) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation requred by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found 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(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 79-39267 Filed 12-20-79; 8:45 am]
BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on August 17, 1979, Report No. 1188.

[2] Petitioner has previously proposed to assign Channel 288A to Bernalillo but amended its petition when it discovered the pendency of two conflicting proposals for adjacent channel assignments at Santa Fe and Pecos, New Mexico.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 657

Mid-Atlantic Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of Public Hearings.

SUMMARY: The Mid-Atlantic Fishery Management Council will hold public hearings for the purpose of receiving public input on Amendment Number 1 to the Butterfish Fishery Management Plan (FMP).

DATES: *Comments:* The Mid-Atlantic Council is soliciting public comments on the amendment under consideration and will accept oral or written statements at the hearings specified below. Interested persons may also submit written comments directly to the Council no later than January 8, 1980.

Public Hearings.

January 7, 1980—Narragansett, Rhode Island;

January 8, 1980—Riverhead, New York;

January 9, 1980—Philadelphia, Pennsylvania.

All of the above hearings will start at 7:00 p.m.

ADDRESS: *Send Comments to:* Chairman, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North and New Streets, Dover, Delaware 19901, Telephone (302) 674–2331.

Hearing locations

January 7, 1980—Dutch Inn, Great Island Road, Narragansett (Galilee), Rhode Island 02882;

January 8, 1980—Holiday Inn, Route 25, Riverhead, New York 11901;

January 9, 1980—Best Western Airport Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania 19153.

FOR FURTHER INFORMATION CONTACT: John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North and New Streets, Dover, Delaware 19901, Telephone (302) 674–2331.

SUPLEMENTARY INFORMATION: The Fishery Management Plan (FMP) for Atlantic Butterfish was approved by the Assistant Administrator for Fisheries, NOAA, on November 9, 1979. The FMP is for fishing year 1979–1980 (April 1, 1979–March 31, 1980). The purpose of Amendment Number 1 is to extend the FMP through the end of fishing year 1980–1981 (April 1, 1980–March 31, 1981).

The plan is intended to accomplish the following objectives:

a. Promote the growth of the U.S. butterfish export industry;

b. Minimize cost of harvesting butterfish;

c. Increase employment opportunities for commercial fishermen;

d. Prevent exploitation of the resource beyond that level producing the maximum sustainable yield (MSY); and

e. Minimize costs of enforcement and management of the resource.

The management unit for the FMP is all butterfish under U.S. jurisdiction north of Cape Hatteras.

The following management measures are included in the FMP:

1. The fishing year 1979–1980 optimum yield (OY) for butterfish is 11,000 metric tons (mt). The harvesting capacity (estimated Domestic Annual Harvest) (DAH) and U.S. processing capacity (estimated Domestic Annual Processing) (DAP) for butterfish for the 1979–1980 fishing year has been estimated to be 7,000 mt. Foreign fishermen, therefore, have been allocated an initial surplus (total allowable level of foreign fishing (TALFF)) of 4,000 mt. of butterfish.

2. Any owner/operator of a vessel (foreign or domestic) desiring to catch butterfish within the Fishery Conservation Zone (FCZ) (other than individual U.S. fishermen for their own use), or transport or deliver for sale any butterfish caught within the FCZ, must possess a valid permit signed by the National Marine Fisheries Service (NMFS).

3. Foreign fishing for butterfish is governed by Part 611 of Title 50, Code of Federal Regulations (the Foreign Fishing Regulations).

4. Weekly catch reports must be filed by domestic fishermen possessing a valid permit for the butterfish fishery, and domestic dealers and processors must submit weekly reports on transactions involving butterfish.

5. Any significant fraction of the U.S. butterfish capacity not harvested by U.S. fishermen may be reallocated to foreign fishermen.

Alternatives for Amendment Number 1 are:

1. Take no action at this time—this alternative would mean that the FMP would lapse at the end of fishing year 1979–1980, unless extended by a Secretarial amendment. NMFS could be required to prepare a Preliminary Management Plan (PMP) to regulate the foreign fishery.

2. Continue the current FMP through fishing year 1980–1981 with no other changes. The following values would apply to 1980–1981: OY=11,000 mt, DAH=DAP=7,000 mt, and TALFF=4,000 mt.

3. Increase/Decrease OY, DAH, DAP and/or TALFF. The probable biological consequences of a wide range of OY's are described in sections V–2, V–3 of the original FMP (as updated by the most recent butterfish stock assessment—Appendix 1 of Amendment Number 1). The MSY for this species, given the present mix of fishing gear, both domestic and foreign, is about 16,000 mt. The stock currently appears able to sustain an annual harvest of that magnitude, barring any significant declines in future recruitment. It is recognized that, if the predominant mesh sizes used in the fishery change significantly, the estimate of MSY will probably require adjustment. The estimates of DAH and DAP were reviewed in June of 1979 and considered reasonable for fishing year 1980–1981.

The hearings will be tape recorded and the tapes will be filed as official transcripts of the proceedings. A written summary will be prepared on each hearing.

Dated: December 17, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-39232 Filed 12-20-79; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 144, 151, and 159

Open Conference for Discussion and Clarification of Issues Raised in Comments Concerning Proposed Amendments to the Customs Regulations Relating to Public Gaugers of Imported Petroleum and Petroleum Products

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Conference.

SUMMARY: This document announces that an open conference will be held on January 8, 1980, for the discussion and clarification of issues raised in comments submitted in regard to proposed amendments to the Customs Regulations relating to public gaugers of imported petroleum and petroleum products.

DATES: The open conference will be held on January 8, 1980, at 9:30 a.m. Persons expecting to be present at the conference should contact the person listed in "For Further Information Contact" below by noon, January 7, 1980.

ADDRESS: The conference will be held in Room 3428, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Alfred G. Scholle or Marvin Amernick, Regulations and Research Division, U.S. Customs Services, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–8237).

SUPPLEMENTARY INFORMATION:

Background

On November 7, 1979, the Customs Service published in the **Federal Register** (44 FR 64434), notice of a proposal to amend Parts 4, 144, 151, and 159, Customs Regulations (19 CFR Parts 4, 144, 151, 159), to incorporate recommendations of a Customs Petroleum Imports Task Force for establishing guidelines and procedures applicable to the use of public guagers in monitoring imports of petroleum and petroleum products. As fully explained in that notice, the purpose of the proposed amendments is to ensure proper control of imported petroleum and petroleum products and uniform, complete, and reliable statistics relating to the importation of these products.

Comments were to have been received on or before December 7, 1979. However, in order to permit interested persons additional time to prepare and submit more detailed comments, the time for the submission of comments was extended to December 14, 1979, by notice published in the **Federal Register** on November 21, 1979 (44 FR 66835).

In response to the notice, Customs received comments from 16 corporations, cooperatives, and organizations. Certain of the commenters requested that, prior to the issuance of a final rule, public discussion be devoted to the issues raised in the comments.

In view of these requests, and because several of the other commenters indicate that there is confusion regarding the impact of the proposals, Customs has determined that a conference should be held to afford an opportunity to discuss and clarify the issues raised. Accordingly, Customs will hold an open conference at 9:30 a.m., on Tuesday, January 8, 1980, in Room 3428, Headquarters, U.S. Customs Service. Interested members of the public are invited to participate.

In order that Customs may ensure adequate accommodations for all who wish to attend, it is requested that those persons expecting to be present contact Alfred G. Scholle or Marvin Amernick by noon, January 7, 1980, by telephone (202–566–8237).

Dated: December 19, 1979.

Donald W. Lewis,

Director, Office of Regulations and Rulings.

[FR Doc. 79-38379 Filed 12-20-79; 9:26 am]

BILLING CODE 4810-22-M

Notices

Federal Register
Vol. 44, No. 247
Friday, December 21, 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 COMMITTEE OF THE FEDERAL REGISTER

Sale of Magnetic Tapes by Government Printing Office

AGENCY: Administrative Committee of the Federal Register.

ACTION: Notice of sale of magnetic tapes.

SUMMARY: The magnetic tapes produced by the Government Printing Office to photocompose the daily Federal Register and the annual Code of Federal Regulations will be sold by the Government Printing Office.

DATE: The magnetic tapes will be for sale after March 1, 1979.

FOR FURTHER INFORMATION CONTACT: James L. Payne, Government Printing Office, telephone 202–275–2287.

SUPPLEMENTARY INFORMATION: The Administrative Committee of the Federal Register has given its approval for Customer Services Division, Government Printing Office, to sell magnetic tapes of the daily **Federal Register** and of the Code of Federal Regulations.

The cost of each daily issue of the **Federal Register** on magnetic tape will be $75, and it will be available three working days after the issue is published.

For the Code of Federal Regulations each magnetic tape will cost $55 and will be available as soon as the production requirements of the Government Printing Office are met.

Note.—The number of tapes necessary to print one volume or title of the Code will vary with the length of the volume or title.

Also included on the magnetic tapes are the printing instructions or codes used to print the **Federal Register**. The tapes will not include all the material just as it appears in the **Federal Register**. Illustrations, graphic designs, and certain documents that were photographed in order to be printed will not be on the tapes. Certain last-minute corrections may not be on the tapes.

Buyers of the tapes will be able to consult with the Government Printing Office on the printing codes and what information is on a magnetic tape. There will be a charge to each buyer of $31 for one hour of this type of consultation.

Ernest J. Galdi,
Secretary, Administrative Committee of the Federal Register.

December 19, 1979.

[FR Doc. 79-39253 Filed 12-20-79; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

1980 Upland Cotton Program; Determinations Regarding Proclamation of the 1980 Crop Established (Target) Price, National Program Acreage, and Other Provisions for Upland Cotton

AGENCY: Agricultural Stabilization and Conservation Service

ACTION: Notice of Determination of the 1980 Crop Established (Target) Price, National Program Acreage, and Other Provisions for Upland Cotton

SUMMARY: The purpose of this notice is to determine and proclaim with respect to the 1980 crop of upland cotton (referred to as "cotton"): (1) Established (target) price; (2) national program acreage; (3) voluntary reduction percentage; (4) no set-aside requirement; (5) no land diversion payments; and (6) no limitation on planted acreage. These determinations are required to be made by the Secretary in accordance with provisions of section 103(f) of the Agricultural Act of 1949, as amended, and the Food and Agriculture Act of 1977, as amended. The 1949 Act requires that the national program acreage for the 1980 crop of upland cotton be announced no later than December 14, 1979. This notice is needed to satisfy statutory requirements.

EFFECTIVE DATE: December 20, 1979.

ADDRESS: Production Adjustment Division, ASCS–USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: 10Alfred Oberg (ASCS) (202) 447–7901.

SUPPLEMENTARY INFORMATION: A notice that the Secretary was preparing to make determinations with respect to these provisions was published in the **Federal Register** on September 18, 1979 (44 FR 54077), in accordance with 5 U.S.C. 553 and Executive Order 12044. A total of 69 comments were received, 50 from individual producers, 6 from cotton farm organizations, 9 from general farm organizations and 2 from nonfarm public. Twenty seven commented on the target price level. Seven comments recommended that the target price for 1980 be adjusted for increased production costs; other recommendations on the target price level and the number received were: one recommended 60 cents; eight recommended 61.7 cents; three recommended 64 cents; one recommended 70 cents; and one recommended 90 cents. Five recommended it be set at 100 percent of parity, and two recommended 70 percent of parity. Three comments related to the national program acreage were received. One recommended that the national program acreage be set at the statutory minimum of 10 million acres, one recommended 10.8 million acres, and one recommended 12.5 million acres. Thirty comments were received concerning set-aside. Four recommended no set-aside. Of the 26 comments recommending a set-aside, 6 recommended a 10 percent requirement, 3 recommended 15 percent, 1 recommended 20 percent, 2 recommended 25 percent, 2 at 28 percent, 1 at 30 percent, 1 at 50 percent and 10 did not specify a percentage. Two stated that if a feed grain set-aside was proclaimed, then there should be a corresponding set-aside level established for upland cotton. Fifteen comments were received concerning voluntary diversion. Five comments opposed and 10 favored voluntary paid diversion, three comments recommended a 10 percent diversion requirement, 1 recommended 20 percent, 1 recommended 25 percent, 1 recommended 28 percent, 1 recommended 30 percent, and 8 did not specify a percentage. One comment favored a 10 percent set-aside and a higher paid diversion. Two comments suggested a payment rate of 20 cents per pound on a 10 percent voluntary diversion. Two comments opposed the bid system for setting the diversion

payment rate. One comment was received favoring a 28 percent reduction. Five comments recommended that there be no limitation on planted acreage, while four comments recommended a limitation. All comments received were duly considered where within the statutory authority.

It is essential that these decisions be made effective as soon as possible since the proclamation of the national program acreage is required to be made not later than December 14, 1979, and farmers need to know the other provisions as soon as possible so that they can make their farming and marketing plans. Accordingly, the Secretary has made the following determinations:

Final Determinations

1. *Established (Target) Price.* Based on the formula required by law, the 1980 established (target) price for upland cotton is expected to be between 57.0 and 61.0 cents per pound. Based on preliminary cost of production data, the 1980 target price is indicated to be 59.5 cents per pound. However, this level is subject to change depending upon final 1979-crop costs of production and the final 1979 upland cotton yield per planted acre. It is anticipated that the final 1980 target price will be announced about mid-March, 1980.

2. *National Program Acreage.* In accordance with Section 103(f)(7) of the 1949 Act, it is hereby proclaimed that the national program acreage for the 1980 crop of cotton shall be 11,602,285 acres based on the following data:

a. Estimated domestic consumption, 1980–81 (480-lb net weight bales)	6,500,000
b. Plus estimated exports, 1980–81 (480-lb net weight bales)	6,400,000
c. Minus estimated imports, 1980–81 (480-lb net weight bales)	10,000
d. Minus adjustment to decrease stocks to desired level (480-lb net weight bales)	200,000
e. Times 480-lb per bale (lb)	6,091,200,000
f. Divided by estimated weighted national average of farm program yields (lb/acre)	525
g. Equals: 1980 national program acreage (acres)	11,602,285

3. *Voluntary Reduction Percentage.* In accordance with Section 103(f)(9) of the 1949 Act, it is hereby determined and proclaimed that producers who voluntarily reduce their 1980 cotton acreage from that planted and considered planted in 1979 by at least 10 percent shall be guaranteed any deficiency payments on the normal production of their entire planted acreage. In applying the voluntary reduction for 1980, the 1979 cotton acreage planted and considered planted shall be the sum of:

a. The planted acreage, excluding:

1. Any acreage that failed and was not replanted during the normal planting period, and,

2. Any cotton acreage that was planted and subsequently destroyed for designation as set-aside or diverted acreage, under the wheat or feed grain programs.

b. The approved prevented planted acreage.

c. The acreage voluntarily reduced in 1979 from 1978 (total of planted and approved prevented planted acreage), not to exceed the 1979 voluntary reduction of 15 percent, or

d. The increase in the normal crop acreage for the farm in 1980 resulting from a change from skip-row planting in 1979 to solid planting in 1980 with a consequent reduction in the farm established (payment) yield.

The reduction percentage is calculated as follows:

1. Estimated 1979 harvested acreage	12,958,000
2. Plus considered harvested acreage	50,000
3. Equals: Harvested and considered acreage	13,008,000
4. Minus 1980 national program acreage	11,602,285
5. Equals: Acreage reduction needed in 1980.	1,405,715
6. Divided by estimated 1979 considered harvested acreage	13,008,000
7. Equals: 1980 reduction percentage (rounded to nearest 5 pct)	10

4. *Set-Aside Requirement.* It is hereby determined that there will be no set-aside requirement under the 1980-crop cotton program. Without a set-aside, it is expected that cotton acreage in 1980 will be around 13.5 million acres—0.5 million (3.4 percent) below 1979. With normal weather and yields of around 485 pounds per harvested acre, production would likely total 12.8 million bales—1.6 million (11 percent) below 1979. With adverse weather conditions and yields of around 445 pounds per harvested acre, production would total around 11.7 million bales—2.7 million (19.0 percent) below 1979. With very favorable weather and yields of around 525 pounds per harvested acre, production would total around 14.0 million bales—0.4 million (2.8 percent) below 1979.

In spite of the record yield in 1979 (534 pounds per harvested acre) and the highest production in 14 years, the stock build-up is not expected to become burdensome. Very strong export sales during the 1979 season are expected to hold the stock increase to about 1.3 million bales, for a total carryout from the 1979 crop of 5.2 million. Current expectations for 1980-crop production, domestic use and exports lead to a projected 1980-crop carryout of around 5.2 million bales, same as for 1979. Had a set-aside been imposed for the 1980 crop, it was projected that under normal weather ending stocks on July 31, 1981, would be 4.8 million bales, a reduction of 0.4 million from the projected level with no set-aside.

However, a poor yield was projected to reduce stocks to 3.7 million bales, a level considered less than adequate. For this reason it has been determined that a cotton set-aside will not be implemented in 1980.

5. *Land Diversion Payments.* It is hereby determined that there will be no land diversion payments under the 1980-crop cotton program for the same reason that there is no set-aside requirement.

6. *Limitation on Planted Acreage.* It is hereby determined that there will be no limitation on acreage planted to upland cotton in 1980 since there is no set-aside requirement.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An approved Final Impact Statement is available from Alfred Oberg (ASCS) (202) 447–7901.

Signed at Washington, D.C. on December 14, 1979.

Jim Williams,

Acting Secretary.

[FR Doc. 79-38884 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

USDA–FDA–Swine Industry Task Force Report on Sulfonamide Residue Program; Public Meeting

Notice is herby given of a public meeting to report on the sulfonamide residue program to be held at the Freer Gallery of Art Auditorium, 12th and Independence Avenue, S.W., Washington, D.C., on January 9 and 10, 1980, at 9:00 a.m. All interested persons are encouraged to attend.

Sulfonamide drugs are used in swine feeds to promote growth and help control such diseases as atrophic rhinitis, bacterial pneumonia and dysentery. From monitoring drug levels in late 1974, USDA detected violative levels of sulfonamide residues in tissues of swine being sent to slaughter. These tissues were collected as part of the Department's program for monitoring residues in the meat and poultry supply. Results from the program indicated violatives levels of residue were occurring in 30–35 percent of the pork tissues being sampled. Such violations are a cause of adulteration within the meaning of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*).

On January 16, 1978, the Department held a public meeting to discuss the issues raised by these high residue levels (42 FR 62512). On April 4, 1978, the Secretary, after considering recommendations made during and after the public meeting, delegated to the Assistant Secretary for Marketing Services, authority to administer a program to investigate the use of

sulfonamides in swine production (43 FR 14004).

The purpose of this meeting is to report the results of the 18-month Sulfa Action Program which was developed by this Department in conjunction with the Food and Drug Administration, American Feed Manufacturers Association, Animal Health Institute, and the National Pork Producers Council. The agenda for Wednesday, January 9, 1980, includes background information, industry involvement, analytical methodology and an explanation and summary of the field Program. The agenda for Thursday, January 10, 1980, includes an explanation and summary of feed mill studies, USDA and Industry sponsored research, and a panel comprised of Government and industry representatives to answer questions from the audience.

The meeting will be open to the public on a first come, first served basis. For more detailed information concerning the meeting, contact Dr. R. I. Brown, Assistant to the Deputy Administrator, Veterinary Services, APHIS, USDA, 202–447–6631.

Done at Washington, D.C. on December 18, 1979.

F. J. Mulhern,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 79-39174 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-34-M

Farmers Home Administration

Technical and Supervisory Assistance Grants; Deadline for Submission of Preapplications and Use of Funds for Fiscal Year 1980

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) gives notice of the deadline for submission of preapplications for Technical and Supervisory Assistance (TSA) funds to FmHA field offices.

The TSA grant program provides funding to eligible applicants primarily to provide preoccupancy and delinquency counseling to future and present FmHA borrowers. TSA funds may also be used on a limited basis to expand the use of housing loan and grant programs by low-income families in rural areas.

FOR FURTHER INFORMATION CONTACT: Mr. John H. Pentecost, MF Special Authorities Division, FmHA, Room 5321 South Agriculture Building, Washington, D.C. 20250; telephone number: 202–447–7207.

SUPPLEMENTARY INFORMATION: A. On November 27, 1979, FmHA published a notice in the **Federal Register** regarding its allocation of all FmHA loan and grant funds for FY 1980 (44 FR 67682). This notice includes specific policies for use of FY 1980 TSA grants and the preapplication submission deadline in Attachment D, Paragraph X. This notice extends the deadline as published on November 27, 1979 for submission of TSA preapplications to the appropriate FmHA District Office from January 15, 1980, to close of business February 15, 1980. Preapplications received by FmHA after February 15 will be returned to the applicant.

B. As noted in the November 27, 1979 Notice, $1.5 million is available for TSA grants of which $1.2 million is to be used primarily for preoccupancy and delinquency counseling programs and $300,000 for combined outreach and counseling programs. Applicants for the counseling programs should focus their program on the counseling aspect of supervisory assistance as described in Part 1944, Subpart K, Paragraph 1944.506(h)(1). The combined program must include both the counseling and the outreach aspects of supervisory assistance as described in Subparagraphs 1944.506(h)(1) and (2), respectively.

C. Each FmHA State Director will select either a counseling or combined program for transmittal to the FmHA National Office. Only one preapplication per State will be accepted by the National Office for review and consideration for funding. Applicants for the combined program will also be considered for the counseling program if the applicant requests such consideration and agrees to budget revisions as necessary. Approximately 20 projects will be selected by the National Office for funding under the project selection criteria contained in the TSA regulations.

D. Due to limited funds, FmHA is not making allocations to specific States for use of FY 1980 funds.

E. The term of the TSA grant is two years. Grant requests should not exceed $75,000 ($37,500 per year) for the counseling program and $100,000 ($50,000 per year) for the combined program.

F. All potential applicants will be advised, upon their request, of the priority areas within their State. Priority areas are generally those areas with high delinquency rate for FmHA single family housing and/or those areas with a concentration of low-income and low-income minority families needing housing assistance.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)).

Dated: December 17, 1979.

James E. Thorton,

Associate Administrator, Farmers Home Administration.

[FR Doc. 79-39145 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-07-M

Food and Nutrition Service

Donated Foods to Nutrition Programs for the Elderly; Level of Assistance—Fiscal Year 1980

Notice is hereby given that pursuant to section 311(a)(4) of the Older Americans Act of 1965, as amended (42 U.S.C. 3045f), the level of assistance in food commodities or, where applicable, cash in lieu thereof, to be provided by the Secretary of Agriculture to recipients of grants or contracts for the operation of nutrition services under Title III of the Act will be increased for the period October 1, 1979 through September 30, 1980, to 43.00 cents per meal. The legislation requires the Secretary in donating foods or cash in lieu thereof to nutrition programs for the elderly funded under Title III, to maintain a minimum level of assistance during that period and during the succeeding fiscal year of not less than 30 cents per meal. That amount shall be adjusted on an annual basis for each fiscal year after June 30, 1975 to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics (BLS) of the Department of Labor. The minimum level of assistance at 43.00 cents per meal includes such an adjustment and reflects an increase in that series of 11.90 percent as reported by BLS for the period September 1978 through August 1979.

Effective date: This notice is effective as of October 1, 1979.

Dated: December 17, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-39044 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-30-M

Forest Service

Regional Foresters and Deputy Regional Foresters; Delegation of Authority

Pursuant to the delegation of authority to the Chief, Forest Service, 7 CFR 2.60, authority is hereby delegated through the Deputy Chief for the National Forest System to the Regional Forester and Deputy Regional Forester of each Forest Service Region to perform the following Acts under the authority of the Act of October 13, 1964 (78 Stat. 1089, 16 U.S.C. 533), and in accordance with the Regulations of the Secretary, 36 CFR 212.10:

(1) Grant easements for road rights-of-way,
(2) Execute Road Rights-of-Way Construction and Use Agreements and Supplements,
(3) Terminate easements granted under this authority with the consent of the owner of the easement.

Effective date: This delegation of authority supersedes the delegation published in 43 FR 1633 dated January 5, 1978, and shall be effective December 21, 1979.

Done at Washington, D.C., this 14th day of December 1979.

R. Max Peteson

Chief, Forest Service.

[FR Doc. 79-39116 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-11-M

Wild and Scenic River Study North Fork Kern River, Calif.; Sequoia National Forest and Sequoia National Park Tulare and Kern Counties, Calif.; Intent To Conduct the Study and Prepare an Environmental Impact Statement

The Wild and Scenic Rivers Act (16 U.S.C. 1271, et seq.), as amended by the National Parks and Recreation Act of 1978, directed the study of the main stem of the North Fork Kern River to determine its eligibility and suitability for inclusion in the National Wild and Scenic Rivers System.

The USDA-Forest Service, as the lead agency, is commencing the study and the preparation of the environmental impact statement. The draft environmental impact statement is scheduled for completion in June 1981, followed by a three-month review period. The final environmental impact statement will be filed on or about February 1982.

The study will analyze and evaluate a range of alternatives which will include at least: (1) a "no-action" or non-designation alternative which represents a continuation of present use and management, (2) one or more alternatives which recommend that segments of the river be designated and classified as wild, scenic, or recreation, and (3) designation and classification of all eligible segments of the river.

A meeting with affected and interested Federal and State of California agencies, as well as interested organizations, groups, and local governments will be held on January 5, 1980 at 1:00 p.m. in the Kernville Elementary School, Sierra Way, Kernville, California. The purpose of the meeting will be to identify cooperating agencies, to identify the issues and concerns to be addressed, and those that should be addressed in depth. Written comments and suggestions are encouraged. To be most useful, they should be received before March 7, 1980, by the Forest Supervisor, Sequoia National Forest.

For further information about the river study or the environmental impact statement, contact: Norman Arseneault, Recreation Staff Officer, Sequoia National Forest, 900 West Grand Avenue, Porterville, CA 93257. (Phone: 209-784-1500).

Dated: December 12, 1979.

Philip L. Thornton,

Acting Chief, Forest Service.

[FR Doc. 79-39117 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-11-M

Director of Lands and Deputy Director of Lands; Delegation of Authority

Pursuant to the delegation of authority to the Chief, Forest Service, 7 CFR 2.60, authority is hereby delegated through the Deputy Chief for the National Forest System to the Director and Deputy Director of Lands, Forest Service to execute all documents for the acquisition and disposition of lands and interest in land as may be required in the program of the Forest Service and authorized by law.

Effective date: This delegation of authority supersedes that delegation published in 43 FR 1633 dated January 5, 1978, and shall be effective December 21, 1979.

Done at Washington, DC, this 14th day of December, 1979.

R. Max Peterson,

Chief, Forest Service.

[FR Doc. 79-39915 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-11-M

1980 Spruce Budworm Suppression Project, Northeastern Area, State and Private Forestry, Broomall, Pa.; Corrected Notice of Intent To Prepare an Environmental Impact Statement

A Notice of Intent to Prepare an Environmental Impact Statement for the 1980 Spruce Budworm Suppression Project was published in the Federal Register, Vol. 44, No. 179, Thursday, September 13, 1979 (44 FR 53261).

That notice is corrected to indicate a date of about December 21, 1979 for the completion of the Draft Environmental Impact Statement and a date of about March 14, 1980 for filing the Final Environmental Impact Statement.

Robert D. Raisch,

Area Director.

December 3, 1979.

[FR Doc. 79-39239 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

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

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

In August 1976, REA issued a Final EIS (76-7-F) related to the G&T Cooperative Project (San Miguel Project) Lignite Unit No. 1 and Associated Mine and Transmission Lines. One transmission line contemplated in that EIS was a 345 kV, single-tower, double-circuit line which was to extend some 254 miles from the San Miguel lignite-fired steam generating plant now under construction in Atascosa County, Texas, to the Lake Whitney area, northwest of Waco, Texas. On January 31, 1978, REA approved a loan guarantee commitment for constructing this line and associated terminal facilities. Brazos now proposes to reduce the total mileage of this transmission line by approximately 176 miles. Under the proposed plan, the transmission corridor would follow the previously financed corridor for approximately 56 miles from the San Miguel Plant to northern Wilson County, Texas. From that point, the line would follow a new corridor approximately 22 miles to a tie-in point with facilities owned by the Lower Colorado River

Authority (LCRA) at the LCRA Marion Substation, located in Guadalupe County, Texas. From this point power would be transferred over LCRA facilities to a point of interconnection with Texas Power & Light Company (TP&L) for delivery to Brazos at existing and future Brazos-TP&L points of interconnection. The proposal would require construction by Brazos of a 345 kV switching facility at or near the LCRA Marion Substation, but would eliminate the need for the 345:138 kV transmission substation required at Whitney under the original plan.

Additional information may be obtained by request submitted to Mr. Joseph S. Zoller, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, or from Brazos at the above mailing address, or at their headquarters location, 2404 LaSalle Avenue, Waco, Texas, telephone (817) 752–2501. The Final Supplement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th and Independence Avenue, S.W., Washington, D.C., Room 2868 or at the headquarters of Brazos, given above. Limited supplies of this document are available for mailing upon request. Final action may be taken with respect to this matter after thirty (30) days from the date of publication of this notice, January 21, 1980.

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

Dated at Washington, D.C., this 17th day of December 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79-39175 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-15-M

Colorado-Ute Electric Association, Inc., Montrose, Colo.; Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a proposed financing application to the Rural Electrification Administration from Colorado-Ute Electric Association, Inc., P.O. Box 1149, Montrose, Colorado 81401, to finance the construction of a third 400 MW coal-fired generating unit at the Craig electric generating station. This statement examines the impacts of this 400 MW generating unit located adjacent to the Yampa River in Moffat County near Craig, Colorado.

Additional information may be secured on request, submitted to Mr. Joe S. Zoller, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Copies of the REA Final Environmental Impact Statement have been sent to various Federal, State and local agencies, as outlined in the Council on Environmental Quality Guidelines. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 1268, or at the borrower's address indicated above.

Comments concerning the environmental impact of the proposed construction should be addressed to Mr. Zoller at the address given above. Comments must be received on or before January 21, 1980, to be considered in connection with the proposed action.

Final REA action, with respect to this matter (including any release of funds), will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 13th day of December 1979.

Susan T. Shepherd,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 79-39177 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-15-M

Sho-Me Power Corp., Marshfield, Mo.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $16,960,000 to Sho-Me Power Corporation of Marshfield, Missouri, and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of $10,000,000 to this cooperative. These loan funds will be used to finance approximately 53 miles of 161 kV transmission line, 124 miles of 69 kV transmission line and related facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. John K. Davis, Manager, Sho-Me Power Corporation, P.O. Box D, Marshfield, Missouri 65706.

In order to be considered, proposals must be submitted on or before January 21, 1980 to Mr. Davis. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Sho-Me Power Corporation and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C. this 13th day of December 1979.

Susan T. Sheppard,

Acting Administrator, Rural Electrification Administration.

[FR Doc 79-39176 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Docket No. 37274; Order 79-12-86]

Boise-Burbank/Fresno/Las Vegas et al.; Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79–12–86 (Boise-Burbank/Fresno/Las Vegas/Los Angeles/Long Beach/Phoenix/San Diego/Stockton/Sacramento/Show-Cause Proceeding), Docket 37274.

SUMMARY: The Board is proposing to award air route nonstop authority under section 401 of the Federal Aviation Act of 1958, as amended, between the terminal point Boise and the alternate terminal points Burbank, Fresno, Las

Vegas, Los Angeles, Long Beach, Phoenix, San Diego, Stockton and Sacramento to Pacific Southwest Airlines and any other fit, willing and able carrier the fitness of which can be established by officially noticeable material. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than January 18, 1980, a statement of objections together with s summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and additional applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year and a statement as to the availability of fuel are directed to do so no later than January 3, 1980.

ADDRESSES: Objections to the issuance of a final order, or additional data as described above, should be filed in Docket 37274, which we have entitled the *Boise-Burbank/Fresno/Las Vegas/Los Angeles/Long Beach/Phoenix/San Diego/Stockton/Sacramento Show-Cause Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C., 20428.

FOR FURTHER INFORMATION CONTACT: Samuel J. Lebowich, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5329.

SUPPLEMENTARY INFORMATION: Objections and additional applications with the accompanying data should also be served upon the following persons: Pacific Southwest Airlines, the Majors and Airport Managers of Boise, Burbank, Denver, Fresno, Spokane, Las Vegas, Los Angeles, Long Beach, Oakland, Ontario, Portland, Ore., Phoenix, Reno, San Diego, Stockton, Seattle, San Francisco, Salt Lake City, San Jose and Sacramento, the Departments of Transportation of Arizona, California, Oregon and Utah, the Aviation Transportation Section of the Colorado Department of Highways, The Idaho Division of Aeronautics and Public Transportation, the Nevada Public Service Commission and the Washington State Aeronautics Commission.

By the Civil Aeronautics Board: December 14, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-39135 Filed 12-20-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 36620; Order 79–12–94]

Denver-Sacramento-Fresno Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (79–12–94) (Denver-Sacramento-Fresno Subpart Q Proceeding, Docket 36620).

SUMMARY: The Board is instituting the *Denver-Sacramento-Fresno Subpart Q Proceeding* and is proposing to grant Denver-Fresno/Sacramento and Fresno-Sacramento nonstop authority to National Airlines under the expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than January 21, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 36620, which we have entitled the *Denver-Sacramento-Fresno Subpart Q Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served upon National Airlines; Governors of California and Colorado; Mayors of Denver, Fresno and Sacramento; Airport Manager, Stapleton International Airport, Denver, Colorado; Airport Manager, Fresno Air Terminal; and Airport Manager, Metro Airport, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Richard E. Clusman, Bureau of Domestic Aviation, Civil Aeronautcs Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5105.

SUPPLEMENTARY INFORMATION: The complete text of Order 79–12–94 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metopolitan area may send a postcard request for Order 79–12–94 to that address.

By the Bureau of Domestic Aviation, December 17, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-39134 Filed 12-20-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 35752]

Wild Card Route Case Oral Argument

Notice is hereby given, pursuant to the provisions ofthe Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on January 16, 1980, at 10:00 A.M. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before January 4, 1980, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., December 18, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-39133 Filed 12-20-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to discuss: Amendment #1 to the Butterfish Fishery Management Plan, other fishery Management matters, and Administrative matters.

DATES: The meeting will convene on Wednesday, January 9, 1980, at approximately 1 p.m. and will adjourn on Friday, January 11, 1980, 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 International Airport, Route 291, Philadelphia, Pennsylvania 19153. (215) 365–7000.

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: December 18, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-39248 Filed 12-20-79; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Salmon Advisory Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), has established a Salmon Advisory Subpanel (AP), which will meet to review the draft proposed 1980 amendment to the Ocean Salmon Fishery Management Plan (FMP).

DATES: The meeting will convene on Monday, January 7, 1980, at 1:30 p.m. and will adjourn at 5 p.m.; reconvening on Tuesday, January 8, 1980, at 8 a.m. adjourning at 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place in the Mission Bay Lounge, at the Bahi Motor Hotel, 998 West Mission Bay Drive, San Diego, California.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

Dated: December 17, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-39247 Filed 12-20-79; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1980 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: December 21, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On October 19, 1979 and July 20, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped published notice (44 FR 60352) and (44 FR 42755) of proposed additions to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1980:

Class 7210

Insect Bar, Nylon
7210–00–266–9736
7210–00–266–9736 GFM

Class 9905—NO NSN

Marker, I.D., Plastic
P.S. #01036 White
P.S. #01036–A Blue
P.S. #01036–B Orange
P.S. #01036–C Green
P.S. #01036–D Violet
P.S. #01036–E Yellow
P.S. #01036–F Pink

C. W. Fletcher,

Executive Director.

[FR Doc. 79-39152 Filed 12-20-79; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; 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 1980 commodities to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 23, 1980.

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 listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 7210

Sheet, Bed, Cotton, Green
7210–00–299–9611

NO NSN

Bag, Plastic
1½" x 6¾" medium duty
1½" x 6¾" heavy duty
5¼" x 3½" medium duty
5¼" x 3½" heavy duty
(The above for requirements of Naval Weapons Support Center, Crane, Indiana only.)

C. W. Fletcher,

Executive Director.

[FR Doc 79-39153 Filed 12-20-79; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Proposed Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Deletions from Procurement List.

SUMMARY: The Committee has received proposals to delete from Procurement List 1980 services provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 23, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following services from Procurement List 1980, November 27, 1979 (44 FR 67925):

SIC 7641

Furniture Rehabilitation (excluding upholstery portion) Sacramento, CA plus 60 mile radius, excluding San Joaquin County.

SIC 7699

Repair and Maintenance of Electric and Manual Typewriters, 26 Federal Plaza, 1515 Broadway, 32 Old Slip, 6 World Trade Center, New York, New York.

C. W. Fletcher,

Executive Director.

[FR Doc. 79-39154 Filed 12-20-79; 8:45 am]

BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Proposed Futures Contract; Availability

The Commodity Futures Trading Commission ("Commission") is making available and requesting public comment on a Value Line Average futures contract submitted by the Kansas City Board of Trade. Copies of this proposed contract will be available at the Commission's offices in Washington, New York, Chicago, Minneapolis, Kansas City and San Francisco. The Commission will also furnish copies upon request made to the Executive Secretariat.

Any person interested in expressing views on the terms and conditions of this proposed contract should send comments by January 21, 1980, to Ms. Jane Stuckey, Executive Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. (202) 254–6314. Copies of all comments will be available for inspection at the Commission's Washington office.

Issued in Washington on December 17, 1979.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 79–39090 Filed 12–20–79; 8:45 am]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

[Petitions CP 79–8 and CP 79–9]

Amendment of the Safety Standard for Architectural Glazing Materials

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petitions.

SUMMARY: The Commission denies two petitions requesting that the Safety Standard for Architectural Glazing Materials be amended to postpone for two years enforcement of the standard as it applies to polished wired glass used in doors and glazed panels. The Commission is denying the petitions because (1) petitioners have failed to present any new evidence that polished wired glass possesses safety characteristics that warrant either an exemption from application of the standard or a two year delay in enforcement of the standard and (2) petitioners have failed to present persuasive evidence that enforcement would cause unreasonable economic harm. However, in order to allow for orderly administration of the standard and sufficient time for the Commission's staff to inform affected parties of the resumption of enforcement of the standard as it applies to polished wired glass in certain doors, the Commission, as an act of administrative discretion, will postpone enforcement of the standard as it applies to such products until February 19, 1980. Enforcement of the standard as it applies to polished wired glass in glazed panels has already been stayed until the proceeding commenced on May 31, 1979, to revoke the glazed panel provisions of the standard is concluded.

FOR FURTHER INFORMATION CONTACT: Harry I. Cohen, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6453.

Background

Section 10 of the Consumer Product Safety Act (CPSA, 15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for issuance, amendment or revocation of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reason for denial in the **Federal Register.**

In March and April 1979, the National Glass Dealers Association and the Flat Glass Marketing Association, respectively, petitioned the Commission to amend the Safety Standard for Architectural Glazing Materials to postpone for two years enforcement of the standard as it applies to polished wired glass used in doors and glazed panels adjacent to doors. The two-year postponement was requested to commence on the date the United States of Appeals dissolved the judicial stay of enforcement which it issued in April, 1977, preventing the Commission, pending consideration of a petition for judicial review, from enforcing the standard as it applies to polished wired glass. The petition for judicial review was decided on January 31, 1979, in the case of *ASG Industries, Inc., et al.* v. *CPSC,* 593 F. 2d 1323 (D.C. Cir., 1979). This decision was stayed, however, pending consideration by the United States Supreme Court of a petition for certiorari to review the Court of Appeals decision. The petition for certiorari was denied by the U.S. Supreme Court on October 1, 1979. Therefore, except for two aspects of the standard not addressed by the petitions under consideration here (discussed further below), the legal barriers to enforcement of the standard as it applies to polished wired glass have been removed as of October 1, 1979. Accordingly, the postponement of enforcement of the standard as requested by petitioners would extend to October 1, 1981.

The petitioners request postponement of enforcement of the standard as it applies to polished wired glass used both in doors and glazed panels adjacent to doors. As to this latter use, however, the Commission, by notice published in the **Federal Register** of May 31, 1979 (44 FR 31218), has stayed enforcement of the standard as it applies to polished wired glass used in glazed panels located within 12 inches of a door in a residential building and within 48 inches of a door in a non-residential building pending completion of the proceeding to partially revoke the standard initiated in the May 31, 1979 notice. This proceeding to partially revoke the standard is presently expected to be completed sometime during the spring of 1980.

Commission Evaluation of Petitions

After examining the petitions and the Commission staff's analysis of the issues raised by the petitions, the Commission has decided to deny the petitions.

The petitioners request a two year postponement of enforcement in order to allow distributors, retailers and fabricators of polished wired glass or products incorporating polished wired glass to deplete inventories. In support of this request, petitioners cite (1) the severe economic hardship that they allege would result from immediate enforcement of the standard and (2) the purported safety of polished wired glass, specifically its breakage characteristics and the presence of the wire mesh imbedded in the glass. These characteristics, it is claimed, make polished wired glass distinguishable from other types of glass covered by the standard. According to petitioners, the wire mesh serves as a visual barrier which prevents inadvertent impact with the glass by consumers who might not be aware of the presence of solid material in an opening. Further, petitioners claim that while polished wired glass fails to meet the performance requirements of the Commission's standard, it meets the safety test of the American National Standards Institute (ANSI) voluntary standard Z97.1, and is therefore reasonably safe.

This precise issue of the safety of polished wired glass has previously been thoroughly explored by the Commission during the proceeding for development of the architectural glazing standard. In addition, the record of that proceeding has been subject to judicial

review in the U.S. Court of Appeals for the District of Columbia District. That Court, in *ASG Industries, Inc., supra,* upheld the application of the standard's impact-performance requirements to polished wired glass, stating that

[s]o long as the impact-performance standards comply with the statutory requirements, it is irrelevant to judicial review whether the failure of wired glass to meet the standards is by a narrow or wide margin. 593 F. 2d at 1331.

As to the question of whether the wire mesh imbedded in the glass increases the product's visibility and therefore reduces the risk presented by the product, the Court conceded that enhanced visibility of the product is a dissimilarity which could distinguish, for some purposes, polished wired glass from, for example, annealed glass. However, the Court pointed out that with respect to all but one product-use, the characteristic of visibility is not pertinent to the risk that concerns the Commission. The Court correctly noted that while

"[t]he definition of one category of glazed panels (section 1201.(a)(10)(iii) manifests a Commission determination that the unreasonable risk of injury associated with that use results from the possibility that a victim will mistake a glazed panel for an open passageway * * * with respect to all other products covered by the standard—doors, bathroom enclosures, and panels that are closely associated with doors-the Commission apparently has concluded that an unreasonable risk of injury arises from collisions occurring even when the victim is aware of the presence of the barriers * * *" 593 F. 2d at 1331.

Thus, on the basis of a claim that polished wired glass used in doors and glazed panels adjacent to doors is safe, the petitioners request for a two-year postponement of enforcement must be denied.

Petitioners also claim that the failure of the Commission to postpone enforcement of the standard would cause undue economic hardship to distributors, dealers, fabricators, and installers of polished wired glass. This claim is based on the fact that throughout the period during which the judicial review proceeding has been underway (April, 1977 to October, 1979), these firms have continued to accumulate substantial inventories of polished wired glass in reliance on the judicial stay of enforcement and the possibility of success before the Court.

The petitioners' reliance on the successful outcome of the petition for judicial review was in part justified, since the Court remanded to the Commission for further consideration (1) whether polished wired glass used in glazed panels located in a non-residential building more than 48 inches from a door, less than 18 inches above walking surfaces, and more than nine square feet in area should be included in the standard and (2) whether the existing temporary exemption to January, 1980 for polished wired glass used in fire doors and related fire-retardant barriers where required by fire codes should be extended or made permanent. Thus, a portion of the accumulated inventory of polished wired glass may continue to be used for the applications covered by the Court's remand.

In addition, if the Commission issues, as a final rule, the partial revocation of the glazed panel provisions of the standard as proposed on May 31, 1979 (44 FR 31218), the present restriction in the Commission's standard on the use of polished wired glass in glazed panels adjacent to doors will be removed. Thus, the Commission believes that a substantial portion of the accumulated inventories of polished wired glass will ultimately be absorbed through uses of the material permitted (or not covered) by the standard. The petitioners have presented no persuasive evidence to contradict this conclusion.

If the Commission decides not to issue the glazed panel partial revocation as a final rule, it could nevertheless act to ease any economic hardship that might result. For example, the Commission might decide to extend its stay of enforcement until accumulated inventories could be absorbed. Neither the appropriateness of nor necessity for such an action need be decided at this time.

Conclusion

Accordingly, after careful consideration of the petitions, the staff's analysis of the petitions, and the record of judicial review of the architectural glazing standard, the Commission has decided to deny the petitions. However, in order to allow for orderly administration of the standard and sufficient time for the Commission's staff to inform affected parties of the resumption of enforcement of the standard as it applies to polished wired glass in doors, the Commission will postpone until February 19, 1980, enforcement of the standard as it applies to polished wired glass used in doors other than where required by a Federal, State, local or municipal fire ordinance. In addition, the Commission has already stayed enforcement of the standard as to glazed panels adjacent to doors until the proceeding to revoke the glazed panel provisions of the standard, commenced on May 31, 1979 (44 FR 31218), is concluded.

Copies of the petitions and the Commission staff's analysis of the petitions may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, N.W., Washington, D.C. 20207.

Dated: December 14, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-39069 Filed 12-20-79; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

Secretary of the Navy's Advisory Board on Education and Training (SABET); Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App I), notice is hereby given that the Secretary of the Navy's Advisory Board on Education and Training will meet on Janury 16–17, 1980. The session on January 16, 1980, will commence at 8:30 a.m. and terminate at 4:00 p.m. The session on January 17, 1980 will commence at 8:30 a.m. and terminate at 11:30 a.m. The meeting will be held at the Admiral Kidd Club, Naval Training Center, San Diego, California.

As part of the meeting, the Board will recive a series of briefings on the recruitment, utilization, and retention of minorities and women and will discuss a committee report on improving processes for identifying education and training research and development requirements.

Dated: December 14, 1979.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-39159 Filed 12-20-79; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

Defense Science Board Task Force on Acquisition Policy; Advisory Committee Meeting

An aircraft subgroup under the Defense Science Board Task Force on Acquisition Policy will meet in closed session on 16–17 January 1980 in Washington, DC.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as

they affect the perceived needs of the Department of Defense.

The aircraft subgroup will review the management of evolving aircraft technology in the 16–17 January meeting. The Task Force on Acquisition Policy is addressing specific issues in evolving DoD acquisition policy.

In accordance with 5 U.S.C. App. I 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1976), and that accordingly this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

December 18, 1979.

[FR Doc. 79-39118 Filed 12-20-79; 8:45 am]

BILLING CODE 3810-70-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session 10–11 January 1980, at the Naval Ocean System Center, 271 Catalina Boulevard, San Diego, California 92152.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night vision sensors. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: December 18, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-39164 Filed 12-20-79; 8:45 am]

BILLING CODE 3810-70-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group D (Mainly Laser Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session 17–18 January 1980 at 201 Varick Street (9th floor), New York, NY 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include details of classified defense programs throughout.

In accordance with 5 U.S.C. App. 1, 10(d)(1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: December 18, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-39165 Filed 12-20-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

National Petroleum Council, Task Group of the Committee on Unconventional Gas Sources; Meeting

Notice is hereby given that a task group of the Committee on Unconventional Gas Sources will meet in January 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Unconventional Gas Sources will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The task group scheduling a meeting is the Tight Gas Reservoirs Task Group. The time, location and agenda of the meeting follows:

The thirteenth meeting of the Tight Gas Reservoirs Task Group will be held on Wednesday, January 9, 1980, starting at 1:00 p.m., and Thursday, January 10, 1980, starting at 9:00 a.m., in the Pier 1 Room of the Marina Hotel, 3805 Las Vegas Boulevard South, Las Vegas, Nevada.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of the report outline of the Tight Gas Reservoirs Task Group.
3. Review the preliminary results of the Tight Gas Reservoirs Task Group.
4. Review of the Tight Gas Reservoirs Task Group's assignments.
5. Discussion of any other matters pertinent to the overall assignment of the Tight Gas Reservoirs Task Group.

The meeting is open to the public. The chairman of the task group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lucio A. D'Andrea, Office of Resource Applications, 202/633–8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on December 17, 1979.

R. Dobie Langenkamp,

Deputy Assistant Secretary, Resource Development and Operations Resource Applications.

[FR Doc. 79-39183 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Amtel, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: December 10, 1979.

COMMENTS BY: January 21, 1980.

ADDRESS: Send comments to William D. Miller, Central District Manager of Enforcement Department of Energy, 324 East 11th Street; Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Jeannie C. Fox, Chief, Refined Products Programs Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. (phone) 816–374–5932.

SUPPLEMENTARY INFORMATION: On *December 10, 1979,* the Office of Enforcement of the ERA executed a Consent Order with Amtel, Inc. of Rhode Island. Under 10 CFR § 205.199J(c), a Consent Order which involves a sum of $1,250,000 in the aggregate, excluding penalties and interest, becomes effective 30 days after publication.

I. The Consent Order

Amtel, Inc. (Amtel), with its home office located in Hanover, New Hampshire, is a firm engaged in the marketing of motor gasoline and heating oil to resellers and end-users, and is subject to the Mandatory Petroleum Price and Allocation 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 Amtel, the Office of Enforcement, ERA, and Amtel entered into a Consent Order.

The Consent Order encompasses Amtel's sale of covered products during the period November 1, 1973 through May 3, 1979.

II. Disposition of Refunded Overcharges

In this Consent Order, Amtel agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. above, the sum of one million and two hundred and fifty thousand dollars *($1,250,000)* 30 days after receipt of written notice that Consent Order is executed. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset. 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 or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notificaton of a potential claim within the comment period for this Notice may result in the DOE irrevocable disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested perons 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 William D. Miller, Central District Manager of Enforcement, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling 816–374–5932.

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 Amtel Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on January 21, 1980. 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 Kansas City, Missouri on the 12th day of December, 1979.

William D. Miller,

District Manager of Enforcement.

[FR Doc. 79-39180 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

Ancora-Citronelle Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order (PRO) which was issued to Ancora-Citronelle Corporation, 332 Pine Street, Suite 508, San Francisco, California, on November 2, 1979. This PRO charges Ancora-Citronelle Corporation with pricing violations in the amount of $677,650.71 connected with the sale of crude oil during the period September 1, 1973, through March 18, 1975, in the State of Alabama.

A copy of the November 2, 1979, PRO, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309, Phone: (404) 881–2661. 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, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia, on the 14th day of November, 1979.

Approved for Signature.

Len Bittner,

Chief Enforcement Counsel.

James C. Easterday,

District Manager.

[FR Doc. 79-39181 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Order

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: 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 month of October 1979. These Consent Orders concern prices charged by retail motor gasoline dealers in excess of the maximum lawful selling price for motor gasoline since August 1, 1979, failure to properly post the maximum lawful selling price or certification, and engaging in business practices which are either discriminatory with respect to purchasers of motor gasoline, resulting in a higher price than permitted, or tied the sale of gasoline to the purchase of another service. The purpose and effect of these Consent Orders is to bring the consenting firms into compliance with the Mandatory Petroleum Allocation and Pricing Regulations from August 1, 1979, and they do not address or limit any liability with respect to consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions:

A. With respect to selling prices:

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Roll back prices to achieve refund of overcharges;

3. Properly maintain records required under the aforementioned regulations.

B. With respect to business practices:

1. Cease and desist from employing any form of discriminatory practice;

2. Cease and desist from employing any practice designed to obtain a price higher than is permitted by the regulations;

3. Cease and desist from employing any practice making the sale of gasoline contingent upon the purchase of another service, charging for services by means of a fee computed on a cents per gallon basis, or charging a fee to dispense gasoline.

C. With respect to posting requirements:

1. Properly post the maximum lawful selling price or certification;

2. Rollback the maximum lawful selling price for failure to post. For further information regarding these Consent Orders, please contact Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, telephone number 214/767-7745.

Firm's Name, Address, and Date of Consent Order

Sal Rodriguez's Exxon, 3802 Reveille, Houston, Tx 77017—Sept. 27, 1979
Dudley Ponder Mobil 3801 Almeda, Houston, Tx 77004—Oct. 4, 1979
Greer's Exxon, P.O. Box 1418, Imperial, Tx 79743—Oct. 3, 1979
H. M. Buettemeyer 4850 S. 14th St. Abilene, Tx 79605—Sept. 26, 1979
F & W Shell 761 Arnold Blvd Abilene, Tx 79605—Sept. 18, 1979
Haney Exxon 209 S. Kaufman Ennis, Tx 75119—Sept. 19, 1979
Davis Exxon 1107 E. Central Comanche, Tx 76442—Sept. 4, 1979
Jose R. Loera Exxon 2347 E. South Cross San Antonio, Tx 78223—Oct. 1, 1979
J. V. Govan 3106 Martin Luther King Dr. San Antonio, Tx 78220—Oct. 2, 1979
Andy's Gulf 8327 McCullough San Antonio, Tx 78216—Oct. 3, 1979
Sanders Oil Company General Delivery Georgetown, Tx—Oct. 4, 1979
Garcia's Texaco 5812 S. Pan American Expwy San Antonio, Tx 78211—Oct. 1, 1979
Ingram Mobil 4803 Callagham San Antonio, Tx 78228—Oct. 2, 1979
Joe's Service Station 2754 Culebra San Antonio, Tx 78228—Oct. 3, 1979
Gonzales Exxon 3851 Culebra San Antonio, Tx 78228—Oct. 3, 1979
Kandis Mobil, 210 E. Rio Grande, Victoria, Tx 77901—Oct. 4, 1979
Joseph P. Magee, Jr., 1207 S.W. White Rd., San Antonio, Tx 78776—Oct. 1, 1979
Keith W. Eiel, 3719 S.E. Military Dr., San Antonio, Tx 78773—Oct. 1, 1979
Robert F. McCarter 2102 Goliad Dr. San Antonio, Tx 78223—Oct. 1, 1979
Jose Salinas 4402 S. New Braunfels San Antonio, Tx 78211—Oct. 1, 1979
Thompson Exxon 2811 E. Houston Hwy Victoria, Tx 77901—Oct. 5, 1979
Theodore Nemec, Jr. Rt. 1, Box 28 Jarrell, Tx 76537—Oct. 9, 1979
Pruski, Inc., d.b.a. Pruski Service Station Route 2 Stockdale, Tx 78160—Oct. 10, 1979
Jim Sun Han Texaco 1818 S. New Braunfels San Antonio, Tx—Oct. 10, 1979
W. S. Pearce Mobil 1029 Broadway San Antonio, Tx 78215—Oct. 9, 1979
Gary Record, d.b.a. Gary's Downtown Gulf 701 East Pierce Luling, Tx 78648—Oct. 12, 1979
Domingo Villanueva H'way 181, Box 153 Karnes City, Tx 78118—Oct. 11, 1979
Roseudo Garza U.S. H'way 181 Karnes City, Tx 78118—Oct. 11, 1979
Robert Morris 206 H'way 123 Karnes City, Tx 78118—Oct. 12, 1979
Daniel Garza Gulf 200 W. Main Kenedy, Tx 78119—Oct. 12, 1979
Jose M. Guillen, d.b.a. Guillen Texaco, P.O. Box 244, Van Horn, Tx 79855—Oct. 4, 1979
O'Donnell Oil and Butane Co., Inc., P.O. Box 536, O'Donnell, Tx 79351—Oct. 10, 1979
Burks Gulf Service, 901 W. Commerce, Brownwood, Tx 76801—Oct. 10, 1979
Weldon Tiesman's Gulf Rt. 2, Box 42 Brownwood, Tx 76801—Oct. 10, 1979
Wm. R. Gattis Texaco P.O. Box 686 Cisco, Tx 76437—Sept. 14, 1979
C. F. Allison Phillips 66 705 W. Commerce Brownwood, Tx 76801—Oct. 10, 1979
Clydes Texaco 1511 S. Medford Lufkin, Tx 75901—Oct. 10, 1979
Similey Barnett Texaco 3020 W. Gentry Pkway Tyler, Tx 75702—Sept. 15, 1979
All-N-One Rt. 3 (H'way 1171) Roanoke, Tx 76262—Aug. 29, 1979
Four M Market 702 Moody Nat'l Bank Bldg. Galveston, Tx—Oct. 11, 1979
Norton Texaco 1201 E. Pasadena Fway Pasadena, Tx 77550—Oct. 10, 1979
Avanti, Inc. 2301 Broadway Galveston, Tx 77550—Oct. 12, 1979
Martin L. King Gulf Service 7446 Martin L. King Dr. Houston, Tx 77033
Presely Gulf 2221 Pine & Timber Dickenson, Tx
Chick's Texaco Service 6628 Steward Rd. Galveston, Tx —Oct. 17, 1979
Ruben Lavato, d.b.a. Lavato's Shell, Main H'way #44, Cuba, N.M. 87013—Oct. 11, 1979
Johnny's Holiday Shell, Box 1075, Grants, N.M. 87020—Sept. 11, 1979
Larry's Service Center, 705 Camino Del Pueblo, Bernalillo, N.M. 87004—Oct. 3, 1979
Bernalillo Feed & Conoco 1220 Camino Del Pueblo Bernalillo, N.M.—Oct. 3, 1979
Lewis Chevron Box 538 Bernalillo, N.M. 87004—Oct. 3, 1979
Jim Woods, d.b.a. Woods Oil Co. & Circle W Food & Fuel 1104 California, N.E. Socorro, N.M. 87801—Oct. 11, 1979
Linda Vista Exxon 3116 N. Main Roswell, N.M. 88201—Sept. 27, 1979
Thoreau Chevron P.O. Box 718 Thoreau, N.M. 87323—Oct. 1, 1979
Kenilworth Exxon 6501 Morrison Rd. New Orleans, La. 70128—Oct. 4, 1979
White's Texaco 12930 Chef Mentuer H'way New Orleans, La. 70129—Oct. 3, 1979
Go-Shop 6920 Plank Road Baton Rouge, La. 70811—Oct. 3, 1979
Dempsey Texaco Service 8558 Goodwood Blvd. Baton Rouge, La. 70806——Oct. 5, 1979
Hayes Texaco Service 721 Brashear Avenue Morgan City, La. 70380—Oct. 5, 1979
Lanni's Kar Kare P.O. Box 1904 Morgan City, La 70380—Oct. 2, 1979
Broadway Texaco 1039 West Broadway Ardmore, Ok 73401—Oct. 2, 1979
Earl's Skelly, 1747 S. Memorial, Tulsa, Okla 74112—Oct. 3, 1979
I-40 Gulf, Route 4, Elk City, Ok 73644—Oct. 4, 1979
Montgomery Texaco, 7901 Broadway Ext., Oklahoma City, Ok 73114—Oct. 4, 1979
Caulkins Bros. Gulf 902 E. Main Weatherford, Okla. 73096—Oct. 4, 1979
John McHenry's Champlin 222 W. Main Weatherford, Okla. 73096—Oct. 4, 1979
Emery L. Lawler, d.b.a. 2700 N. Broadway Moore, Okla 73160—Oct. 9, 1979
Max Guthrie, d.b.a. I-35 & U.S. 70, Rt. 2 Ardmore, Okla 73401—Oct. 10, 1979
Burt Barbre, d.b.a. Carrollton-St. Charles 601 S. Carrollton Ave. New Orleans, La. 70118—Oct. 10, 1979
Willis Tanner, Jr., d.b.a. Tanner's Exxon 10982 Greenwell Springs Rd. Baton Rouge, La. 70815—Oct. 10, 1979
Raoul Marcantel, d.b.a. Lake Front Exxon 1112 N. Lakeshore Dr. Lake Charles, La. 70601—Oct. 10, 1979
Mrs. Fay Stainback, 8143 Bruton Road, Dallas, Texas 75217—Oct. 16, 1979
C. R. Case, 3002 S. Carrier Pkwy #106, Grand Prairie, Tx—Oct. 15, 1979

Ben Sandoval, 717 Singleton, Dallas, Texas 75212—Oct. 19, 1979
Chris Tabor, 1680 S. University Dr., Fort Worth, Texas—Oct. 16, 1979
Joe Barker, 409 E. Thornhill, Fort Worth, Texas—Oct. 17, 1979
Thomas Merritt, 725 W. Main, Lewisville, Tx—Oct. 18, 1979
Fleming Exxon, 301 S. High, Longview, Tx 75601—Oct. 9, 1979
H. L. Norris Exxon, H'way 80 & H'way 146, Martindale, Tx 78655—Oct. 15, 1979
Luck's Food Store, H'way 71 & H'way 154, West Point, Tx 78963—Oct. 19, 1979
D. S. Buckner Mobil, 201 Colorado, Lockhart, Tx 78644—Oct. 19, 1979
Dawson Perry Phillips 66, 101 S. Colorado, Lockhart, Tx 78644—Oct. 19, 1979
Calvin E. Homann Exxon, 101 N. Colorado, Lockhart, Tx 78644—Oct. 19, 1979
James Adams Exxon, 4718 Lockhart H'way, Austin, Tx 78744—Oct. 19, 1979
Lakes Gulf Station, 441 N. Sunset Strip, Kenedy, Tx 78119—Oct. 15, 1979
Charles Reagan Gulf, U.S. 181 & H'way 72, Kenedy, Tx 78119—Oct. 12, 1979
Ed Fendrzey Arco, Box 2, Route 245, Yorktown, Tx 78164—Oct. 15, 1979
Joe Reiman Phillips 66, P.O. Box 252, Runge, Tx 78151—Oct. 15, 1979
Hill Garza, Jr. Mobil, P.O. Box 326, Runge, Tx 78151—Oct. 15, 1979
William V. Migal Exxon, 512 W. Grand Ave., Yoakum, Tx 77995—Oct. 16, 1979
Joseph L. Machalec Exxon, 315 Irvine St., Yoakum, Tx 77995—Oct. 17, 1979
Boehm Exxon Service Sta, 219 N. Avenue E, Shiner, Tx 77984—Oct. 18, 1979
Ron Garrett's Texaco, 100 East Florida St., Midland, Tx 79701—Oct. 10, 1979
Morrison Oil Company, P.O. Box 1822, Midland, Tx 79701—Oct. 11, 1979
Homer Grimes, Jr., dba Patsy's Place, 810 W. Broadway, Sweetwater, Tx 79556—Oct. 17, 1979
Gaston's Gulf Station, P.O. Box 543, Sterling City, Tx 76951—Oct. 16, 1979
Sanders "66" Service Sta., 1017 W. Beauregard, San Angelo, Tx 76901—Oct. 17, 1979
Louis Halfman Texaco, 1313 N. Bryant, San Angelo, Tx 76903—Oct. 17, 1979
Carl Miller's Texaco, 1229 Cerrillos Road, Santa Fe, N.M. 87501—Oct. 16, 1979
Lowance Conoco, Inc., P.O. Box 4186, Santa Fe, N.M. 87501—Oct. 18, 1979
Roybal's Texaco Service, Box 4622, Santa Fe, N.M. 87501—Oct. 17, 1979
Paul's Texaco Service, 328 Galisteo, Santa Fe, N.M. 87501—Oct. 17, 1979
Santa Fe Motor Co., 418 Cerrillos Road, Santa Fe, N.M. 87501—Oct. 18, 1979
Peter's Capitol Chevron, 502 Old Santa Fe Trail, Santa Fe, N.M. 87501—Oct. 18, 1979
Edgewood Chevron, P.O. Box 261, Edgewood, N.M. 87015—Oct. 15, 1979
Roadrunner Shell, P.O. Box 35, Edgewood, N.M. 87015—Oct. 15, 1979
Horseman's Haven Texaco, Rt. 2, Albuquerque H'way, Santa Fe, N.M. 87501—Oct. 16, 1979
Plaza Princesa Phillips 66, 3140 Cerrillos Road, Santa Fe, N.M. 87501—Oct. 16, 1979
Earl Clark's Service Sta, 701 Cerrillos Road, Santa Fe, N.M. 87501—Oct. 17, 1979
Tom Sandoval Chevron, 2700 Cerrillos Road, Santa Fe, N.M. 87501—Oct. 16, 1979
Willie's St. Francis Gulf, 1009 St. Francis Dr., Santa Fe, N.M. 87501—Oct. 17, 1979
Bill's Exxon Service, Box 72, Eunice, N.M. 88231—Oct. 16, 1979
Marland Exxon, 100 E. Marland, Hobbs, N.M. 88240—Oct. 17, 1979
Walt's Texaco, 728 East Bender, Hobbs, N.M. 88240—Oct. 17, 1979
Boyd Service Station, 1630 North Dal Paso, Hobbs, N.M. 88245—Oct. 18, 1979
Stamper's Phillips 66, Box 27, Rush Springs, Okla 73082—Oct. 19, 1979
Southside Texaco, 1200 S. Rock Island, El Reno, Okla 73036—Oct. 19, 1979
Minit Saver, Inc., P.O. Box 7032, Houma, La. 70374—Oct. 15, 1979
Prien Lake Mobil, 237 W. Prien Lake Road, Lake Charles, La. 70601—Oct. 15, 1979
Interstate Shell, 1555 Plank Road, Baton Rouge, La.—Oct. 16, 1979
Neighborhood Gulf, 2201 12th Street, Lake Charles, La. 70601—Oct. 15, 1979
James P. Chambers, 6279 S. Stemmonds, Corinth, Tx 76201—Sept. 26, 1979
Don Chambers, 652 Randal Mill Road, Arlington, Tx 76012—Sept. 25, 1979
Lloyd H. Carroll, 611 W. Main, Lewisville, Tx 75067—Sept. 26, 1979
Earl Jacks, Jr., 216 N. Patrick, Dublin, Texas 76446—Sept. 5, 1979
Hundley Boat Co., Inc., P.O. Box 307, Lake Dallas, Texas 75065—Sept. 23, 1979
Home Town Oil, Inc., 2700 North Main, Baytown, Texas 77521—Sept. 19, 1979
Bruce's Texaco, 9142 Long Point, Houston, Tx 77055—Sept. 26, 1979
Jim Class Gulf Service, P.O. Box 1340, Madisonville, Tx 77864—Oct. 24, 1979
J. R. Kitchen Gulf, P.O. Box 947, Fairfield, Tx 75840—Oct. 24, 1979
Homer White Gulf Station, 2100 Crockett St., Palestine, Tx 75801—Oct. 25, 1979
Jerry Grizzle Exxon, 3503 E. Main, Madisonville, Tx 77864—Oct. 24, 1979
A. K. Castellou Mobil, 26860 H'way 75, Spring, Texas 77373—Oct. 23, 1979
F. D. Bryant's Texaco, Box 8901, Conroe, Texas 77301—Oct. 23, 1979
Marilyn Sides Phillips 66, P.O. Box 799, Hillsboro, Tx 76645—Oct. 22, 1979
Jimmy Jones Mobil, 6300 Camp Bowie Blvd., Fort Worth, Tx 76116—Oct. 26, 1979
Rick Russell Phillips 66, 607 Corsicana, Hillsboro, Tx 76645—Oct. 22, 1979
A. J. Hudson Texaco, 819 W. Palestine Ave., Palestine, Tx 75801—Oct. 25, 1979
Minter Exxon Service, 609 E. Goliad, Crockett, Tx 75835—Oct. 24, 1979
Gensel Conoco Service, Rt. 3, Box 135, Huntsville, Tx 77340—Oct. 24, 1979
Ronald N. Allen Exxon, US 190 & H'way 19, Huntsville, Tx 77340—Oct. 23, 1979
Ron Knighten Exxon, Rt. 5, Box 491, Huntsville, Tx 77340—Oct. 23, 1979
Don Conover Texaco, 1558 11th Street, Huntsville, Tx 77340—Oct. 23, 1979
W. D. Dickerson Texaco, Rt. 1, Box 2082, Huntsville, Tx 77340—Oct. 23, 1979
J. E. Galloway Exxon, P.O. Box 1396, Huntsville, Tx 77340—Oct. 23, 1979
Patton's Exxon, 402 N. 4th St., Crockett, Texas 75835—Oct. 24, 1979
Longino Gonzales Gulf, Main & East, Uvalde, Texas 78801—Oct. 24, 1979
Henry Clapa Phillips 66, 201 S. Getty, Uvalde, Texas—Oct. 24, 1979
Sam Allen Exxon, 1403 N. Getty, Uvalde, Texas 78801—Oct. 24, 1979
Evans Rutledge, dba Rutledge Mobil, 302 E. Zavola St., Crystal City, Texas 78839—Oct. 25, 1979
Bob Matthews Texaco, U.S. H'way 83 & 3rd St., Crystal City, Tx 78839—Oct. 25, 1979
Fernando Lopez Gulf, H'way 83 & Route 2, Crystal City, Tx 78839—Oct. 25, 1979
Escabedo Gulf Station, P.O. Box 388, Big Wells, Tx 78830—Oct. 25, 1979
Ice Box #4, H'way 35 & H'way 881, Rockport, Tx 78382—Oct. 15, 1979
Interstate Gulf, I-10 & H'way 80, Luling, Texas 78648—Oct. 23, 1979
Turner Gas & Grocery, H'way 21, Cedar Creek, Tx 78602—Oct. 24, 1979
Barisch Tire Co., 104 Austin H'way 71, Bastrop, Tx 78602—Oct. 24, 1979
Daniels Gulf, H'way 71 & Pecan, Bastrop, Tx 78602—Oct. 24, 1979
Davis Texaco, 320 W. 3rd St., Smithville, Tx 78957—Oct. 25, 1979
Nevse Grocery, Rt. 1, Box 6, H'way 90, Kingsburg, Tx 78634—Oct. 25, 1979
Samuel J. Zerr Gulf, H'way 90, D'Hanis, Tx 78850—Oct. 23, 1979
Magic Car Wash, 1921 Sherwood Way, San Angelo, Tx 76901—Oct. 25, 1979
Hugh Howard Exxon, 100 W. San Antonio, Marfa, Tx 79843—Oct. 25, 1979
De Lao Exxon, 308 W. Holland, Alpine, Tx 79830—Oct. 25, 1979
De Vore Texaco, I-420 & San Antonio, Big Springs, Tx—Oct. 25, 1979
Western Manor Gulf, 1901 County Road West, Odessa, Tx 79763—Oct. 25, 1979
Gulf Observatory Station, P.O. Box 395, Fort Davis, Tx. 79734—Oct. 25, 1979
Moore's Shamrock, 1606 H'way 90, Alpine, Tx. 79830—Oct. 24, 1979
Mando's Auto Repair Chevron, P.O. Box 754, Marfa, Tx. 79843—Oct. 24, 1979
Jimenez Chevron P.O. Box 791, Marfa, Tx. 79843—Oct. 24, 1979
C & S Store #1, 902 E. Holland, Alpine, Tx. 79843—Oct. 23, 1979
Highland Motor & Parts, 202 W. Holland, Alpine, TX. 79830—Oct. 23, 1979
Bill McClain Service, 2305 Andrews H'way, Odessa, Tx. 79761—Oct. 24, 1979
Howard's Petroleum Co., Box 785, Marfa, Tx. 79843—Oct. 25, 1979
Tom Massey Service, P.O. Box 607, Madisonville, Tx. 77864—Oct. 24, 1979
J. R. Coy Texaco, 3202 E. Main, Madisonville, Tx. 77864—Oct. 24, 1979
Medina's Phillips 66, 138 Riverside Drive, Espanola, N.M. 85732—Oct. 23, 1979
Eunice Gulf Service, 1315 N. Main, Eunice, N.M. 88231—Oct. 23, 1979
Hobb's Shamrock, 415 N. Turner, Hobbs, N.M. 88246—Oct. 24, 1979
Lewis 66 Service, 424 S. Main, Lovingston, N.M. 88260—Oct. 26, 1979
The Bubble Machine, 905 St. Francis Drive, Santa Fe, N.M. 87501—Oct. 22, 1979
Maestes Oil Co., 816 W. Onate St., Espanola, N.M. 87532—Oct. 23, 1979
Ganderts Service Station, Box 422, Mora, N.M. 87732—Oct. 25, 1979
Pachicai Phillips 66, Box 324, Mora, N.M. 87732—Oct. 23, 1979
Art's Service Station, Box 367, Mora, N.M. 87732—Oct. 24, 1979
Vsarrago's Texaco, Box 278, Penarco, N.M. 87553—Oct. 24, 1979

Big Rock Chevron, 437 Riverside Drive, Espanola, N.M. 85732—Oct. 23, 1979
Johnson's Conoco, 2601 NE 10th Oklahoma City, Okla. 73117—Oct. 16, 1979
James Ellis Texaco, 21 NW 63rd Oklahoma City, Okla 73114—Oct. 19, 1979
Robert's Conoco, 7 E 2nd, Edmond, Okla. 73034—Oct. 18, 1979
University Texaco, 7125 Scenic H'way, Baton Rouge, La. 70807—Oct. 22, 1979
Contraband Bayou Marina, 1245 Giovannia St., Lake Charles, La. 70601—Oct. 22, 1979
Short Food Shop, 6517 W. 70th St., Shreveport, La. 71129—Oct. 22, 1979

Issued in Dallas, Texas, this 30th day of November, 1979.

Wayne L. Tucker,

District Manager, Southwest District Enforcement Economic Regulatory Administration.

[FR Doc. 79-39182 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP80-93 and CP80-74, et al.]

Border Gas, Inc., et al.; Assignment of Additional Docket Numbers to Requests Filed Pursuant to Section 503(c) of the Natural Gas Policy Act and Consolidation

Border Gas, Inc. (Docket No. CP80-93, CP80-75), Texas Eastern Transmission Corporation, Florida Gas Transmission Company, Tennessee Gas Pipeline Company, a Dvision of Tenneco, Inc., Transcontinental Gas Pipe Line Corporation (Docket No. CP80-89), Texas Eastern Transmission Corporation (Docket No. CP80-90), Florida Gas Transmission Company (Docket No. CP80-91), Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Docket No. CP80-92), Border Gas, Inc., (Docket No. SA80-51), and Texas Eastern Transmission Corporation (Docket No. SA80-52).

On November 16, 1977, Border Gas, Inc. (Border), filed in Docket No. CP80-93 an application for a certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act. In addition to its request for a certificate, Border seeks an adjustment pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) to prevent special hardship, inequity, and unfair distribution of burdens. The details of Border's application were described in the Commission's previous notice issued on November 30, 1979. Those portions of Docket No. CP80-93 which deal with Border's request for adjustment under the NGPA are hereby redesignated as Docket No. SA80-51.

In a related and consolidated application filed November 16, 1979, in Docket No. CP80-90, the Texas Eastern Transmission Corporation (Texas Eastern) also requested a certificate pursuant to Section 7 of the Natural Gas Act, with a concurrant request for an adjustment pursuant to Section 502(c) adjustment are hereby redesignated as Docket No. SA80-52.

Assignment of these munbers is ministerial in nature and in no way is intended to sever these requests pursuant to Section 502(c) of the NGPA from the noticed and consolidated proceedings in Docket Nos. CP80-93, *et al.* Therefore, petitions to intervene or protests related to the above dockets may be filed in accordance with the Commission's notice of November 30, 1979. Intervenors in Docket Nos. CP80-93, *et al.*, need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-39271 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-37]

Central Illinois Public Service Co.; Order Accepting for Filing, Consolidating and Suspending Proposed Service Agreement

December 13, 1979.

Central Illinois Public Service Company (CIPSCO) on October 15, 1979 filed with the Commission an executed copy of a wholesale electric service agreement between CIPSCO and the City of Marshall, Illinois (Marshall). The agreement calls for service to Marshall at the rates specified in CIPSCO's currently effective W-2 full requirements rate schedule and provides for an effective date of October 27, 1979.[1] CIPSCO requests a waiver of the 60 day notice requirements pursuant to Section 35.3 of the Commission's Rules of Practice and Procedure to permit the proposed rate to become effective October 27, 1979. Notice of the filing was issued on October 25, 1979. No comments, protests or petitions to intervene were received.

CIPSCO's W-2 full requirements rate schedule is currently in effect subject to refund. The lawfulness of the W-2 rate schedule is at issue in Docket No. ER78-80. The presiding administrative law judge issued an initial decision in Docket No. ER78-80 on July 26, 1979. Briefs on exceptions to the initial decision were filed on October 1, 1979, and the proceeding is now before the Commission.

The Commission in its order initiating the proceeding in Docket No. ER78-80 found that CIPSCO's W-2 rate schedule proposed in this docket had not been shown to be just and reasonable and that it might be unjust, unreasonable, unduly discriminatory or otherwise unlawful. It is therefore appropriate to suspend the rate schedule proposed by CIPSCO in this docket and consolidate this docket with Docket No. ER78-80.

The Commission will accept for filing the proposed new wholesale electric service agreement between Central Illinois Public Service Company and the City of Marshall, Illinois and suspend the proposed rate for one day from the proposed effective date of October 27, 1979 to allow the proposed rate to go into effect as of October 28, 1979 subject to refund.[2]

The Commission orders:

(A) The request of Central Illinois Public Service Company for waiver of the sixty day notice requirement is hereby granted.

(B) Central Illinois Public Service Company's proposed rate is hereby accepted for filing and suspended for one day to become effective as of October 28, 1979, subject to refund pending the Commission's decision in Docket No. ER78-80.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-39272 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP 80-105]

Columbia Gulf Transmission Co.; Application

December 14, 1979.

Take notice that on November 26, 1979, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP80-105 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221(c) of the Commission's Rules for a certificate of public convenience and necessity authorizing the transportation of natural gas for other interstate pipelines, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it requests blanket authorization to transport

[1] CIPSCO provided electric service to Marshall prior to October 27, 1979 pursuant to the terms of a service agreement dated May 12, 1969. This agreement expired October 26, 1979.

[2] Rate schedule designation: *Central Illinois Public Service Company* Service Agreement under FPC Electric Tariff, Original Volume No. 2. (Supersedes Rate Schedule FPC No. 65.)

natural gas on behalf of other interstate pipelines for periods up to two years. It is further stated that Applicant would comply with the provisions and reporting requirements of Section 284.221 of the Commission's Rules.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 2, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-39273 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-45]

Eastern Shore Natural Gas Co.; Third-Party Protests [1]

December 18, 1979

Take notice that on December 14, 1979, in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B [2], and "Order on Rehearing of Order No. 23-B," [3] the staff of the Commission (Staff) filed a third-party protest contesting the assertion by Eastern Shore Natural Gas Company (Eastern Shore) as buyer and Dover Exploration Company (Dover) as seller that the contracts identified in its protest constitute contractural authority for Dover to charge and collect maximum lawful prices under section 102(c)(1)(C) of the Natural Gas Policy Act of 1978 (NGPA).

Staff states in its protest that the language of the contract dated October 5, 1976, does not constitute authority for the Dover to collect more than the maximum lawful applicable under section 104 of the NGPA. *See* Appendix A.

Any person, other than Eastern Shore and Dover, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before January 3, 1980, a petition to intervene in accordance with 18 CFR § 1.8. Dover need not file a petition to intervene because under 18 CFR § 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,

Secretary.

Appendix A

October 5, 1976.

Gas Purchase Contract Between Dover Exploration Co. as Seller and Eastern Shore Natural Gas Co. as Buyer

Article X

Price

1. Subject to the other provisions of this agreement, Buyer shall pay Seller the initial price of $1.42 per Mcf for all gas delivered hereunder, based on measurements made in accordance with Article II of the Exhibit "C". This price shall be increased each calendar quarter at the rate of one cent ($0.01) per Mcf per quarter. This initial base price shall be adjusted for BTU content above or below 1,000 per cubic foot.

In the event that the price of natural gas subject to this agreement ceases to be subject to regulation by the Federal Government, the provisions of this paragraph 1 of this Article shall be open for renegotiation by Buyer and Seller.

2. If, at any time during the term of this agreement, the Federal Power Commission (or any governmental authority having jurisdiction in the premises) shall prescribe, in an area rate proceeding, a statement of general policy, a rulemaking proceeding, or comparable proceeding, for the area in which gas is delivered hereunder, a rate which is applicable to the gas involved herein and higher than the price herein provided to be paid, then the price to be paid by Buyer to Seller for gas delivered or for which payment is due hereunder shall be increased to equal such higher rate, effective as of the date such higher rate is made effective.

In the event the provisions of this paragraph 2 of Article X are activated, the price or prices thereby established shall remain in effect for a period of one year each from their effective dates unless they are earlier increased under paragraph 1 of this Article X or the preceding of this paragraph 2. At the end of said one-year period and each one year thereafter for the remaining term of this agreement, the price shall increase four cents ($0.04).

FR Doc. 79-39274 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-107]

El Paso Natural Gas Co.; Application

December 14, 1979

Take notice that on November 26, 1979, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP80-107 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing certain arrangements with its California customers during the period through April 30, 1980, for the purpose of diverting gas from its California customers in order to assist in protecting Applicant's east-of-California (EOC) customers' Priority 1 and 2 service requirements, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant states that it has entered into a letter agreement with Southern California Gas Company (So Cal) dated November 9, 1979, and a letter agreement with Pacific Gas and Electric Company (PG and E) dated November 15, 1979, which provide for arrangements designed to allow Applicant to fulfill its EOC customers' peak day Priority 1 and 2 requirements during the 1979-80 heating season. Such arrangements, hereinafter referred to as the "California Back-off" arrangements, would permit Applicant to divert from its otherwise scheduled deliveries to So Cal and/or to PG and E during the 1979-

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[1] The term "third-party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

80 heating season, such quantities of gas, not to exceed 200,000 Mcf daily from each company, as are required for use in protecting EOC Priority 1 and 2 service, it is asserted. Such diversions from otherwise scheduled deliveries to So Cal and/or PG and E would only be imposed on those peak days during the 1979–80 heating seasons when the quantities of gas otherwise available for service to Applicant's EOC customers, as augmented by maximum withdrawals from Applicant's Rhodes Reservoir and Clay Basin Interim Storage projects, are not alone sufficient to protect full service to the EOC customers' Priority 1 and 2 requirements, it is asserted. Additionally, it is stated that diversions of gas from otherwise scheduled deliveries to either So Cal or PG and E under the back-off arrangements can only be made during periods when, in that California customer's sole judgement, no impairment would result in (i) its ability to meet the requirements of service, including storage operations, to its high priority customers and those of its wholesale customers; (ii) its ability to maintain service levels to its remaining customers as required by the Public Utilities Commission of the State of California; or (iii) its ability to meet its obligations to the other California customer of Applicant pursuant to that certain contract between them dated August 31, 1965, as amended or superseded. It is stated that diversions of gas from otherwise scheduled deliveries to either California customer are not to exeed a cumulative net total of 2,000,000 Mcf at any one time.

Applicant further states that the in-kind restoration (pay-back) to So Cal and/or PG and E by Applicant of gas diverted from either or both of those customers under the back-off arrangements would be accomplished as soon as operationally possible after the diversions to which the pay-back relates through the withdrawals from Applicant's Rhodes Reservoir storage facility, and secondly from Applicant's Clay Basin Interim Storage facility.

It is stated that in consideration of the respective participation of PG and E and So Cal in such California back-off arrangements, Applicant would reduce its monthly billings to each of those customers by an amount equal to $1.06 per Mcf (in the case of So Cal) and $1.52 Mcf (in the case of PG and E), multiplied by the volumes actually diverted from otherwise scheduled deliveries to that California customer during the preceeding month.

Further, each agreement provides that none of the cost incurred by Applicant would be allocated in any of Applicant's rate proceedings to the cost of rendering service to its California customers, and that any Commission order authorizing the instant proposal must so specifically provide.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 2, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10).. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-39275 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2743, Terror Lake]

Kodiak Electric Association, Inc.; Intent To Prepare Environmental Impact Statement and Notice of Scoping Meeting

December 17, 1979.

An application has been filed with the Federal Energy Regulatory Commission by the Kodiak Electric Association, Inc., for a major Federal license for the construction and operation of the proposed Terror Lake Hydroelectric Project, FERC No. 2743, Kodiak Island, Alaska. This project would affect lands of Alaskan Natives, the State of Alaska, and Federal lands under the administration of the Departments of the Interior and Transportation. The application was mailed out for agency review and comment on July 12, 1979. The Commission's staff has determined that issuance of the proposed license would be a major Federal action significantly affecting the quality of the human environment. The staff therefore intends to prepare an environmental impact statement in accordance with the National Environmental Policy Act. Possible alternatives to the proposed action will be addressed fully in the environmental impact statement. Presently, the alternatives include no action or continued use of diesel generation.

Representatives from several Federal, State, and local agencies, as well as the public, participated in meetings conducted by the staff in Kodiak, Alaska, on August 14 and 17, 1979, to discuss the proposed Terror Lake project and the environmental impacts expected from its development. As a continuation and in furtherance of the scoping process already initiated by the staff, interested persons are invited to participate in a scoping meeting to be convened by the staff at 10:00 a.m. on January 22, 1980 in room 9306 of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The meeting will be recorded by a stenographer.

The primary goal of this meeting is to encourage affected parties to assist the staff in determining the scope of and identifying the significant issues to be analyzed in depth in the environmental impact statement; and identifying and eliminating from detailed study issues which are not significant or which have been covered by prior environmental review.

The Commission staff will identify, and requests that interested persons also identify, the significant issues that should be addressed in the environmental impact statement. If you are unable to send a representative to this meeting you are encouraged to provide detailed comments by mail. If we do not receive your comments by January 18, 1980, we will assume that you have no further comments concerning the issues to be discussed in depth in the environmental impact statement.

Questions concerning the proposed action and the environmental impact statement should be directed to: Mr. Eddie Crouse, Federal Energy

Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 at (202) 376–4010.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–39276 Filed 12–20–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP80–104]

Mississippi River Transmission Corp.; Application

December 14, 1979.

Take notice that on November 23, 1979, Mississippi River Transmission Corporation (Applicant), P.O. Box 14521, St. Louis, Missouri 63124, filed in Docket No. CP80–104 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for United Gas Pipe Line Company (United), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has entered into a gas transportation agreement with United dated October 5, 1979, which would provide for the receipt, by Applicant on a best-efforts basis, of up to 20,000 Mcf per day of natural gas made available by United at the outlet side of the Woodlawn Field processing plant of Dorchester Gas Processing Company located in Harrison County, Texas. It is further stated that Applicant would redeliver equivalent quantities to United at Applicant's Perryville Compressor site located in the Monroe Field, Ouachita Parish, Louisiana, by reducing quantities of gas Applicant would otherwise receive from United at that point under a separate purchase arrangement.

Applicant states that the proposed transportation would provide United with an immediate means of receiving natural gas, purchased from East Texas Industrial Gas Company, into its system without a substantial investment in additional facilities. It is further stated that other sales and services now rendered by Applicant would not be affected.

Applicant proposes to charge United 22.73 cents per Mcf for providing the transportation service and would retain 1.0 percent of the quantities received as compensation for fuel and company-use gas. It is stated that any imbalances would be corrected during the month following the month in which such imbalances occur.

Applicant states that the primary term of the transportation agreement is for two years from the date of initial delivery and year-to-year thereafter.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–39277 Filed 12–20–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER80–124]

Missouri Utilities Co.; Filing

December 17, 1979.

The filing Company submits the following:

Take notice that Missouri Utilities Company on December 7, 1979, tendered for filing an "Electric Service Agreement" in accordance with the changes heretofore filed in its FPC Electric Tariff, Volume No. 1, 3rd Revised Sheets.

The proposed contract provides the mechanism by which Missouri Utilities Company can provide electric wholesale power to the City of Jackson, Missouri, on and after March 2, 1980, upon the termination of its existing Electric Service Agreement with the City of Jackson.

Copies of the filing were served upon Missouri Utilities Company's jurisdictional customer, to-wit the City of Jackson, Missouri.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before January 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–39278 Filed 12–20–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER80–125]

Missouri Utilities Co.; Termination and Cancellation

December 17, 1979.

The filing Company submits the following:

Take notice that Missouri Utilities Company (MUCO) on December 7, 1979, tendered for filing a Notice of Termination and Cancellation of the Electric Service Agreement between the City of Jackson, Missouri and MUCO.

MUCO indicates that the agreement will terminate under its own terms on March 2, 1980 and states that the City of Jackson was given Notice of Termination in accordance with the terms of the Contract on February 28, 1979.

Notice of the proposed cancellation has been served upon the Honorable Carlton Meyer, Mayor of the City of Jackson, City Hall, 225 S. High, Jackson, Missouri 63755, and upon the Honorable Charles F. Wheatley, Jr., Wheatley & Wollesen, Suite 1112, Watergate Office Building, 2600 Virginia Avenue NW., Washington, D.C. 20037, attorney of record for the City of Jackson.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before January 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-39279 Field 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-117]

Mountain Fuel Supply Co.; Application

December 17, 1979.

Take notice that on November 30, 1979,[1] Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP80-117 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for a certificate of public convenience and necessity for blanket authorization to transport natural gas on behalf of other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport natural gas for other interstate pipeline companies. It states that it would comply with § 284.221(d) of the Commission's Regulations under the NGPA.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-39280 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-118]

Mountain Fuel Resources, Inc.; Application

December 17, 1979.

Take notice that on November 30, 1979,[1] Mountain Fuel Resources, Inc. (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP80-118 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for a certificate of public convenience and necessity for blanket authorization to transport natural gas on behalf of other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket certificate authorization to transport natural gas for other interstate pipeline companies. It states that it would comply with Section 284.221(d) of the Commission's Regulations under the NGPA.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-39281 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP70-7 (Phase II)]

Southern Natural Gas Co.; Petition To Amend

December 14, 1979.

Take notice that on November 14, 1979, Southern Natural Gas Company (Petitioner), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP70-7 (Phase II) a petition to amend the order issued October 29, 1969,[1] as amended, in the instant docket, pursuant to Section 7 of the Natural Gas Act so as to authorize an increase in contract

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[1] The application was initially tendered for filing on November 30, 1979, however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until December 4, 1979, thus filing was not completed until the latter date.

[1] The application was initially tendered for filing on November 30, 1979; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until December 4, 1979; thus filing was not completed until the latter date.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

demand volume sales of natural gas to Atlanta Gas Light Company (Atlanta), the delivery of such additional gas at the delivery point formerly used to serve the City of Bowdon, Georgia, and the deletion of authorization to sell natural gas to the City of Bowdon, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the order issued on October 29, 1969, authorized Petitioner, *inter alia,* to sell and deliver to the City of Bowdon, Georgia, a maximum delivery obligation of 1,457 Mcf per day. It is further stated that on September 27, 1979, Atlanta received approval from the Georgia Public Service Commission to purchase the City of Bowdon's natural gas distribution system and for the assignment to Atlanta of Petitioner's service agreement with the City of Bowdon.

It is stated that Petitioner's maximum delivery obligation to the City of Bowdon of 1,457 Mcf per day was assigned to Atlanta. Petitioner, therefore, proposes to: (1) increase Atlanta's contract demand volumes with Petitioner from 744,535 Mcf per day to 745,992 Mcf per day, (2) add as a delivery point to Atlanta for service to the City of Bowdon the former delivery point of the City of Bowdon, and (3) abandon the sale of gas to the City of Bowdon.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-39282 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP77-620]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., Petition To Amend

December 14, 1979.

Take notice that on November 15, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP77-620 a petition to amend the order issued November 14, 1977, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of a maximum daily quantity of 600 Mcf of natural gas for the account of Burlington Industries, Inc. (Burlington) for an additional two-year period commencing November 22, 1979, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued November 14, 1977, Petitioner was authorized to transport up to 1,000 Mcf of gas per day for Burlington, which gas Burlington owns as a participant in an oil and gas exploration development joint venture operated by C & K Petroleum Company. The transportation service, as authorized, was for a period of two years from the date of initial deliveries, it is stated. Petitioner now requests an extension of this transportation service for an additional two-year period commencing November 21, 1979, and for a maximum daily quantity of 600 Mcf per day.

Petitioner states the transportation service would be performed pursuant to a contract between it and Burlington. Petitioner asserts that the contract provides for Burlington to pay Petitioner each month:

(1) A demand charge to be determined by multiplying 7.0 cents by the specified maximum daily transportation quantity; and

(2) A monthly volume charge equal to the product of 93.0 cents per Mcf multiplied by the greater of (a) the total scheduled daily volumes delivered during such month or (b) the minimum monthly volume determined by multiplying the number of days in such month by 66⅔ percent of the specified maximum daily transportation quantity.

Petitioner states the transportation service would enable Burlington to receive natural gas to offset curtailments in sales and deliveries which Transcontinental Gas Pipe Line Corporation is forced to make.

Petitioner states no new facilities are required to continue the transportation service, nor would the service have any impact on any existing service now rendered by it.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-39283 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Correction

In FR Doc. 37066 appearing at page 69340 in the issue for Monday, December 3, 1979, on page 69352, in the third column, in the third line, "7. 108" should read "7. 148".

BILLING CODE 1505-01-M

[Docket No. GP80-40]

El Paso Natural Gas Co.; Extension of Time

Take notice that on December 17, 1979, the Federal Energy Regulatory Commission's Director of the Office of Pipeline and Producer Regulation (Director) granted relief to El Paso Natural Gas Company for the time period in which it is required to mail third party protests to affected sellers pursuant to Section 154.94(j)(4)(iii). The extension of time to December 21, 1979, is granted pursuant to the authority delegated to the Director in 18 C.F.R. § 3.5(f)(5).

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

[FR Doc. 79-39131 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-43]

Northern Natural Gas Co.; Extension of Time

Take notice that on December 17, 1979, the Federal Energy Regulatory Commission's Director of the Office of Pipeline and Producer Regulation (Director) granted relief to Northern Natural Gas Company for the time period in which it is required to mail third party protests to affected sellers pursuant to Section 154.94(j)(4)(iii). The extension of time to December 24, 1979, is granted pursuant to the authority delegated to the Director in 18 CFR § 3.5(f)(5).

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

[FR Doc. 79-39130 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed; Week of October 5, 1979, Through October 12, 1979

Notice is hereby given that during the week of October 5, 1979 through October 12, 1979, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

December 14, 1979

Melvin Goldstein,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of Oct. 5 through Oct. 12, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 5, 1979	Davis & Forbes, Washington D.C	BRD-0004, BRH-0004.	Motions for Discovery and Evidentiary Hearing. If granted: An evidentiary hearing would be convened and discovery would be granted to Davis & Forbes with respect to its Statement of Objections submitted in response to the Proposed Remedial Order.
Oct. 5, 1979	J. Hus Hawkins, Acadia Parish, La	BEE-0085	Price Exception (Section 212.73). If granted: J. Hus Hawkins would be permitted to sell the crude oil produced from the L. Johnson Lease, located in Acadia Parish, Louisiana, at upper tier ceiling prices.
Jan. 9, 1979	Leonard E. Belcher, Inc., Springfield, Mass	BMR-0003	Request for Modification. If granted: The January 18, Decision and Order issued to Leonard E. Belcher, Inc., would be modified.
Oct. 9, 1979	Long Beach Gas Department, Long Beach, Calif	BEE-0082	Exception to Reporting Requirements. If granted: Long Beach Gas Department would not be required to file Parts III and IV of Form EIA-149, "Natural Gas Supply, Distribution and Usage."
Oct. 9, 1979	Lunday-Thagard Oil Company, South Gate, Calif	BEX-0002	Supplemental Order. If granted: The DOE would review the entitlements exception relief granted to Lunday-Thagard Oil Company during its fiscal year ended June, 30, 1979, in order to determine whether the level of relief accorded the firm was appropriate.
Oct. 9, 1979	Occidental Petroleum Corp./The Permian Corporation, Washington, D.C.	BEX-0001	Supplemental Order. If granted: The Stay issued in the October 3, 1979, Decision & Order (Case Nos. DEL-8112, DES-8112) to Energy Cooperative, Inc., would be extended to October 31, 1979.
Oct. 9, 1979	Vickers Petroleum Corporation, Wichita, Kans	BED-0005	Motion for Discovery. If granted: Discovery would be granted to Vickers Petroleum Corporation with respect to information contained in Highway Oil, Inc.'s, Application for Exception (Case No. DEE-6872).
Oct. 9, 1979	W. E. Schroeder, Wharton County, Tex	BEE-0088	Price Exception (Section 212.73). If granted: W. E. Schroeder would be permitted to sell the crude oil produced from the J. B. Ferguson Lease, located in Wharton County, Texas, at upper tier ceiling prices.
Oct. 10, 1979	City of Douglas, Douglas, Ga	BEE-0115	Exception to Reporting Requirements. If granted: The City of Douglas would not be required to file Form EIA-149 "Natural Gas Supply, Distribution, and Usage."
Oct. 10, 1979	Crown Central Petroleum Corporation, Baltimore, Md.	BEA-0007	Appeal of Assignment Order. If granted: The August 24, 1979, Assignment Order issued by the Economic Regulatory Administration, Office of Petroleum Operations, to Kerr-McGee Corporation with regard to Crown Central Petroleum Corporation's supply obligations of motor gasoline to the firm would be rescinded.
Oct. 10, 1979	DeMier Oil Operating, Inc., Miami, Okla	BEE-0002	Price Exception (Section 212.73). If granted: DeMier Oil Operating, Inc., would be permitted to sell the crude oil which the firm produces at upper tier ceiling prices.
Oct. 10, 1979	West Texas Gas, Inc., Midland, Tex	BEE-0097	Exception to Reporting Requirements. If granted: West Texas Gas, Inc., would not be required to file Form EIA-149 "Natural Gas Supply, Distribution and Usage."
Oct. 10, 1979	Young Refining Corporation Washington, D.C	BMR-0004	Request for Modification/Rescission. If granted: The June 19, 1979, Supplemental Order issued to Young Refining Corporation would be modified with respect to the firm's entitlements purchase obligations under the provisions of 10 CFR 211.67.
Oct. 11, 1979	City of Dublin, Dublin, Ga	BEE-0108	Exception to Reporting Requirements. If granted: The City of Dublin would not be required to file Form EIA-149, "Natural Gas Supply, Distribution and Usage."
Oct. 11, 1979	Eagle Oil Company, Waurika, Okla	BEE-0095	Allocation Exception. If granted: Eagle Oil Company would receive and exception from the provisions of 10 CFR 211, permitting the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 11, 1979	HRW Systems, Inc., Bethesda, Md	BEE-0109	Allocation Exception. If granted: HRW Systems, Inc., would receive an exception from the provisions of 10 CFR 211, permitting the firm to receive an increased allocation of No. 2 fuel oil.
Oct. 11, 1979	Pester Refining Company, Des Moines, Iowa	BES-0007	Request for Stay. If granted: The July 10, 1979, Interim Decision and Order (Case No. DEN-3188) issued to Midland Energy Corporation would be stayed with respect to Pester Refining Company's supply obligations to the firm.
Oct. 11, 1979	Rookwood Oil Company, Cincinnati, Ohio	BEE-0102	Allocation Exception. If granted: Rookwood Oil Company would be granted an exception from the provisions of 10 CFR 211, permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 11, 1979	Scott Paper Company, Philadelphia, Pa	BEE-0099 BES-0099.	Exception to Reporting Requirements. If granted: Scott Paper Company would not be required to file Form EIA-149, "Natural Gas Supply, Distribution and Usage." The firm would receive a stay pending a determination of Scott Paper Company's application for exception.
Oct. 12, 1979	Fulbright & Jaworski, Washington, D.C	BFA-0021	Appeal of Information Request Denial. If granted: The DOE's September 4, 1979, Information Request Denial issued by the Office of Petroleum Price Regulations would be rescinded and Fulbright & Jaworski would receive access to certain DOE documents regarding natural gas liquids or natural gas liquid products.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Oct. 5 through Oct. 12, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 12, 1979	Exxon Company, U.S.A., Washington, D.C.	BEA-0020 BES-0020.	Appeal of Assignment Order and Request for Stay. If granted: The Assignment Order issued by DOE Region I on September 12, 1979, directing Exxon Company, U.S.A., to supply Elm City Filling Stations, Inc., with No. 2 heating oil would be rescinded.
Oct. 12, 1979	North Tahoe-Truckee Gasoline Retailers, San Francisco, Calif.	BEE-0124	Price Exception. If granted: North Tahoe-Truckee Gasoline Retailers would be granted an exception from the provisions of 10 CFR 212, permitting the firm to sell motor gasoline above the applicable ceiling price.
Oct. 12, 1979	Peerless Petrochemicals, Inc., Washington, D.C.	BEE-0116	Allocation Exception. If granted: Peerless Petrochemicals, Inc., would receive an exception from the provisions of 10 CFR 211.65, permitting the firm to receive an increased allocation of crude oil through the Buy/Sell Program.
Oct. 9, 1979	Great River Gas Company, Hannibal, Mo	BEE-0087	Exception to Reporting Requirements. If granted: Great River Gas Company would not be required to file Form EIA-149, "Natural Gas Supply, Distribution and Usage."
Oct. 9, 1979	Ajo Improvement Company, Ajo, Ariz.	BEE-0086	Exception to Reporting Requirements. If granted: Ajo Improvement Company would not be required to file Form EIA-149, "Natural Gas Supply, Distribution and Usage."
Oct. 9, 1979	Natural Gas System, Elberton, Ga	BEE-0083	Exception to Reporting Requirements. If granted: Natural Gas Systems would not be required to file Form-149, "Natural Gas Supply, Distribution and Usage."
Oct. 9, 1979	Miles Farm Supply, Inc., Owensboro, Ky	BEE-0089	Allocation Exception. If granted: Miles Farm Supply, Inc., would be granted an exception from the provisions of 10 CFR 211, permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.

Notices of Objection Received

[Week of Oct. 5 to Oct. 12, 1979]

Date	Name and location of applicant	Case No.
10/9/79	Meek, William J., Jr., Hurst, Tex.	BEO-0011
10/5/79	Little America Refining Company, Evansville, Wyo.	DEE-7391
10/9/79	Huntington Corner Grocery, Camand Island, Wash.	BEO-0012
10/10/79	Gateway Texaco, San Francisco, Calif.	DEE-5550
10/10/79	Thomas Oil Company, Tallahassee, Fla.	DEE-2312
10/10/79	Fields Field Company, Beauregard Parish, La.	DEE-3706
10/10/79	Arnold Sheil, Arnold, Calif.	DEE-7478
10/10/79	Commodities Exchange Center, Inc., New York City, N.Y.	BEO-0017
10/10/79	Faith Oil Company, Oxnard, Calif.	BEO-0016
10/10/79	Bolduc Service Centers, Inc., Indian Orchard, Mass.	DEE-4670
10/10/79	Baxter's Marathon Service, Inc., Indianapolis, Ind.	BEO-0014
10/11/79	Quick Six #3 and Quick Six #9, Longmont, Colo.	DEE-6536, DEE-6537

Notices of Objection Received—Continued

[Week of Oct. 5 to Oct. 12, 1979]

Date	Name and location of applicant	Case No.
10/12/79	Fitzgerald's Gulf Service, Petersburg, Fla.	BEO-0019

[FR Doc. 79-39120 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of October 12, 1979 Through October 19, 1979

Notice is hereby given that during the week of October 12, 1979 through October 19, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

December 14, 1979.

List of Cases Received by the Office of Hearings and Appeals

[Week of Oct. 12 through Oct. 19, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 12, 1979	E. I. Du Pont de Nemours and Company, Wilmington, Del.	BEE-0156, BEE-0199.	Exception to the Emergency Building Temperature Restrictions. If granted: E. I. Du Pont de Nemours and Company would receive an Exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Oct. 15, 1979	Ashland Oil/Koch Refining Company, Washington, D.C.	BEH-0006, BED-0006.	Motion for Discovery and Motion for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened with respect to Mobil Oil Corporation's appeal of three assignment orders (Case Nos. DEA-0235, DEA-0387, and DEA-0589).
Oct. 15, 1979	Atlantic Richfield Company, Los Angeles, Calif.	BEE-0123	Allocation Exception. Price Exception. If granted: Atlantic Richfield Company would receive an exception from the provisions of 10 CFR 212.83, permitting the firm to pass through incremental expenses relating to the blending, storage, distribution and marketing of gasohol. The firm would also receive an exception to the provisions of 10 CFR 211, permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 15, 1979	Casson, Calligaro and Mutryn, Washington, D.C.	BFA-0019	Appeal of Information Request Denial. If granted: The September 13, 1979, Information Request Denial issued by the Economic Regulatory Administration, Office of Enforcement, Region VI, to Casson, Calligaro and Mutryn, would be rescinded, and the firm would be granted access to certain DOE documents.
Oct. 15, 1979	Ethanol Corporation, Los Angeles, Calif.	BEE-0119	Allocation Exception. If granted: Ethanol Corporation would receive an exception from the provisions of 10 CFR 211, permitting the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 16, 1979	Calhoun Engineers, Inc., Dallas, Tex.	BEE-0138	Price Exception. If granted: Calhoun Engineers, Inc., would receive an exception from the provisions of 10 CFR 212, with respect to increased product costs as applied to gas plant operators.
Oct. 16, 1979	Marvel Heat Corporation, Boston, Mass.	BEE-0231	Exception to Reporting Requirements. If granted: Marvel Heat Corporation would not be required to file Form EIA-9.
Oct. 16, 1979	New York State Office for the Aging, Albany, N.Y.	BEE-0129	Emergency Building Temperature Restrictions. If granted: The New York State Office for the Aging would receive an exception from the provisions of the Emergency Building Temperature Restrictions (10 CFR Part 490).
Oct. 16, 1979	Price, Waterhouse, and Company, Washington, D.C.	BFA-0022	Appeal of Information Request Denial. If granted: The Information Request Denial issued by the Office of Enforcement to Price Waterhouse and Company would be rescinded, and the firm would receive access to certain DOE documents.
Oct. 16, 1979	Southwestern Refining Company, Washington, D.C.	BEE-0136	Allocation Exception. If granted: Southwestern Refining Company would receive an exception from the provisions of 10 CFR 211.67, with respect to the firm's entitlements purchase obligations.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Oct. 12 through Oct. 19, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 16, 1979	Southwestern Refining Company, Washington, D.C.	BES-0005	Request for Stay. If granted: Southwestern Refining Company would receive a stay of the provisions of 10 CFR 211.67, regarding its entitlement purchase obligations.
Oct. 16, 1979	William N. Tipka, Dover, Ohio	BEE-0131	Exception to Reporting Requirements. If granted: William N. Tipka would not be required to file Form EIA-23.
Oct. 17, 1979	Pedco, Cincinnati, Ohio	BEE-0145	Allocation Exception. If granted: Pedco would receive an exception from the provisions of 10 CFR 211, permitting the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 17, 1979	New York State Energy Office, Albany, N.Y.	BFA-0023	Appeal of Information Request Denial. If granted: The September 23, 1979, Information Request Denial issued by the Economic Regulatory Administration, Office of Petroleum Operations, to the New York State Energy Office would be rescinded, and certain DOE documents would be disclosed.
Oct. 17, 1979	Systems Technology Corporation, Xenia, Ohio	BFA-0024	Appeal of Information Request Denial. If granted: The October 5, 1979, Information Request Denial issued by the Economic Regulatory Administration, Office of Fuel Conversion, to Systems Technology Corporation would be rescinded, and the firm would receive access to certain DOE documents.
Oct. 18, 1979	Boswell Oil, et al., Washington, D.C.	BRD-0084	Motion for Discovery. If granted: Discovery would be granted to Boswell Oil, et al., with respect to a Proposed Remedial Order issued to Ashland Oil, Inc. (Case No. DRO-0084).
Oct. 18, 1979	Gas Appliance Manufacturers Association, Inc., Arlington, Va.	BEE-0153	Exception to Test Procedures. If granted: Gas Appliance Manufacturers Association, Inc., would receive an exception from the provisions of 10 CFR Part 430, permitting it to modify the energy efficiency test procedures applicable to vented home heating equipment.
Oct. 18, 1979	Mallard Resources, Inc., Houston, Tex	BES-0008, BST-0008.	Request for Stay and Temporary Stay. If granted: Mallard Resources, Inc., would receive a Stay and Temporary Stay from the provisions of 10 CFR 211.67, with respect to the firm's entitlements purchase obligations.
Oct. 19, 1979	Dow Chemical U.S.A., Midland, Mich	BEE-0055	Allocation Exception. If granted: Dow Chemical U.S.A. would receive an exception from the provisions 10 CFR 211, permitting the firm to maintain its status as a "small refiner".
Oct. 19, 1979	Nelson Oil Company, Lenoir, N.C.	BEE-0144	Allocation Exception. If granted: Nelson Oil Company would be granted an exception from the provisions of 10 CFR 211, permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 19, 1979	Teledyne Laars and Raypak, Inc., Glendora, Calif.	BES-0009	Request for Stay. If granted: Teledyne Laars and Raypak, Inc., would receive a Stay from the provisions of 10 CFR Part 430, permitting the firms to modify the energy efficiency test procedures applicable to finned copper tube type boilers pending a final determination of the firms' Application for Exception (Case No. DEE-03439).

Notices of Objection Received

[Week of October 12, 1979 through October 19, 1979]

Date	Name and location of applicant	Case No.
10/11/79..	Laketon Asphalt Refining Co., Evansville, IN.	DXE-6986
10/12/79..	Fitzgerald's Gulf Service, Petersburg, FL.	BEO-0019
10/12/79..	Miramar Shell, Miramar, FL	BEO-0018
10/15/79..	Chevron U.S.A. Inc., San Francisco, CA.	DEE-7939
10/15/79..	DeLozier Chevron, Decatur, GA	DXE-6067
10/15/79..	Diamond Gas & Fuel Co., Englewood, CO.	DEE-2248
10/15/79..	Finnegan's Inc., Washington, DC	BEO-0027
10/15/79..	Gordon Mandt's Arco, Tacoma, WA	BEO-0024
10/15/79..	Laketon Asphalt Refining, Inc. Evansville, IN.	DXE-6986
10/15/79..	Melrose Park Shell, Fort Lauderdale, FL.	BEO-0023
10/15/79..	Mockus, Walter, Addison, IL	BEO-0021
10/15/79..	Monarch Products Ltd., Milwaukee, WI.	DEE-3668
10/15/79..	Wally's Arco, Arlington Heights, IL	BEO-0022
10/16/79..	Atlantic Richfield Co., Houston, TX	DXE-7864
10/16/79..	Gulf Oil Corporation, Houston, TX	BEO-0026
10/16/79..	Siesta Shell Service, Tampa, FL	BEO-0025
10/17/79..	Florida Studio Theatre, Sarasota, FL.	BEO-0031
10/17/79..	Miller-Claborn Oil Company, Texarkana, AR.	DEE-4183
10/17/79..	Nick's Gulf, Rockland, MA	DEE-7303
10/17/79..	Schrader's Arco, Lester, PA	BEO-0030
10/18/79..	Community Interfaith Services, Inc., Wintersville, OH.	BEO-0033
10/18/79..	Independent Oil & Tire Co., Elyria, OH.	DEE-4273
10/18/79..	Southern Hills DX, Tulsa, OK	BEO-0028
10/18/79..	Staffeldt, Gary, Oswego, IL	BEO-0032
10/19/79..	Abraham Oil Company, Austin, TX	DEE-7397
10/19/79..	Bryn Mawr & Ashland Standard, Chicago, IL.	BEO-0036
10/19/79..	Kingsport Publishing Corp., Kingsport, TN.	DEE-4955
10/19/79..	Morgan Oil Co., Bloomfield, Iowa	BEO-0034
10/19/79..	Quik Serv Marts, Inc., Riviera Beach, FL.	BEO-0035
10/25/79..	Patrick, Herbert H., Washington, DC	DEE-3656

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of October 12 Through October 19, 1979

If granted: The following firms would receive an exception which would increase their base period allocation of motor gasoline.

October 12, 1979

Blair Service Station, BEE-0121, California.
Loma Rica Store, BEE-0075, California.
Lubrizol Corporation, BEE-0125, Ohio.
Sullivan Drive Texaco, BEE-0117, Louisiana.

October 15, 1979

Black's Shell Service, BXE-0128, South Carolina.
New Jersey Bell, BEE-0118, New Jersey.
Sissie Car Wash, Inc., BXE-0127, Arizona.

October 16, 1979

Dale & Vern's, BEE-0135, California.
Dixon Motor Co., BEE-0130, Maryland.
H.L. Mills Petroleum Products, BXE-0139, District of Columbia.
Malibu Petroluem, BEE-0137, California.
Reeves, Ray W., BXE-0132, Georgia.
Schultz Oil Co., BEE-0134, Minnesota.
Wood County Electric Coop., BEE-0133, Texas.

October 17, 1979

Bargeron Grocery, BEE-0143, Georgia.
H & H Manhatten Shell, BXE-0141, New York.
Hudson Police Department, BEE-0146, New Hampshire.
John's Service Center, BEE-0147, California.
Lake Oil Company, BEE-0150, Iowa.
Lloyd R. Crais Oil, Inc., BXE-0149, Louisiana.
MacCullum Service Inc., BEE-0148, District of Columbia.
McDaniel's Grocery & Meat Market, BXE-0276, Texas.
Pine Grove Exxon, BXE-0278, California.

October 18, 1979

Imperial Refineries, Corp., BEE-0154, Missouri.
Lindsay Cadillac Co., BEE-0152, Virginia.
Peck's Arco Mini Mart, BXE-0142, California.

October 19, 1979

Vredenburg, Lance E., BEE-0155, New York.

Items Retrieved, 27.

[FR Doc. 79-39121 Filed 12-20-79; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; November 9, 1979, Through November 16, 1979

Notice is hereby given that during the week of November 9, 1979 through November 16, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of

publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: December 14, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Notices of Objection Received

[Week of November 9, 1979 through November 16, 1979

Date	Name and location of applicant	Case No.
11/13/79..	Bill's Automotive, Los Angeles, CA	DEE-6710
11/13/79..	58 Highway Shell, Chattanooga, TN.	BEO-0127
11/13/79..	Kingsville Exxon, Kingsville, OH	BEO-0128
11/13/79..	Mallard Resources, Inc., Washington, DC.	DEE-6318
11/13/79..	Pittsburg & Midway Coal Mining, Denver, CO.	BEO-0130, BEO-0131
11/13/79..	Shoreline Texaco, San Francisco, CA.	BEE-6710
11/13/79..	Tri-Car Petroleum, Inc., Washington, DC.	DEE-5457
11/13/79..	Wash and Dry, Hialeah, FL	BEO-0129
11/14/79..	American Auto Salvage, Riverview, FL.	BEO-0132
11/14/79..	James M. Borg, Rohnert Park, CA	DEE-4240
11/14/79..	Bryn-Mawr-Ashland Standard, Chicago, IL.	BEO-0148
11/14/79..	Chief's Gift Shop, Cottontown, TN	BEO-0145
11/14/79..	Citizen Tribune, Morristown, TN	BEO-0138
11/14/79..	Colonial Shell, Sarasota, FL	BEO-0136
11/14/79..	E. I. Dupont de Nemours & Co., Wilmington, DE.	BEE—0156 through BEE—0199, BEE—0235
11/14/79..	Ernie's General Store, Inc., Stockton, CA.	DEE-3763
11/14/79..	Fort Pierce Tomato Growers, Fort Pierce, FL.	BEO-0147
11/14/79..	George's Chevron Service, Silverdale, WA.	BEO-0146
11/14/79..	Green Spring Chevron, Birmingham, AL.	BEO-0135
11/14/79..	Haynes Mobile Service, Hartford, MI	BEO-0141
11/14/79..	Holiday Foods, Inc., Des Moines, WA.	BEO-0133
11/14/79..	Jimbo's Fast Food, Baton Rouge, LA.	BEO-0137
11/14/79..	Laurel Texaco, Inc., Laurel, MD	BEO-0142
11/14/79..	M. L. Mayfield, Houston, TX	DEE-1957
11/14/79..	McCall Marketing Co., Los Angeles, CA.	DEE-7887
11/14/79..	Quick Six Standard, Edwardsville, IL	BEO-0134
11/14/79..	Rudolphs, Inc., Yoakum, TX	DEE-3056
11/14/79..	Simpson County Fiscal Court, Franklin, KY.	BEO-0139
11/14/79..	Thurston Fertilizer Co., Paducah, KY.	BEO-0144
11/15/79..	Cash 'N' Dash, Nevada, MO	BEO-0151
11/15/79..	Goodall Shell Service, Dearborn, MI	BEO-0150
11/15/79..	Keaton's Shell Service, Chicago, IL.	BEO-0149
11/15/79..	U.S. Oil Co., Washington, DC	DEE-3174, DEE-6387
11/15/79..	Village Mini Market, Pittsburgh, PA	BEO-0152
11/16/79..	Arzie's Arco, Hollister, CA	BEO-0153
11/16/79..	W.L. File, Salisbury, NC	BEO-0154
11/16/79..	Kanes Furniture Corp., St. Petersburg, FL.	BEO-0157
11/16/79..	G & M Fuel Oil Co., Inc., Stowe, PA	BEO-0158
11/16/79..	M-B Food Corp., Knoxville, TN	BEO-0156
11/16/79..	Thompson Irrigation, Inc., Paducah, KY.	BEO-0159

List of Cases Received by the Office of Hearings and Appeals

[Week of Nov. 9 through Nov. 16, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 9, 1979	Chevron U.S.A. Inc., Washington D.C	BEA-0054	Appeal of Assignment Orders. If granted: The October 19, 1979, Assignment Orders issued by the Economic Regulatory Administration to Fina Jobbers Association, Inc., would be rescinded with respect to the following firms' supply obligations to American Petrofina, Inc.: Chevron U.S.A. Inc., Exxon Company, U.S.A., Getty Refining and Marketing Company, Marathon Oil Company, Mobil Oil Corporation, and Tosco.
Nov. 13, 1979	Champlin Petroleum Company, Corpus Christi, Tex.	BEE-0321	Price Exception. If granted: Champlin Petroleum Company would receive an exception from the provisions of 10 CFR 212.83, which would permit the firm to sell motor gasoline at prices above the applicable ceilings.
Nov. 13, 1979	Exxon Company, U.S.A., Houston, Tex	BEA-0053	Appeal of Assignment Order. If granted: The October 19, 1979, Order for the Redirection of Product issued to Exxon Company, U.S.A., by the Economic Regulatory Administration Region IV Office of Petroleum Operations regarding Exxon's supply obligations to Suncoast Oil Company would be rescinded.
Nov. 13, 1979	Exxon Company, U.S.A., Washington, D.C.	BEA-0058	Appeal of Assignment Order. If granted: The October 15, 1979, Assignment Order issued to Exxon Company, U.S.A., by the Economic Regulatory Administration Region IV Office of Petroleum Operations regarding Exxon's supply obligations to Publix Oil Company would be rescinded.
Nov. 13, 1979	Gulf Energy Development Corporation, Dallas, Tex.	BRD-0014	Motion for Discovery. If granted: Discovery would be granted to Gulf Energy Development Corporation with respect to the firm's Statement of Objections submitted in response to the August 6, 1979, Proposed Remedial Order issued to it by the Economic Regulatory Administration.
Nov. 13, 1979	Gulf Energy Refining Corporation, Washington, D.C.	BEA-0060, BEA-0061.	Appeals of Inventory Adjustments. If granted: The October 11, 1979, Order issued to Gulf Energy Refining Corporation by the Economic Regulatory Administration which suspended all start-up inventory adjustments and the Entitlements Notice for August 1979, would be modified and the firm would receive a start-up inventory adjustment for its refinery in Brownsville, Texas.
Nov. 13, 1979	La Gloria Oil & Gas Company, Houston, Tex	BEA-0056, BES-0056.	Appeal of Assignment Order, Request for Stay. If granted: The October 11, 1979, Assignment Order issued to La Gloria Oil & Gas Company by the Economic Regulatory Administration Region VII Office of Petroleum Operations regarding La Gloria's supply obligations to American Agri-Fuels Corporation would be rescinded, and a Stay would be granted pending a final determination on the Appeal.
Nov. 13, 1979	Mobil Oil Corporation, Washington, D.C	BEA-0057	Appeal of Assignment Order. If granted: The October 11, 1979, Assignment Order issued to Mobil Oil Corporation by the Economic Regulatory Administration Region VII Office of Petroleum Operations regarding Mobil's supply obligations to American Agri-Fuels would be rescinded.
Nov. 13, 1979	Mobil Oil Corporation, Washington, D.C	BEJ-0001	Protective Order. If granted: A Protective Order would be issued in order to ensure the confidentiality of certain information provided to Mobil Oil Corporation by Koch Refining Company and Ashland Refining Company pursuant to Mobil's appeals regarding the Canadian Crude Oil Allocation Program (Case Nos. DEA-0235, DEA-0387, and DEA-0589).
Nov. 13, 1979	Total Petroleum, Inc., Detroit, Mich	BEL-0017, BES-0017, BST-0017.	Temporary Exception, Request for Stay, Request for Temporary Stay. If granted: Total Petroleum, Inc., would receive a Temporary Exception from the provisions of 10 CFR 212.83, which would permit the firm to pass through incremental expenses relating to the blending, storage, distribution and marketing of gasohol. The firm would also receive a Stay and Temporary Stay pending a final determination on its application for Temporary Exception.
Nov. 13, 1979	Texaco, Inc., White Plains, N.Y	BEA-0052	Appeal of Assignment Order. If granted: The October 11, 1979, Assignment Order issued to Texaco, Inc., by the Economic Regulatory Administration Region VII Office of Petroleum Operations regarding Texaco's supply obligations to American Agri-Fuels Corporation would be rescinded.
Nov. 13, 1979	Sinclair Marketing, Inc., Washington, D.C.	BEA-0059, BES-0059, BST-0059.	Appeal of Assignment Order, Request for Stay, Request for Temporary Stay. If granted: The October 11, 1979, Assignment Order issued to Sinclair Marketing, Inc., by the Economic Regulatory Administration Region VII Office of Petroleum Operations regarding Sinclair's supply obligation to American Agri-Fuels Corporation would be rescinded, and a Stay and Temporary Stay would be granted pending a final determination on the Appeal.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Nov. 9 through Nov. 16, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 13, 1979	Vickers Petroleum Corporation, Wichita, Kans.	BEA-0055, BES-0055, BST-0055.	Appeal of Assignment Order, Request for Stay, Request for Temporary Stay. If granted: The October 11, 1979, Assignment Order issued to Vickers Petroleum Corporation by the Economic Regulatory Administration Region VII Office of Petroleum Operations regarding Vickers' supply obligations to American Agri-Fuels Corporation would be rescinded. Vickers Petroleum Corporation would also receive a Stay and Temporary Stay of the Assignment Order pending a determination on its Appeal.
Nov. 14, 1979	American Petrofina, Inc., Dallas, Tex	BEX-0008	Supplemental Order. If granted: A Supplemental Order would be issued clarifying orders issued to Fina Jobbers Association, Inc., and American Petrofina, Inc., on August 29, 1979, and September 14, 1979.
Nov. 14, 1979	Cliff Adams, d.b.a. Adams' Exxon *et al.* Washington, Pa.	BRR-0011	Request for Modification/Rescission. If granted: The September 12, 1979, Interlocutory Order issued by the Office of Hearings and Appeals regarding Interim Remedial Orders for Immediate Compliance issued to Cliff Adams, d.b.a. Adam's Exxon, *et al.*, would be modified.
Nov. 14, 1979	Exxon Company, U.S.A., Washington, D.C.	BEA-0063	Appeal of Assignment Order. If granted: The October 12, 1979, Assignment Order issued to Exxon Company, U.S.A., by the Economic Regulatory Administration Region IV Office of Petroleum Operations regarding Exxon's supply obligations to Publix Oil Company would be rescinded.
Nov. 14, 1979	Getty Refining and Marketing Company, Tulsa, Okla.	BEA-0062	Appeal of Assignment Order. If granted: The October 11, 1979, Assignment Order issued to Getty Refining and Marketing Company by the Economic Regulatory Administration Region VII Office of Petroleum Operations regarding Getty's supply obligations to American Agri-Fuels Corporation would be rescinded.
Nov. 14, 1979	M. J. Mitchell, Dallas, Tex	BXE-0342	Extension of relief granted in *M. J. Mitchell*, 3 DOE Par. (July 30, 1979). If granted: M. J. Mitchell would be permitted to continue to sell the crude oil produced from Well No. 1, located in Campbell County, Wyoming, at upper tier ceiling prices.
Nov. 14, 1979	Northern Natural Gas Company, Washington, D.C.	BSG-0004	Petition for Special Redress. If granted: The September 27, 1979, Notice of Probable Violation issued by the Office of Enforcement regarding Northern Natural Gas Company's sales of natural gas liquids would be rescinded.
Nov. 14, 1979	Red Rock Petroleum Company, Inc., Oklahoma City, Okla.	BEE-0337	Allocation Exception. If granted: Red Rock Petroleum Company, Inc., would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 14, 1979	Reserve Oil, Inc., Carbon County, Utah	BEE-0325	Price Exception. If granted: Reserve Oil, Inc., would receive an exception from the provisions of 10 CFR 212, which would permit the firm to sell the crude oil produced from the Jack Canyon field, located in Carbon County, Utah, at upper tier ceiling prices.
Nov. 14, 1979	Schaeffer Oil, Inc., Winner, S. Dak	BEE-0326	Allocation Exception. If granted: Schaeffer Oil, Inc., would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 14, 1979	Tomahawk Oil Company, Hiawatha, Kans.	BEE-0331	Allocation Exception. If granted: Tomahawk Oil Company would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 15, 1979	Board of Public Works, Bamberg, S.C.	BEE-0344	Exception from the Reporting Requirements. If granted: The Board of Public Works would not be required to complete and submit Form EIA-149 ("Natural Gas Supply, Requirements and Usage").
Nov. 15, 1979	City of Long Beach, Long Beach, Calif.	BXE-0341	Extension of relief granted in *City of Long Beach*, 3 DOE Par. (July 31, 1979). If granted: The City of Long Beach would be permitted to continue to sell the crude oil produced from the Wilmington Oil Field, located in Los Angeles County, California, at upper tier ceiling prices.
Nov. 15, 1979	Gulf Oil Corporation, Logan County, Colo.	BXE-0350	Extension of relief granted in *Gulf Oil Corporation*, 3 DOE Par. (September 9, 1979). If granted: Gulf Oil Corporation would be permitted to continue to sell the crude oil produced from the NW Graylin "D" Sand Unit, located in Logan County, Colorado, at upper tier ceiling prices.
Nov. 15, 1979	Occidental Petroleum Corporation and Permian Corporation, Los Angeles, Calif.	BEX-0009	Supplemental Order. If granted: The October 3, 1979, Decision and Order issued to Energy Cooperative, Inc., regarding the supply obligations of Occidental Petroleum Corporation and the Permian Corporation to Energy Cooperative, Inc., would be modified.
Nov. 15, 1979	Pennzoil Producing Company, Tinsley, Miss.	BXE-0348	Extension of relief granted in *Pennzoil Producing Company*, 3 DOE Par. (July 9, 1979). If granted: Pennzoil Producing Company would be permitted to continue to sell the crude oil produced from the Woodruff Sand Waterflood Unit, located in Tinsley Field, Mississippi, at upper tier ceiling prices.
Nov. 15, 1979	Welsh Oil Company, Gary, Ind.	BEE-0360	Allocation Exception. If granted: Welsh Oil Company would receive an exception from the provisions of 10 CFR 211, which would permit the firm to receive an allocation of unleaded gasoline for the purpose of blending gasohol.
Nov. 16, 1979	C&B Warehouse Distributing, Inc., Virginia, Minn.	BEA-0064	Appeal of Assignment Order. If granted: The Assignment Order issued by the Economic Regulatory Administration Region VII Office of Petroleum Operations to Phillips Petroleum Company, supplier or C&B Warehouse Distributing, Inc., regarding Phillips' supply obligations to American Agri-Fuels Corporation would be rescinded.
Nov. 16, 1979	Chevy Chase Exxon, Chevy Chase, Md	BEE-0346	Price Exception. If granted: Chevy Chase Exxon would receive an exception from the provisions of 10 CFR 212.93, which would permit the firm to sell motor gasoline at prices above the applicable ceilings.
Nov. 16, 1979	Long Point Marina, Bemus Point, N.Y.	BEE-0347	Price Exception. If granted: Long Point Marina would receive an exception from the provisions of 10 CFR 212.93, which would permit the firm to sell motor gasoline at prices above the applicable ceilings.
Nov. 16, 1979	Mobil Oil Corporation, Washington, D.C.	BED-0015	Motion for Discovery. If granted: Discovery would be granted to Mobil Oil Corporation with respect to the firm's Appeals regarding the Canadian Crude Oil Allocation Program (Case Nos. DEA-0235, DEA-0387, DEA-0589).
Nov. 16, 1979	Standard Oil Company of Indiana, Chicago, Ill.	BMR-0012	Request for Modification/Rescission. If granted: The July 19, 1978, Decision and Order issued to Standard Oil Company of Indiana (Amoco), would be modified to permit Amoco to exclude certain base period costs associated with recently divested marketing assets from the calculation of its maximum allowable prices for propane.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of November 9 Through November 16, 1979

If Granted: The following firms would receive an exception which would increase their base period allocation of motor gasoline.

November 13, 1979

Crites Oil Company, BEE–0324, Texas.
Greenwood Petroleum, Co., BXE–0323, South Carolina.

November 14, 1979

Joe Rayl, Inc., BEE–0327, Missouri.
McDuff Exxon, BXE–0330, Florida.

November 16, 1979

Academy Service Station, BEE–0355, Massachusetts.
Adams, Erwin, BEE–0353, Ohio.
Lincoln Coach Lines, BEE–0354, Pennsylvania.
Mission Car Care, BEE–0351, California.
Pickering Petroleum Co., BEE–0356, Massachusetts.
Rogers Oil Company, BEE–0358, Georgia.
Wahl, Carl H., BEE–0352, Texas.

[FR Doc. 79–39122 Filed 12–20–79; 8:45 am]

BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Week of November 12 Through November 16, 1979

Notice is hereby given that during the week of November 12, 1979 through November 16, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Within 20 days after publication of this notice, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). Within 30 days of the publication of this notice, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown

All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

December 14, 1979.

Proposed Remedial Orders

Crescent Refining and Oil Co., Petroleum Fuel Co., Los Angeles, Calif., BRO–0155, fuel oil.

On November 16, 1979, the Crescent Refining and Oil Company; Petroleum Fuel Company (Crescent), 2404 East 28th Street, Los Angeles, California 90058, filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on September 28, 1979. In the Proposed Remedial Order the Western District found that during the period September 1, 1973 to October 31, 1975, Crescent violated the DOE price regulations with respect to certain resales of fuel oil in the State of California. According to the Proposed Remedial Order the Crescent violation resulted in $514,454.03 of overcharges.

Harmar Marina, Harmarville, Pa., BRO–0143, motor gasoline.

On November 14, 1979, Harmar Marina, 2526 Wenzel Drive, Harmarville, PA 15238, filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement, Pittsburgh Audit Office, issued to the firm on October 29, 1979. In the Proposed Remedial Order, the Northeast District found that during the period August 1, 1979 to August 29, 1979, Harmar Marina sold regular motor gasoline at prices in excess of the maximum lawful selling price. According to the Proposed Remedial Order, the Harmar Marina violation resulted in $456 of overcharges.

Steven Toth, Kenmore, N.Y., BRO–0140, motor gasoline

On November 14, 1979, Steven Toth d/b/a Professional Towing, 3174 Delaware Avenue, Kenmore, New York 14217 filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on October 9, 1979. In the Proposed Remedial Order the Northeast District found that during the period August 2, 1979 to October 2, 1979 Steven Toth sold motor gasoline at a price exceeding the maximum allowable price as specified by the DOE motor gasoline price regulations. According to the Proposed Remedial Order the Toth violation resulted in $866.20 of overcharges.

[FR Doc. 79–39119 Filed 12–20–79; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1378–4; OPP–50446]

Issuance of Experimental Use Permit

The Environmental Protection Agency (EPA) has issued an experimental use permit to the following applicant. Such a permit is in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 21137–EUP–3. EM Laboratories, Inc., Elmsford, NY 10523. This experimental use permit allows the use of 137 pounds of the plant growth regulator methyl 2-chloro-9-hydroxyfluorene-9-carboxylate, methyl 9-hydroxyfluorene-9-carboxylate, and methyl 2,7-dichloro-9-hydroxyfluorene-9-carboxylate on cucumbers to evaluate its ability to induce seedless fruit set in all-female cultivars of pickling cucumbers. A total of 1,365 acres is involved; the program is authorized only in the States of Arkansas, California, Colorado, Delaware, Florida, Georgia, Maryland, Michigan, Minnesota, Nebraska, North Carolina, Ohio, South Carolina, Texas, and Wisconsin. The experimental use permit is effective from March 19, 1980 to March 19, 1981. A temporary tolerance for residues of the active ingredient in or on cucumbers has been established. (PM–25, Robert Taylor, Room: E–359, Telephone: 202/755–2196)

Interested parties wishing to review the experimental use permit are referred to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for the permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: December 14, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79–39094 Filed 12–20–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1379–6]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A–104), U.S. Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements (EISs) which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of December 10 to December 14, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from December 21, 1979 and will end on February 4, 1980. The 30-day review period for final EIS's as calculated from December 21, 1979 will end on January 21, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice, you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request, you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For hard copy reproduction: Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, D.C. 20036.

For hard copy reproduction or microfiche: Information Resources Press, 2100 M Street, NW, Suite 316, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, (202) 245–3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ Regulations became effective. Pursuant to § 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS received during the week of December 10, 1979 to December 14, 1979 the 30-day review period will be calculated from December 21, 1979. The review period will end on January 21, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of December 10, 1979 to December 14, 1979. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this Notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: December 18, 1979.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A–104)

Appendix I—EIS's Filed With EPA During the Week of December 10, 1979, Through December 14, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A Admin. Building, Washington, D.C. 20250, (202) 447–3965.

Forest Service

Final

Chetco-Grayback Planning Unit, Siskiyou National Forest, Curry, Josephine, and Del Norte Counties, Oreg., December 10: Proposed is a land management plan for the Chetco-Grayback Planning Unit Located in the Siskiyou National Forest in Josephine, Curry, and Del Norte Counties, California. Five alternatives are considered. The preferred alternative includes: (1) A high level of timber harvest, (2) protection of the Illinois River which has been recommended for inclusion in the National Wild and Scenic River System, (3) reserve of wilderness for recreation and other uses, (4) recreational opportunities, and (5) protection and management of other resources (USDA–FS–R6–FES–(ADM)–79–2). Comments made by: USDA, DOT, DOE, FERC, EPA, HUD, DOI, State and Local Agencies, Groups, Individuals and Businesses. (EIS Order No. 91236.)

Rural Electrification Administration

Final

Colorado-Ute Coal-Fired Powerplant, Craig Unit 3, Moffat County, Colo., December 14: Proposed is the awarding of a loan guarantee for the construction of a 400-MW coal-fired steam-electric generating unit, to be known as Craig Unit 3, located at Craig Station on the Yampa River, in Moffat County, Colorado. The unit will produce approximately 400 MW of power with fuel being supplied from local coal reserves and water from the Yampa River. Some transmission system modifications will be made to an existing line. (USDA–REA–EIS–(ADM)–79–10–F). Comments made by: COE, EPA, DOT, FERC, USDA, DOI, State Agencies. (EIS Order No. 91254.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.

Draft

Jacksonville Harbor, Mill Cove, Navigation, Duval County, Fla. December 14: Proposed is a navigation, flow and circulation improvement project for Jacksonville Harbor (Mill Cove) located in Duval County, Florida. The project would include: (1) Widening the existing weir at the eastern end of Quarantine Island, (2) use of excavated material to form dikes to facilitate construction of a groin-type structure at the southeastern end of Quarantine Island, (3) excavation and filling of about 14 acres of the disposal island, and (4) construction of a small boat navigation channel. (Jacksonville District). (EIS ORDER No. 91250.)

East Bay Marina, Olympia Harbor, Budd Inlet, Thurston County, Wash., December 10: Proposed is the construction of the East Bay Marina located in Olympia Harbor, Budd Inlet in the City of Olympia, Thurston County, Washington. The marina would include moorage for 800 boats with recreational facilities on the floating breakwater. Included is the filling of 24.2 acres for a cargo handling area for the Port of Olympia. The alternatives consider 10 different marina sites and five marina plans at the selected site in addition to no action and dryland storage. (Seattle District) (EIS Order No. 91232.)

Final

Louisville Lake, Little Wabash River Basin, Clay and Effingham Counties, Ill., December 12: Proposed is the development of Louisville Lake as a multipurpose project for flood control, water supply, general recreation, and fish/wildlife related recreation in Clay and Effingham Counties, Illinois. Elements of the project would include a multipurpose impoundment with associated structures, general recreation areas and wildlife mitigation areas. Louisville Lake would be created by the construction of a dam on the Little Wabash River. The total land required is approximately 20,950 acres. (Louisville district). Comments made by: DOE, EPA, FERC, USDA, DOT, DOC, HEW, State agencies, individuals. (EIS Order No. 91242.)

Lockwoods Folly Inlet, Brunswick County, N.C., December 14: Proposed is the modification of an existing navigation project at Lockwoods Folly Inlet, Brunswick County, North Carolina. Plans consist of deepening the existing channel to 12 feet by a channel excavation-sand bypassing system with the

disposal of excavated material in the surf zone of Long Beach at a distance of 1 to 1.5 miles from the inlet. The alternatives consider: (1) Dredging of the inlet with construction of one or two jetties, (2) various channel depths by sidecast dredge, and (3) no project (Wilmington District). Comments made by: EPA, DOI, DOC, USDA, HEW, State agencies, groups and individuals. (EIS Order No. 91253.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Ms. Barbara Taylor, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–2307.

Draft

Steuben Lakes WWT Systems, Cast Study No. 4, Steuben County, Ind., December 14: Proposed is a wastewater treatment plan for the Steuben Lakes Regional Waste District located in Steuben County, Indiana. The recommended action is the limited action alternative and includes: (1) Site specific analysis of onsite system, (2) repair and renovation of on-site systems, (3) management of the on-site systems by a Small Waste Flows District, and (4) continued monitoring of surface water quality as well as ground water quality. (EIS Order No. 91248.)

City of Portage WWT Facilities, Columbia County, Wis., December 11: Proposed is the replacement of the existing wastewater treatment plant on the Fox River with a new one adjacent to the Wisconsin River in the City of Portage, Columbia County, Wisconsin. A new interceptor would be built to the plant eliminating five existing lift stations. The new plant would have a design capacity of 2.6 million gallons per day and would provide secondary treatment by rotating biological contractors prior to chlorination and discharge to the Wisconsin River. (EIS Order No. 91239.)

Contact: Ms. Norma Hughes, EPA Headquarters, Office of Water Programs Operation, Marine Protection Branch, 401 M Street Southwest, Washington, D.C. 20460, (202) 245–3051.

Draft

N.Y. Bight Acid Waste Disposal site Designation, New York, December 14, 1979: Proposed is the designation of the New York Bight Acid Waste Disposal Site for continuing use, which is used by two industries in the New Jersey Area. The alternatives consider: (1) No action, (2) use of the existing site, and (3) use of the 106-mile chemical waste disposal site and the northern and southern areas near the Hudson Canyon. (EIS Order No. 91249.)

GREAT LAKES BASIN COMMISSION

Contact: Mrs. Lee Botts, Chairman, Great Lakes Basin Commission, P.O. Box 999, 3475 Plymouth Road, Ann Arbor, Michigan 48106, (313) 668–2300, FTS 8 378–2300.

Draft

Hazardous Materials Strategy, Great Lakes Basin, several, policy, December 10: Proposed is a policy statement concerning the management and control of hazardous materials and guard public health, lakes, streams, the Great Lakes and groundwater resources in the Great Lakes region. The alternatives consider: (1) The status quo, (2) the recommended action which emphasizes full and timely implementation of existing laws and programs and recommends new programs in a few cases, and (3) the high risk assumption which emphasizes maximum efforts to eliminate or minimize risks of hazardous materials. (EIS Order No. 91221.)

Great Lakes Basin Water Quality Plan, several, policy, December 10: Proposed is a water quality plan for the Great Lakes Basin region. The plan is a statement of regional policy concerning all pollutant sources on the Great Lakes and their tributaries. The alternatives consider: (1) No additional measures to control point and nonpoint sources of pollution, (2) implementation of best available treatment technologies to reduce pollutant inputs from all sources to minimal levels, and (3) implementation of those measures which are cost-effective in reducing pollutant inputs to the lakes. (EIS Order No. 91231.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–6306.

Section 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Staten Island Industrial Park, CDBG, New York, December 13: Proposed is the development of the Staten Island Industrial Park, New York. The site consists of approximately 777 acres. The alternatives considered are: (1) No action, (2) development of the Charleston area of Staten Island, (3) partial development totaling 547 acres and the creation of a tidal wetland corridor along Saw Mill Creek, and (4) full development. (EIS Order No. 91243.)

Final

South Chattanooga CBD Improvement (UDAG), Hamilton, Tenn., December 10: Proposed is the awarding of a UDA grant for the improvement of the south Chattanooga CBD in the City of Chattanooga, Hamilton County, Tennessee. The project will encompass a 20.2 acre site and will include an industrial trade center; street, sewer, and utility improvements; a 2,000 space parking garage; a pedway system, central mall, open space, and landscaping; a TVA computer center and office complex; a major hotel facility; and an office tower and parking garage. Comments made by: EPA, TVA, State and local agencies. (EIS Order No. 91235.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Building, Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Bureau of Reclamation

Draft

Salmon Falls Division, Snake River, Twin Falls and Cassia Counties, Idaho, December 14: Proposed is the construction of an irrigation and wildlife project in the Salmon Falls Division of the Upper Snake River Project. The Salmon Falls Division is located in the Counties of Twin Falls and Cassia, Idaho. The project would provide a water supply from the Snake River and would include: (1) Three pumping plants, (2) a well field, (3) a 47 mile main channel, (4) various other canals, (5) laterals and wasteways, (6) powerlines and (7) drainage facilities. (EIS Order No. 91247.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, (202) 426–4357.

Federal Highway Administration

Draft

I–75 Reconstruction, Northside Drive to I–285, Fulton and Cobb Counties, Ga., December 14: Proposed is the widening and reconstruction of I–75 from four lanes to eight lanes between Northside Drive and I–285 in Fulton and Cobb counties, Georgia. Also included would be the rebuilding of the following five interchanges: (1) Northside Drive, (2) Howell Mill Road, (3) Moores Mill Road, (4) West Paces Ferry Road, and (5) Mt. Paran Road. The entire highway section which extends 7.75 miles would continue to be a grade separated limited access highway facility. (FHWA–GA–EIS–79–03–D) (EIS Order No. 91244.)

US 27/GA–1, Chickamauga-Chattanooga NP, Walker and Catoosa Counties, Ga., December 14: Proposed is the improvement or relocation of US 27/GA–1 through the Chickamauga-Chattanooga National Military Park in Walker and Catoosa Counties, Georgia. The project begins 1,500 feet south of the southern boundary of the park on US 27 to either the proposed extension of the new GA–2 or extension of US 27 and the old GA–2. The length of the project varies from 3.27 to 5.85 miles and would be a free access, rural or urban section. (FHWA–GA–EIS–79–01–D) (EIS Order No. 91245.)

N. Rome Bypass, Redmond Rd./W. 14th St. Extension, Floyd County, Ga., December 14: Proposed is the extension of either Redmond Road or West 14th Street, commonly known as the North Rome Bypass, located in Floyd County, Georgia. The alternatives considered include: (1) The extension of Redmond Road from US 27/GA–1 to relocated GA–53, (2) the extension and upgrading of West 14th Street from US 27/GA–1 to relocated GA–53, and (3) no build. (FHWA–GA–EIS–79–04–D) (EIS Order No. 91246.)

Draft

East-West Expressway, Hampton and Newport News, Va., December 11: Proposed is the construction of a four-lane divided urban highway to be known as the East-West Highway within the Cities of Newport News

and Hampton, Virginia. The project would begin at the intersection of route 17/143 (Jefferson Avenue) and Route 306 (Harpersville Road) in Newport News and terminate at the intersection of Little Back River Road and Clemwood Parkway in Hampton. The alternatives include no-build, a highway transit alternative, and four construction alternatives. Two different tie-in configurations are under consideration at the eastern terminus. (FHWA–VA–EIS–79–04–D) (EIS Order No. 91237.)

Final

Port Everglades Expressway, Construction, Broward County, Fla.: This proposal concerns construction of Port Everglades Expressway which would extend approximately 8 miles from FL–817 (University Drive) to the proposed FL–A1A in Broward County, Florida. The facility is proposed as a limited access, six and eight lane expressway in the FL–84 corridor. Five alternatives are considered, all of which extend from FL–817 on the west to FL–A1A on the east. The project lengths of these alignments range from approximately 7.3 miles to 8.1 miles. (FHWA–FLA–EIS–78–5–F). Comments made by: DOI, DOT, HEW, USDA, EPA, State and local agencies. (EIS Order No. 91234.)

Rt. 9, Cedar Pl. to Beach Rd., Village of Ossining, Westchester County, N.Y. December 10: Proposed is the improvement of a mile-long portion of Rt. 9 from Cedar Place to Beach Road in the Village of Ossining, Winchester County, New York. The limits of the project include most of the length of NY–5482 and all of NY–9266 and NY–1890. Within these limits Rt. 9 presently has one traffic lane in each direction. In addition to no build, three design alternatives are considered. (FHWA–NY–EIS–76–03–F). Comments made by: DOT, DOC, FPC, NRC, EPA, DOI, COE, HEW, State and local agencies, groups and businesses. (EIS Order No. 91233.)

Final

US 2, Surry to Souris River and Towner to Rugby, Ward, McHenry, and Pierce Counties, N. Dak., December 11: The proposed project is the construction of a two-lane roadway parallel to the existing roadway on US 2 from Surry to the Souris River crossing and from Towner to Rugby in Ward, McHenry and Pierce Counties, North Dakota. The project would provide a four-lane divided highway approximately 46 miles long. The proposed improvement requires purchasing additional right of way. The existing roadway will remain in place to serve as part of the four lane facility (FHWA–ND–EIS–78–03–F). Comments made by: COE, DOI, USDA, NWF, EPA, State and local agencies. (EIS Order No. 91238.)

US 176, Union City to existing US 176, Spartanburg and Union Counties, S.C., December 14: Proposed is the improvement of US 176 from the City of Union in Union County to the point where US 176 becomes a four-lane highway in Spartanburg County. The total length of the project is 19.6 miles. Several alternative alignments are actively being considered. Three of these alternatives consist of widening the existing highway, constructing a highway on new location, and widening the existing highway with bypasses constructed around the towns of Pacolet and Jonesville (FHWA–SC–EIS–77–01–F). Comments made by: EPA, COE, DOI, DOT, State and local agencies. (EIS Order No. 91251.)

TN–153/FAU 603, Hixon Connector to Southern RR, Hamilton County, Tenn., December 14: The proposed action is the construction of TN–153/FAU 603 in Hamilton County and within the City of Chattanooga, Tennessee. The project begins at the interchange of FAU 603 and the Hixon Pike Connector south of Hamill Road and extends northeastward across existing TN–153 to the Southern Railroad. The alternatives consider: (1) No action, (2) an alternative alignment, (3) lower level of service, and (4) public transportation (FHWA–TN–EIS–77–01–F). Comments made by: TVA, EPA, DOT, HEW, DOI, State and local agencies. (EIS Order No. 91252.)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Harry G. Moore, Jr., Acting Director, Division of Environmental Planning, Tennessee Valley Authority, 268 401 Building, Chattanooga, Tennessee 37401, (615) 755–3161 FTS 854–3161.

Final

Crownpoint Uranium Mining Project, McKinley County, N. Mex., December 12: The proposed action involves the construction of a mine at the Crownpoint project located in McKinley County, New Mexico. The proposed action is threefold: The approval by DOI of new leases at the project; approval of the mine and reclamation plans for uranium mines constructed and operated by Mobile Oil Corporation; and participation by the TVA with Mobile in the construction and operation of these mines. Conventional underground mining is planned as the primary method to extract the uranium ore with possible situ leaching employed in some areas. This EIS has been prepared jointly by TVA and USDI. Comments made by: AHP, DOT, HEW, DLAB, USDA, NRC, DOI, EPA, HUD, State and local agencies, individuals and businesses. (EIS Order No. 91242.)

VETERANS ADMINISTRATION

Contact: Mr. Willard Sitler Director, Office of Environmental Affairs (004A), Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, (202) 389–2526.

Final

VA Medical Center, Hospital Addition, Seattle, King County, Washington, December 12: Proposed is the construction of a 515-bed hospital as an addition to the Seattle VA Medical Center in King County, Washington. Alternative 1 proposes remodeling/new construction as follows: (1) Major remodeling/complete utilization of existing facilities plus limited additional new space, (2) minimal remodeling/complete utilization of existing facilities plus limited additional new space, and (3) partial abandonment/minimal remodeling of existing space plus major addition of new space. Alternative 2 involves replacement of existing facilities and new construction. Comments made by: DOI, DOE, EPA, HUD, GSA, State and local agencies, groups and individuals. (EIS Order No. 91240.)

EIS's Filed During the Week of December 10 Through 14, 1979

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Colorado	Moffat	Final	Colorado-Ute Coal-Fired Powerplant, Craig Unit 3	91254	12–14–79	USDA.
Florida	Broward	Final	Port Everglades Expressway, Construction	91234	12–10–79	DOT.
	Duval	Draft	Jacksonville Harbor, Mill Cove, Navigation	91250	12–14–79	COE.
Georgia	Catoosa	Draft	U.S. 27/GA–1, Chickamauga-Chattanooga NP	91245	12–14–79	DOT.
	Cobb	Draft	I–75 Reconstruction, Northside Drive to I–285	91244	12–14–79	DOT.
	Floyd	Draft	N. Rome Bypass, Redmond Rd./W. 14th St. Extension.	91246	12–14–79	DOT.
	Fulton	Draft	I–75 Reconstruction, Northside Drive to I–285	91244	12–14–79	DOT.
	Walker	Draft	U.S. 27/GA–1, Chickamauga-Chattanooga NP	91245	12–14–79	DOI.
Idaho	Cassia	Draft	Salmon Falls Division, Snake River	91247	12–14–79	DOI.
	Twin Falls	Draft	Salmon Falls Division, Snake River	91247	12–14–79	DOI.
Illinois	Clay	Final	Louisville Lake, Little Wabash River Basin	91241	12–12–79	COE.
	Effingham	Final	Louisville Lake, Little Wabash River Basin	91241	12–12–79	COE.
Indiana	Steuben	Draft	Steuben Lakes WWT Systems, Case Study No. 4	91248	12–14–79	EPA.
New Mexico	McKinley	Final	Crownpoint Uranium Mining Project	91242	12–13–79	TVA.
New York		Draft	Staten Island Industrial Park, CDBG	91243	12–13–79	BUD.
		Draft	N.Y. Bight Acid Waste Disposal Site Designation	91249	12–14–79	EPA.
	Westchester	Final	Rt. 9, Cedar Pl. to Beach Rd., Village of Ossining	91233	12–10–79	DOT.
North Carolina	Brunswick	Final	Lockwoods Folly Inlet	91253	12–14–79	COE.
North Dakota	McHenry	Final	U.S. 2, Surry to Souris River and Towner to Rugby	91238	12–11–79	DOT.
	Pierce	Final	U.S. 2, Surry to Souris River and Towner to Rugby	91238	12–11–79	DOT.
	Ward	Final	U.S. 2, Surry to Souris River and Towner to Rugby	91238	12–11–79	DOT.

EIS's Filed During the Week of December 10 Through 14, 1979—Continued

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Oregon	Curry	Final	Chetco-Grayback Planning Unit, Siskiyou NF	91236	12-10-79	USDA.
	Del Norte	Final	Chetco-Grayback Planning Unit, Siskiyou NF	91236	12-10-79	USDA.
	Josephine	Final	Chetco-Grayback Planning Unit, Siskiyou NF	91236	12-10-79	USDA.
Policy		Draft	Hazardous Materials Strategy, Great Lakes Basin	91221	12-10-79	GLBC.
		Draft	Great Lakes Basin Water Quality Plan	91231	12-10-79	GLBC.
Several		Draft	Hazardous Materials Strategy, Great Lakes Basin	91221	12-10-79	GLBC.
		Draft	Great Lakes Basin Water Quality Plan	91231	12-10-79	GLBC.
South Carolina	Spartanburg	Final	U.S. 176, Union City to Existing U.S. 176	91251	12-14-79	DOT.
	Union	Final	U.S. 176, Union City to Existing U.S. 176	91251	12-14-79	DOT.
Tennessee	Hamilton	Final	South Chattanooga CBD Improvement (UDAG)	91235	12-10-79	HUD.
		Final	TN-153/FAU 603, Hixon Connector to Southern RR.	91252	12-14-79	DOT.
Virginia		Draft	East-West Expressway, Hampton and Newport News.	91237	12-11-79	DOT.
Washington	King	Final	VA Medical Center, Hospital Addition, Seattle	91240	12-12-79	VA.
	Thurston	Draft	East Bay Marina, Olympia Harbor, Budd Inlet	91232	12-10-79	COE.
Wisconsin	Columbia	Draft	City of Portage WWT Facilities	91239	12-11-79	EPA.

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
U.S. ARMY CORPS OF ENGINEERS					
Mr. Richard Makinen, Office of Environmental Policy, Attn: Daen-cwr-p, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue N.W., Washington, D.C. 20314, (202) 272-0121	Marco Island/Vicinity Wetlands Development, Permit, Collier County, Fla.	Draft 90980	Oct. 28, 1979	Extension	See below.

The termination of the review period for this EIS has been postponed indefinitely until further notification from the COE. COE Contact: Dr. Moulding, Jacksonville District, 8-946-2286.

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No.	Date notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
None.				

[FR Doc. 79-39184 Filed 12-20-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1380-2]

Science Advisory Board Executive Committee; Open Meeting

As required by Pub. L. 92-463 notice is hereby given that a meeting of the Executive Committee of the Science Advisory Board will be held beginning at 9 a.m., January 9 and 10, 1980, in the Administrator's Conference Room (Room 1101 West Tower), EPA Headquarters, 401 M Street, SW., Washington, D.C.

The agenda includes a report by the Technology Assessment and Pollution Control Advisory Committee on Hazardous Waste Control Technology; report of the Environmental Measurements Advisory Committee on Monitoring of Hazardous Waste Sites; a briefing on the use of scientific information in the development of Hazardous Wastes Regulations; a briefing/discussion with the Hazardous Wastes Research Committee; a review of the Agency's Five Year Research Plan with special emphasis on hazardous waste research; a discussion with the director, National Center for Health Statistics; and an overview of legislative developments in Congress.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. Richard M. Dowd, Director, Science Advisory Board, 202-755-0263, by close of business January 2, 1980.

Richard M. Dowd,

Director, Science Advisory Board.

[FR Doc. 79-39331 Filed 12-20-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Finding of No Significant Impact on Environment of Relocation of the Emergency Management Institute by the Federal Emergency Management Agency

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500-1508), the Federal Emergency Management Agency (FEMA) has prepared an environmental assessment of the relocation of resources resulting from the relocation of the Emergency Management Institute from Battle Creek, Michigan, to a colocation with the United States Fire Academy at Emmitsburg, Maryland.

The assessment concludes that there will be no significant impact on the natural or manmade environment as a result of the relocation of staff, equipment, and functions of the Emergency Management Institute. The assessment concludes that the transfer will have little or no effect on the environment of Battle Creek, Michigan, and Emmitsburg, Maryland.

It is, therefore, found that there will be no significant impact on the environment caused by the relocation of the Emergency Management Institute by FEMA. On this basis, an environmental impact statement will not be prepared.

Copies of the environmental assessment are available for inspection at: Federal Emergency Management Agency, Room 802, 1725 I Street, NW., Washington, D.C. 20472, telephone (202) 634-4100.

A limited number of single copies are available and may be obtained by writing the above officies.

Dated: December 17, 1979.

John W. Macy, Jr.,

Director.

[FR Doc. 79-39172 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-01-M

[Docket No. 79-1]

City of Cape Coral, Fla.; Proceedings and Opportunity for Hearing

Pursuant to 42 U.S.C. 4104, 44 CFR Parts 57 and 58 (formerly 24 CFR Parts 1917 and 1918).

The Director in administering the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, 44 CFR 59 *et seq.* (formerly 24 CFR Part 1909 *et seq.*) finds his public files disclose that:

A. The Federal Insurance Administration has issued proposed base flood elevations for the City of Cape Coral, Florida.

B. The City of Cape Coral, Florida, has appealed the proposed base flood elevations in its own name and for all affected citizens as their interests may appear.

C. The Director will provide an opportunity for a public hearing to resolve the appeal of the City of Cape Coral, Florida.

II

The hearing shall be conducted pursuant to 44 CFR 68 (formerly 24 CFR Part 1918) as follows:

A. The judge shall be responsible for the fair and expeditious conduct of the proceedings.

B. The Federal Insurance Administrator shall be represented by the General Counsel or his designee.

C. One administrative hearing shall be made for the City of Cape Coral unless the judge for good cause shown grants a separate appeal or appeals.

D. The Chief Executive Officer of Cape Coral, Florida, or his designee shall represent all appellants from Cape Coral. Any appellant may petition the judge to allow such appellant to make an appearance on his own behalf. Such a petition shall be granted only on a showing of good cause.

E. The Federal Insurance Administrator shall assure that a transcribed verbatim record is made of the proceeding which shall be available for inspection by any appellant. An appellant may order copies of the transcribed verbatim record directly from the reporter and shall be responsible for payments.

III

Review at the administrative hearing shall include an examination of knowledge or information presented by each appellant indicating that elevations proposed by the Federal Insurance Administrator are scientifically or technically incorrect.

IV

A. Legal rules of evidence shall not be in effect. Evidence relevant to issues within the scope of review under Paragraph III above shall be admissible.

B. The City of Cape Coral's flood elevation determination docket (FEDD) shall be admissible.

C. Documentary and testimonial evidence shall be admissible.

D. Admissibility of non-expert testimony shall be within the discretion of the judge.

E. The community's statement of reasons for appealing shall be admissible.

F. All testimony shall be under oath.

V

The burden of proof shall be on appellants to prove that the flood elevation determination is not scientifically or technically correct.

VI

The judge may submit conflicting technical or scientific data to an independent scientific body or appropriate Federal agency for advice.

VII

The judge shall make a written determination on the evidence presented at the hearing after the submission of proposed findings of fact and conclusions of law by both parties on a date to be established at the conclusion of the hearing based upon the date the transcript of the hearing record will be received.

VIII

The sole relief which shall be granted is a modification of the Federal Insurance Administrator's proposed determination by the judge in accordance with his determination under paragraph VII above. This modification shall be binding on the Administrator.

IX

Notice is hereby given that a public hearing for the purposes set forth in Paragraph I.C. hereof be held before the undersigned Administrative Law Judge duly designated by the U.S. Office of Personnel Management, at 9:30 a.m., on January 28, 1980, in the City Council Chamber of the City Hall, located on the corner of Country Club Road and Nicholas Parkway, Cape Coral, Florida.

This Notice of proceeding shall be served upon all appellants of the proposed base flood elevations pursuant to 44 CFR 68.6(b) (formerly 24 CFR 1916(b)).

Dated: December 14, 1979.

Paul N. Pfeiffer,

Administrative Law Judge, U.S. Consumer Product Safety Commission.[1]

Served Upon: Richard Roosa, Esq., City Attorney, P.O. Box 535, Cape Coral, Florida, 33904. John Scheibel, Esq., Office of General Counsel, Federal Emergency Management Agency, Room 802, 1725 I. St., N.W., Washington, D.C. 20472. Honorable Lyman Moore, Mayor, City of Cape Coral, P.O. Box 900, Cape Coral, Florida. 33904. Honorable Robert Proctor, City Manager, City of Cape Coral, P.O. Box 900 Cape Coral, Florida. 33904.

[FR Doc. 79-39246 Filed 12-20-79; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

[Docket No. 79-101]

Loresco International, Inc. v. Yamashita-Shinnihon Steamship Co., Ltd.; Filing of Complaint

Notice is given that a complaint filed by Loresco International, Inc. against Yamashita-Shinnihon Steamship Company, Ltd. was served December 14, 1979. The complaint alleges that respondent has collected greater compensation for transportation of property than specified in its tariffs, in violation of section 18(b)(3) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before June 14, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 79-39092 Filed 12-20-79; 8:45 am]

BILLING CODE 6730-01-M

[1] *pro hac vice*, by designation of U.S. Office of Personnel Management, Nov. 21, 1979, Room 302, 1111 18th St., N.W., Washington, D.C. 20207. Phone: (202) 634-7171.

[Docket No. 79-100]

United Aero Marine Services, Inc. v. Pacific Westbound Conference, et al.; Filing of Complaint

Notice is given that a complaint filed by United Aero Marine Services, Inc. against Pacific Westbound Conference and its member lines was served December 12, 1979. Complainant alleges that it has been subjected to payments of rates for transportation which are unduly or unreasonably preferential, prejudicial or disadvantageous in violation of 42 (sic) U.S.C. 816 and unjust and unreasonable in violation of 46 U.S.C. 817 and contrary to 46 U.S.C. 814.

Hearing in this matter, if any is held, shall commence on or before June 12, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 79-39093 Filed 12-20-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Highland Park Bancshares, Inc.; Formation of Bank Holding Company

Highland Park Bancshares, Inc., Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Highland Park, Highland Park, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 14, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-39166 Filed 12-20-79; 8:45 am]

BILLING CODE 6210-01-M

Peoples Bancshares, Inc.; Formation of Bank Holding Company

Peoples Bancshares, Inc., Van Buren, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 83.26 percent or more of the voting shares of Peoples Bank & Trust Company, Van Buren, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 12, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-39167 Filed 12-20-79; 8:45am]

BILLING CODE 6210-01-M

Wichita Bancshares, Inc.; Formation of Bank Holding Company

Wichita Bancshares, Inc., Snyder, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Wichitas, Synder, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 14, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR. Doc. 79-39168 Filed 12-20-79; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on December 14, 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 January 8, 1980, 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.

The NRC requests an extension-without-change clearance of the voluntary reporting requirement associated with the publication of its Construction Status Report. The NRC receives schedule and status information from utilities on the construction of nuclear power plants, testing, and fuel loading. This information is needed by NRC for scheduling and meeting licensing commitments to the utilities, for forecasting licensing issuance, and to effectively utilize available NRC technical manpower for inspection and evaluation to assure the safe operation of nuclear facilities. The information obtained from the utilities is combined with information provided by NRC Regional Offices. NRC staff reviews and analyzes all submissions of data, and incorporates changes to the construction networks and data sheets into the "Construction Status Report" issued 3 times annually. Respondents are utilities with nuclear power plants under construction who submit data to the NRC every 4 months. The NRC estimates that each report requires approximately one hour to prepare and that 40 respondents each file 3 reports annually.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79-39144 Filed 12-20-79; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79F-0435]

Wisconsin Protective Coating Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Wisconsin Protective Coating Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 3-(aminoethyl)-3,5,5-trimethylcyclohexylamine and silane coupled silica as components of an epoxy coating intended for food-contact use.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B3361) has been filed by the Wisconsin Protective Coating Corp., P.O. Box 216, Green Bay, WI 54305, proposing that § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) be amended to provide for the use of 3-(aminomethyl)-3,5,5-trimethylcyclohexylamine and silane coupled silica as components of an epoxy coating intended for food-contact use.

The agency has determined that the proposed action falls under § 25.1(f)(3) (21 CFR 25.1(f)(3)) and is exempt from the need of an environmental impact analysis report and that no environmental impact statement is necessary.

Dated: December 13, 1979.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 79-38937 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-03-M

[Dockets Nos. 75N-0139, 75N-139A, 75N-139B, 75N-139C, 75N-139D, 75N-139E, and 75N-139F]

Oral Proteolytic Enzymes; Hearing on Proposal To Withdraw Approval of New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is granting a hearing on the proposal to withdraw approval of the new drug applications (NDA's) for Orenzyme (Docket No. 75N-139A), Chymoral (Docket No. 75N-139B), Papase (Docket No. 75N-139C), Ananase (Docket No. 75N-139D), Avazyme (Docket No. 75N-139E), Wilzyme (Chymolase) (Docket No. 75N-139F), oral proteolytic enzymes that are recommended for the control of edema and inflammation associated with (1) surgical or accidental trauma anywhere in the body or (2) infections or allergic manifestations.

DATES: Prehearing conference on January 28, 1980, at 10 a.m.; written notices of participation due by January 21, 1980; disclosure of data and information by February 19, 1980.

ADDRESSES: Prehearing conference will be held in FDA Hearing Rm. 4A-35, 5600 Fishers Lane, Rockville, MD 20857; written notices of participation and disclosure of data and information to the

Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tenny P. Neprud, Regulations Policy Staff (HFC–10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: In a notice (DESI 9955) published in the Federal Register of June 25, 1970 (35 FR 10393), following the evaluation of reports received from the National Academy of Sciences-National Research Council Drug Efficacy Study Group, FDA announced its conclusion that oral proteolytic enzymes were "possibly effective" and "lack substantial evidence of effectiveness," and that additional evidence was required to establish their effectiveness fully. In response to this notice, data were submitted to establish the effectiveness of certain of these drugs. After reviewing the data, the Director of the Bureau of Drugs, in a notice of opportunity for hearing published in the Federal Register on July 24, 1975 (40 FR 30995), concluded that the drugs lacked substantial evidence of effectiveness for all indications and proposed to withdraw approval of the following NDA's: Cytolav Capsules (NDA 9–955), Orenzyme enteric coated tablets (NDA 11–783), Chymar Buccal tablets (NDA 11–908), Chymoral enteric coated tablets (NDA 12–178), Papase tablets (NDA 12–293), Ananase enteric coated tablets (NDA 12–527), Avazyme enteric coated tablets (NDA 12–626), and Wilzyme, Haugase, and Chymolase enteric coated tablets (NDA 12–724).

In response to the notice of opportunity for hearing, Armour Pharmaceutical Co. (for Chymoral, Cytolav, and Chymar), Merrell-National Laboratories (for Orenzyme), William H. Rorer, Inc. (for Ananase), Carter-Wallace, Inc. (for Avazyme), Warren-Teed Pharmaceuticals, Inc. (for Chymolase), Inolex Corp. (for Wilzyme), and Warner-Lambert Pharmaceutical Co. (for Papase) requested a hearing. Because Armour did not submit any data or arguments in support of its hearing requests for Cytolav or Chymar, and because no hearing was requested for Haugase, approval of the NDA's for these three products was withdrawn in a notice published in the Federal Register on May 2, 1978 (43 FR 18770).

Because there are questions of fact requiring resolution for the remaining drugs for which hearings were requested, FDA is ordering a formal evidentiary hearing on the following issue: whether there are adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of oral proteolytic enzymes on the basis of which it can fairly and responsibly be concluded that oral proteolytic enzymes are effective for their labeled conditions.

The drugs under consideration at the hearing, therefore, will be Orenzyme enteric coated tablets, Chymoral enteric coated tablets, Papase tablets, Ananase enteric coated tablets, Avazyme enteric coated tablets, and Wilzyme (Chymolase) enteric coated tablets.

The following will be parties to the hearing:

1. The Bureau of Drugs of FDA.
2. Merrell-National Laboratories, division of Richardson-Merrell, Inc.
3. Armour Pharmaceutical Co., division of Armour and Co.
4. Warner-Chilcott Laboratories, division of Warner-Lambert Pharmaceutical Co.
5. William H. Rorer, Inc.
6. Wallace Laboratories, division of Carter-Wallace, Inc.
7. Warren-Teed Pharmaceuticals, Inc., subsidiary of Rohm and Haas Co.
8. Inolex Corp., formerly Wilson Pharmaceutical and Chemical Corporation.

FDA is ordering one hearing for all of the oral proteolytic enzymes. The agency recognizes, however, that it may be desirable to hold separate proceedings concerning one or more of the drugs or concerning one or more questions. Therefore, the Administrative Law Judge is given authority to devise whatever procedure the Judge believes will best develop the evidence on all the relevant questions and to separate or combine the proceedings as he finds appropriate.

A prehearing conference will take place on January 28, 1980 at 10 a.m. in the FDA Hearing Room. Participants who are drug sponsors should come to the conference prepared to narrow the issues by stating which studies they rely on.

The Bureau of Drugs has filed with the Hearing Clerk a narrative statement of its position on the issue in the hearing and a summary of the evidence to be introduced in support of its position. Also, the Bureau has filed with the Hearing Clerk as part of the administrative record copies of the NDA's, published studies, and other data bearing on the question of whether oral proteolytic enzymes are effective.

Interested persons may obtain a copy of the narrative statement from the office of the Hearing Clerk at the address given above and may there examine the administrative record on oral proteolytic enzymes from 9 a.m. to 4 p.m., Monday through Friday.

The hearing will take place in the FDA Hearing Room on dates to be set at the prehearing conference. Administrative Law Judge Daniel J. Davidson will preside. Written notices of participation must be filed with the Hearing Clerk not later than January 21, 1980.

The hearing will be open to the public. Any participant may appear in person, or by or with counsel, or with other qualified representatives, and may be heard with respect to relevant matters. Participants other than the Bureau of Drugs shall disclose data and information pursuant to § 12.85 (21 CFR 12.85) by February 19, 1980.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)) and § 314.200(g) (21 CFR 314.200(g)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is ordered that a public hearing be held on the issue set forth in this notice.

Dated: December 7, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–38134 Filed 12–20–79; 8:45 am]

BILLING CODE 4110–03–M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Health Care Financing Administration, (44 FR 41331–41353 dated July 16, 1979), is amended to add an Office of Beneficiary Services in the Office of the Administrator. This addition requires the following changes to Part F:

1. Add to Section F. 10: R. Office of Beneficiary Services (F–5).

2. Add to Section F. 20: Section F. 20 Office of Beneficiary Services (F–5) (function). Provides advisory services to the Administrator and HCFA components concerning the services for, needs of, and initiatives relating to HCFA beneficiaries and recipients. Evaluates beneficiary services initiatives. Promotes an awareness of the concerns of the elderly and needy among HCFA components developing program policies and regulations, and legislative proposals. Analyzes the impact of proposed HCFA policies, regulations and instructions on beneficiaries. Maintains close working relationships with HCFA central and regional

components, Social Security Administration District Offices, other Federal agencies, State agencies, and beneficiary consumer groups to identify and assess the need for information, benefits and services; the impact of proposed HCFA actions; and the effects that operating systems and programs have on health care recipients. Presents the overall HCFA mission and promotes its acceptance by health care beneficiaries. Participates with other HCFA components in the development and implementation of program objectives and strategies pertaining to beneficiary services. Through direct contact with elderly and needy, and/or their representative groups, determines their health care requirements and provides this information to HCFA components. Responds to beneficiary and recipient referrals concerning unique health or health-related problems.

Dated: December 13, 1979.

Patricia Roberts Harris,

Secretary.

[FR Doc. 79-39171 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-35-M

Health Resources Administration

Health Planning Agency Review of Energy Conservation Projects

AGENCY: Health Resources Administration, PHS.

ACTION: Notice of Health Planning Agency Responsibility for Review of Hospital Applications for Assistance for Energy Conservation Measures Under the National Energy Conservation Policy Act, Pub. L. 95-619.

SUMMARY: This is to give notice that any project application for which a grant is sought under the National Energy Conservation Policy Act (Pub. L. 95-619) and which requires a Certificate of Need or section 1122 approval must be reviewed by the appropriate health planning agencies under the provisions of Title XV of the Public Health Service Act and section 1122 of the Social Security Act.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT: Mr. Burt Kline, Director, Division of Energy Policy and Programs, Bureau of Health Facilities Financing, Compliance, and Conversion, Health Resources Administration, Center Building, Room 10-22, 3700 East-West Highway, Hyattsville, Maryland 20782, (telephone: (301) 436-7263).

SUPPLEMENTARY INFORMATION: The recently enacted National Energy Conservation Policy Act authorizes the Secretary of Energy to make grants to States and to public and nonprofit hospitals to assist them in identifying and implementing energy conservation procedures and measures to reduce the energy use and anticipated energy costs of hospitals. The Department of Energy (DOE) will allocate funds over a three year period to State Energy Policy Offices (SEPOs) on the basis of a formula including such factors as population, climate, fuel cost, and fuel availability. As a result of the availability of these funds, energy capital improvement projects in hospitals will be developed which in many cases will require review under the Certificate of Need (C/N) and section 1122 programs administered by the health systems agencies (HSAs) and State health planning and development agencies (SHPDAs) funded under Title XV of the Public Health Service Act.

Each State administers (or will soon administer) an C/N program under section 1523 of the PHS Act, and, in participating States, administers the capital expenditure review program under section 1122 of the Social Security Act. For States with satisfactory C/N programs, Federal regulations provide that any expenditure made (with certain exceptions) "by or on behalf of a health care facility or HMO (health maintenance organization) in excess of $150,000 (or such lesser amount as the State may specify)" is a capital expenditure subject to C/N review. (See 42 CFR 123.404(a)(2); 44 FR 19322). Under section 1122, in order to be reimbursed under titles V, XVIII, and XIX of the Social Security Act, certain capital expenditures (including those which exceed $100,000) must have been submitted to SHPDAs for review before being made. For reviews under both of these programs, SHPDAs are required to consult with, and take into account the recommendatons of, the appropriate HSAs.

The Health Resources Administration (HRA) is working with DOE to ensure that grant applications for hospital projects requiring review under the C/N and section 1122 programs will be transmitted to the appropriate SHPDAs and HSAs. Additionally, a guide for handling these applications was sent to the health planning agencies on September 7, 1979 (Program Notice No. 79-15). DOE has been requested to instruct SEPOs, after their ranking of approvable hospital energy conservation grant applications, to advise those hospitals whose applications are likely to be funded to submit a full C/N or section 1122 application to the appropriate HSAs and SHPDAs where review would be required under those programs.

Dated: December 5, 1979.

Henry A. Foley,

Administrator, Health Resources Administration.

[FR Doc. 79-39156 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-83-M

Office of the Assistant Secretary for Planning and Evaluation

National Long-Term Care Channeling Demonstration Program; Intent To Initiate Program

This notice sets forth the intent of the Department of Health, Education and Welfare to initiate the National Long-Term Care Channeling Demonstration Program. Approximately $18 to $20 million will be available in Fiscal Year 1980 to develop, fund and evaluate channeling demonstration projects. These projects will be designed to test the extent to which a local structure is able to manage, coordinate and arrange provision of in-home, community-base, and institutional long-term care services (with the introduction of additional services resources in a subset of projects) in order to assure that people who need long-term care receive the appropriate types and levels of services in the least restrictive setting and in the most cost-effective manner.

HEW has three key expectations with respect to the demonstration initiative:

1. To stimulate system level changes in the organization of the delivery system, the relationship among service providers, and in the way existing long-term care dollars are allocated;

2. To create at the community level the structures that are necessary to coordinate, manage and arrange for the provision of appropriate and efficient long-term care services on behalf of the clients who need such services; and

3. To collect comparable information across the demonstration projects that will assist HEW in the development of a comprehensive long-term care policy including the Legislative and Administrative specifications required to implement policy objectives.

The principal target population for the Channeling Demonstration Program will be the functionally impaired elderly.

Funds will be made available for State or local government agencies and existing or new non-profit agencies and organizations to participate as demonstration sponsors. It is expected that relevant State agencies will play a key role in the identification of potential project sites and will support the implementation of any project selected within the state.

It is currently anticipated that final specifications for the National Channeling Demonstration Program will

be announced in March, 1980. No applications will be accepted until after the formal solicitation. Written comments on this Notice will be considered by HEW in the development of the final specifications.

Background

Long-term care, especially with its current emphasis on nursing home services, is placing a major strain on personal resources and on Federal, State and local public finances. Future increases in the proportion of elderly in the population will further increase the demand for and associated costs of long-term care servcies. Spending on long-term care, which will have doubled between 1975 and 1980, will more than double between 1980 and 1985 under existing programs and current policies. Despite this projected increase in public and private spending, many people needing services may still not receive them.

Increasingly, the Congress, Federal officials, representatives of State and local government, service providers and consumers are in agreement that the large and growing resources devoted to long-term care are not being efficiently used. The following types of problems have been identified in current long-term care programs and policies:

Publicly supported long-term care programs are fragmented, difficult to access, inequitable in their coverage, and do not capitalize on existing social support networks.

Federally subsidized long-term care programs foster an excessive reliance on costly medical and institution-based services.

There is an inadequate supply of accessible and affordable in-home and community-based services which might deter institutional placement or reduce the length of stay.

There are relatively few mechanisms at the local level for managing and coordinating the wide range of social, health-related, and medical services that are needed by many of the functionally impaired.

Over the past five years, some promising programs have emerged to address these perceived inadequacies. At the core of many of these programs has been a commitment to develop, at the local level, a capacity to organize and manage a range of in-home, community and institutional services on behalf of individuals who need long-term care.

HEW would like to further explore alternative conceptions of community long-term care agencies in a systematic fashion and in so doing to determine: Which approaches to organizing and delivering long-term care services have the greatest potential for achieving particular policy objectives; what the barriers to their implementation might be; and what their cost implications are.

Therefore, HEW requested and the Congress has appropriated approximately $20 million to support a coordinated initiative to test the ability of community long-term care projects to address many of the inefficiencies in the existing long-term care system and to assess the factors which influence their structure, process, and impact. A portion of the funds will be used to gather baseline data necessary to evaluate the sites and to derive national estimates from the demonstration experience.

These channeling demonstrations are intended to obtain information on system change which will enable government and long-term care recipients and their families to overcome some of the critical barriers to effective long-term care delivery present in existing policies and programs.

Because the Channeling Demonstration Program is an intradepartmental effort with joint funding and demanding evaluation requirements, a special management and review structure has been developed. A Steering Committee, composed of the Assistant Secretary for Planning and Evaluation and representatives of the Health Care Financing Administration, the Office of Human Development Services including the Administration on Aging, and the Public Health Service has been established to set the broad goals and policy purposes of the initiative and to recommend projects to be funded.

Program Design Requirements

In order for the Department to test the impact of the channeling projects and their potential for allocating long-term care resources more efficiently under a variety of circumstances, the demonstration program will: Be national in scope; include a number of sites; and permit comparisons of structure, process, and outcomes across sites.

This will require the application of a consistent design for certain components and data-gathering mechanisms common to all projects. Therefore:

1. Because local coordination and management of long-term care services for the benefit of individuals is the core of this program, each channeling demonstration project must include a carefully controlled case management process to perform the following six functions:

Screen Clients for Eligibility for Service. (Eligibility will be based on criteria to be developed by HEW.) As currently envisioned, it is the Department's intent that potential clients of the demonstration project will be selected from among those functionally impaired persons who need assistance in activities of daily living for an extended period of time. The vast majority, if not all, of the clients should be elderly.

Assessment of Service Needs. In each project, a structured assessment will be performed using a uniform assessment methodology to be prescribed by HEW. This assessment will include identification of (a) functional limitations, (b) the client's social and environmental situation, and (c) other physical, mental, social and health factors which will assist in defining need for services.

Prescription of Services. Based on a comprehensive assessment of client need, project staff will develop a service plan that identifies the type, amount and duration of the services needed by the client in the least restrictive setting; the most feasible source of the services including private or volunteer sources; and the cost of purchased services. HEW will provide training in the development of care plan to project staff in order that care planning decisions are made according to comparable sets of professional assumptions.

Acquisition and Coordination of Services. Each project must develop and delineate its relationships to the health care, income maintenance and social services system, and to clients' informal support networks, to insure prompt and responsive service delivery.

Monitoring of Services. The project staff will be responsible for adapting service resources to changes in the clients' needs and for on-going monitoring of the quality of services being provided.

Reassessment. Clients' needs must be reassessed at prescribed intervals by project staff.

In general, channeling projects are not expected to directly deliver services beyond performing the above functions.

2. Each channeling site, at a minimum, will be expected to provide access to a broad range of services in addition to case management. These services will be identified in the final design and will include such services as homemaking, chore services, and transportation in addition to those traditionally funded by major public health programs.

3. So that each project can be evaluated in a comparative context, all channeling sites must: Use a common client assessment instrument to be selected by HEW; use standard service definitions; follow a common cost-

accounting methodology; adopt a uniform management reporting system; and employ common output measures to assess differences between a participant and a control population.

HEW expects a significant amount of natural variation to occur among project sites with respect to the ways in which functions are organized and the auspices under which they are carried out. A key assumption of the National Demonstration Program is that the channeling project must be responsive to and will be influenced by the local system of providers and agencies of which it is a part.

HEW, through outside contractors, will develop and provide technical assistance in the utilization of all prescribed methodologies and procedures. The sites must cooperate fully in the evaluation activities of HEW and its evaluation contractor(s).

4. Notwithstanding the substantial discretion left to project sponsors in determining the ways in which to organize projects, HEW intends to systematically vary across sites a number of key variables. Current planning indicates the importance of testing at least three design variations: The degree of authority within the channeling system over service provision e.g., voluntary cooperation, control over client utilization of services, and mandatory pre-screening of nursing home admissions.

The extent to which the channeling project is provided resources to expand the supply of services not present within the community.

The method by which long-term care services are reimbursed under the demonstration e.g., average per capita or cost reimbursement.

It is anticipated that three different approaches or models of channeling will be supported within the national program, based on further elaboration of the above variables. The final design specifications will describe in detail the deliberate design variations that HEW intends to stimulate.

Procurement Schedule

A separate site solicitation for channeling demonstration projects will be developed and at least two rounds of proposals for initial funding will be accepted to permit interested applicants with more complex proposals more time to prepare their applications.

Proposals for the first round are tentatively scheduled to be received in HEW by May of 1980.

A second round of proposals will be accepted in the first-half of Fiscal Year 1981.

It is anticipated that an evaluation contractor will be in place and base line data activities initiated before channeling agency sites begin to provide services.

Potential applicants should note that HEW will not entertain any proposals for new demonstrations—including waiver only projects—in which a key purpose is to manage and coordinate a range of institutional and non-institutional long-term care services outside of the National Channeling Demonstration solicitation.

Funding Strategy

Two phases of support of new channeling projects are now contemplated: (1) a development phase of six to twelve months to permit projects to develop and put into place a program meeting HEW design specifications; and (2) an operational phase of three to four years during which services are delivered.

Although some channeling projects will receive multi-year funding, the operational phase of the projects will begin only after the site sponsor has submitted to HEW an amended project proposal delineating final project specifications that conform to the evaluation design and this amended proposal has been accepted.

Some expansion of federally-supported services through waivers is contemplated in one or more channeling models. HEW will identify in the solicitation the general types of waivers appropriate to each channeling model. Application for specific waivers must be submitted to HEW at the time of initial application for channeling agency funds.

Program Announcement

Anyone wishing to be placed on a mailing list to receive copy of the official Channeling Demonstration Program announcement should mail the request to: Department of Health, Education, and Welfare, Office of the Assistant Secretary for Planning and Evaluation, Division of Long-Term Care Policy, Room 416–E, H. H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Evaluation and Technical Assistance

Because of the scope and complexity of the Channeling Demonstration Program, HEW intends to seek outside assistance to carry out specific evaluation and technical assistance tasks. Final specifications for these tasks will be announced during the first quarter of 1981.

Potential offerors should note that all of the evaluation and technical assistance tasks and sub-tasks specified below may be combined into a single Request for Proposals (RFP). Since in some instances one organization may not possess the necessary expertise to carry out all of the work required, the Department may entertain proposals that sub-contract for certain tasks and/or proposals that only bid against a specified subset of the tasks.

The following tasks associated with the implementation and evaluation of the Channeling Demonstration Program will require the assistance of outside contractors.

Task I. Preparation of Evaluation Design Specifications

The Department intends to evaluate channeling demonstration projects against a common set of design specifications to permit comparisons to be made across sites. The key questions to be addressed by the evaluation are expected to include:

The extent to which a channeling project can improve the match between client need and services received without the introduction of a significant amount of new service dollars;

- The extent to which a channeling project can limit unnecessary utilization of acute hospitals and long-term care institutions and maximize the use of in-home and community services in a manner that is economically feasible and supports the informal care rendered by family and friends.
- The impact of various demonstration projects on the demand for and utilzation of long-term care services and on the relative supply of community and institutional services;
- The impact of demonstration projects on the costs of providing long-term care services and the distribution of these costs among various levels of government and between public and private sources;
- Whether control over certain service dollars strengthens the ability of channeling projects to achieve desired outcomes; and
- Whether alteration of the method of reimbursing for long-term care services strengthens the ability of demonstration projects to achieve desired outcomes.

The common evaluation of all projects will require that the national evaluation team work closely and cooperatively with HEW and with each site. Activities that are preliminary to the actual evaluation also require close relationships with the sites.

Initial planning indicates that the activities associated with the preparation of the evaluation design specifications will include:

A. *Overall Evaluation Plan.* The design contractor will develop an

overall evaluation plan which supports the objectives of the Channeling Agency Demonstration Program. This design will refine the critical policy issues to be pursued; define the relationships among key variables; and propose relevant hypotheses, outcome measures, and associated data requirements. The contractor will be responsible for recommending both experimental and quasi-experimental methodologies for selecting the study sample. Potential offerors should note that HEW will give preference in selecting demonstration sites to applicants that are willing to employ randomized procedures for identifying the experimental group.

B. *Base-line Data Collection.* The design contractor will prepare a plan for collecting baseline data to permit the evaluator to relate the study sample back to a known population. Data will be collected on the health and functional status of persons in the target area who have characteristics similar to those of the population eligible for channeling services; the service utilization patterns of the above population; the supply of long-term care services in the target area; the cost of long-term care services and the source of expenditures.

C. *Instrumentation.* The design contractor will develop (or identify) the instrumentation required to measure the impact of various interventions. This includes field testing, validation, and making necessary modifications as appropriate. Potential offerors should note that HEW intends to prescribe common methodologies for:

- Assessing client need for services;
- Maintaining reliable records of the costs of channeling agency services;
- Collecting management information.

D. *Data Collection and Processing.* The design contractor will be responsible for developing a plan to insure timely and efficient data collection, including procedures for: (1) establishing field operations; (2) hiring and training staff; (3) supervising and monitoring of field staff; and (4) storing, retrieving, and statistically processing large quantities of detailed data.

E. *Research Analysis.* The design contractor will be responsible for refining, elaborating, and extending the specific research questions developed by HEW and will propose appropriate quantitiative and qualitative procedures for exploiting the data generated from the demonstrations.

Task II. Implementation of the Evaluation Plan

Upon completion of the evaluation design specifications (Task I), HEW expects to enter into negotiations with the *same* contractor to arrive at a agreement for conduct of the evaluation, provided that the contractor has satisfactorily prepared the evaluation plan specified in the Request for Proposals.

The national evaluation team selected by HEW will be responsible for organizing and processing all data required for research purposes and for preparing required analyses. However, personnel employed by the demonstration sites will be responsible for administering the assessments required for clinical purposes and for maintaining accurate records of services provided, the duration of services, and the associated costs.

The following activities are indicative of those that will be the responsibility of the *evaluation* contractor:

a. Collecting required baseline data at each project site prior to the implementation of the channeling agency intervention and updating this data at the end of the study;

b. Preparing specific procedures at each site which permit the collection of a uniform set of recorded information with respect to:

- Administrative and Financial Management;
- Service Delivery;
- Provider/Client Reimbursement;
- Intake and Eligibility; and
- Case Management.

c. Recording the detailed operations of the demonstration sites to identify whether the operations of the project (including data collection) are consistent with the intended design; and

d. Collecting information on the impact of the demonstration sites e.g., service utilization, costs and client outcomes.

Task III. Design and Implementation of Technical Assistance Activities

HEW expects to initiate a variety of activities to support the implementation and evaluation of channeling projects according to the required design specification. The following types of activities may be required:

1. Assistance to sites during their program development phase, including development of an information exchange and technical assistance network among project sites to permit the identification of common problems, the sharing of experiences and linkage to additional sources of help and expertise.

2. Initiation of a uniform process for training case managers to carry out the functions of assessment and case management (including the preparation of necessary training materials).

3. Preparation of narrative descriptions of what occurred at each site and among other key agencies and actors during all phases of project planning and implementation.

4. Assistance to HEW in overseeing the implementation of project sites and in monitoring the activities of the national evaluation team. This will include identifying problems associated with the implementation of the required evaluation design as well as reviewing analytic products developed by the evaluation team and suggesting additional analyses as required.

Organizations wishing to receive copies of the solicitations associated with evaluation and technical assistance activities should submit a request to: Department of Health, Education, and Welfare, Office of the Assistant Secretary for Planning and Evaluation, Division of Long-term Care Policy, Re: Evaluation/T.A. RFP, Room 416–E, H. H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

John L. Palmer,

Acting Assistant Secretary for Planning and Evaluation.

December 17, 1979.

[FR Doc. 79-39170 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-12-M

Office of Education

Follow Through Program; Technical Assistance; Closing Date for Transmittal of Applications

AGENCY: Office of Education, HEW.

ACTION: Notice of Closing Date for Transmittal of Applications for New Projects for Fiscal Year 1980.

Applications are invited for new technical assistance projects under the Follow Through Program.

Authority for this program is contained in sections 551–557 of the Economic Opportunity Act of 1964, as amended by Pub. L. 95–568.

(42 U.S.C. 2929 et. seq.)

The program makes technical assistance awards generally to State educational agencies (SEAs).

The purpose of the awards is to provide funds to SEAs and other appropriate agencies, organizations, or institutions so that they may provide technical assistance to local Follow Through projects and otherwise exercise leadership in regard to Follow Through activities in the State.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by February 29, 1980.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of

Education, Application Control Center, Attention: 13.433C, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: In formulating applications for technical assistance awards, potential applicants should give special attention to 45 CFR 158.42 of the Follow Through regulations which contains specific program funding criteria.

In fiscal year 1980 it is anticipated that up to 52 new awards will be made. A current grantee may apply for a new award on the same basis as an applicant not previously funded. Grants are for a one year duration.

Available Funds: It is estimated that approximately $700,000 will be made available for technical assistance awards in fiscal year 1980. It is anticipated that the grants will range from approximately $6,300 to $50,000. However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute and regulations.

Applications Forms: Application forms and program information packages are expected to be ready for mailing by December 21, 1979. They may be obtained by writing to the Division of Follow Through, U.S. Office of Education, (Room 3624, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 10 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Special Procedures: Every applicant is subject to the State and areawide clearinghouse review procedures under OMB Circular A–95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A–95 requires the applicant to give the clearinghouse(s) up to 60 days for review, consultation, and comments on the application.

In its application each applicant must provide—

(a) The comments of each clearinghouse that commented on the application; or

(b) A statement that the applicant used the procedures of Part I of OMB Circular A–95 but did not receive any clearinghouse comments.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Follow Through Program (45 CFR Part 158) published in the **Federal Register** on June 29, 1977.

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published as a Notice of Proposed Rulemaking in the **Federal Register** on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR, Part 100a: Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

FURTHER INFORMATION: For further information contact Mrs. Rosemary C. Wilson, Director, Division of Follow Through, U.S. Office of Education (Room 3624, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone (202) 245–9846.

(42 U.S.C. 2929 et. seq.)

(Catalog of Federal Domestic Assistance No. 13.433, Follow Through Program).

Dated: December 17, 1979.

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79–39096 Filed 12–20–79; 8:45 am]

BILLING CODE 4110–02–M

Follow Through Program; Closing Date for Transmittal of Applications

AGENCY: Office of Education, HEW.

ACTION: Notice of Closing Date for Transmittal of Applications for Noncompeting Continuation Projects.

Applications in the following two categories are invited for noncompeting continuation awards under the Follow Through Program:

(1) grants for carrying out local Follow Through projects;

(2) grants or contracts for demonstration (Sponsors).

Authority for these categories is contained in sections 551–557 of the Economic Opportunity Act of 1964, as amended by Pub. L. 95–568. (42 U.S.C. 2929 et. seq.)

The local project grants are generally awarded to local educational agencies, and the sponsors awards are generally made to institutions of higher education or regional educational laboratories.

The purpose of the awards is to provide comprehensive services to low-income children in grades k–3, and to demonstrate successful practices of these services.

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by February 29, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.433A for Follow Through local Projects, and 13.433B for grants or

contracts for demonstration (Sponsor) awards; Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing:

(1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily except Saturday, Sundays, and Federal holidays.

Program information: In formulating applications for a local project grant an applicant should give special attention to 45 CFR 158.15 of the Follow Through regulations which explains the criteria used in awarding these grants.

In formulating applications for a sponsor award, an applicant should give special attention to 45 CFR 158.52 of the Follow Through regulations which provides an explanation of the criteria used in awarding these grants or contracts.

Available funds: It is estimated that FY 1980 funds will support the existing 153 local projects and the existing 19 sponsors. In FY 1979 the local project grants ranged from approximately $77,000 to $1,783,000; and the sponsor awards ranged from approximately $65,000 to $597,000. In FY 1980, an amount not to exceed $6,127,000 will be available for grants to sponsors.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute and regulations.

Applications forms: Application forms and program information packages are expected to be ready for mailing by December 21, 1979.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that applicants not submit information that is not requested.

Special procedures: Every applicant is subject to the State and areawide clearinghouse reivew procedures under OMB Circular A–95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A–95 requires the applicant to give the clearinghouse(s) up to 60 days for review, consultation, and comments on the application.

In its application each applicant must provide—

(a) The comments of each clearinghouse that commented on the application; or

(b) A statement that the applicant used the procedures of Part I of OMB Circular A–95 but did not receive any clearinghouse comments.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Follow Through Program (45 CFR Part 158) published in the Federal Register on June 29, 1977.

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published as a Notice of Proposed Rulemaking in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR, Part 100a: Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?); and Subpart F (What Are the Administrative Responsbilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact, Mrs. Rosemary C. Wilson, Director, Division of Follow Through, U.S. Office of Education, (Room 3624, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone (202) 245–9846.

(42 U.S.C. 2929 et. seq.)

(Catalog of Federal Domestic Assitance No. 13.433, Follow Through Program).

Dated: December 17, 1979.

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-39097 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-02-M

Title I—Elementary and Secondary Education Act, Notice That Certain Title I, ESEA Requirements Are Waived for Puerto Rico

AGENCY: Office of Education, HEW.

ACTION: Notice that Certain Title I, ESEA Requirements are Waived for Puerto Rico.

SUMMARY: On September 7, 1979, the Commissioner of Education published in the Federal Register (44 FR 52333) a notice of his intent to grant Puerto Rico a waiver of certain requirements under title I of the Elementary and Secondary Act of 1965 and the terms and conditions upon which that waiver would be granted. The Office of Education received several comments in response to that notice of intent and gave serious consideration to each of them. Notice is hereby given that—on November 28, 1979—the Office of Education granted a waiver for the Puerto Rico Department of Education, during the period of July 1, 1979 through July 1, 1980. This notice contains the terms and conditions upon which the waiver was granted. These final terms and conditions are the same as those which were published in the September 7, 1979 notice, except that they reflect the Office of Education's decision to disapprove the use of any funds covered by the waiver for the remodeling of classrooms that have walls built with asbestos cement.

EFFECTIVE DATES: This waiver is effective during the period July 1, 1979 through July 1, 1980.

ADDRESSES: Division of Education for the Disadvantaged, U.S. Office of Education, 400 Maryland Avenue, S.W. (Room 3642–E, ROB–3), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mrs. Genevieve Dane, (202) 245–2506.

SUPPLEMENTARY INFORMATION:

A. Title I, ESEA Requirements That Are Waived

In accordance with section 1004(b) of the Elementary and Secondary Education Act of 1965 (as amended by the Education Amendments of 1978), and subject to the terms and conditions stated below, the Office of Education has—

(1) Waived the applicability of the requirements contained in the following

sections of the title I statute to all title I, ESEA, funds obligated by Puerto Rico during the period from July 1, 1979 through July 1, 1980:

Sections 123(a).
Sections 124(a).
Sections 124(b).
Sections 124(g)(1).
Sections 126(b).
Sections 126(c).
Sections 126(e).
Sections 183(f).

(2) Exempted Puerto Rico from any regulations or guidelines that are promulgated to implement or interpret the sections of the title I statute listed above in paragraph (1); and

(3) Limited the Puerto Rico Department of Education's obligation to monitor and enforce compliance with title I requirements (under part C of the title I statute) to those requirements which have not been waived by the above paragraphs (1) and (2).

B. Terms and Conditions Upon Which the Waiver Was Granted

The Office of Education granted this waiver subject to the following terms and conditions, which the Puerto Rico Department of Education has formally agreed to comply with:

(1) All title I funds that are obligated by the Puerto Rico Department of Education during the period covered by the waiver must be spent in accordance with—

(a) All applicable statutory and regulatory requirements, except those specifically waived;

(b) These terms and conditions;

(c) The management plan that was submitted in conjunction with the June 15, 1979 waiver request, as modified by the U.S. Office of Education's decision to not approve the proposed use of title I funds to—

(i) pay the salaries of, or provide training to, district managers; and

(ii) remodel classrooms that have walls built with asbestos cement; and

(d) The Puerto Rico Department of Education's title I budget for the period covered by the waiver.

(2) If the Puerto Rico Department of Education wishes to deviate from the proposed use of $20,350,000 in title I funds for the training of uncertificated teachers which will lead to degrees and certification, it shall obtain the prior approval of the Commissioner of Education.

(3) The Puerto Rico Department of Education shall, on the following dates, submit a status report to the Commissioner which indicates specifically how many teachers from rural and urban areas have received training leading to certification:

(a) January 1, 1980; and

(b) April 1, 1980.

(4) In carrying out the title I funded training of uncertificated teachers, the Puerto Rico Department of Education shall ensure that at least an equitable number of uncertificated teachers who receive training are employed in rural areas.

(5) During the period covered by the waiver, the Puerto Rico Department of Education shall make all staff and documents that relate to title I activities available when representatives of the U.S. Office of Education conduct site visits. A team representing the U.S. Office of Education will make at least one visit to Puerto Rico during the period covered by the waiver to observe title I activities. This team may also hold public meetings to elicit comments from interested persons.

(6) By October 1, 1980, the Puerto Rico Department of Education shall submit a report to the Commissioner which includes—

(a) A breakdown of all title I obligations that were incurred during the period covered by the waiver; and

(b) A list of all uncertificated teachers who received training with title I funds, that indicates whether each teacher is employed by a school in a rural or urban area and whether the training resulted in that teacher becoming certificated.

(7) By January 15, 1980, the Puerto Rico Department of Education shall submit to the Commissioner its plan for meeting all title I requirements as of July 2, 1980.

(Catalog of Federal Domestic Assistance No. 13–428, Educationally Deprived Children Local Educational Agencies)

Dated: December 13, 1979.

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc 79–39098 Filed 12–20–79; 8:45 am]

BILLING CODE 4110–02–M

National Advisory Council on Women's Educational Programs.

AGENCY: Office of Education, National Advisory Council on Women's Educational Programs.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Women's Educational Programs and its Executive, Federal Policy, Practices and Programs, Civil Rights and WEEA Program Committees. It also describes the functions of the Council. Notice of the meeting is required pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 920463). This document is intended to notify the general public of their opportunity to attend.

DATE: January 23, 1980, 9:00 a.m. to 9:00 p.m.; January 24, 1980, 8:30 a.m. to 5:00 p.m. and January 25, 1980, 8:30 a.m. to 12:30 p.m.

ADDRESS: The Howard Johnson's Motor Lodge, 225 E. Apache Blvd., Tempe, Arizona 85281. A Public Hearing will be held at the Scottsdale Community College, Student Center, Turquoise Room, 9000 East Chaparral, Scottsdale, Arizona 85253.

FOR FURTHER INFORMATION CONTACT: Laura R. Summers, National Advisory Council on Women's Educational Programs, 1832 M Street, N.W., No. 821, Washington, D.C., 20036 (202) 653–5846.

The National Advisory Council on Women's Educational Programs is established pursuant to Public Law 95–561. The Council is mandated to (a) advise the Secretary, Assistant Secretary, and the Commissioner on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The meeting of the Federal Policy, Practices and Programs Committee, the Civil Rights Committee, and the WEEA Program Committee will take place on January 23, 1980 from 9:00 a.m. to 3:30 p.m.

The meeting of the Executive Committee will take place on January 23, 1980 from 7:00 p.m. to 9:00 p.m. The agenda will include plans for the Council meeting as well as discussion of current activities and future plans. There will also be discussion on Council structure.

The agenda for the Federal Policy, Practices and Programs Committee will include discussion on the vocational education study, the Higher Education Act and the Department of Education.

The agenda for the Civil Rights Committee will include discussion of matters concerning Title IX of the Education Amendments of 1972 and

Title IV of the 1964 Civil Rights Act and other Civil Rights provisions.

The agenda for the WEEA Program Committee will include discussion on selection of project sites to be visited in conjunction with the evaluation of the WEEA Program for FY 1979 and a status report on WEEA Contract activities.

The meeting of the National Advisory Council on Women's Educational Programs will take place from 8:30 a.m. to 11:30 a.m. January 24; and from 8:30 a.m. to 12:30 p.m. on January 25, 1980. The agenda will include committee reports, program plans and discussion on the new Department of Education. A public hearing on the special educational needs of Indian women and girls will be held from 1:30 p.m. to 5:00 p.m. January 24, 1980 at the Scottsdale Community College, Student Center, Turquoise Room, 9000 East Chaparral, Scottsdale, Arizona 85253.

Records will be kept of the proceedings and will be available for public inspection at the Council offices at 1832 M Street, N.W., Suite 821, Washington, D.C.

Joy R. Simonson,

Executive Director.

[FR Doc. 79-39132 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-02-M

National Advisory Council on Extension and Continuing Education; Committee Meetings

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice of Meetings.

SUMMARY: This notice sets forth the schedules and proposed agenda of a meeting of the Ad Hoc Committee on the Media in Continuing Education and of the Executive Committee of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend the meetings.

DATE: January 24–25, 1980.

ADDRESS: National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street, NW.; Suite 529, Washington, D.C. 20004.

FOR FURTHER INFORMATION: Williams G. Shannon, Executive Director, National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street, NW.; Suite 529, Washington, D.C. 20004, Telephone: (202) 376–8388.

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89–329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA), including policies and procedures governing the approval of State plans under Section 105; and to advise the Assistant Secretary of HEW of Part B (Lifelong Learning Activities) of the title.

Meetings of the Council are open to the public. However, because of limited space, those interested in attending any meeting are requested to call the Council's office beforehand. Available seats will be assigned on a first-come basis.

The meeting of the Ad Hoc Committee on the Media in Continuing Education will begin at 7:00 p.m. on January 24 and recess at 9:00 p.m. The meeting will resume on January 25 at 9:00 a.m. and adjourn at 12:00 Noon. The committee will hold consultations with broadcast and Government officials and develop the year's plan of action.

The Executive Committee will meet from 1:00 p.m. to 5:00 p.m. on January 25. The agenda for the meeting will include discussion of:

- Bylaws and Council Mandate.
- Committee Assignments.
- Budget.
- Plans for year's activities and meeting locations.
- Staff evaluations.

All records of Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 Thirteenth Street, NW., Washington, D.C.

Dated: December 19, 1979.

William G. Shannon,

Executive Director.

[FR Doc. 79-39270 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-02-M

Social Security Administration

Supplemental Energy Allowance Program for the Low-Income Population Under Public Law 96–126

AGENCY: HEW.

ACTION: Notice.

SUMMARY: Public Law (Pub. L.) 96–126 was signed by the President on November 27, 1979. The law provides, among other funding, $1.2 billion for distribution by the Department of Health, Education, and Welfare (HEW) and States to aid low income persons during the winter heating season.

Approximately four hundred million dollars of the funds are to be used for a direct, Federally administered one-time payment to supplemental security income (SSI) program recipients (except those persons who are in medical care institutions in which more than 50 percent of the cost of their care is paid by Medicaid). This notice gives public announcement of the rules under which these payments will be made.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: SSA Regional Commissioners or Michael D. Johnson, Department of Health, Education, and Welfare, Social Security Administration, Office of Operational Policy and Procedures, Room 500 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235 (telephone: (301) 597–1622).

SUPPLEMENTAL INFORMATION: Pub. L. 96–126 allocates $400 million to the Secretary of HEW to be paid as a special one-time energy allowance to recipients of SSI payments. Payments to SSI recipients will be based on the amounts distributed among the States according to the following formula: (1) 33⅓ per centum based on the number of heating degree days squared times the number of households below 125 per centum of poverty; (2) 33⅓ per centum based on the difference in home heating energy expenditures between 1978 and 1979; (3) 33⅓ per centum based on the number of SSI recipients (other than those who are in medical care institutions in which more than 50 percent of the cost of their care is paid by Medicaid) in each State relative to the national total of SSI recipients. The portion of the allocation formula that distributes funds based on increases in home heating costs from 1978 to 1979 was applied by looking to the number of heating degree days for each State (from which heating needs may be derived); the relative use of each type of fuel; the efficiency of each fuel and the price of each fuel.

Thus, the amount paid an SSI recipient will vary from State to State because it is determined by the amount allocated to the State divided by the estimated SSI recipient population in the State. No SSI recipient will receive more than $250 from the funds provided for SSI recipients. The remainder of any funds that would have been allotted to any State for SSI recipients if no maximum payment limitation had been in existence will be added to the amount available for States (as provided in P.L. 96–126) through State programs for energy allowances to low income families. A separate notice was

published in the Federal Register for these State programs on November 30, 1979, at 44 FR 69032.

The eligibility requirements for these special energy allowances payments are that an individual:

1. is a recipient of SSI or a federally administered State supplement as an eligible individual or eligible spouse; and

2. receives an SSI or a federally administered State supplemental payment for the month of December 1979 provided that the payment is made no later than March 31, 1980; and

3. does not receive such payment for December 1979 based on residence in a medical institution for which Medicaid pays more than one-half the cost.

Each person who meets these criteria will be paid separately regardless of whether the persons is an eligible individual or eligible spouse. In order to meet the need for payment early in the heating season, an automated payment process was established with a minimum of manual functions. The essential parts of that process are as follows:

—No application for the energy allowance is necessary.

—Eligibility will be solely determined on the basis of December 1979 data on the automated master supplemental security record as of the time the energy allowance payment is generated.

—The first payment is scheduled for January 7, 1980, with additional payments in February and March 1980 to individuals whose eligibility is established after the initial payments. No payments will be made after March 31, 1980.

—Each individual meeting the eligibility criteria will receive a separate check. Payment for individuals who receive SSI benefits by means of direct deposit will be sent to the residence address on the master supplemental security record rather than to the financial institution.

—No adjustments in payment amount will be made where payment is based on the information (for example State of residence) reflected on the master supplemental security record at the time the payment is generated.

—Individuals who received SSI payments for December 1979 before April 1, 1980, and did not receive the special energy payment or received a payment for an incorrect amount as a result of machine error may request correction by SSA field offices.

—Where it is found that individuals who allege incorrect payment were paid correctly or are ineligible under the above criteria, an explanation will be provided by SSA field offices (in writing if requested). No further administrative appeal procedure is provided.

—Payments under this program shall not be considered as income or resources under any public or publicly assisted program, except under the Energy Crisis Assistance Program.

All payments under this program to SSI recipients will be made by green check bearing the legend "Energy Allowance" and will include the following explanatory insert:

Federal Energy Allowance Check

This is a special check to help you pay bills for electricity, gas, or oil this winter. You are getting this check because you receive supplemental security income (SSI) payments. The amount is based in part on the average winter temperature in your State. This money is in addition to your monthly SSI payment. You will continue to get your monthly SSI Check in the usual way.

Unlike your monthly SSI checks, the enclosed check is a one-time payment. However, you may be able to get additional help from your State or local government if you cannot pay your fuel costs.

Your local Social Security Office can answer any questions you have regarding this energy allowance.

Supplemental Energy Allowance Payments by State

State or place	Amount
Alabama	$44.00
Alaska	250.00
Arizona	55.00
Arkansas	48.00
California	44.00
Colorado	156.00
Connecticut	250.00
Delaware	166.00
District of Columbia	102.00
Florida	39.00
Georgia	46.00
Hawaii	34.00
Idaho	250.00
Illinois	170.00
Indiana	229.00
Iowa	250.00
Kansas	131.00
Kentucky	69.00
Louisiana	39.00
Maine	226.00
Maryland	140.00
Massachusetts	144.00
Michigan	177.00
Minnesota	250.00
Mississippi	41.00
Missouri	97.00
Montana	250.00
Nebraska	222.00
Nevada	117.00
New Hampshire	250.00
New Jersey	185.00
New Mexico	76.00
New York	150.00
North Carolina	73.00
North Dakota	250.00
Ohio	151.00
Oklahoma	58.00
Oregon	218.00
Pennsylvania	157.00
Rhode Island	190.00
South Carolina	53.00
South Dakota	250.00
Tennessee	58.00
Texas	45.00
Utah	250.00
Vermont	244.00
Virginia	106.00
Washington	180.00
West Virginia	88.00
Wisconsin	204.00
Wyoming	250.00
Northern Mariana Islands	34.00

Individuals who are not eligible for a supplemental energy allowance or who need assistance in addition to the allowance will be referred by social security offices to the State or local agency administering the Energy Crisis Assistance Program(s) in their State.

The Department is not providing for a public comment period on these rules. The rules are effective upon publication due to the urgency with which the energy allowance payment must be made to the low-income population in order for them to be available this winter.

Dated: December 13, 1979.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

[FR Doc. 79-39169 Filed 12-20-79; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI-6]

Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of certain projects under various HUD programs as described in the appendix to this Notice. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information that reports other environmental studies planned or completed in the project area; issues and data which the EIS should consider; recommended mitigating measures and alternatives if one identifies a major issue associated with the proposed project. Federal

agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., December 3, 1979.

Richard H. Broun,

Director, Office of Environmental Quality.

Appendix

1. EIS on Rancho Isabella, Brazoria County, Tex.

The Dallas Area Office of the Department of Housing and Urban Development intends to file an environmental impact statement for the proposed Rancho Isabella Subdivision located in Brazoria County, Texas. The purpose of this notice is to solicit from all interested persons, local, state and Federal agencies recommendations regarding (1) the issues to be addressed in depth in the environmental impact statement and (2) to identify and eliminate from detailed study the issues which are not significant.

Description. The sponsor proposes to develop within a 15 year period a site of 3,440 acres which is located immediately north and adjacent to the City of Angleton, Brazoria County, Texas. When fully developed, the Rancho Isabella Subdivision will contain approximately 9,840 single family units and will accommodate a population of approximately 27,060 persons.

Need. Due to the size and scope of the proposed project, the Dallas Area Office has determined that an environmental impact statement will be prepared pursuant to Public Law 91–190, the National Environmental Policy Act of 1969, and in compliance with the final regulations as published by the Council on Environmental Quality in the Federal Register on November 29, 1978. The Draft EIS is expected to be completed and distributed approximately 45 days after the expiration date of the comment period identified in this notice.

Alternatives perceived. The alternatives under consideration by the Department of Housing and Urban Development in this action are: (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Comments. All relevant comments and recommendations received within 21 days after the date of publication of this notice, will be given consideration; comments should be sent to the Environmental Office, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201.

2. San Antonio Areawide Environmental Impact Statement, San Antonio, Tex.

The HUD Area Office in San Antonio, Texas, intends to prepare an Areawide Environmental Impact Statement (EIS) on the area described below and solicits information for inclusion in the EIS.

Description. The area under consideration is the North and West Growth Area of San Antonio, Texas, an area defined by the City of San Antonio as Growth Impact Areas "A", "B" and "D" in the *San Antonio Growth Sketch.* Preliminary estimates indicate that the EIS area includes approximately 300 square miles.

Need. HUD has developed the Areawide EIS concept as an alternate to the traditional project EIS approach. It is designed to more adequately assess the aggregate impact of development, identify need for Areawide solutions and reduce delays in approvals and construction of housing developments that often result from EIS preparation on a project-by-project basis. Additionally, the Areawide approach is designed to reduce paperwork in accordance with CEQ regulations of November 29, 1978. Other Federal agencies have been invited to participate in the NEPA process as cooperating agencies with HUD as the lead agency.

Alternatives Perceived. Prepare EIS on a project-by-project basis and update three completed EIS for housing subdivision development thereby extending delays and unnecessary paperwork.

Scoping. HUD plans a scoping meeting with Federal, State and local agencies. This meeting will be held in Room 206A, San Antonio HUD Area Office. Inquiries on time and date of meeting should be addressed to Don King, telephone (512) 730–6883. The purpose will be to identify significant issues and select data that the EIS should address.

Comments. Comments must be in written form and should be forwarded within 21 days following publication in the **Federal Register** to Mr. Finnis E. Jolly, Area Manager, San Antonio HUD Area Office, Post Office Box 9163, San Antonio, Texas 78285

3. EIS on Urban Corridor Growth, Solano County, California

The San Francisco Area Office of the U.S. Department of Housing and Urban Development proposes to publish and distribute in the Fall of 1979, an Area-Wide Draft Environmental Impact Report/ Environmental Impact Statement (EIR/EIS) on the prospective residential growth over the next five years in the Solano County urban corridor growth area along the I–80 Freeway. Expected commerical and industrial growth may be noted, but as adjuncts to the anticipated residential growth. This document will be developed pursuant to the CEQ guidelines in 40 CFR Part 1500 dated 11–29–78.

Description. The proposed Draft EIR/EIS is expected to satisfy the requirments of the California Environmental Quality Act (CEQA) as well as those of the National Environmental Protection Act (NEPA). The document is being prepared in cooperation with the planning departments of Solano County and the Cities of Vacaville, Fairfield and Suisun City. This joint effort is intended to 1) resolve regional environmental problems on a uniform basis; 2) eliminate duplication and accelerate the process of obtaining environmental clearance of proposed housing projects in the Solano County urban corridor growth area; and 3) establish a single data base for the development of future environmental studies under CEQA and NEPA.

Need. Due to the large size of the area to be covered by this EIR/EIS and the complexity of regional and local concerns to be addressed, HUD has determined that a written initiation of the scoping process would be more appropriate to determine the scope of issues to be addressed and for identifying the significant issues related to the future residential growth.

Scoping. In accordance with 40 CFR 1501.7 you are invited to submit a list of the significant issues which you or your agency believes should be analyzed in depth in this EIR/EIS. If any of the significant issues listed by you or your agency involve an area of expertise not generally known to be a part of HUD's interdisciplinary capability, your assistance may be requested in preparing the environmental analysis in accordance with 40 CFR 1501.6. Please submit the name, address and telephone number of a designated person whom we may contact if necessary concerning both the issues and needed assistance.

Should you have or be aware of any pertinent documents concerning any of the issues you have listed, HUD requests a copy of each of them either on a permanent or loan basis for use in preparing the EIR/EIS. In addition, HUD would appreciate a list (with addresses and telephone numbers) of any individuals or agencies who might be able to provide information concerning any of these issues.

Comments. Please submit the requested information and direct any questions about the proposed action and the environmental impact statement within 21 days of publication in the **Federal Register** to George B. Adams, Project Manager, Environmental Staff, San Francisco Area Office, Department of Housing and Urban Development, One Embarcadero Center, Suite 1600, San Francisco, California 94111, Telephone (415) 556–6642.

[FR Doc. 79–39297 Filed 12–20–79; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Narragansett, Tribe of Indians; Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

December 12, 1979.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the

Narragansett Tribe of Indians, c/o Mr. Eric Thomas, Route 2, Charlestown, Rhode Island 02813.

has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on October 22, 1979. The petition was forwarded and signed by Eric Thomas.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 79-39250 Filed 12-20-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AA-6648-0]

Alaska Native Claims Selection

The purpose of this decision is to modify **Federal Register** pages 67537, 67538 and 67539 of the decision dated November 26, 1979.

Page 67537—T. 8 S., R. 53 W., Seward Meridian, Alaska (Unsurveyed)

1. The description for Secs. 3 to 12 and township acreage now reads:

Secs. 3 to 12, inclusive, all;

Containing approximately 20,411 acres.

The description is hereby modified to read:

Sec. 3, excluding Native allotment AA-7686;
Secs. 4 to 12, inclusive, all;

Containing approximately 20,251 acres.

1. State selected acreage rejected now reads:

Aggregating approximately 43,028 acres.

The acreage is modified to read:

Aggregating approximately 42,868 acres.

2. The paragraph beginning "In view of" now reads in part:

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 102,161 acres, in considered proper for acquisition by the Aleknagik Natives Limited * * *

The paragraph is hereby modified to read in part:

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 102,001 acres, is considered proper for acquisition by the Aleknagik Natives Limited * * *

Page 67538—T. 8 S., R. 53 W.

1. The description for Secs. 3 to 12, and township acreage now reads:

Secs. 3 to 12, inclusive, all;

Containing approximately 20,411 acres.

The description is hereby modified to read:

Sec. 3, excluding Native allotment AA-7686;
Secs. 4 to 12, inclusive, all;

Containing approximately 20,251 acres.

Page 67538

1. The paragraph beginning "Total aggregated acreage" now reads:

Total aggregated acreage, approximately 102,161 acres.

This paragraph is hereby modified to read:

Total aggregated acreage, approximately 102,001 acres.

Page 67539

1. Paragraph beginning "Aleknagik Natives Limited" now reads:

Aleknagik Natives Limited is entitled to conveyance of 115,200 acres of land pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 102,161 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 13,039 acres will be conveyed at a later date.

This paragraph is hereby modified to read:

Aleknagik Natives Limited is entitled to conveyance of 115,200 acres of land pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 102,001 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 13,199 acres will be conveyed at a later date.

Except as modified by this decision, the decision of November 26, 1979, stands as written.

Sue A. Wolf,

Chief, Branch of Adjudication.

[FR Doc. 79-39269 Filed 12-20-79; 8:45 am]

BILLING CODE 4310-84-M

Request for Comments and of Intent To Rank Tracts in the Uinta-Southwestern Utah Federal Coal Production Region

AGENCY: Bureau of Land Management, Interior.

ACTION: Request for public comment on the ranking factors and the potential lease tracts and notice of regional coal team meeting.

SUMMARY: This notice is to advise the public that the regional coal team for the Uinta-Southwestern Utah Federal Coal Production Region will meet (1) to discuss the team's recommendation on the Federal coal leasing target for the region, (2) to review and discuss the tract profile data for each of the identified potential lease tracts, (3) to review and discuss the comments on the potential lease tracts and on the ranking factors, (4) to rank the potential lease tracts and (5) to select preliminary coal lease tracts. Comments on the tracts that have been identified and factors that may be considered by the regional coal team in the tract ranking process are requested.

DATES: Comments on the tracts and the ranking factors must be received by the regional coal team chairperson by January 25, 1980. The regional coal team will meet on February 5, 6, and 7, 1980, at 8:30 a.m.

ADDRESSES: Comments on the potential lease tracts and the ranking factors should be addressed to Edward F. Spang, Nevada State Director, Bureau of Land Management, Chairperson, Regional Coal Team, Federal Building, 300 Booth Street, Reno, Nevada 89509.The regional coal team will meet at the Utah State office, Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Edward F. Spang, Regional Coal Team Chairperson, (702) 784-5451.

SUPPLEMENTARY INFORMATION: This notice advises the public that the regional coal team for the Uinta-Southwestern Utah Federal Coal Production Region will meet on February 5, 6, and 7, 1980, at 8:30 a.m. (1) to discuss the team's recommendation on the Federal coal leasing target for the region, (2) to review and discuss the tract profile data for each of the identified potential lease tracts, (3) to review and discuss the comments received in response to this notice on the potential lease tracts and on the ranking factors, (4) to rank the potential lease tracts, and (5) to select preliminary coal lease tracts.

On November 19, 1979, a notice appeared in the **Federal Register** (44 FR 66256-66257) requesting comments on the tentative Federal coal leasing target for the Uinta-Southwestern Utah Coal Production Region. Pursuant to its responsibilities under 43 CFR 3400.4(b)

(44 FR 42612, July 19, 1979), the regional coal team will discuss its recommendation to the Secretary of the Interior on a Federal Coal leasing target for the region. The Secretary will establish the final leasing target which will be used by the regional coal team when it makes a final selection of possible lease tracts to be evaluated in a regional lease sale environmental impact statement.

Fifteen potential lease tracts have been identified in the Utah portion of the Uinta-Southwestern Utah Coal Production Region. The potential lease tracts identified below are being delineated, will be analyzed on a site-specific basis, and will be ranked and considered for possible leasing in 1981. All acreages and tonnages are preliminary and are subject to change. The legal description only identifies the general location of the potential lease tracts; a complete legal description will be available after tract delineation is completed.

Tract name	General location	Approximate acreage	In-place reserves (million tons)
Gordon Creek	About 13 miles west of Helper, Utah; T. 13 S., R. 7, 8, E	3,970	42.24
Trail Mountain	About 13 miles northwest of Castledale, Utah; T. 17 S., R. 6 E.	1,042	12.00
Slaughterhouse Canyon	About 4 miles south of Scofield, Utah; T. 13 S., R. 7 E	440	2.19
North Trough Springs Ridge	About 7 miles south of Scofield, Utah; T. 14 S., R. 6, 7 E	2,200	(1)
Little Bear Canyon	About 14 miles northwest of Huntington, Utah; T. 15, 16 S., R. 6, 7 E.	5,275	91.00
Muddy Creek East	About 5 miles northwest of Emery, Utah; T. 21 S., R. 5, 6 E	5,730	72.6
Muddy Creek West	About 7 miles northwest of Emery, Utah; T. 21 S., R. 5 E	5,880	99.5
Meetinghouse Canyon	About 9 miles northwest of Huntington, Utah; T. 16, 17 S., R. 7 E.	1,100	33.8
Cottonwood	About 10 miles northwest of Castledale, Utah; T. 17 S., R. 7 E.	2,400	60.0
North Horn Utah	About 10 miles west of Castledale, Utah; T. 18, 19 S., R. 6, 7 E.	9,600	217.0
Castle Valley Ridge	About 16 miles southwest of Price, Utah; T. 14, 15 S., R. 7 E.	3,000	29.5
Mudwater Canyon	About 13 miles southwest of Price, Utah; T. 15 S., R. 8 E	880	(1)
Emery North	About 3 miles east of Emery, Utah; T. 22 S., R. 6 E	2,201	(1)
Emery Central	About 6 miles southeast of Emery, Utah; T. 22, 23 S., R. 6 E	2,960	42.0
Emery South	About 11 miles south of Emery, Utah; T. 23, 24 S., R. 6 E	743	11.6

[1] Figure not yet determined.

The regional coal team will rank the tracts on the basis of high, medium, and low desirability for leasing using three categories. These categories are coal economics, impacts on the natural environment, and social and economic impacts that could result if the tracts are leased and mined. These major categories may be further divided by the team into subcategories such as tons of coal that could be mined, effects on air quality, population increases, etc. For use in the ranking process, the regional coal team will determine the emphasis to be placed on, or the degree of importance of, each of the categories and subcategories.

The boundaries of the tracts may be modified by the regional coal team based on the analyses contained in the tract profiles. The team may also defer the ranking of any potential lease tract if it is determined that insufficient tract information is available.

In ranking the tracts, the regional coal team will use tract profile data (tract delineation report, social-economic profile, site-specific environmental analysis report, and summary matrices). The team will also use information obtained as a result of consultations with Federal and State agencies, the views of the public as voiced at the EIS scoping meetings, comments received in response to this notice, and other considerations such as guidance provided by the Department of the Interior and the Bureau of Land Management.

Upon completion of the ranking process, the regional coal team will select preliminary tracts for possible Federal lease sale beginning in July 1981. Tracts will be selected to meet or exceed the Federal coal leasing target for the region that will be decided by the Secretary of the Interior. Generally, the tracts selected for possible competitive sale will be chosen from those tracts that are in a high desirability range, followed by those that are in the medium desirability range. Tracts in the low desirability range will be the tracts least likely to be selected. However, special conditions or factors may exist that would warrant the selection of a tract that falls in the medium or low desirability range.

Once selected, the preliminary lease tracts will be analyzed on a cumulative basis. This will be followed by a final selection of the tracts that may be offered for competitive sale. The selected tracts and alternate tract combinations will be analyzed for individual and cumulative impacts as part of a regional lease sale environmental impact statement.

The public is invited to comment on these potential lease tracts and on the factors that may be considered by the regional coal team in ranking the tracts. The comments should be addressed to the regional coal teams chairperson at the address provided above. Comments must be received by the team chairperson by January 25, 1980. At the February 1980 meeting, the regional coal team will review the comments received in response to this announcement before the team ranks the identified potential lease tracts and makes a preliminary selection of Federal coal lease tracts.

Material concerning the potential lease tracts will be available for public review by January 18, 1980, at the Bureau of Land Management's Utah State Office, Office of Public Affairs, University Club Building, 136 East South Temple, Salt Lake City, Utah.

Dated: December 17, 1979.

Ed Hastey,

Associate Director.

[FR Doc. 79-39088 Filed 12-20-79; 8:45 am]

BILLING CODE 4310-84-M

Nevada BLM Announces Progress on Wilderness Instant Study Areas

In the Federal Land Policy and Management Act, Congress directed the Bureau of Land Management through the Secretary of Interior to make an early inventory of all primitive and natural areas under Bureau jurisdiction for wilderness characteristics. Congress said reports on these areas must be completed by June 1980, rather than the 1991 deadline for the rest of the public lands.

In Nevada, there are 11 natural areas that come under this accelerated study. To accomplish this effort, the Bureau has already inventoried four of the areas through earlier special intensive inventories done to expedite needed public land projects. These areas, which have already undergone public comment, were found to lack wilderness characteristics as identified by Congress. Another two areas were released from further wilderness consideration during the initial wilderness inventory because they also lacked wilderness characteristics. That

initial inventory has also been reviewed by the public.

On the remaining five areas, the Bureau has just completed accelerated inventories to ascertain the presence or absence of wilderness characteristics in these areas. Those inventories which recommend that the areas be released from further wilderness consideration because they, as a separate entity, do not possess wilderness characteristics, are now open for public comment until January 30, 1980. Open houses to discuss these findings with the public are planned in the three BLM districts involved on the following schedule: January 9, Las Vegas District Office, 1 to 4 p.m. and 7 to 9 p.m.; January 11, Winnemucca District Office, 1:30 to 4:30 p.m.; and January 14, Ely District Office, 1 to 4 p.m. Detailed information on the five areas under consideration can be obtained from any of those offices, or the BLM state office in Reno.

The special inventory of these areas was done only on the designated acreage within the natural areas, and not on surrounding roadless acreage. The surrounding lands that have not already been eliminated from further wilderness consideration will be analyzed with the statewide intensive wilderness inventory slated to be released for a 90-day public comment period in April 1980. At that time, the natural areas involved, which may not possess wilderness characteristics such as size, outstanding solitude, or outstanding opportunities for a primitive and unconfined type of recreation by themselves will be considered in the context of the total surrounding roadless area to determine if the whole area, including the natural area, does or does not contain wilderness values.

To meet the June 1980 deadline for reporting of these areas to the President, the Bureau will be submitting a "deferred report" on the five areas. A final report on the natural area and its surrounding roadless acreage will be submitted as a supplement when those studies are complete. The final reports on the six areas and their contiguous lands that were previously cleared will be submitted in June.

The areas involved and their location are given below:

- Natural Areas that have already been studied and reviewed by the public and were found to lack wilderness characteristics: (1) Swamp Cedar, Ely District, within wilderness inventory unit NV–040–089; (2) Shoshone Ponds, Ely District, within NV–040–180; (3) Pygmy Sage, Ely District, within NV–040–099; (4) Virgin Mountain, Las Vegas District, within NV–050–0222; (5) Sunrise Mountain, Las Vegas District, within NV–050–0420; (6) Mountain Meadow, Battle Mountain District, within NV–060–221.
- Natural Areas now undergoing public review of recommendation that they be released from further wilderness consideration because they lack wilderness characteristics: (1) Pine Creek Canyon, Las Vegas District, within NV–050–414; (2) Pinyon-Joshua Tree Transition, Las Vegas District, within NV–050–0337 and 050–0338A; (3) Bristlecone Pine, Ely District, within NV–040–048A; (4) Goshute Canyon, Ely District, within NV–040–015; and (5) Lahontan-Cutthroat Trout, Winnemucca District, within NV–020–622 and 020–617.

Dated: December 12, 1979.

Edward F. Spang,

State Director, Nevada.

[FR Doc 79-39157 Filed 12-20-79; 8:45 am]

BILLING CODE 4310-84-M

[W-69996]

Wyoming; Application

December 14, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct, operate, maintain, repair, replace and remove a 24" buried pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 19 N., R. 98 W.,
Sec. 8.
T. 19 N., R. 99 W.,
Secs 2,4, and 12.
T. 20 N., R. 99 W.,
Sec. 32.
T. 20 N., R. 100 W.,
Secs. 26, 28, 30 and 36.
T. 20 N., R. 101 W.,
Secs. 8, 22 and 24
T. 20 N., R. 102 W.,
Secs. 12, 14, 20 and 30.
T. 19 N., R. 103 W.,
Secs. 4 and 6.
T. 20 N., R. 103 W.,
Secs. 26 and 34.
T. 18 N., R. 104 W.,
Secs. 4 and 6.
T. 19 N., R. 104 W.,
Secs. 2, 10, 22 and 28.
T. 18 N., R. 104 W.,
Secs. 12 and 18.
T. 18 N., R. 106 W.,
Sec. 24.

This proposed pipeline designated as "Desert Springs West Loop Line" will extend from Colorado Interstate Gas Company's Desert Springs field Compressor facilities located in Section 9, T. 19 N., R. 98 W., to a point of connection with Mountain Fuel Supply Company's proposed Nightingale Station facilities in Section 24, T. 18 N., R. 106 W., all within Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-39160 Filed 12-20-79; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Proposed Notice to Lessees and Operators, Gulf of Mexico Region; Planning and Conduct of Operations in Vacinity of Existing Pipelines

AGENCY: U.S. Geological Survey, Deparment of the Interior.

ACTION: Proposed Notice to Lessees and Operators in the Gulf of Mexico Region concerning planning and conduct of operations in the vicinity of existing pipelines.

SUMMARY: The purpose of this Notice is to solicit comments on the proposed Notice to Lessees and Operators. The proposed Notice would require the lessee to perform a hazards survey for the purpose of locating existing pipelines before lease activities involving mobile drilling rigs, pipeline lay barges, and derrick barges are undertaken. The location of existing underwater pipelines is essential in precluding the possibility of serious accidents and/or damaging the pipeline with the anchors that are normally used with the aforementioned equipment. This Notice is being proposed in light of a recent pipeline accident in which two lives were lost and several people injured. In addition, there have been a number of pipeline failures in the last 6 years which may have been prevented had the requirements of the proposed Notice been in effect.

DATES: Comments must be received on or before January 25, 1980.

ADDRESSES: Comments should be sent to Deputy Division Chief for Offshore

Minerals Regulation, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT:
Mr. R. B. Krahl, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092, (703/860–7531).

Don E. Kash,
Chief, Conservation Division.

Pursuant to 30 CFR 250.45 and 30 CFR 250.46, the lessee shall take all steps necessary to prevent accidents and fires, perform all operations in a safe and workmanlike manner, and maintain equipment to assure protection of the environment and the health and safety of all personnel. Recent accidents involing mobile bottom-founded structures and anchors associated with drilling rigs, derrick barges, and pipe lay-barges indicate the need for specific guidelines relative to the planning and conduct of operations in the vicinity of existing pipelines.

The lessee shall take the necessary steps to assure that all operations on the lease are conducted in a safe manner. Responsibility for safe conduct of these operations cannot be delegated to the contractor performing the operations.

Prior to performing operations from a mobile drilling rig, derrick barge, or pipe lay-barge on an Outer Continental Shelf lease, the lessee shall, at a minimum, perform the following:

1. Conduct a hazard survey to determine the location of all existing pipelines or other hazards within a 500-foot radius of the operation to be performed including anchor patterns. (See enclosure for guidelines.)

In conjunction with this survey, the location of all existing pipelines or other hazards shall be buoyed.

2. Using the above information, prepare a plat with a scale of at least 1 inch=2,000 feet, depicting the location of the proposed activity, all associated anchor locations, and existing pipelines or other hazards in the area.

3. Provide copies to this plat of all drilling rigs, derrick barges, pipe lay-barges, and any anchor-handling vessels associated with the operations.

4. Utilities a survey vessel if there is any question as to the ability to safely locate a drilling rig, derrick barge, or pipe lay-barge near an existing pipeline or other subsea hazard. For example, in the event the pipeline buoys were destroyed subsequent to a hazards survey, a survey vessel shall be utilized to reestablish the pipeline location.

Data collected during other required hazards surveys may be substituted for that required by this Notice with the approval of the Oil and Gas Supervisor.

D. W. Solanas, Oil and Gas Supervisor, Operations Support, Gulf of Mexico Area. J. B. Lowenhaupt, Oil and Gas Supervisor, Field Operations, Gulf of Mexico Area.

Approved: December 19, 1979.

Don E. Kash,
Chief, Conservation Division.

Minimum Geophysical Survey Requirements for Hazards Survey

Prior to the drilling of any well or the installation of any structure or pipeline, the lessee shall conduct a high-resolution geophysical survey in the immediate area to determine the possible existence of hazards. The following equipment is required in performing the survey. All equipment shall be representative of the state of the art of technological development.

1. *Magnetometer.* The sensor of the magnetometer should be trailed as near as possible to the seafloor; 6 meters or less is recommended. Knowledge of the sensor depth of tow above the bottom is highly recommended for future analyses; therefore, recording of the tow depth is required. Deep tow is not required in water depths less than 25 feet; magnetic sampling is required on all survey lines.

2. *Dual Side-Scan Sonar.* Coverage of the seafloor at a range width of at least 125 meters to 150 meters per side in the proposed area is needed. Side-scan sonar is required for water depths greater than 25 feet.

3. *Depth Sounder and Subbottom Profiler.* An analog recorder shall be used for bathymetric data, and the profiler shall be capable of resolving the upper 50 feet of sediment. The subbottom profiler is required on all survey lines.

Navigation for the survey shall utilize state-of-the-art positioning systems correlated to annotated geophysical records. Navigation accuracy shall be on the order of ± 100 feet at 200 miles.

Supplemental tools could include cameras, underwater TV, divers, and cores. Any engineering soil borings which are obtained shall be made available for inspection. These data shall be evaluated for indication of hazards to pipeline and mobile rig installations.

A qualified geophysical-survey operator must accompany the survey party to insure that the equipment is properly tuned and records are accurate and readable. The records shall be inspected by the geophysicist who shall advise the lessee as to record quality and hazard occurrences. The data will be maintained by the lessee and shall be available to the USGS upon request.

[FR Doc. 79-39289 Filed 12-21-79; 8:45 am]

BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

Extension of Public Comment Period on Texas Amended Program Submission for the Regulation and Control of Surface Coal Mining

AGENCY: Office of Surface Mining Reclamation and Enforcement ("OSM"), U.S. Department of the Interior.

ACTION: Notice of extension of public comment period on the Texas Amended Program Submission for the regulation and control of surface coal mining.

SUMMARY: On November 13, 1979, Texas submitted its amended state program. On November 20, 1979 (44 FR 66764) OSM published in the Federal Register notice of the receipt of the program, the dates for public hearings and the public comment period. In the notice it was stated that the comment period would end at 5:00 p.m. on December 20, 1979, the same day as the last public hearing. OSM has received a request to extend the public comment period for an additional 30 days after the close of the public hearing so that the commenters could have the full benefit of the discussion and issues raised at the hearings. Because of the Secretary's statutory deadline for decision on the proposed program, an extension of 30 days is impossible; however, OSM agrees that it is desirable to allow opportunity for comment after the public hearings, and accordingly, has decided to extend the public comment period to 5:00 p.m. on December 28, 1979.

DATES: All comments must be received on or before 5:00 p.m. on December 28, 1979, to be considered in the Secretary's decision on the proposed Texas regulatory program.

ADDRESSES: Written comments should be sent to: Raymond L. Lowrie, Regional Director, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, MO 64106, or may be hand-delivered to the Regional Office.

FOR FURTHER INFORMATION CONTACT:
Richard Rieke, Assistant Regional Director, Office of Surface Mining Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, Kansas City, MO 64106, Telephone (816) 374–3920.

SUPPLEMENTARY INFORMATION: Since the publication of the November 20, 1979, notice of receipt of the amended Texas program submission, OSM and the Texas Railroad Commission have had further discussions about the program and as a result, Texas has informed OSM of its intention to make certain minor changes in its program submission, as follows:

1. Amend the definition of "Valid Existing Rights" at Section 051.07.04.070 to include a paragraph equivalent to 30 CFR 761.5(c) concerning the interpretation of the terms of the document relied upon to establish valid existing rights shall be based either upon Texas case law concerning the interpretation of documents conveying mining rights or, where no Texas case law exists, upon showing by the applicant that the parties to the document actually contemplated a right to conduct the same be based either upon Texas case law concerning the interpretation of documents conveying mining rights or, where no Texas case law exists, upon showing by the applicant that the parties to the document actually contemplated a right to conduct the same underground or surface mining activities for which the applicant claims a valid existing right."

2. Amend the definition of "close of public comment period" at section 051.07.04.070 to clarify the distinction between those permit applications on which a hearing is held, and those on which no hearing is held. The amended definition will be:

"Close of public comment period means, where a public hearing is conducted, at the close of such hearing, or, where no public hearing is held, within 30 days after the last publication of the newspaper notice required by Section .207(a)."

3. Delete the last sentence on page VII–28 of the amended state program submission, and insert the following sentence: "Should failure to abate within the time allotted or extended occur, the Commission or its authorized representative shall order a cessation of the portion of the mining operation relevant to the violation."

4. Insert language at page III–185 of the amended submission stating that Texas does not need an equivalent of 30 C.F.R. 843.17 because of its general inspection authority under Sections .051.07.04.670 and .671 of the Texas regulations. All correspondence between OSM and Texas on these matters, summaries of oral communications and records of all other contacts between OSM and the State or the public are available for public inspection at the OSM Region IV office in Kansas City, Missouri (address listed above).

Date: December 18, 1979.

Raymond L. Lowrie,

Regional Director.

[FR Doc. 79–39319 Filed 12–21–79; 8:45 am]

BILLING CODE 4310–05–M

[Federal Lease No. 1420–0252–4088]

Availability for Public Review of Proposed Modification to the Absaloka Mine; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Corrections (Availability for Public Review of Proposed Modification to a Coal Mining and Reclamation Plan).

SUMMARY: This document corrects the notice that begins on page 70238 of the Federal Register of Thursday, December 6, 1979.

Pursuant to Part 211 of Title 30 and Section 1500.2 of Title 40, Code of Federal Regulations, the Department's notice is given that the Office of Surface Mining has received a modification to an existing mining and reclamation plan. The proposed modification is described below:

Location of Lands To Be Affected by Modification

Applicant: Westmoreland Resources, Inc.
Mine Name: Absaloka.
State: Montana.
County: Big Horn, Crow Indian Ceded Area.
Township, Range, Section: T. 1N, R 38 E.: 30; T. 1N, R 37 E.: 24, 25.
Office of Surface Mining Reference Number: MT–0007.

The mine is located approximately 26 miles east of Hardin, Montana, and immediately north of the Crow Indian Reservation. The proposed modification involves mining and associated disturbance on 625 acres of the total lease area of 14,746 acres in Tract III. The mine is proposed to continue as a multiple (two) seam, dragline operation removing Indian-owned coal. The coal is shipped, via railroad, to power stations in the Midwest. The proposed modification would allow the company to continue mining at the current rate of production of 5 million tons per year through 1984. The proposed modification would extend mining activities northward and eastward from the presently mined area. The multiple seam operation would include the extraction of coal from two primary seams, the Rosebud-McKay and Robinson seams. The area scheduled for mining under the proposed modification is within the boundaries of the 20-year mine plan which was approved by the Department on August 15, 1977. However, the proposed modification would involve a number of changes in the approved 20-year mine plan.

The Absaloka Mine was the subject of site-specific analyses of impacts, mitigation measures, and alternatives in two Environmental Impact Statements. Final Environmental Impact Statement (74–8) was issued by the Bureau of Indian Affairs in 1974, and another Final Environmental Impact Statement (77–17), which addressed the 20-year mining plan approval, was issued by the U.S. Geological Survey on May 31, 1977.

This notice is issued at this time for the convenience of the public. The Office of Surface Mining and the Bureau of Indian Affairs have not yet determined whether the proposed modification is technically adequate. It is possible that the Department will request additional information from the company during the forthcoming technical review. Any further information so obtained would also be available for public review.

No action with respect to approval of the proposed coal mining and reclamation plan shall be taken by the Department for a period of 30 days after publication of this Notice of Availability in the Federal Register (until January 21, 1980). Prior to taking any action on this proposed amendment, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to § 211.5(c)(2) of Title 30, Code of Federal Regulations.

The mine plan modification submitted by Westmoreland Resources, Inc. for the Absaloka Mine is available for public review during normal working hours in the Library, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado, the Bureau of Indian Affairs, Crow Agency, Montana, and the Crow Tribal Council, Crow Agency, Montana. Comments on the proposed modification may be submitted during the 30 days after publication of this notice to the Regional Director, Office of Surface Mining, at the same address.

FOR FURTHER INFORMATION CONTACT: Dan Kimball or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

Donald A. Crane,

Regional Director.

[FR Doc. 79–39268 Filed 12–20–79; 8:45 am]

BILLING CODE 4310–05–M

National Park Service

Andersonville National Historic Site; Land Acquisition Plan; Public Forum

In accordance with guidelines issued by the Director of the National Park Service in the Federal Register (Vol. 44, No. 82) on April 26, 1979, the Superintendent of Andersonville

National Historic Site announces an open house for the purpose of providing a public forum to receive oral and written comment on a draft land acquisition plan for the park.

The draft plan will outline, in general terms, the overall goals and strategy for the park land acquisition program and identify specific land acquisition priorities within existing statutory limitations.

The open house will be held as follows:

Wednesday, January 16, 1 p.m. to 4 p.m., Park Headquarters, Route 49, Andersonville, Georgia.

Persons desiring further information about the open house should write or call the Superintendent, Andersonville National Historic Site, Andersonville, Georgia 31711, (912) 924–0343. In addition, copies of the draft plan are available from the Superintendent.

Following the public forum, the record will remain open for 30 days to receive additional written comment. A land acquisition plan will then be completed and transmitted to the Regional Director, Southeast Region for approval.

Dated: December 6, 1979.

Joe Brown,

Regional Director, Southeast Region, National Park Service.

[FR Doc. 79-39143 Filed 12-20-79; 8:45 am]

BILLING CODE 4310-70-M

Carl Sandburg Home National Historic Site; Land Acquisition Plan: Public Forum

In accordance with guidelines issued by the Director of the National Park Service in the **Federal Register** (Vol. 44, No. 82) on April 26, 1979, (44 FR 24790), the Superintendent of Carl Sandburg Home National Historic Site announces an open house for the purpose of providing a public forum to receive oral and written comment on a draft land acquisition plan for the park.

The draft plan will outline, in general terms, the overall goals and strategy for the park land acquisition program and identify specific land acquisition priorities within existing statutory limitations.

The open house will be held as follows:

Friday, January 18, 1980, 1:00–3:00 p.m., Park Headquarters, Little, River Road, Flat Rock, North Carolina.

Persons desiring further information about the open house should call the Superintendent, Carl Sandburg Home National Historic Site, Box 395, Flat Rock, North Carolina 28731, (704) 693–4178. In addition, copies of the draft plan are available from the Superintendent.

Following the public forum, the record will remain open for 30 days to receive additional written comment. A land acquisition plan will then be completed and transmitted to the Regional Director, Southeast Region for approval.

Dated: December 7, 1979.

Neal G. Guse,

Acting Regional Director, Southeast Region, National Park Service.

[FR Doc. 79-39125 Filed 12-20-79; 8:45 am]

BILLING CODE 4310-70-M

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 1:30 p.m. CST on January 22, 1980, at the Saint Bernard Parish Police Jury Conference Room, 8201 West Judge Perez Drive, Chalmette, Louisiana.

The Delta Region Preservation Commission was established pursuant to Pub. L. 95–265, Section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, in the development and implementation of a general management plan, and in the development and implementation of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

The members of the Delta Region Preservation Commission are:

Mrs. William R. (Linda) Adams, New Orleans, Louisiana
Ms. Celestine S. Cook, New Orleans, Louisiana
Mr. LeRoy E. Demarest, Harahan, Louisiana
Mr. D. David Duplantis, Marrero, Louisiana
Mr. Charles J. Eagen, Jr., New Orleans, Louisiana
Mr. John Eckerle, West Wago, Louisiana
Mr. Frank Ehert, Marrero, Louisiana
Mr. Robert B. Evans, Jr., Gretna, Louisiana
Mr. Frank Fernandez, St. Bernard Parish, Louisiana
Mr. Barry Kohl, New Orleans, Louisiana
Mrs. Diane Ribando, Marrero, Louisiana
Mrs. Mercedes Munster, Chalmette, Louisiana
Mr. Sidney Rosenthal, Jr., Jefferson, Louisiana
Dr. Frederick W. Wagner, New Orleans, Louisiana

The matters to be discussed at this meeting include:

1. Election of officers.
2. Establishment of committees.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, 400 Royal Street, Room 200, New Orleans, Louisiana, 70130, telephone area code 504 589–3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: December 6, 1979.

Lorraine Mintzmyer,

Regional Director, Southwest Region, National Park Service.

[FR Doc. 79-39128 Filed 12-20-79; 8:45 am]

BILLING CODE 4310-70-M

Fort Frederica National Monument Land Acquisition Plan: Public Forum

In accordance with guidelines issued by the Director of the National Park Service in the **Federal Register** (Vol. 44, No. 82) on April 26, 1979, (44 FR 24790), the Superintendent of Fort Frederica National Monument announces an open house for the purpose of providing a public forum to receive oral and written comment on a draft land acquisition plan for the park.

The draft plan will outline, in general terms, the overall goals and strategy for the park land acquisition program and identify specific land acquisition priorities within existing statutory limitations.

The open house will he held as follows: Monday, January 7, 1980, 7:30 p.m., Monument Visitor Center, Frederica Road, St. Simons Island, Georgia.

Persons desiring further information about the open house can write or call the Superintendent, Fort Frederica National Monument, Route 4, Box 286C, St. Simons Island, Georiga 31522, (912) 638–3630. In addition, copies of the draft plan are available from the Superintendent.

Following the public forum, the record will remain open for 30 days to receive additional written comment. A land acquisition plan will then be completed and transmitted to the Regional Director, Southeast Region for approval.

Dated: December 7, 1979.

Neal G. Guse,

Acting Regional Director, Southeast Region, National Park Service.

[FR Doc. 79-39126 Filed 12-20-79; 8:45 am]

BILLING CODE 4310-70-M

John D. Rockefeller, Jr., Memorial Parkway; Availability of the Environmental Review for the General Management Plan Assessment of Alternatives

An Environmental Review of the Assessment of Alternatives for John D. Rockefeller, Jr., Memorial Parkway has been prepared and is ready for distribution.

The review identifies the alternatives selected from the assessment of alternatives for the general management plan, the rationale for the selections, potential environmental impacts, and mitigating measures involved in implementing the preferred alternative. Also presented are the other alternatives which were considered in the initial assessment of alternatives as well as a summary of public involvement to date.

The review identifies the proposed action as being minor with no potential for causing significant environmental impact or controversy; consequently, an environmental impact statement will not be required.

Copies of the document may be obtained by contacting either of the following: Superintendent, Grand Teton National Park, P.O. Drawer 170, Moose, Wyoming 83012; or Regional Director, Rocky Mountain Region, National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colorado 80225.

Any comments should be submitted to the Superintendent at the above address on or before January 21, 1980.

Dated: December 14, 1979.

James B. Thompson,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 79-39129 Filed 12-20-79; 8:45 am]

BILLING CODE 4310-70-M

Wind Cave National Park; Boundary Revision

Notice is hereby given that the boundary of Wind Cave National Park, established by the Act of January 9, 1903, (32 Stat. 765), as modified by the Act of March 4, 1931, (46 Stat. 1518), the Act of June 15, 1935 (49 Stat. 378), and the Act of August 9, 1946, (60 Stat. 970), is adjusted to include approximately 228 acres pursuant to the authority contained in Section 301 of Pub. L. 95-625 (92 Stat. 3475), which provides for the addition of the 228 acres to the national park.

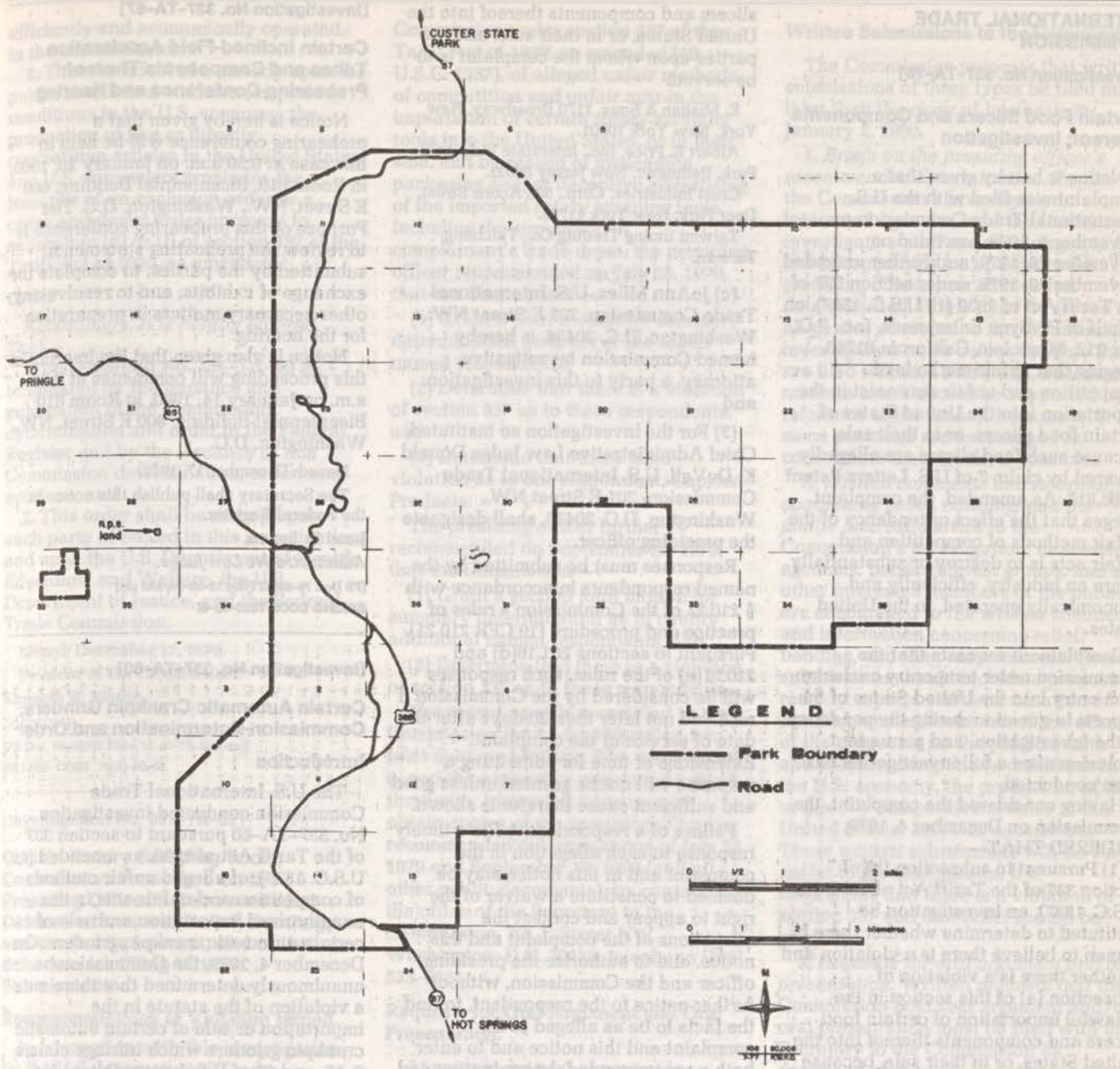
The revised boundary is depicted on the accompanying map entitled "Boundary Map, Wind Cave National Park, Custer County, South Dakota, (Drawing 108-80, 008), dated July 1977." All new areas included within that boundary shall be administered in accordance with the laws and regulations applicable to the national park.

Dated: December 10, 1979.

Cecil D. Andrus,

Secretary of the Interior.

BILLING CODE 4310-70-M



BOUNDARY MAP
WIND CAVE NATIONAL PARK
CUSTER CO., SOUTH DAKOTA
U.S. Dept. of the Interior / Nat'l Park Service

[FR Doc. 79-39127 Filed 12-20-79; 8:45 am]
BILLING CODE 4310-70-C

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-76]

Certain Food Slicers and Components Thereof; Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on November 5, 1979, amended on November 26, 1979, and further amended November 30, 1979, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Prodyne Enterprises, Inc., P.O. Box 212, Montclair, California 91763, alleging that unfair methods of competition and unfair acts exist in the importation into the United States of certain food slicers, or in their sale, because such food slicers are allegedly covered by claim 7 of U.S. Letters Patent 3,766,817. As amended, the complaint alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Complainant requests that the Commission order temporary exclusion from entry into the United States of the imports in question during the pendency of the investigation, and permanent exclusion after a full investigation has been conducted.

Having considered the complaint, the Commission on December 4, 1979, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, (19 U.S.C. 1337), an investigation be instituted to determine whether there is reason to believe there is a violation and whether there is a violation of subsection (a) of this section in the unlawful importation of certain food slicers and components thereof into the United States, or in their sale, because of the alleged infringement by such food slicers of claim 7 of U.S. Letters Patent No. 3,766,817, the effect or tendency of which is to destroy or injure substantially an industry, efficiently and economically operated, in the United States.

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Prodyne Enterprises, Inc., P.O. Box 212, Montclair, California 91763.

(b) The respondents are the following companies alleged to be engaged in the unauthorized importation of certain food slicers and components thereof into the United States, or in their sale, and are parties upon whom the complaint is to be served:

E. Mishan & Sons, 1170 Broadway, New York, New York 10001.

Albert E. Price, Inc., Interstate Industrial Park, Bellmawr, New Jersey 08031.

Crest Industries, Corp., 593 Acorn Street, Deer Park, New York 11729.

Taiwan timing Trading Co., Taichung, Taiwan.

(c) JoAnn Miles, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge Donald K. DuVall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's rules of practice and procedure (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York Office, 6 World Trade Center, New York, New York 10048.

Issued: December 13, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-39241 Filed 12-20-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-67]

Certain Inclined-Field Acceleration Tubes and Components Thereof; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:30 a.m. on January 10, 1980, in Room 610, Bicentennial Building, 600 E Street, NW., Washington, D.C. The Purpose of this prehearing conference is to review the prehearing statements submitted by the parties, to complete the exchange of exhibits, and to resolve any other necessary matters in preparation for the hearing.

Notice is also given that the hearing in this proceeding will commence at 9:30 a.m. on January 14, 1980, in Room 610 Bicentennial Building, 600 E Street, NW., Washington, D.C.

Issued: December 17, 1979.

The Secretary shall publish this notice in the **Federal Register.**

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 79-39242 Filed 12-20-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-60]

Certain Automatic Crankpin Grinders; Commission Determination and Order

Introduction

The U.S. International Trade Commission conducted investigation No. 337-TA-60 pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the unauthorized importation and sale of certain automatic crankpin grinders. On December 4, 1979, the Commission unanimously determined that there was a violation of the statute in the importation or sale of certain automatic crankpin grinders which infringe claims 8, 16, and 19 of U.S. Letters Patent No. 3,118,258. The Commission determined, however, that the public interest factors enumerated in subsections (d) and (f) of the statute preclude the imposition of a remedy.

Determination

Having reviewed the record in this matter, the Commission has determined—

1. That there is a violation of section 337 of the Tariff Act of 1930, as amended, in the importation and sale of certain automatic crankpin grinders which infringe claims 8, 16, and 19 of U.S. Letters Patent No. 3,118,258, the effect or tendency of which is to destroy or substantially injure an industry,

efficiently and economically operated, in the United States;

2. That the effect of a remedy upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers precludes the issuance of an exclusion order or a cease and desist order pursuant to subsection (d) or (f) of section 337 of the Tariff Act of 1930, as amended.[1]

Order

Accordingly, it is hereby ordered, That—

1. Investigation No. 337–TA–60 is terminated by the issuance and publication of the Commission determination and order in the Federal Register and by the issuance of this Commission determination, order, and opinions; and

2. This order shall be served upon each party of record in this investigation and upon the U.S. Department of Health, Education, and Welfare, the U.S. Department of Justice, and the Federal Trade Commission.

Issued: December 17, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79–39243 Filed 12–20–79; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–62]

Certain Rotary Scraping Tools; Commission Procedure on the Presiding Officer's Recommended Determinations and Relief, Bonding, and the Public Interest, and of the Schedule for Filing Written Submissions

Recommendations of Violation Issued

In connection with this investigation by the U.S. International Trade Commission under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the importation of certain rotary scraping tools into the United States, or in their sale, and by reason of misleading packaging and/or deceptive advertising of the imported rotary scraping tools, including the simulation of complainant's trade dress, the presiding officer recommended on July 25, 1979, that the Commission—

(1) Grant a joint motion for summary determination as to six of the seven named respondents,

(2) Determine that there is a violation of section 337 as to these respondents, and

(3) Determine that there is no violation as to one respondent, Caprice Products.

The presiding officer further recommended on September 18, 1979, that the Commission—

(1) Grant a second joint motion for summary determination as to twenty additional named respondents, and

(2) Determine that there is a violation of section 337 as to these respondents.

The presiding officer certified to the Commission for its consideration two joint motions Motions, Nos. 62–5 and 62–6, and the supporting papers submitted therewith. Interested persons may obtain copies of the presiding officer's recommended determinations of July 25, 1979 and September 18, 1979 (and all other public documents), by contacting the office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523–0161.

Requests for Oral Argument and Oral Presentation

At present, no oral argument is planned with respect to the recommended determinations of the presiding officer. Similarly, no oral presentation is planned with respect to the subject matter of § 210.14(a) of the Commission's Rule of Practice and Procedure (19 CFR 210.14(a)) concerning relief, bonding, and the public-interest factors set forth in subsections (d), (f), and (g)(3) of section 337 of the Tariff Act of 1930, as amended which the Commission is to consider if it determines that there should be relief. However, the Commission will consider written requests for an oral argument or an oral presentation if they are received by the Secretary to the Commission no later than the close of business (5:15 p.m., e.d.t.), on January 2, 1980.

Written Submissions to the Commission

The Commission requests that written submissions of three types be filed no later than the close of business on January 2, 1980.

1. *Briefs on the presiding officer's recommended determination.* Parties to the Commission's investigation, interested agencies, and the Commission investigative staff are encouraged to file briefs concerning exceptions to the presiding officer's recommended determination. Briefs must be served on all parties of record to the Commission's investigation on or before the date they are filed with the Secretary. Statements made in briefs should be supported by reference to the record. Persons with the same positions are encouraged to consolidate their briefs, if possible.

2. *Written comments and information concerning relief, bonding, and the public interest.* Parties to the Commission's investigation, interested agencies, public-interest groups, and any other interested members of the public are encouraged to file written comments and information concerning relief, bonding, and the public interest. These submissions should include a proposed remedy, a proposed determination of bonding, and a discussion of the effect of the proposals on the public health and welfare, competitive conditons in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers. These written submissions will be very useful to the Commission if it determines that there is a violation of section 337 and that relief should be granted.

3. *Requests for oral argument and oral presentation.* Written requests that the Commission hold oral argument and/or oral presentation must be filed with the Secretary to the Commission as described above.

Additional Information

The original and 19 true copies of all briefs, written comments, and any written request must be filed with the Secretary to the Commission.

Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request *in camera* treament. Such request should be directed to the Chairman of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open to public inspection at the Secretary's Office.

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[1] Chairman Parker determines that the appropriate relief in this case, in the light of the public interest and the remedial nature of section 337, is the issuance of an exclusion order preventing the importation of infringing articles during the life of the patent except (1) under license or (2) in the absence of the complainant granting a license when payment in the amount equal to but not to exceed the maximum license fee previously established by the patent owner Landis in arm's length agreement between the patent owner and any of its licensees is tendered by the importer to the patent owner. In the absence of the previous disclosure and establishment of such an amount, the amount that would be required to be tendered would be $2,500 per imported article.

Commissioner Moore determines that the issuance of an exclusion order pursuant to subsection (d) of section 337 of the Tariff Act of 1930, as amended, preventing importation of infringing articles during the life of the patent except under license is the appropriate means to remedy the violation of section 337.

Notice of the Commission's investigation was published in the Federal Register of January 10, 1979 (44 FR 2207); notice of the Commission's amendment to the supplemented complaint and notice of investigation was published in the Federal Register of July 18, 1979 (44 FR 41972).

Issued: December 19, 1979.
By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 79-39240 Filed 12-20-79; 8:45 am]
BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Competitive Research Grant on the Relationships Between Crime and the Abuse of Drugs and Alcohol; Solicitation

The National Institute of Law Enforcement and Criminal Justice (NILECJ) announces a competitive research grant program on the relationships between crime and the abuse of drugs and alcohol. The goals of the program are to improve our basic knowledge of these relations and provide informational support for national strategies and policies directed toward the control of drug abuse and crime.

NILECJ's intent is to provide support for the establishment of a Research center on these issues. This initial award is for two years and is not to exceed $650,000. Later additional support may be possible for a total program period of up to five years. The center is planned to build upon prior interagency agenda development efforts on the relations of drug abuse to crime, as outlined in the solicitation. The overall program will consist of a coordinated set of research studies on these issues, negotiated between NILECJ and the grantee, plus self-initiated studies by the center and related support efforts.

The solicitation asks for submission of preliminary proposals rather than formal applications. Proposals will be reviewed by a panel designated by NILECJ. Requests for formal applications will be based on the results of this peer review process, in accordance with criteria indicated in the solicitation.

In order to be considered, all preliminary proposals must be received by April 1, 1980. Formal applications are expected to be invited by the end of May, with grant award anticipated for August, 1980.

Copies of the solicitation may be obtained by writing to: Program Solicitation Office, National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850.

Dated: December 14, 1979.

Approved:

Harry M. Bratt,
Acting Director, NILECJ.

[FR Doc. 79-39158 Filed 12-20-79; 8:45 am]
BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enerprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon it potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-weeks period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20013.

Signed at Washington, D.C., this 18th day of December 1979.

Earl T. Klein,
Director, Office of Program Services.

Applications Received During the Week Ending December 22, 1979

Name of Applicant, and Location of Enterprise, and Principal Product or Activity

Lancer Enterprises, Inc., Whitfield, Georgia—Manufacture of grass (outdoor) carpet.

H. W. Richardson & Co., Craven County, North Carolina—Repairing of railroad cars.

[FR Doc. 79-39304 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-79-157-C]

A. A. & W. Coals, Inc.; Petition for Modification of Application of Mandatory Safety Standard

A. A. & W. Coals, Inc., P.O. Box 458, Pikeville, Kentucky 41501, has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its No. 8 Mine located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the use of canopies on electric face equipment in

the petitioner's mine, specifically a cutting machine, a roof bolter, and a scoop.

2. The petitioner is mining coal seams ranging from 43 to 56 inches in height, with irregularities in the top and bottom.

3. The height of the equipment prevents the safe addition of canopies.

4. For these reasons, the petitioner believes canopies in the heights encountered in its mine would result in a diminution of safety.

Request for Comments

Persons interested in this petition may furnish written comments on or before January 21, 1980. 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: December 12, 1979.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 79-39038 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-178-C]

Double Q Corp.; Petition for Modification of Application of Mandatory Safety Standard

The Double Q Corporation, Route #1, Box 191-A, Clairfield, Tennessee 37715, has filed a petition to modify the application of 30 CFR 75.805 (couplers) to its Angela No. 1 Mine located in Claiborne County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petitioner requests permission to use junction boxes constructed of ⅛ inch thick steel and equipped with insulated strain clamps. The cover of the box is hinged, bolted down and padlocked to prevent entry. The line potential is 4,160 volts and all insulators are 8KV type rated. All cables used are 8KV constructed and terminations are in accordance with standard electrical practice.

2. The petitioner states that these boxes have been used for three years and have proved to be reliable and safe. The safety of the miners will not be diminished.

3. Junction boxes shall be located in dry, well rock-dusted areas or supported above wet locations on concrete blocks or the equivalent.

4. When different size cables are used, fittings for the cable entrance shall be properly sized and secured to prevent strain on the electrical connections.

5. High voltage cables shall be terminated in accordance with the termination kit manufacturer's recommendations.

6. The junction boxes and cables shall be protected in accordance with the provisions of 30 CFR 75.807 and 30 CFR 75.1107-1(a)(3).

Request for Comments

Persons interested in this petition may furnish written comments on or before January 21, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: December 12, 1979.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 79-39041 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-216-C]

Howell Branch Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Howell Branch Coal Company, Inc., Box 47, Drift, Kentucky 41619 has filed a petition to modify the application of 30 CFR 75.1719 (illuminated) to its No. 1 Mine located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the illumination of underground working places in which self-propelled mining equipment is operated.

2. The petitioner states that use of currently available lighting equipment would diminish worker safety by requiring continual changes in light exposure levels which require adaptation time.

3. The petitioner proposes exemption from the standard until new equipment is available and obtained.

Request for Comments

Persons interested in this petition may furnish written comments on or before January 21, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, VA 22203. Copies of the petition are available for inspection at that address.

Dated: December 12, 1979.

Frank A. White,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 79-39042 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-237-C]

Jim Walter Resources, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Jim Walter Resources, Inc., P.O. Box C-79, Birmingham, AL 35283 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its No. 3 Mine, located in Jefferson County, Alabama, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173, as amended by Pub. L. 95-164.

The substance of the petition is as follows:

1. The petitioner operates both continuous miner and longwall sections.

2. The coal seam contains large quantities of methane (CH_4); the porosity of the seam is high, but the permeability is low.

3. Measurements indicate that the development (chain) pillars are yielding.

4. The petitioner proposes a two entry system which utilizes the return air entries as belt entries. Intake air entries will continue to be isolated from combined belt and return air entries with the use of continuous permanent type stoppings. An escapeway will continue to be ventilated with intake air and effectively separated from the combined belt and return air entries. The drive motor of the belt conveyor and its electrical components will be located out of the return air entry and in a neutral air belt entry.

5. A haulage system used for mantrip and supply purposes will be located in the intake air entry. Only battery powered locomotives will be operated in the entry.

Request for Comments

Persons interested in this petition may furnish written comments on or before January 21, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203. Copies of the petition are available for inspection at that address.

Dated: December 12, 1979.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 79-39039 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-43-M

Petitions for Modification of Application of Mandatory Safety Standard

The following companies have a Petition for Modification of 30 CFR 75.1400 (hoisting equipment, general). All petitions are filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164. The petitions have been filed to modify the application of that standard for all the mines listed below.

Bush Coal Co., R.D. Box 44, Tower City, Pa., 17980. The Middle Split of the Skidmore Slope (Docket No. M-79-204-C) and the Skidmore Slope (Docket No. M-79-224-C) mines are located in Schuylkill County, Pennsylvania.

Hegins Mining Co., Zerbe, Pa., 17981. The No. 5 Slope (Docket No. M-79-172-C) and the No. 3 Skidmore Slope (Docket No. M-79-211-C) mines are located in Schuylkill County, Pennsylvania.

Bernitsky Bros. Coal Co., 17 Water Street, New Philadelphia, Pa., 17959. The Bernitsky No. 2 Mine is located in Schuylkill County, Pennsylvania. Docket No. M-79-184-C.

Colket Coal Co., 117 School Row, Branchdale, Pa., 17923. The Tracy Slope Mine is located in Schuylkill County, Pennsylvania. Docket No. M-79-221-C.

The substance of the petitions follows:

1. The petitions concern the requirement for the use of safety catches on gunboats used to transport persons in shafts and slopes. The safety catches must act quickly and effectively in an emergency.

2. Petitioners state that all of the affected mines are Anthracite mines which have steeply pitching and undulating slopes with numerous curves and knuckles in the main haulage slopes.

3. Petitioners have requested permission to operate the gun boat without safety catches because, they state, no such safety catch or device is available which functions in these type slopes.

4. The petitioners believe that makeshift safety catches or devices, if installed, would be activated on knuckles and curves when no emergency existed, causing a tumbling effect on the conveyance, increasing the hazard to miners.

5. In view of this, the petitioners propose to:

a. Operate their man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device; and

b. Use hoisting ropes which have a factor of safety in excess of the 4 to 8 to 1 as suggested in the American Standards Specifications—Use of Wire Ropes for Mines.

6. Petitioners aver that the modification, if granted, would provide no less than the same measure of protection afforded miners under the existing standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before January 21, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: December 12, 1979.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc 79-39040 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-218-C]

Leeco, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Leeco, Inc., Route 9, Box 15, London, Kentucky 40741, has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its No. 22 mine located in Leslie County, Kentucky. 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 use of automatic couplers on haulage equipment in underground mines.

2. The petitioner states that use of automatic couplers is hazardous in the No. 22 mine, because the couplers disengage due to vertical track undulations.

3. The petitioner further states that attempts to level the track have been unsuccessful due to limited height and low clearance.

4. The petitioner proposes an alternate coupling method using metal tongues and coupling pins.

5. The petitioner states that the proposed alternative coupling method will preclude disengagement, while the automatic couplers do not, and request a variance from the standard on that basis.

Request for Comments

Persons interested in this petition may furnish written comments on or before January 21, 1980. 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: December 13, 1979.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 79-39178 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-163-C]

Thelma Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Thelma Coal Company, Box 301, Warfield, Kentucky 41267, has filed a petition to modify the application of 30 CFR 75.1719-1 (illumination) to its No. 2 mine, located in Martin County, Kentucky, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173, as amended by Public Law 95-164.

The substance of the petition is as follows:

1. The petition concerns the illunination of underground mining equipment.

2. The petitioner states that installation of added illunination would create a safety hazard to the equipment operators because it would have a blinding effect on the operators and would cause adaptation problems when travelling from a dark area to a highly lighted area.

3. Petitioner feels the blinding effect caused by those systems now being used could contribute to several different types of accidents, thus diminishing the miners' safety.

4. For these reasons, the petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before January 21, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington,

Virginia 22203. Copies of the petition are available for inspection at that address.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

December 13, 1979.

[FR Doc. 79-39179 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Full Committee Meeting and Meeting of the Subgroup on Health Standards

Notice is hereby given that the Subgroup on Health Standards of the Advisory Committee on Construction Safety and Health will meet on January 7, 1980, in Room C-5515-Seminar Room 6, New Department of Labor Building, 3rd Street and Constitution Avenue NW., Washington, D.C. The meeting is open to the public and will begin at 9:30 a.m.

The Subgroup will thoroughly review OSHA health standards as they relate to the construction industry and will subsequently submit a report to the Advisory Committee on Construction Safety and Health containing their findings and including their recommendations.

The meeting agenda includes a discussion of major issues for the Subgroup report.

The full Advisory Committee on Construction Safety and Health will meet on January 9-10, 1980, in Room N-5437, New Department of Labor Building, Washington, D.C.

The meeting is open to the public and will begin at 9:00 a.m.

The meeting agenda includes a status report from the Subgroup on Health Standards, a status report on proposals for regulation of abrasive blasting, continued discussion of work in confined spaces, proposed revisions to the tunnel standard, and general discussion on construction safety and health standards.

The Advisory Committee on Construction Safety and Health was established under section 107(c)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the chairman, depending on the extent to which time permits. Communications may be mailed to:

Ken Hunt, Committee Management Officer, Office of Information and Consumer Affairs, Room N-3635—OSHA, 3rd Street and Constitution Avenue NW., Washington, D.C., Telephone 202-523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

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

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79-38815 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

Deferral of Federal Unemployment Tax Credit Reductions; Findings of the Secretary of Labor

Pursuant to section 110(b) of Pub. L. 94-45, approved June 30, 1975, (89 Stat. 236, 239) a finding must be made as of November 10, 1979, with respect to each State named herein as to whether the incremental reduction in total credits under section 3302(c)(2) of the Internal Revenue Code of 1954, on account of an outstanding balance of advances made to each State pursuant to Title XII of the Social Security Act, shall apply with respect to the taxable year 1979.

A State may qualify for deferral of the incremental reduction in credit with respect to 1979 if it takes certain actions set forth in clause (i) or clause (ii), of § 601.5(f)(2), Title 20, Code of Federal Regulations.

Clause (i) requires amendment of the tax provisions of the State unemployment compensation law, so as to be estimated by the Secretary of Labor to achieve: (A) an average employer tax rate based on total wages in employment covered by the State unemployment compensation law which exceeds the State's average annual benefit cost rate for the 10-year period, preceding 1979; (B) an effective minimum employer tax rate which is not less than 1.0 percent of the wages of any employer which are subject to the Federal Unemployment Tax Act; and (C) an effective maximum employer tax rate which exceeds 2.7 percent of the wages of any employer which are subject to the Federal Unemployment Tax Act, or provision for no reduced tax rates.

Clause (ii) requires: (A) amendment of the State unemployment compensation law so as to be estimated by the Secretary of Labor to result in increased contributions to the State unemployment fund for the taxable year involved, and allocation from the increased contributions of a sum sufficient to make the repayment in the amount and within the time limit prescribed in (B); (B) repayment to the Federal unemployment account prior to November 10, 1979, of a sum equal to the reduction in credit that otherwise would be payable by taxpayers with respect to that State; and (C) a determination by the Secretary of Labor that the State unemployment fund will have sufficient funds for benefit expenditures during the 6-month period beginning November 1, 1979, without the necessity of obtaining further Title XII advances.

Findings Under Clause (i)

The following States have taken appropriate action to satisfy the criteria in clause (i) of § 601.5(f)(2), Title 20, Code of Federal Regulations. Each such State has an effective minimum employer tax rate of not less than 1.0 percent, and an effective maximum employer tax rate exceeding 2.7 percent (or has suspended reduced rates), and also has an average employer tax rate which exceeds the State's 10-year average benefit cost rate as set forth in the following schedule:

[In percent]

	Av. emp. tax rate	Benefit cost rate
District of Columbia	1.51	1.24
Illinois	1.38	1.13
Maine	1.78	1.77
Michigan	1.63	1.48
Puerto Rico	2.95	2.93
Rhode Island	2.46	2.35

I hereby find that the District of Columbia, Illinois, Maine, Michigan, Puerto Rico, and Rhode Island have satisfied the criteria specified in clause (i) of 20 CFR 601.5(f)(2) for 1979. Therefore, the incremental reduction in total credits pursuant to section 3302(c)(2) of the Internal Revenue Code of 1954 shall not apply to those States with respect to the taxable year beginning on January 1, 1979.

Findings Under Clause (ii)

The States of Connecticut, Massachusetts, Montana, New Jersey, Vermont, and the Virgin Islands have taken appropriate action to satisfy the criteria in clause (ii) of section 601.5(f)(2). Each of these States has paid

into the Federal unemployment account in the Unemployment Trust Fund, from its unemployment fund, an amount equal to the amount of the additional tax that otherwise would be payable with respect to each State for 1979 through the reduction in total credits under section 3302(c)(2) of the Internal Revenue Code of 1954. The amount indicated below was paid by each State prior to November 10, 1979.

	Amount of repayment
Connecticut	39,600,000
Massachusetts	33,300,000
Montana	3,400,000
New Jersey	43,000,000
Vermont	5,636,000
Virgin Islands	500,000

Each of the States qualifying under the criteria of clause (ii) has submitted data to justify a determination by the Secretary that, under current economic conditions and reasonable projections, unemployment reserves and income from contributions in each State's unemployment fund will be adequate to meet benefit payment obligations without Title XII advances during the 6-month period beginning November 1, 1979.

I hereby make a finding that, as of November 10, 1979, the States of Connecticut, Massachusetts, Montana, New Jersey, Vermont, and the Virgin Islands have satisfied the criteria specified in clause (ii) of 20 CFR 601.5(f)(2). Therefore, the incremental reduction in total credits pursuant to section 3302(c)(2) of the Internal Revenue Code of 1954 shall not apply to those States with respect to the taxable year beginning on January 1, 1979.

The States of Delaware and Pennsylvania had an outstanding balance of Title XII advances on January 1, 1978, and on January 1, 1979, and were granted deferral in 1978, but did not qualify in 1979 for deferral of a reduction in credit pursuant to 20 CFR 601.5(f)(2). Therefore, the tax credit reduction prescribed by section 3302(c)(2) of the Internal Revenue Code of 1954 will apply to the States of Delaware and Pennsylvania for taxable year 1979.

Signed at Washington, D.C., on December 7, 1979.

Ray Marshall,

Secretary of Labor.

[FR Doc. 79-39035 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-30-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 produciton, 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 appopriate, 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 December 31, 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 December 31, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 12th day of December 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
ACF Industries, Carter Carburetor Division (UAW).	St. Louis, Mo	12/5/79	11/30/79	TA-W-6,604	Carburetor and fuel pumps.
A. O. Smith Corp., Automotive Division (Smith Steelworkers Union, D.A.L.U.).	Milwaukee, Wis	12/6/79	11/30/79	TA-W-6,605	Front end assemblies for AMC Pacer.
Amherst Coal Co., Amherst No. 5 Mine (USWA).	Lundale, W. Va	12/3/79	11/28/79	TA-W-6,606	Metallurgical coal.
Best Maid Sportswear Company (ILGWU)	Brooklyn, N.Y	12/3/79	11/28/79	TA-W-6,607	Ladies' sportswear.
Curlee Clothing Company, Inc. (workers)	Winchester, Ky	11/23/79	11/19/79	TA-W-6,608	Men's tailored coats, also contracting men's casual shirts.
J.D.R., Inc. (ILGWU)	Rockaway, N.J	11/26/79	11/20/79	TA-W-6,609	Contractor of blouses.
Republic Steel Corp. (workers)	Buffalo, N.Y	12/4/79	11/27/79	TA-W-6,610	Carbon and alloy steel bars.
Roberts & Schaefer Company, McClure No. 1 Mine (UMWA).	McClure, Va	12/6/79	11/29/79	TA-W-6,611	Construction of coal tipples, shafts, etc.

[FR Doc. 79-39036 Filed 12-20-79; 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 December 31, 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 December 31, 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 13th day of December 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
Barlar, Inc. (IPSSEU)	New York, N.Y	12/7/79	12/3/79	TA-W-6,612	Elastic for the garment trade.
Cara Casuals, Inc. (ILGWU)	Brooklyn, N.Y	12/10/79	12/4/79	TA-W-6,613	Ladies' skirts and some slacks.
Gina Sportswear, Inc. (workers)	Philadelphia, Pa	12/10/79	12/5/79	TA-W-6,614	Ladies' sportswear.
Huntington Industries Company, Inc. (ILGWU)	Huntington, W. Va	12/10/79	12/5/79	TA-W-6,615	Ladies' dresses and two-piece suits.
Inmont Corp. (Teamsters)	St. Louis, Mo	12/10/79	12/4/79	TA-W-6,616	Insulation for autos.
Longyear Company (workers)	Max Meadows, Va	12/10/79	11/27/79	TA-W-6,617	Mineral drilling.
Maidrite Novelty Corp. (ILGWU)	Long Island City, N.Y	12/3/79	12/3/79	TA-W-6,618	Shoulder straps for brassieres.
Mutual Provision, Inc. (workers)	Bayonne, N.J	10/22/79	9/15/79	TA-W-6,619	Boned fresh meat (beef).
Rockinghom Shoe Company (workers)	Newmarket, N.H	12/7/79	12/3/79	TA-W-6,620	Children's shoes.
Royal Park, Inc. (workers)	Jacksboro, Tex	12/7/79	12/3/79	TA-W-6,621	Ladies' jackets and blouses.
Sanford Manufacturing Co. (ACTWU)	Wilkes-Barre, Pa	12/7/79	12/3/79	TA-W-6,622	Ladies' slacks and skirts.
Toledo Spring Company (T.T.W.I.S.E.U.)	Toledo, Ohio	12/10/79	12/3/79	TA-W-6,623	Automotive leaf springs.

[FR Doc. 79-39037 Filed 12-20-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6216]

Apollo Dyeing & Finishing Co., Paterson, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 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 October 17, 1979 in response to a worker petition received on October 10, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers of Apollo Dye, Paterson, New Jersey, a commission printer of fabric. The investigation revealed that the company's correct name is Apollo Dyeing and Finishing Company and that the workers produce dyed and/or printed finished fabric. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of finished fabric into the United States decreased during the first six months of 1979 as compared to the same period in 1978. The ratio of imports to domestic production has not exceeded two percent from 1974 through 1978.

Results of a U.S. Department of Labor survey of Apollo's customers indicated that those customers who responded to the survey did not purchase imported dyed and/or printed finished fabric and did not contract dyeing, printing and finishing services overseas during the period surveyed, while decreasing such contracts with Apollo.

Conclusion

After careful review, I determine that all workers of Apollo Dyeing and Finishing Company, Paterson, 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 14th day of December, 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39191 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6240]

Arthur Richards, Ltd., New York, N.Y.; 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 investigations regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 23, 1979 in response to a worker petition received on October 9, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing tailored clothing at Arthur Richards, Ltd., New York, New York. The investigation revealed that the plant primarily produces men's suits and sportcoats and women's suits, jackets and skirts. In the following determinations, without regard to whether any of the other criteria have been met for workers producing women's suits, jackets and skirts, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Sales of women's suits, jackets and skirts at Arthur Richards increased in 1978 compared with 1977 and increased in each quarter of 1979 compared with the same quarters of 1978.

For workers producing men's suits, sportcoats and slacks, all of the criteria have been met.

U.S. imports of men's and boys' suits increased relative to domestic production in the first half of 1979 compared with the same period of 1978.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased absolutely and relative to domestic production in 1978 compared with 1977.

The Department surveyed customers of the men's suits and sportcoats produced by Arthur Richards. A number of the respondents indicated that they increased purchases of imported men's suits and sportcoats while decreasing purchases from Arthur Richards in the first three quarters of 1979 compared with the like period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's suits and sportcoats produced at Arthur Richards, Ltd., 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 Arthur Richards, Ltd., New York, New York engaged in employment related to the production of men's suits and sportcoats including company executive officers who became totally or partially separated from employment on or after November 25, 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 13th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39192 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6200]

Avenue Fashions, Inc., Wyoming, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 16, 1979 in response to a worker petition received on October 9, 1979 on behalf of workers and former workers producing dresses, pantsuits and sportswear at Avenue Fashions, Incorporated, Wyoming, Pennsylvania. The investigation revealed that the plant produces dresses, pantsuits, jumpsuits, long dresses, long skirts and blouses. 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 by Avenue Fashions increased from 1977 to 1978 but then declined in the January-October 1979 period compared to the same period of 1978.

The Departmental survey of the only manufacturer for whom Avenue Fashions performed contract work revealed that this manufacturer did not import women's or misses' dresses, pantsuits or jumpsuits from 1977 through October 1979. A secondary survey was conducted with the major retail customers of the manufacture for whom Avenue worked. The survey revealed that the customers either did not import or decreased their imports of dresses, pantsuits and jumpsuits in the January-June 1979 period compared to the same period of 1978.

Conclusion

After careful review, I determine that all workers of Avenue Fashions, Incorporated, Wyoming, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December, 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39193 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6190]

Botany 500, Philadelphia, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 15, 1979 in response to a worker petition received on October 10, 1979 which was filed on behalf of workers and former workers producing men's suits and sportcoats at Botany 500,

Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's and boy's tailored suits decreased absolutely and relative to domestic production and consumption in 1978 compared to 1977 and in the first three quarters of 1979 compared to the same period of 1978.

U.S. imports of men's and boys' tailored dress coats and sportcoats decreased absolutely in the first three quarters of 1979 compared to the same period of 1978.

Total company sales of men's suits and sportcoats increased in 1978 compared to 1977 and increased in the first ten months of 1979 compared to the same period of 1978. Compared to the same quarter of the previous year, sales increased in six consecutive quarters from the second quarter of 1978 through the third quarter of 1979. Monthly fluctuations in sales are the result of normal seasonal fluctuations.

Total company production of jackets and pants increased in 1978 compared to 1977 and increased in the first ten months of 1979 compared to the same period of 1978.

Conclusion

After careful review, I determine that all workers of Botany 500, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39194 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6112 and TA-W-6114]

Devon, Inc., Thurmont, Md., and Haas Tailoring Co., Baltimore, Md.; 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 27, 1979 in response to a worker petition received on August 27, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's tailored clothing at Devon, Incorporated, Thurmont, Maryland and Haas Tailoring Company, Baltimore, Maryland. The investigation revealed that the plants produce primarily men's tailored suits. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's and boys' tailored suits decreased absolutely and relative to domestic production in 1978 compared to 1977 and decreased absolutely in the first half of 1979 compared to the same period of 1978.

The Department conducted a survey of customers of Haas Tailoring Company. The survey revealed that customers either did not purchase or decreased purchasing imported men's tailored suits while decreasing purchases from the subject firm in 1978 compared to 1977 or in the first nine months of 1979 compared to the same period of 1978.

Conclusion

After careful review, I determine that all workers of Devon, Incorporated, Thurmont, Maryland and Haas Tailoring Company, Baltimore, Maryland 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 13th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39195 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6230]

Excel Corp., Elkhart, Ind.; 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 October 18, 1979 in response to a worker petition received on October 11, 1979 which was filed by the United Auto Workers on behalf of workers and former workers producing window assemblies at the Elkhart, Indiana plant of the Excel Corporation. It is concluded that all of the requirements have been met.

U.S. imports of window assemblies increased, in value, from MY (model year) 1978 to MY 1979.

Excel Corporation also owns and operates a plant in Ontario, Canada. This plant also produces window assemblies. In July 1979 the Excel Corporation began shifting production of a van push-out window from the Elkhart plant to Ontario. This was completed by September 1979. A significant proportion of the Ontario plant's window assemblies are brought back into the U.S. by the Excel Corporation for sale to domestic users.

The Department surveyed some of the customers purchasing window assemblies from the Excel Corporation. Customers indicated they reduced purchases from the Excel Corporation and increased purchases of imported window assemblies in MY 1978 (September 1977–August 1978) compared to MY 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with window assemblies produced at the Elkhart, Indiana plant of the Excel 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 Elkhart, Indiana plant of the Excel Corporation who became totally or partially separated from employment on or after October 1, 1978 are eligible to apply for

adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December, 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39196 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6244]

Globe Union, Inc., Seawater Battery Department, Milwaukee, Wis.; 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 October 23, 1979 in response to a worker petition received on October 18, 1979 which was filed by the Allied Industrial Workers of America on behalf of workers and former workers producing seawater batteries at the Seawater Battery Department of the Milwaukee, Wisconsin plant of Globe Union, Incorporated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Industry sources indicate that U.S. imports of seawater batteries are negligible.

A survey conducted by the Department revealed that customers which purchased seawater batteries from Globe Union, Incorporated in 1978 and the first ten months of 1979 did not purchase imported seawater batteries.

Globe Union sold its seawater battery patent rights to a foreign company. That company produces for the foreign market. There is no evidence to indicate that this company currently exports seawater batteries to the U.S. or plans to commence exporting to the U.S. in the future.

Conclusion

After careful review, I determine that all workers of the Seawater Battery Department of the Milwaukee, Wisconsin plant of Globe Union, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December, 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39197 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6232]

Gold Medal Cedar Products, Garibaldi, Oreg.; 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 October 18, 1979 in response to a worker petition received on October 16, 1979 which was filed on behalf of workers and former workers producing cedar roofing (shingles and shakes) at Gold Medal Cedar Products, Garibaldi, Oregon. It is concluded that all of the requirements have been met.

U.S. imports of red cedar shingles and shakes increased absolutely in 1978 from 1977 and in the first nine months of 1979 compared with the same period of 1978.

A survey of Gold Medal's customers revealed that a major customer reduced purchases of shingles and shakes from the company and increased purchases of imports in the first ten months of 1979 compared with the same period of 1978. This customer stated that it expects to continue to increase import purchases in the future.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with cedar shingles and shakes produced at Gold Medal Cedar Products, Garibaldi, Oregon 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 Gold Medal Cedar Products, Garibaldi, Oregon who became totally or partially separated from employment on or after October 9, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39198 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6296]

H. W. Gossard Co., Logansport, Ind.; 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 October 30, 1979 in response to a worker petition received on October 24, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing girdles at H. W. Gossard Company, Logansport, Indiana. The investigation revealed that the plant also produces brassieres and corsets. It is concluded that all of the requirements have been met.

U.S. imports of corsets and girdles increased absolutely in the first six months of 1979 compared with the same period of 1978. U.S. imports of brassieres, bralettes and bandeaux increased absolutely in the first six months of 1979 compared with the same period of 1978.

The Logansport plant of Gossard produces foundation garments (corsets, girdles and brassieres). Company imports of foundation garments increased absolutely in 1978 compared with 1977. Company imports increased relative to company sales and production in the first ten months of 1979 compared with 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 corsets, girdles and brassieres produced at H. W. Gossard Company, Logansport, Indiana 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 H. W. Gossard Company, Logansport, Indiana who became totally or partially separated from employment on or after July 27, 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 14th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39199 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6246]

Jay Garment Co., Inc., Clarksville, Tenn.; 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 October 23, 1979 in response to a worker petition received on October 10, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers of the Clarksville, Tennessee plant of Jay Garment Company, Incorporated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's and boys' work shirts and one-piece work suits decreased absolutely in the first nine months of 1979 compared to the same period of 1978.

The Department surveyed all of Jay Garment Company's customers of men's work suits and work shirts. The survey revealed that none of the respondents purchased any imported work shirts. The respondents who stated they were pruchasing imported work suits decreased their reliance on imports in 1978 compared to 1977 and increased purchases from Jay Garment in the first nine months of 1979 compared to the same period of 1978.

Conclusion

After careful review, I determine that all workers of the Clarksville, Tennessee plant of Jay Garment Company, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December, 1979.

James T. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-39200 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6219, 6220, 6221]

Kay Windsor, Inc., Hohenwald, Tenn., Lawrenceburg, Tenn., and Savannah, Tenn.; 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 October 17, 1979 in response to a worker petition received on October 16, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing dresses, sportswear and blouses at the Hohenwald, Lawrenceburg and Savannah, Tennessee plants of Kay Windsor, Incorporated, a division of V. F. Corporation, Reading, Pennsylvania. The investigation revealed that the plants produce primarily women's and misses' dresses. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U. S. imports of women's and misses' dresses decreased absolutely in the first six months of 1979 compared to the first six months of 1978. The ratio of imports to domestic production was less than five percent in each year of the 1974–1978 time period.

The Office of Trade adjustment Assistance conducted a survey of customers of Kay Windsor, Incorporated. Customers responding to the survey, who reduced purchases from Kay Windsor and increased purchases of imported women's and misses' dresses, from 1977 to 1978 and in the first nine months of 1979 as compared to the first nine months of 1978, were an insignificant proportion of Kay Windsor's 1977 sales.

Conclusion

After careful review, I determine that all workers of the Hohenwald, Lawrenceburg and Savannah, Tennessee plants of Kay Windsor, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D. C. this 14th day of December, 1979.

James T. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-39201 Filed 12-20-79, 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6152]

Libbey Owens Ford Co., Inc., Charleston, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 4, 1979 in response to a worker petition received on September 21, 1979

which was filed by the Glass Bottle Blowers' Association of the United States and Canada on behalf of workers and former workers producing sheet glass at the Charleston, West Virginia plant of the Libbey Owens Ford Company, Inc. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of flat glass (including sheet, plate and float glass) decreased absolutely during the first six months of 1979 compared to the first six months of 1978. U.S. imports of sheet glass decreased absolutely during the first six months of 1979 compared with the first six months of 1978. U.S. imports of sheet glass from Eastern European countries in particular decreased absolutely in the first six months of 1979 compared with the first six months of 1978. Increases in U.S. imports of glass that occurred during 1978 coincided with increases in employment, sales and production at the Charleston, West Virginia plant of Libbey Owens Ford.

A survey of customers of the Charleston plant of the Libbey Owens Ford Company was conducted by the Department. Survey results indicate that most customers did not reduce purchases from Libbey Owens Ford while increasing purchases from foreign sources during 1979 compared to 1978. Customer comments indicate that declines in sales at the plant in 1979 occurred primarily because the sheet glass method of production is obsolete and has been largely replaced in the industry by the float glass production process. One major customer of picture glass did shift significantly to foreign sources—however, the decline of this product accounted for an insignificant percentage of total plant output and sales. Workers at the plant are not separately identifiable by prouct line.

Conclusion

After careful review, I determine that all workers of Libbey Owens Ford Company, Incorporated, Charleston, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December 1979.

James T. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-39202 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6301]

Mackel, Corp., Logan, W. Va.; 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 October 30, 1979 in response to a worker petition received on October 24, 1979 which was filed on behalf of workers and former workers constructing and maintaining mining equipment at Mackel Corporation, Logan, West Virginia. It is concluded that all of the requirements have been met.

While U.S. imports of metallurgical coal have been negligible, U.S. imports of coke increased in 1978 compared to 1977 and in the first half of 1979 compared to the same period in 1978.

Coke is metallurgical coal at a later stage of processing. Since a domestic article may be "directly competitive" with an imported article at a later stage of processing, imports of coke are considered in determining injury to workers engaged in employment related to mining metallurgical coal at Mackel Corporation, Logan, West Virginia.

Mackel Corporation is a subsidiary of Logan Mohawk Coal Company, Logan, West Virginia. Mackel Corporation maintains mining equipment used in mining metallurgical coal. A major portion of Mackel's maintenance work is performed for its parent company.

On June 4, 1979 the Department issued a certification of eligibility to apply for worker adjustment assistance applicable to workers and former workers of Logan Mohawk Coal Company, Logan, West Virginia (TA-W-5383). Employment declines at Mackel Corporation late in 1978 and throughout 1979 were directly due to production declines at its parent firm, Logan Mohawk Coal Company.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metallurgical coal produced at Logan Mohawk Coal Company, contributed importantly to the decline in sales or production and to the total or partial separation of workers of Mackel Corporation, Logan, West Virginia. In accordance with the provisions of the Act, I make the following certification:

All workers of Mackel Corporation, Logan, West Virginia who became totally or partially separated from employment on or after December 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39203 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6180]

Manhattan Coat 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 October 15, 1979 in response to a worker petition received on October 9, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's suitcoats, sportcoats and vests at Manhattan Coat Corporation, New York, New York. The investigation revealed that the plant also produces ladies' suits, skirts and jackets, and some men's and ladies' overcoats. 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 bulk of production at Manhattan Coat Corporation is of men's suit coats, sportcoats and vests. These garments are sold as parts of men's suits. U.S. imports of men's suits declined absolutely and relative to domestic production in 1978 compared with 1977, and declined absolutely in the first nine month of 1979 compared with the same period of 1978.

Manhattan Coat produces men's and women's apparel primarily for a single manufacturer. This manufacturer's sales increased in 1978 compared with 1977 and in the first ten months of 1979 compared with the same period of 1978. The manufacturer does not import any men's or women's apparel. Workers of the manufacturer were denied eligibility to apply for trade adjustment assistance on December 10, 1979, because sales had increased.

Conclusion

After careful review, I determine that all workers of Manhattan Coat Corporation, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39204 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6029]

Mode Art Jewelers Co., Inc., 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 September 17, 1979 in response to a worker petition received on September 11, 1979 which was filed on behalf of workers and former workers producing costume jewelry at Mode Art Jewelers Company, Incorporated, New York, New York. 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 in the course of the investigation revealed that although U.S. imports of costume jewelry increased absolutely in 1978 compared to 1977 and further increased during the first half of 1979 compared to the same period in 1978, the ratio of imported costume jewelry to domestic consumption and shipments decreased during the same periods.

The Department conducted a survey of customers of Mode Art. Results of survey indicated that as a percentage of total purchases of costume jewelry by the respondents, costume jewelry from foreign sources decreased during the fist half of 1979 compared to the first half of 1978.

Conclusion

After careful review, I determine that all workers of Mode Art Jewelers Company, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December 1979

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39205 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6471]

Park Fashions, Inc., Hoboken, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 26, 1979 which was filed on behalf of workers and former workers producing women's coats at Park Fashions, Incorporated, Hoboken, 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.

Park Fashions, Incorporated is a contractor producing women's coats. The company began production in May, 1978 and experienced seasonal declines in production and employment from December, 1978 through March, 1979. Production and employment increased in the period May through October, 1979 compared to the same period of 1978.

Conclusion

After careful review, I determine that all workers of Park Fashions, Inc., Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December, 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39206 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6472]

Penco Products, Inc.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 28, 1979 in response to a worker petition received on November 21, 1979 filed on behalf of workers at Penco Products, Inc., Oaks, Pennsylvania.

Penco Products, Inc. was formerly a subsidiary of Alan Wood Steel Company. Alan Wood Steel Company ceases production in August 1977. On October 21, 1977 and February 28, 1978 certifications were issued which applied to all workers and former workers who became totally or partially separated from employment on or after July 15, 1976 at the Alan Wood Steel Company facilities in Conshohocke Pennsylvania and all workers of the District Sales Offices of Alan Wood Steel Company in Syracuse, New York; Boston, Massachusetts; Charlotte, North Carolina; and Philadelphia, Pennsylvania (TA-W-2266, 2267). In 1978 an employee of Alan Wood Steel Company assumed position at Penco Products, Inc. and thereby caused the separation of the employee from Penco Products, Inc. The original certification was extended to cover this worker. No

other workers employed by Penco Products, Inc. were separated under these circumstances. Hence a new investigation would serve no purpose and it is recommended that this investigation be terminated.

Signed at Washington, D.C. this 14th day of December 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-39215 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5881]

Perry Knit, Inc.; Revised Determination on Reconsideration

On November 28, 1979, (44 FR 69749), the Department of Labor granted administrative reconsideration of the Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance which it had made on October 19, 1979, (44 FR 60430) pursuant to section 223 of the Trade Act of 1974 for all workers at the Union City, New Jersey, plant of Perry Knit, Inc., producing knitted outerwear for men, women and children.

In its reconsideration, the Department reviewed its file on Perry Knit, Inc. The review revealed that workers at Perry Knit did not meet the "contributed importantly" test of section 222 of the Trade Act of 1974.

The Department of Commerce certified Perry Knit for firm adjustment assistance on November 2, 1979. Additional evidence showed that two of Perry Knit's manufacturers who represented substantially all of Perry Knit's sales in 1978 and 1979 reduced purchases from Perry Knit because their own businesses were experiencing declines as a result of increasing competition from imports. In addition, Perry Knit's only customer during the past two years was a firm certified for firm adjustment assistance by the Department of Commerce on October 1, 1979.

U.S. imports of women's, misses' and children's sweaters increased relative to domestic production from 115.0 in 1977 to 115.8 percent in 1978. U.S. imports of men's and boys' sweaters increased both absolutely and relative to domestic production in 1978 compared to 1977. The ratio of imports to domestic production for men's and boys' sweaters increased from 68.0 percent in 1977 to 94.1 percent in 1978.

Conclusion

Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following revised determination:

All workers at the Union City, New Jersey, plant of Perry Knit, Inc., who became totally or partically separated from employment on or after September 24, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of December, 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-39216 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6249]

Phoenix Clothes, Division of Genesco, Inc.; 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 October 23, 1979 in response to a worker petition received on October 10, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's coats and vests at the Vineland, New Jersey plant of Phoenix Clothes. The investigation revealed that the name of the company is Phoenix Clothes Division of Genesco, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' dress coats and sportcoats increased both absolutely and relative to domestic production from 1977 to 1978.

U.S. imports of men's and boys' tailored suits in 1978 exceeded the average level for the period 1974 through 1977.

A survey of the customers of Phoenix Clothes revealed that customers decreased purchases of suits and sportcoats from Phoenix and increased purchases of imported suits and sportcoats in the first eight months of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suits and sportcoats sold by Phoenix Clothes Division of Genesco, Incorporated contributed importantly to the decline in sales or production of men's coats and vests and to the total or partial separation of workers at the Vineland, New Jersey plant of Phoenix Clothes, Division of Genesco, Incorporated. In accordance with the provisions of the Act, I make the following certification:

All workers of the Vineland, New Jersey plant of Phoenix Clothes, Division of Genesco, Incorporated who became totally or partially separated from employment on or after December 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of December, 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39217 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6338]

Phoenix Clothes, Division of Genesco, Inc.; 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 November 6, 1979 in response to a worker petition received on October 30, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's coats at the Allentown, Pennsylvania plant of Phoenix Clothes. The investigation revealed that the name of the company is Phoenix Clothes, Division of Genesco, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased both absolutely and relative to domestic production from 1977 to 1978.

U.S. imports of men's and boys' tailored suits in 1978 exceeded the average level for the period 1974 through 1977.

A survey of the customers of Phoenix Clothes revealed that customers decreased purchases of suits and sportcoats from Phoenix and increased purchases of imported suits and sportcoats in the first eight months of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suits and sportcoats sold by Phoenix Clothes, Division of Genesco, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers at the Allentown, Pennsylvania plant of Phoenix Clothes, Division of Genesco, Incorporated. In accordance with the provisions of the Act, I make the following certification:

All workers of Allentown, Pennsylvania plant of Phoenix Clothes, Division of Genesco, Incorporated who became totally or partially separated from employment on or after October 18, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39218 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5430]

Singer Co., Controls Divison; Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 221 and 223(a) of the Trade Act of 1974 (19 U.S.C. 2271, 2273) on July 2, 1979 the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of the Wauwatosa, Wisconsin plant of Singer Company, Controls Division. That certification included all workers who became totally or partially separated from employment on or after September 1, 1978 and before July 1, 1979.

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry regarding workers who became separated after July 1, 1979. It was learned that other automotive air conditioning valves produced at the Wauwatosa plant have experienced sales declines and that employment declines have occurred since July 1, 1979.

Company imports of automotive air conditioning valves assumed a greater percentage of total company sales of all auto air conditioning valves in the third quarter of 1979 compared with all previous quarters.

The largest buyer of auto air conditioning valves from Singer Company, Controls Division revealed that they had decreased purchases of valves currently made at the Wauwatosa plant while increasing purchases of foreign-made Singer valves in 1979 when compared with 1978. That customer indicated that the auto air systems were interchangeable and that air conditioning systems with the foreign-made Singer valve were being substituted for those with the Wauwatosa-made valve.

Conclusion

Based on the additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following revised certification:

All workers of Singer Company, Controls Division, Wauwatosa, Wisconsin who became totally or partially separated from employment on or after September 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39219 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6209]

Singer Co., Controls Division; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 16, 1979, in response to a workers petition received on October 10, 1979, which was filed on behalf of workers and former workers producing A/C valves for autos at the Wauwatosa, Wisconsin plant of the Singer Company, Controls Division.

The petitioning group of workers was certified as eligible to apply for adjustment assistance in a revised determination issued on December 14, 1979 (TA-W-5430). Since workers of the Wauwatosa plant of Singer Company, Controls Division newly separated, totally or partially, from employment on or after September 1, 1978 (impact date) and before December 14, 1981 (expiration date of revised certification) are covered by an existing determination, a new investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C., this 14th day of December 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-39220 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6210]

Sportwhirl, Inc.; 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 October 16, 1979 in response to a worker petition received on October 10, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Sportwhirl, Incorporated, New York, New York. The investigation revealed that the sportswear consists of women's dresses, skirts, blouses, sweaters, blazers, pants and suits. It is concluded that all of the requirements have been met.

Aggregate imports of women's and misses' dresses, and women's, misses' and children's skirts, blouses and shirts, coats and jackets, slacks and shorts, and suits each respectively increased absolutely and relatively in 1978 as compared to 1977. Aggregate imports of women's, misses' and children's sweaters increased relatively in 1978 as compared to 1977. The ratio of imports to domestic production of sweaters was 115.8 percent in 1978.

Total company imports of women's sportswear (consisting of dresses, skirts, sweaters, blazers, suits, blouses, and pants) increased during the period January through September 1979 as compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's sportswear, consisting of dresses, skirts, sweaters, blazers, pants and suits, produced at Sportwhirl, 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 Sportwhirl, Incorporated, New York, New York who became totally or partially separated from employment on or after January 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of December, 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-39221 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6197]

Standard Pyroxoloid Corp.; 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 October 15, 1979 in response to a worker petition received on October 10, 1979 which was filed by the Wholesale Department Store Union on behalf of workers and former workers producing hair brushes, brush and mirror sets, and combs at Standard Pyroxoloid Corporation, Fitchburg, Massachusetts. It is concluded that all of the requirements have been met.

U.S. imports of toiletry brushes increased absolutely and relative to domestic production in 1978 compared with 1977.

U.S. imports of non-automotive mirrors increased absolutely and relative to domestic production in 1978 compared with 1977, and increased absolutely during the period January through August, 1979 compared with the same period in 1978.

U.S. imports of combs increased absolutely in 1978 compared with 1977, and increased during the period January through August 1979 compared with the same period in 1978.

Import statistics for comb, brush and mirror sets, and children's toy sets are included in the above categories and cannot be isolated.

The Department conducted a survey of Standard Pyroxoloid's customers. The survey indicated some customers had decreased purchases of hair brushes, hand mirrors, and comb, brush and mirror sets from Standard Pyroxoloid during the period January 1977 through September 1979, and increased purchases of imports during the same period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with hair brushes, comb, brush and mirror sets, and combs produced at Standard Pyroxoloid Corporation, Fitchburg, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Standard Pyroxoloid Corporation, Fitchburg, Massachusetts who became totally or partially separated from employment on or after October 4, 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 14th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 39222 filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

Suburban Casuals, Inc., et al.; Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

TA-W-6265: Suburban Casuals, Incorporated, Beebe, Arkansas; TA-W-6265(A): Suburban Casuals Factory Outlet, Beebe, Arkansas; TA-W-6340: Westport Casuals, Incorporated, Batesville, Arkansas; TA-W-6394: Braemoor Garment Company, Pleasanton, Kansas; TA-W-6405: Stern-Slegman-Prins Company, Incorporated, Kansas City, Missouri; TA-W-6405(A): Nor-Kay Factory Outlet, Raytown, Missouri; TA-W-6405(B): Nor-Kay Factory Outlet, Kansas City, Missouri; TA-W-6405(C): Nor-Kay Braemoor Outlet, Pleasanton, Kansas; TA-W-6405(D): Westport Casuals Factory Outlet, Batesville, Arkansas; TA-W-6405(E): Suburban Miss, Overland Park, Kansas.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of investigations regarding 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 October 24, 1979 in response to a worker petition received on October 19, 1979 which was filed on behalf of workers and former workers producing ladies' coats and complements at Suburban Casuals, Incorporated, Beebe, Arkansas (TA-W-6265). The investigation revealed that Suburban Casuals is a wholly-owned subsidiary of Stern-Slegman-Prins Company, Incorporated, Kansas City, Missouri. The facility produces ladies' coats, suits, skirts, pants and blouses. The investigation was expanded to include the Suburban Casuals Factory Outlet Store also located in Beebe, Arkansas (TA-W-6265(A)).

On November 2, 1979, the Office received another petition filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' outer apparel at Westport Casuals, Batesville, Arkansas (TA-W-6340), another wholly-owned subsidiary of Stern-Slegman-Prins Company. The investigation revealed that the plant produced ladies' coats and blazers.

On November 12, 1979, the Office received another petition filed on behalf of workers and former workers producing ladies' coats, blazers and jackets at Stern-Slegman-Prins Company Incorporated, Kansas City, Missouri and all of its subdivisions and subsidiaries including its major production facility and corporate offices in Kansas City, Missouri (TA-W-6405) and its wholly-owned subsidiary, Braemoor Garment Company, Pleasanton, Kansas (TA-W-6394). The investigation was expanded to include Stern-Slegman-Prins Company's factory outlet stores in Raytown, Missouri (TA-W-6405(A)), Kansas City, Missouri (TA-W-6405(B)), Pleasanton, Kansas (TA-W-6405(C)), Batesville, Arkansas (TA-W-6405(D)), and Overland Park, Kansas (TA-W-6405(E)).

It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's coats and jackets increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses' and children's raincoats increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses' and children's suits increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses' and children's slacks and shorts increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses' and children's skirts increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses' and children's blouses and shirts increased both absolutely and relative to domestic production in 1978 compared to 1977.

A survey conducted by the U.S. Department of Commerce revealed that customers of Stern-Slegman-Prins Company, accounting for a substantial proportion of the Company's sales decline in 1978 compared to 1977, reduced purchases of ladies' coats from Stern-Slegman-Prins and increased purchases of imported ladies' coats in 1978 compared to 1977. The Department of Commerce on May 15, 1979 certified Stern-Slegman-Prins Company, Incorporated as eligible to apply for firm adjustment assistance.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' coats produced at Stern-Slegman-Prins Company, Incorporated and its subsidiaries contributed importantly to the decline in sales or production and to the total or partial separation of workers of those firms. In accordance with the provisions of the Act, I make the following certifications:

All workers of the following subsidiaries and facilities of Stern-Slegman-Prins Company, Incorporated who became totally or partially separated from employment on or after the indicated impact date are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Investigation Number, Facility and Location, and Impact Date

TA-W-6265 Suburban Casuals, Incorporated, Beebe, Arkansas—October 11, 1978.

TA-W-6265(A) Suburban Casuals Factory Outlet, Beebe, Arkansas—October 11, 1978.

TA-W-6340 Westport Casuals, Incorporated, Batesville, Arkansas—October 14, 1978.

TA-W-6394 Braemoor Garment Company, Pleasanton, Kansas—October 14, 1978.

TA-W-6405 Stern-Slegmen-Prins Company, Incorporated, Kansas City, Missouri—October 14, 1978.

TA-W-6405(A) Nor-Kay Factory Outlet, Raytown, Missouri—October 14, 1978.

TA-W-6405(B) Nor-Kay Factory Outlet, Kansas City, Missouri—October 14, 1978.

TA-W-6405(C) Nor-Kay Braemoor Outlet, Pleasanton, Kansas—October 14, 1978.

TA-W-6405(D) Westport Casuals Factory Outlet, Batesvile, Arkansas—October 14, 1978.

TA-W-6405(E) Suburban Miss, Overland Park, Kansas—October 14, 1978.

Signed at Washington, D.C., this 14th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39223 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6355]

Weiss Shirt Co., Inc.; 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 November 8, 1979, in response to a worker petition received on November 2, 1979 which was filed on behalf of workers and former workers producing ladies' shirts at Weiss Shirt Company Incorporated New York, New York. The investigation revealed that Weiss Shirt operated two facilities in New York, New York. One was an executive office which handled administrative and marketing duties. The other was a cutting plant. It is concluded that all of the requirements have been met.

U.S. imports of ladies' shirts and blouses increased absolutely and relative to domestic production in 1978 compared to 1977.

The New York, New York executive office handled the major portion of the administrative and marketing duties for the Lebanon, Pennsylvania plant of Weiss Shirt. The New York, New York cutting plant cut all the material that was then finished at the Lebanon, Pennsylvania plant. Production at the Lebanon plant accounted for a major portion of ladies' shirts associated with Weiss Shirt. On February 6, 1979, the Department of Labor issued a certification of eligibility to apply for worker adjustment assistance for all workers and former workers at the Lebanon, Pennsylvania plant of Weiss Shirt Company, Incorporated (TA-W-4523).

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' shirts and blouses produced by Weiss Shirt Company, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm's New York, New York executive office and cutting plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the New York, New York executive office of the Weiss Shirt Company, Incorporated, who became totally or partially separated from employment on or after September 1, 1979 and all workers of the New York, New York cutting plant of the Weiss Shirt Company, Incorporated 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.

Signed at Washington, D.C., this 14th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-39224 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-28-M

Workplace Privacy; Notice of Hearings

On Friday, October 5, 1979, at 44 FR 57537-38, the Department announced a series of informational hearings on the subject of workplace privacy. In response to this notice, approximately 50 individuals, labor unions, businesses, associations, and other organizations have requested to testify. Numerous others have submitted copies of existing policies for the record.

The hearings will begin in Washington, D.C. on Monday, January 7, 1980, in the Auditorium of the Frances Perkins Department of Labor Building, 1st Floor, 200 Constitution Avenue, N.W. The Hearing will start at 9:30 am and shall continue in the afternoon. This opening day will consist of presentations by administration officials, staff of the Privacy Protection Study Commission, and others who will provide an overview of the workplace privacy issues identified in the October 5 notice.

The hearings will resume in Washington, D.C. on Monday through

Thursday, January 28–31, 1980, in Room S4215 A–C of the Frances Perkins Department of Labor Building. The hearings will begin at 9:30 am and will continue in the afternoon. Testimony from public witnesses will be taken at these hearings.

Subsequent hearings will be held in accordance with the following schedule:

Week of February 17, 1980, New York, New York.
Week of March 2, 1980, Chicago, Illinois.
Week of March 16, 1980, San Francisco, California.

Additional details about these hearings will be published in a subsequent issue of the **Federal Register.**

Persons who have requested the opportunity to testify will be contacted by the Department in the near future to arrange the exact time and location for their presentation. The Department will honor additional requests to testify to the extent time permits. All persons testifying will be asked to submit two copies of any prepared statement to the Department no later than two weeks prior to their testimony.

Any person unable to testify may submit written views for the record on the workplace privacy issues contained in the October 5 **Federal Register** notice. The deadline for submission of written views is February 1, 1980. Two copies of such written statements should be submitted to Mr. Zinman at the address listed below.

The public record for the hearings is available for inspection and copying at the Frances Perkins Department of Labor Building in Washington, D.C. Persons desiring to examine the record shall contact Mr. Shapiro at the telephone number listed below to arrange a time for such inspection. In accordance with the fee schedule published at 29 CFR § 70.62, copies of all documents will be provided at the rate of $0.10 per page.

All correspondence and inquiries on the above matters should be addressed to:

Seth D. Zinman or Robert A. Shapiro, Office of the Solicitor, U.S. Department of Labor, Room N2428, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Phone: Mr. Zinman (202) 523–8201 or Mr. Shapiro (202) 523–8176.

Signed at Washington, D.C., this 18th day of December, 1979.

Ray Marshall,

Secretary of Labor.

[FR Doc. 79–39213 Filed 12–20–79; 8:45 am]

BILLING CODE 4510–23–M

Pension and Welfare Benefit Programs

Proposed Class Exemption for Certain Transactions Involving Purchases of Securities Where Issuer May Use Proceeds To Reduce or Retire Indebtedness to Parties in Interest; Hearing

By notice published in the **Federal Register** on July 27, 1979 (44 FR 44286), the Department of Labor (the Department) proposed a class exemption from certain of the prohibited transaction restrictions contained in the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1954. The proposed exemption would apply to transactions involving purchases of securities by an employee benefit plan when the proceeds from the sale of such securities may be used by the issuer to reduce or retire indebtedness to parties in interest with respect to such employee benefit plan.

A hearing on the proposed class exemption has been requested. In light of this request, the Department has decided to hold a public hearing on January 24, 1980, beginning at 10:00 AM in Room S 4215–B of the Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

Any interested person who wishes to be assured of the opportunity to present oral comments at the hearing should submit by 3:30 PM, January 17, 1980: (1) a written request to be heard, and (2) an outline (preferably five copies) of the topics to be discussed, indicating the time to be allocated to each topic. The request to be heard and accompaning outline should be submitted to the Office of Fiduciary Standards, Pension and Welfare Benefits Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application D–690 Hearing. Individuals who do not file written comments regarding the proposed class may nonetheless request to make oral comments at the hearing.

The Department will prepare an agenda indicating the order of presentation of oral comments and the time allotted to each person making oral comments. In the absence of special circumstances, each commentator will be allotted ten minutes in which to complete his presentation. Information about the agenda may be obtained on or after January 22, 1980 by telephoning William J. Flanagan, Esq., Washington, D.C. (202) 523–7931. (not a toll free number). Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who make oral comments at the hearing should be prepared to answer questions regarding their comments.

A written record of the hearing will be made.

Signed at Washington, D.C., this 15th day of December, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79–39006 Filed 12–20–79; 8:45 am]

BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Procedures and Administration Subcommittee; Meeting

The ACRS Procedures and Administration Subcommittee will hold an open meeting on January 9, 1980, in Room 1010, 1717 H St., N.W., Washington, DC 20555.

The agenda for subject meeting shall be as follows:

Wednesday, January 9, 1980—1:00 p.m. Until Conclusion of Business

The Subcommittee will discuss procedures for conduct of ACRS activities including procedures for strengthening the role of the ACRS in the regulatory process.

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 cognizant Designated Federal Employee, Mr. Raymond F. Fraley (telephone 202/634–3265) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 17, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79–39013 Filed 12–20–79; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Reactor Safety Research Subcommittee Meeting

The ACRS Reactor Safety Research Subcommittee will hold a meeting on January 9, 1980, in Room 1046, 1717 H St., N.W., Washington, DC 20555 to continue its discussion regarding preparation of the ACRS Annual Report to Congress on the NRC Reactor Safety Research Program. This meeting will be closed to the public.

The agenda for subject meeting shall be as follows:

Wednesday, January 9, 1980—8:30 a.m. Until Conclusion of Business

The Subcommittee will meet in closed sessions to hold discussions with representatives of the NRC Staff, and their consultants, regarding items pertinent to the ACRS review.

In addition the Subcommittee will meet in closed Executive Session to exchange their preliminary opinions regarding preparation of a draft report to be submitted to the ACRS.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that it is necessary to close these sessions to protect information, the premature disclosure of which might significantly frustrate implementation of proposed action. See 5 U.S.C. 552b(c)(9).

Dated: December 17, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-39012 Filed 12-20-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Babcock & Wilcox Water Reactors; Meeting

The ACRS Subcommittee on Babcock and Wilcox Water Reactors will hold a meeting on January 8, 1980 in Room 1046, 1717 H St. NW., Washington, DC 20555 to discuss the sensitivity to transients of once-through steam generators (OTSG) and other features of Babcock and Wilcox designed nuclear plants. Notice of this meeting was published December 20, 1979.

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:

Tuesday, January 8, 1980—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.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, Babcock and Wilcox, and their consultants, and other interested persons.

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 the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information. See 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 cognizant Designated Federal Employee, Mr. Ragnwald Muller (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m., EST.

Dated: December 17, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-39010 Filed 12-20-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Ad Hoc Subcommittee on Three Mile Island, Unit 2 Accident Action Plan; Meeting

The ACRS Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident Action Plan will hold a meeting on January 7, 1980 in Room 1046, 1717 H St., NW, Washington, DC 20555 to discuss the NRC "Draft Action Plans for Implementing Recommendations of the President's Commission and Other Studies of the Three Mile Island, Unit 2 Accident," NUREG 0660, December 10, 1979. Notice of this meeting was published December 20, 1979.

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:

Monday, January 7, 1980—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.

At the conclusion of the Executive Sesson, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the nuclear industry, various utilities, and their consultants, and other interested persons.

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 the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close these sessions to protection proprietary information. See 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 cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning items to be discussed at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555 and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, PA 17126.

Dated: December 17, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-39011 Filed 12-20-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Adoption of Official Seal by the Office of Personnel Management

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This document, under the authority of Reorganization Plan 2,

transmits the OPM's Official Seal. It is intended that the seal be OPM's official graphic representation for purposes such as judicial documents, flags, credentials, etc.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Steven Van Rees, 632–4642.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-39106 Filed 12-20-79; 8:45 am]

BILLING CODE 6325-01-M

PRESIDENT'S COMMISSION ON PENSION POLICY

Report of Staff Contacts

The President's Commission on Pension Policy has directed its staff to maintain and publish for the public record a listing of contacts of a substantive nature made with individuals, organizations, and groups interested in the activities of the Commission.

The following is the staff report of such contacts for the month of November:

Stuart Lewis, Attorney
Everett T. Allen, Jr., Association of Private Pension and Welfare Plans
Michael Batten, Federal Council on Aging
Gabriel Rudney, Treasury Department
Ronald Ehrenburg and Robert Smith, Cornell University
Public Affairs Broadcasting
John Magruder, Office of Management and Budget
Tom Borazilleri, Consultant
Rick Cooper and Andrew Lawlor, Cooper and Lybrand
Toni Thomas and Chuck Van Nostram, Department of Defense
Hay Associates
Gayle Thompson and Martha Yohalem, Social Security Administration
Robert Shoeplein, Social Security Administration
Richard Ross, Market Facts, Inc.
Robert Speigelman, SRI International
Aldona E. DiPietro, Treasury Department
Xerox Corporation
Julie French and Michael Batten, Federal Council on the Aging
Lois Copperman and Fred Keast, Institute on Aging, Portland State University
Dave Mathieson, Office of Management and Budget
Phyllis Berman, Forbes Magazine
Peter Lynn, General Accounting Office
Barbara Selfridge, Office of Management and Budget
Ross A. Marcou, Office of Personnel Management
Harold Beebout, Mathematica Policy Research
Nelson McClung, Treasury Department
Dave Norwood, Office of Management and Budget
Sue Lind, Office of Management and Budget
Russ Mueller and Barbara Mehlsack, House Pension Task Force
Robert Moore, Alexander & Alexander
Jack Curtis, Senate Finance Committee Staff
Knox Walkup, Senate Committee on Government Operations Staff
David Allen, Senator Bentsen's Office
Peter Turza, Senator Javits' Office
Tennessee Employee Benefits Council
Robert Kalman, William M. Mercer, Inc.
Jim Hacking, American Association for Retired Persons.

Signed at Washington, D.C., this 17th day of December 1979.

Thomas C. Woodruff,

Executive Director.

[FR Doc. 79-39296 Filed 12-20-79; 8:45 am]

BILLING CODE 6820-99-M

POSTAL SERVICE

Temporary Change in Mail Classification Schedule; Third-Class Carrier Route Presort

On December 4, 1979, the Governors of the Postal Service rejected the Recommended Decision of the Postal Rate Commission in Docket No. MC78–2, issued on November 28, 1979. The Board of Governors authorized the Postal Service to resubmit the request for a third-class carrier route presort subclass to the Postal Rate Commission for reconsideration and a further recommended decision. The Postal Service resubmitted its request at 4:12 p.m. on December 4, 1979. As authorized by the Board of Governors, and pursuant to 39 U.S.C. 3641(e), the temporary changes initially published in the **Federal Register** on January 18, 1979 (44 FR 3797), which have been in effect since January 28, 1979, and which will continue through December 28, 1979, will again take effect at 4:12 p.m. (EST) on January 3, 1980, if the Postal Rate Commission has not transmitted its further recommended decision by that time.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 79-39163 Filed 12-20-79; 8:45 am]

BILLING CODE 7710-12-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1695: Amdt. No. 3]

Mississippi; Declaration of Disaster Loan Area

The above-number Declaration and amendments thereto (See 44 FR 61719, 64147 and 65852) are further amended by extending the filing date for applications for physical damage until the close of business on January 14, 1980: The economic injury date remains the same, July 14, 1980.

(Catalog of Federal Domestic assistance Program Nos. 59002 and 59008.)

Dated: December 13, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-39101 Filed 12-20-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1745]

New Mexico; Declaration of Disaster Loan Area

Union County and adjacent counties within the State of New Mexico constitute a disaster area as a result of natural disaster as indicated:

County—Union; Natural Disaster(s)—Snowstorm and High Winds; Date(s)—10/30/79–10/31/79.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 16, 1980, and for economic injury until the close of business on September 15, 1980, at: Small Business Administration, District Office, 5000 Marble Avenue, NE., Room 320, Patio Plaza Bldg., Albuqerque, N.M. 87110.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 14, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-39103 Filed 12-20-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1743]

New Mexico; Declaration of Disaster Loan Area

The following two counties and adjacent counties within the State of New Mexico constitute a disaster area as a result of natural disaster as indicated:

County—Chaves; Natural Disaster(s)—Hail Storm and Inclement Weather; Date(s)—8/4/79, 8/18, 8/20, 8/26/79.
Eddy; Hail Storm and Inclement Weather; 8/20/79, 8/21/79.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 13, 1980, and for economic injury until the close of business on September 15, 1980, at: Small Business Administration, District Office, 5000 Marble Avenue, NE., Room 320, Patio Plaza Bldg., Albuquerque, N. Mex. 87110.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 13, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-39104 Filed 12-20-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1708; Amdt. No. 1]

Texas; Declaration of Disaster Loan Area

The above numbered Declaration (See 44 FR 61720) is amended by change in the incidence period for the following County.

County—Upton; Natural Disaster(s)—Hail; Date(s)—8/21/79, 8/27, 8/30/79.

All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on April 10, 1980, and for economic injury until the close of business on July 10, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 12, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-39102 Filed 12-20-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02102-0383]

S&S Venture Associates, Ltd.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing Small Business Investment Companies (13 CFR 107.102 (1978)), under the name of S&S Venture Associates Ltd. (Applicant), for a license to operate as a Small Business Investment Company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant was incorporated under the laws of the State of New York, and it will commence operations with a capitalization of $510,000.

The Applicant will have its place of business at 352 Seventh Avenue, New York, New York 10001, and it intends to conduct operations primarily in the State of New York.

The Officers, Directors and Stockholders of the Applicant will be:

(1) Donald Smith, Osborn Road, Harrison, New York 10528—President, Director; 9 percent
(2) Lawrence E. Smith, Haviland Road, Harrison, New York 10528—Vice President, Treasurer, Director; 9 percent
(3) Marc Smith, 400 East 55th Street, New York, New York 10022—Director; 9 percent
(4) Bernard Sandler, 50 Irma Drive, Oceanside, New York 11572—Vice President, Secretary and Secretary; 9 percent
(5) Alan J. Popmerantz, 9 East 96th Street, New York, New York 10028—Director
(6) B. Smith & Sons, Inc., 352 Seventh Avenue, New York, New York 10001—55 percent
(1) President and Director of B. Smith & Sons, Inc.
(2) Vice President and Director of B. Smith & Sons, Inc. Both of the above own two thirds of the stock of B. Smith & Sons, Inc.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person, may not later than January 7, 1980, submit written comments on the Applicant to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, DC 20416.

A copy of the Notice shall be published by the Applicant in a newspaper of general circulation in New York, New York.

(Catalogue of Federal Domestic Assistance Programs, No. 59.011 Small Business Investment Companies).

Dated: December 6, 1979.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 79-39210 Filed 12-20-79; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 09/09-0252]

Southern California Capital Venture Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102(1979)) by Southern California Capital Venture Corporation, 9356 Santa Monica Boulevard, Beverly Hills, California 90210, for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 *et seq.*).

The proposed officers, directors and principal stockholders are:

Jerold H. Rubinstein, 630 Siena Way, Los Angeles, Ca. 90024—Chairman of the Board, Chief Executive Officer; 33.3 percent
Arthur Mogull, 326½ N. La Cienega, Los Angeles, Ca. 90048—Secretary and Director; 33.3 percent
Saul Brandman, 9051 Briarcrest Lane, Beverly Hills, Ca. 90210—Chief Financial Officer, Director; 33.3 percent

The SBIC will begin operations with an initial capitalization of $1.5 million. No concentration in any particular industry is planned. The Applicant will primarily provide venture capital to small businesses in the form of equity financing and long-term debt.

Matters involved in SBA's consideration of the application, in view of the particular circumstances involved, include (1) the general business reputation and character of the proposed owners and management, (2) the reasonable prospects for successful operation of the new SBIC under such management (including adequate profitability and financial soundness, in accordance with the Act and Regulations), and (3) whether the proposed licensing action would be in furtherance of the purposes of the Act.

Notice is hereby given that any person may not later than January 7, 1980, submit written comments to the Acting Associate Administrator for Finance

and Investment, Small Business Administration, 1441 L Street, NW, Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in the Los Angeles, California area.

(Catalog of Federal Assistance Programs No. 95.011, Small Business Investment Companies)

Dated: December 14, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-39211 Filed 12-20-79; 8:45 am]

BILLING CODE 8025-01-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 156]

Assignment of Hearings

December 18, 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 52858 (Sub-114F), Convoy Company, now assigned for hearing on February 6, 1980 (3 days) at Denver, CO, location of hearing room will be designated later.

MC 111545 (Sub-265F), Home Transportation Company, Inc., now assigned for hearing February 11, 1980 (1 week), at Denver, CO, location of hearing room will be designated later.

MC 134082 (Sub-18F), K. H. Transport, Inc., now assigned for hearing on December 18, 1979, at Washington, DC, is canceled and dismissed application.

MC 143702 (Sub-5F), All Freight Systems, Inc., now being assigned for hearing on January 21, 1980 (1 week), at Kansas City, MO, location of hearing room will be designated later.

MC 103051 (Sub-462F), Fleet Transport Company, Inc., now assigned for hearing on January 23, 1980, will be held in Room No. 936, Federal Building, 167 North Main Street, Memphis, TN.

MC 116254 (Sub-241F), Chem-Haulers, Inc., now assigned for hearing on January 28, 1980, will be held at the U.S. Courthouse, Room No. 651, 801 Broadway, Nashville, TN.

MC 145779F, Oil Service Company, Inc., now assigned for hearing on January 30, 1980, will be held in Room No. 651, U.S. Courthouse, 801 Broadway, Nashville, TN.

AB 6 (Sub-69F), Burlington Northern, Inc., Abandonment Between West Quincy, and Kirksville, MO, now being assigned for hearing on February 25, 1980 (1 week), at Edina, MO, in a hearing room to be designated later.

MC 48958 (Sub-168F), Illinois-California Express, Inc., is transferred to Modified Procedure.

37166, Detention Charges on Coal From Oklahoma to Missouri, VIA SLSF, now being assigned for hearing on January 8, 1980 (3 days), at St. Louis, MO, in a hearing room to be designated later.

MC 133194 (Sub-8F), Woodline Motor Freight, Inc., is transferred to Modified Procedure.

MC 129032 (Sub-68F), Tom Inman Trucking, Inc., now assigned for hearing on December 18, 1979, is canceled and transferred to Modified Procedure.

MC –C–10341, Catawese Coach Lines, Inc., v. B.K.W. Coach Lines, Inc., now assigned for hearing on January 7, 1980, will be held at the New U.S. Courthouse, 601 Market Street, Philadelphia, Pa.

MC–F–77834, Plymouth Transport, Inc., Transferee and Danella Bros., Inc., Transferor, now assigned for hearing on January 9, 1980, will be held at the New U.S. Courthouse, 601 Market Street, Philadelphia, Pa.

MC 31389 (Sub-273F), McLean Trucking Company, a Corporation, now assigned for hearing on January 28, 1980, will be held in Room 322, U.S. Court & Customs House, 1114 Market Street, St. Louis, MO.

MC 65895 (Sub-5F), Reddaway's Truck Line, a corporation, now assigned for hearing on January 28, 1980, will be held in Hearing Room F, Labor & Industrial Building, Capitol Mall (the one on the left as you enter the city of Portland), Salem, OR.

MC 37165, Southern Pacific Transportation Company Rates and Classification of Iron Ore Within Texas, now assigned for hearing on January 28, 1980 (5 days), Dallas, TX, is canceled and reassigned for hearing on January 28, 1980 (5 days), in Room No. 600—4th floor, 411 West 7th Street, Neil P. Anderson Building, Fort Worth, TX.

MC 109294 (Sub-26F), Commercial Truck Co., Ltd., is transferred to Modified Procedure.

MC 145539 (Sub-1F), Ohio Northern Transit Company, now being assigned for hearing on February 5, 1980 (9 days), at Columbus, OH, in a hearing room to be designated later.

36434, Commuter Fares-Consolidated Rail Corporation, New Jersey and New York, and No. 36474, Benjamin A. Gilman *v.* Consolidated Rail Corporation, Et al., now being assigned for hearing on February 26, 1980 (4 days), at Goshen, NY, in a hearing room to be designated later.

MC 2253 (Sub-90F), Carolina Freight Carriers Corporation, now being assigned for prehearing conference on February 5, 1980, at the Office of the Interstate Commerce Commission in Washington, DC.

MC–C–10424, Brink's Incorporated v. Brooks Armored Car Service, Inc., now being assigned for hearing on February 5, 1980, at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 41406 (Sub-131F), Artim Transportation System, Inc., now being assigned for hearing on February 6, 1980, at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 146703 (Sub-12F), Robert & Oake, Inc., now being assigned for hearing on March 25, 1980, at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 128270 (Sub-31F), Rediehs Interstate, Inc., now being assigned for hearing on February 25, 1980 (2 weeks), at Chicago, IL, in a hearing room to be designated later.

MC 124070 (Sub-34F), Chemical Hauling, Inc., now assigned for hearing on January 22, 1980 (1 day) at Chicago, IL, in Room 1944C, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC 120364 (Sub-19F), A & B Freight Lines, Inc., now assigned for hearing on January 23, 1980 (3 days) at Chicago, IL, in Room 1944C, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC 85934 (Sub-97F), Michigan Transportation Company, now assigned for hearing on January 28, 1980, at Chicago, IL, in Room 204A, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC 128030 (Sub-121F), The Stout Trucking Company, Inc., now assigned for hearing on January 29, 1980 (1 day), at Chicago, IL, in Room 204A, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC 145601 (Sub-1F), Morgan County Trucking, Inc., now assigned for hearing on January 30, 1980 (3 days), at Chicago, IL, in Room 204A, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-39298 Filed 12-20-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-43]

Lease and Interchange of Vehicles by Motor Carriers

Decided: December 7, 1979.

Arizona Western, Inc. (MC–136983) has filed an application for approval of Contract Carrier Rental Contract No. 6–13011 with Chemical Distributors, d/b/a Arizona Agrochemical Company of Phoenix, Arizona, lessee, pursuant to paragraph 1057.41(d) of the Lease and Interchange of Vehicles regulations (49 CFR 1057.41(d)), *Lease and Interchange of Vehicles,* 131 M.C.C. 141 (1979).

Findings

1. Arizona Western Transport, Inc. is presently authorized as a contract carrier to transport commodities for named shippers, including Arizona Agrochemical.

2. Prior to filing of this petition Arizona Western applied for permanent common carrier authority. (MC–136602, Sub-No. 7F.) That application is pending final decision.

It is ordered:

1. Applicant's request for approval of Contract Carrier Rental Contract No. 6–

13011 is granted on condition that such approval remain effective only for as long as applicant remains an authorized contract carrier.

By the Commission, Motor Carrier Leasing Board, Board Members Joel E. Burns, Robert S. Turkington, W. F. Sibbald, Jr. Board Member Burns not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-39299 Filed 12-20-79; 8:45 am]

BILLING CODE 7035-01-M

Transportation of Used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense; Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations (49 CFR 1056.40) promulgated in "Pack-and-Crate" operations in Ex Parte No. MC-115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission *within 20 days* from the date of this publication. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the **Federal Register**, subject to its tariff publication effective date.

HG-45-79 (Special certificate—Used household goods), filed December 14, 1979. Applicant: Henry Jacob & Sons, Inc., 2510 Dickman Rd., Battle Creek, MI 49015. Representative: Ned Johnson, Henry Jacob & Sons, Inc., 1330 Healy St., Kalamazoo, MI 49001. Authority sought: Between points in Van Buren, Kalamazoo, Calhoun, Berrien, Cass, St. Joseph and Branch Counties, MI, serving Selfridge Air National Guard Base, at or near Mt. Clemons, MI.

HG-46-79 (Special certificate—Used household goods), filed December 14, 1979. Applicant: Aaro Moving and Storage, Inc., 8411 Old Marboro Pike, Upper Marlboro, MD 20870. Representative: Ned L. Upright (same address as applicant). Authority sought: Between points in Arlington, Fairfax and Prince William Counties, VA, City of Alexandria and City of Falls Church, VA, Fairfax City, VA, Dulles International Airport, VA (Fairfax and Loudoun Counties), District of Columbia, Charles, Montgomery, and Prince Georges Counties, MD, serving Cameron Station, Joint Personal Property Shipping Office, Alexandria, VA.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-39300 Filed 12-20-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: December 18, 1979.

In our decisions of November 13, 20, 27, and December 4 and 11, 1979, a 10-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 10.5 percent. Accordingly, we are authorizing a 10.5-percent surcharge for this category of traffic. All owner-operators are to receive compensation at the 10.5-percent level. In addition, no change will be made in the existing authorization of a 1.8-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators, nor in the authorization of a 3.9 percent surcharge for the bus carriers.

There will be no decisions issued during the weeks beginning Monday, December 24 and Monday, December 31, 1979. The above-named surcharges will remain in effect during this period. The next decision will be issued January 8, 1980.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the director, Office of the Federal Register, for publication therein.

It is ordered: this decision shall become effective Friday, 12:01 a.m., December 32, 1979.

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

Agatha L. Mergenovich,

Secretary.

Appendix—Fuel Surcharge

Base date and price per gallon (including tax)

January 1, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

December 17, 1979 ..... 103.1¢

	(1) From transportation performed by owner-operators[1]	(2) Other[2]	(3) Bus carriers
Average percent Fuel expenses (including taxes) of total revenue	16.9	2.9	6.3
Percent surcharge developed	10.5	1.8	3.9
Percent surcharge allowed	10.5	1.8	3.9

[1] Apply to all truckload rated traffic.
[2] Including less-truckload traffic.

[FR Doc. 79-38303 Filed 12-20-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 216]

Motor Carrier Temporary Authority Applications

November 21, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 908 (Sub-8TA), filed October 12, 1979. Applicant: CONSOLIDATED CARTAGE CO., INC., 4528 South McDowell Ave., Chicago, IL 60609 (P.O. Box 171, Argo, IL 60501—Mailing Address). Representative: Eugene L. Cohen, One North LaSalle St., Chicago, IL 60602. *Containers, Metal, Fibreboard, Can Ends, Materials, equipment and supplies used in the manufacture and distribution of containers,* between the Chicago, IL Commercial Zone, as defined by the Commission, on the one hand, and on the other hand, Louisville, KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Continental Group, Inc., 5401 West 65th Street, Chicago, IL 60638. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 2229 (Sub-223TA), filed October 5, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill (same address as above). *Common carrier,* regular routes, *General Commodities (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* (1) between Mobile, AL and Atlanta, GA, serving no intermediate points: From Mobile over US Hwy 31 to Montgomery, AL (also IS Hwy 65) then over IS Hwy 85 to Atlanta and return over the same route; (2) Between Atlanta, GA and Chattanooga, TN, serving no intermediate points: From Atlanta over IS Hwy 75 to Chattanooga and return over the same route; (3) Between Atlanta, GA and Greenville, SC, serving no intermediate points: From Atlanta over IS Hwy 85 to Greenville and return over the same route; (4) Between Gulfport, MS and Chattanooga, TN, serving no intermediate points: From Gulfport over US Hwy 49 to junction IS Hwy 59 or US Hwy 11, then over IS Hwy 59 or US Hwy 11 to Chattanooga, TN and return over the same route for 180 days. Underlying ETA filed. Applicant intends to tack its authority; it also intends to interline with other carriers. Supporting shipper(s): There are 58 supporting shippers. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 5649 (Sub-31TA), filed September 21, 1979. Applicant: KULP & GORDON INC., Pothouse Rd., P.O. Box 628, Phoenixville, PA 19460. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Phila., PA 19107. *Precast-concrete products,* from the facilities of Universal Concrete Products Corp. located in Montgomery County, PA, to points in CT, DE, MD, NJ, NY, and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Universal Concrete Products Corp., Grosstown Rd., Stowe, PA 19464. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 41849 (Sub-47TA), filed October 25, 1979. Applicant: KEIGHTLEY BROS., INC., 3675 Chouteau Ave., St. Louis, MO 63110. Representative: Patrick M. Browne (same address as applicant). *Salt,* in bulk, in tank vehicles, from the plant site of Cargill, Inc. Cohokia, IL to the plant site of Armour-Dial Corporation, Ft. Madison, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cargill, Inc., P.O. Box 9300, Minneapolis, MN. Send protests to: Peter E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 41629 (Sub-18TA), filed October 26, 1979. Applicant: STERNBERGER MOTOR CORP., 45–55 Pearson Street, Long Island City, NY 11101. Representative: Lawrence E. Lindeman, 425 13th St., N.W.—Suite 1032, Washington, DC 20004. *New furniture and new household furnishings, uncrated, when moving from retail department stores or retail furniture merchants or from storage or terminal facilities maintained by such stores,* between New York, NY, and its commercial zone, on the one hand, and, on the other, points in OH, IL, MI, IN, and WI; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 1. W & J Sloane Co., 414 Fifth Ave., New York, NY; 2. Bloomingdale's Div. Federated DS, Inc., 1000 Third Ave., New York, NY 10022; 3. John Stuart, Inc., 979 Third Ave., New York, N.Y. 10022; 4. The Pace Collection, Inc., 11–11 34th Ave., Long Island City, NY 11106. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 49368 (Sub-108TA), filed October 15, 1979. Applicant: COMPLETE AUTO TRANSIT, INC., East 4111 Andover Road, Bloomfield Hills, MI 48013. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. *Contract carrier:* irregular routes: *Motor vehicles, in initial movement, in truckaway service,* from the facilities of General Motors Assembly Division at St. Louis, MI to points in MN, NY, ND and SD. The operations described herein are limited to a transportation service to be performed under continuing contracts with General Motors Corporation for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): GM Logistics Operations, General Motors Corporation, 30007 Van Duke, Warren, MI 48090. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 99749 (Sub-6TA), filed October 24, 1979. Applicant: BOURNE'S TRANS., INC., 1029 Pearl Street, Brockton, MA 02401. Representative: Jon F. Hollengreen, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW., Washington, DC 20004. *Boots and shoes, and boot and shoe factory materials, supplies and equipment:* (a) from Windsor, VT and points in ME and NH to Brockton, MA and its Commercial Zone and (b) from Brockton, MA and its Commercial Zone to points in ME and NH. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 18 supporting shippers (see attached application). Send protests to: John B. Thomas, D/S, ICC, 150 Causeway Street, Boston, MA 02114.

MC 99888 (Sub-6TA), filed October 19, 1979. Applicant: MAYFIELD TRANSFER CO., INC., 3200 West Lake Street, Melrose Park, IL 60160. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Regular routes: General commodities, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); Between Rockford, Illinois and Portage, Wisconsin, serving all intermediate points; From Rockford over U.S. Highway 51 to Portage and return over the same route. Between Portage, Wisconsin and Port Washington, Wisconsin, serving all intermediate points; From Portage over Wisconsin Highway 33 to Port Washington and return over the same route. Between Milwaukee, Wisconsin and Two Rivers, Wisconsin, serving all intermediate points; From Milwaukee over Interstate Highway 43 to junction U.S. Highway 141, then over U.S. Highway 141 to

junction Wisconsin Highway 42, then over Wisconsin Highway 42 to Two Rivers and return over the same route. Between Sheboygan, Wisconsin and Chilton, Wisconsin, serving all intermediate points; From Sheboygan over Wisconsin Highway 42 to junction Wisconsin Highway 32, then over Wisconsin Highway 32 to Chilton and return over the same route. Between Sheboygan, Wisconsin and Plymouth, Wisconsin, serving all intermediate points; From Sheboygan over Wisconsin Highway 23 to Plymouth and return over the same route. Serving Random Lake, Cedar Grove, and Gibsonville, Wisconsin, and all points in Wisconsin on and east of U.S. Highway 51 amd south of Wisconsin Highway 33 as off-route points in connection with each of the above routes. Supporting shipper(s): There are 26 supporting shippers. Their applications can be reviewed at the address below or headquarters. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 106398 (Sub-992TA), filed October 22, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Glass and Accessories,* from the facilities of Pittsburgh Corning Corporation located at Port Alleganey, PA, to points in GA, WI, LA, TX, MS, CA, MI, & MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pittsburgh Corning Corporation, 800 Presque Isle Drive, Pittsburgh, PA 15239. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-993TA), filed October 22, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). (1) *Decking iron and steel;* (2) *materials and supplies used in the manufacture of iron and steel decking,* (1) from the facilities of Southeast Metal Deck, Inc., at Norfolk, VA, to states of NC, SC, GA, FL, VA, MD, WV, NJ, PA, DE, NY, MA, OH, MI, CT & RI, and (2) from the states of NC, SC, GA, FL, VA, MD, WV, NJ, PA, DE, NY, MA, OH, MI, CT, & RI, to the facilities of Southeast Metal Deck, Inc. at Norfolk, VA, for 180 days. An underlying ETA seek 90 days authority. Supporting shipper(s): Southeast Metal Deck, Inc., 1400 Cavalier Blvd., Chesapeake, VA 23323. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub.994TA), filed October 25, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Buildings, complete, knocked down, or in sections, including component parts and accessories,* from the facilities of Engineered Components, Inc., located at Stafford, TX, to points in OK, KS, AR, MO, IL, MS, LA, AL, NM, AZ, CA, & CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Engineered Component, Inc., 13410 Murphy Road, Stafford, TX 77477. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 107678 (Sub-75TA), Applicant: HILL & HILL TRUCK LINE, INC., 14942 Talcott Ave., Houston, TX 77015. Representative: Edward D. Brown (same as applicant). *Grain milling and processing machinery and component parts thereof,* between the facilities of Ferrell-Ross, Inc., at or near Oklahoma City, OK and points in the United States including AK but excluding HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ferrell-Ross, Inc., 6501 S. Interpace, Oklahoma City, OK 73126. Send protests to: John F. Mensing, DS, I.C.C., 515 Rusk Ave. #8610, Houston, TX 77002.

MC 107839 (Sub-182TA), filed October 10, 1979. applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 2121 East 67th Avenue (P.O. Box 16106), Denver, CO 80216. Representative: David E. Driggers, Suite 1600, Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. Meats, meat products, meat by-products and articles distributed by meat packinghouses, from (a) Denver, CO and (b) Plainview, TX to Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cudahy Foods Company, 4801 Brighton Blvd., Denver, CO. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 111548 (Sub-25TA), filed October 18, 1979. Applicant: SHARPE MOTOR LINES, INC., P.O. Box 517, Hildebran, NC 28637. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street, NW., Washington, D.C. 20004. *Foodstuffs, canned or preserved* from the facilities of Heinz, USA at Holland, MI to the facilities of Heinz, USA at Greenville, SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Heinz, USA, Division of H. J. Heinz Company, PO Box 57, Pittsburgh, PA 15230. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd–Rm CC516, Charlotte, NC 28205.

MC 113658 (Sub-19TA), filed October 22, 1979. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport Street, Commerce City, CO 80022. Representative: Richard P. Loose, (same address as applicant). *Meat and packinghouse products* from Philadelphia, PA; Camden, Port Elizabeth and Port Newark, NJ; Wilmington, DE and Norfolk, VA to Kenosha, WI and No. Chicago, IL for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper: Birchwood Meats/Kenosha International Beef, P.O. Box 639, Kenosha, WI 53141. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 113658 (Sub-20TA), filed October 22, 1979. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport Street, Commerce City, CO 80022. Representative: Richard J. Loose (same address as applicant). *Meat and packinghouse products* from Kenosha, WI to Des Moines, IA; Omaha, NE and Denver, CO for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper: Birchwood Meats/ Kenosha Beef International, P.O. Box 639, Kenosha, WI 53141. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-851TA), filed October 22, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). (1) *Plastic articles (except in bulk)* and (2) *materials, equipment and supplies* used in or useful in the manufacture, sales, and distribution of the commodity named in (1) above, (1) from points in AL, AZ, CA, IL, and UT, to points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Mahoney Plastics Corporation of Arizona, P.O. 700, Glendale, AZ 85311. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-852 TA), filed October 23, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Bakery products,* from facilities of Stella D'Oro Biscuit Co., Inc. near St. Elmo, IL, to points in CA, CO, and TX (representative points: Denver, Colorado Springs and Ft. Morgan, CO; San Francisco, Sacramento, Los Angeles and San Diego, CA; Dallas, Ft. Worth, and Houston, TX), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stella D'Oro, 184

West 237th Street, Bronx, NY 10462. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 114098 (Sub-53 TA), filed October 3, 1979. Applicant: LOWTHER TRUCKING CO., INC., P.O. Box 3117 CRS, Rock Hill, SC 29730. Representative: Lawrence E. Lindeman, 425 14th Street, Northwest, Suite 1032, Washington, DC 20004. *Lumber,* from Clarendon County, SC to points in NC, SC, VA, GA, TN and MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pat Brown Lumber Corp., P.O. Box 1103, Lexington, NC 27292. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 114939 (Sub-54 TA), filed October 31, 1979. Applicant: BULK CARRIERS L.D., Box 10, Cooksville Post Office, Mississauga, ON L5A 2W7. Representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. *Petroleum naphtha, in bulk, in tank vehicles,* from ports of entry on the International Boundary between the United States and Canada in NY and MI to points in AL, AR, CT, GA, IA, FL, KS, KY, LA, ME, MD, MA, MN, MS, MO, NE, NJ, NC, ND, OK, RI, SC, SD, TN, TX, VT, VA, WV and WI, for 180 days, An underlying ETA seeks 90 days authority. Supporting shipper(s): Safety Kleen Corp., 16325 West Ryerson, New Berlin, WI 53151. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 115669 (Sub-194TA), filed October 29, 1979. Applicant: DAHLSTEN TRUCK LINE, INC., 101 West Edgar Street, P.O. Box 95, Clay Center, NE 68933. Representative: Vayle Hayes (same address as applicant). *Salt and salt products* from the plantsite of Carey Salt Company at Hutchinson, KS to points in GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carey Salt, Division of Processed Minerals Inc., Guy Mallonee, Jr., Vice President—Transportation, Processed Minerals Inc., First National Center, One North Main, P.O. Box 459, Hutchinson, KS 67501. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 117119 (Sub-785TA), filed October 26, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Canned and preserved foodstuffs* (except in bulk), from the facilities of Heinz USA at or near Iowa City and Muscatine, IA to the Heinz USA facilities at Stockton and Tracy, CA, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper: Heinz USA, Div. of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 118159 (Sub-365TA), filed October 24, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. *Bakery racks,* from Broken Arrow, OK, to High Point and Salisbury, NC and Lynchburg, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Sooner Fabricating & Sales Company, 509–E North Redbud, Broken Arrow, OK 74102. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 119399 (Sub-112TA), filed October 29, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Tom O'Hara (same address as applicant). *Adhesives, adhesive cement, fabricated and shaped metal articles, carpet tacking, rims and strips, building materials, polyurethane, plastic and fiberglass articles, laminated fiberglass articles and* materials and supplies used in the manufacture, production, and installation of the above named commodities, between the facilities of Kinkead Industries, Inc., at or near Kewanee, IL; Pittsburg, KS; and Union City, TN on the one hand and on the other, points in the U.S. except (AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Kinkead Industries, Inc., 2801 S. Finley RD, Downers Grove, IL 60515. Send protests to: Vernon V. Coble, DS, I.C.C. 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119399 (Sub-113TA), filed October 30, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Tom O'Hara (same address as applicant). *Bakery goods, flour, meal, dough, chips, twists or puffs, nuts, cheese spreads,* from the facilities of Nabisco, Inc., at Houston, TX, to points in AR, CO, IA, IN, IL, KS, MI, MN, MO, ND, NE, OH, OK, SD, TN, WI, AND WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Nabisco, Incorporated, East Hanover, NJ 07936. Send protests to: Vernon V. Cobles, DS, ICC Room 600 Fed. Bldg., 911 Walnut St., Kansas City, MO, 64106.

MC 119789 (Sub-637TA), filed October 19, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as above). *Liquid plastic, in containers, in mechanically refrigerated equipment* from Metairie, LA, Baytown and Houston, TX to points in the U.S. (except AK and HI) for 180 days. An underlying ETA seek 90 days authority. Supporting shipper: Foam Systems Co., P.O. Box 5347, Riverside, CA 92507. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 121598 (Sub-5TA), filed October 15, 1979. Applicant: SHELBYVILLE EXPRESS, INC., Deery St., P.O. Box 167, Shelbyville, TN 37160. Representative: Walter Harwood, Attorney, P.O. Box 15214, Nashville, TN 37215. *Common carrier:* regular route: *General Commodities with Usual Exceptions.* 1. Between Nashville and Shelbyville, TN via US Hwy 41–A, serving all intermediate points, and points within five miles of Shelbyville as off-route points. 2. Between Shelbyville and Memphis, TN, (a) From Shelbyville via US Hwy 231 to Fayetteville, thence via US Hwy 64 to Memphis, and return over the same route, serving no intermediate points. (b) From Shelbyville via US Hwy 231 to its junction with I–24, thence via I–24 to Nashville, thence via I–40 to Memphis, and return over the same route, serving Nashville as an intermediate point. Restriction: Restricted against the handling of traffic which originates at or is destined to points in Davidson County, on the one hand, and, on the other, that which originates at or is destined to Memphis, TN, and points in its commercial zone. 3. Between Memphis, TN and the Junction of AR Hwy 160 with the AR–TX State Line, From Memphis via US Hwy 79 to its junction with US Hwy 82 at or near Magnolia, AR, thence via US Hwy 82 to junction with US Hwy 29, thence via US Hwy 29 to junction with AR Hwy 160, thence via AR Hwy 160 to the AR–TX State Line, and return over the same route, serving all intermediate points in AR, and serving all points in AR south and east of said route as off-route points. 4. Between Memphis, TN and Helena, AR, From Memphis via US Hwy 61 to junction with US Hwy 49, thence via US Hwy 49 to Helena, AR, and return over the same route, serving intermediate points, for 180 days. Applicant proposes to tack all of the above routes; to interline traffic with other carriers at Nashville, Memphis and Shelbyville, TN, and at all authorized points in AR; and to serve the commercial zone of all authorized points. Supporting shipper(s): There are

approximately 82 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Glenda Kuss, TA, ICC, A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 121658 (Sub-27TA), filed October 29, 1979. Applicant: STEVE D. THOMPSON TRUCKING, INC., 1205 Percy St., Winnsboro, LA 71295. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Shreveport, LA and Dallas, TX; from Shreveport to Dallas over Interstate 20, and return over the same route, serving no intermediate points, for 180 days. Applicant intends to tack with existing authority at Shreveport, LA. An underlying ETA seeks 90 days authority. Supporting shipper(s): Approximately 57 supporting shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 124078 (Sub-1000TA), filed October 22, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard Prevette (same address as applicant). *Motar cement,* in bags, from Milwaukee, WI to Minneapolis/St. Paul, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): DCS Color & Supply Co., Inc., 1050 E. Bay St., Milwaukee, WI 53207. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 124078 (Sub-1001TA), filed November 6, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard Prevette (same address as applicant). *Ground limestone, in bulk, in tank vehicles,* from Gantt's Junction, AL to Pasadena & Plano, TX, for 180 days An underlying ETA seeks 90 days authority. Supporting shipper(s): Thompson, Weinman & Co., P.O. Box 130, Cartersville, GA 30120. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 126118 (Sub-202TA), filed October 22, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Agricultural chemicals (except in bulk in tank vehicles)* from the facilities of Stauffer Chemical Company at Omaha, NE to points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stauffer Chemical Company, R. A. Yarosh, Transportation Manager, Distribution Department, Westport, CT 06880. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 129189 (Sub-5TA), filed October 10, 1979. Applicant: WING CARTAGE COMPANY, 4141 George Place, Schiller Park, IL 60176. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Salt,* from Chicago, IL to points in the State of WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: International Salt Company, 1414 Rockefeller Bldg., Cleveland, OH 44113. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 133189 (Sub-33TA), filed November 2, 1979. Applicant: VANT TRANSFER, INC., 1257 Osborne Rd., Minneapolis, MN 55432. Representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Bldg., St. Paul, MN 55101. *Lumber,* (1) from Whitewood, SD to points in IA, MN, WI and MI; and (2) from points in AR, OK, TX, LA and MS to Whitewood, SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Whitewood Post and Pole, P.O. Box 97, Whitewood, SD 57793. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 133189 (Sub-34TA), filed November 2, 1979. Applicant: VANT TRANSFER, INC., 1257 Osborne Rd., Minneapolis, MN 55432. Representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Bldg., St. Paul, MN 55101. (1) *Fireplace stoves and fireplace accessory items* from the facilities of Thermograte, Inc. in the Minneapolis/St. Paul, MN Commercial Zone to the facilities of Log Power Distributors, Inc. in Allentown, NJ, Home Energy Dynamics in Weymouth, MA and Frey Company in Kalamazoo, MI; and (2) *Materials, equipment and supplies used in the manufacture and distribution of fireplace stoves and fireplace accessory items* from Peru, IL, Wallingford, CT and Cassville, MO to the facilities of Thermograte, Inc. located in the Minneapolis/St. Paul, MN Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Thermograte, Inc., 2785 N. Fairview Ave., St. Paul, MN 55113. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

1MC 33689 Sub-316TA), Filed October 10, 1979. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St., NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, MN 55118. *Plastic film and sheeting* from Griffin, GA to points in NC, SC, VA, WV, MD, DE and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Borden Chemical, One Clark St., N. Andover, MA 01845. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 135518 (Sub-24TA) filed July 24, 1979. Applicant: WESTERN CARRIERS, INC., 53 S. Dawson, Seattle, WA 98104. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Frozen meat products,* from Stockton, CA to points in OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Craig & Hamilton, 721 North Union, P.O. Box 8423, Stockton, CA 95208. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 136818 (Sub-97TA), filed October 22, 1979. Applicant: SWIFT TRANSPORTATION CO., INC., P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Rd., Phoenix, AZ. *Plastic pipe and pipe fittings,* from Shafter, CA to points in NM and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Polaris Pipe Co., Inc., 7120 Hayvenhurst, Van Nuys, CA 91406. Send Protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85024. Supporting shipper(s): Polaris Pipe Co., Inc., 7120 Hayvenhurst, Van Nuys, CA 91406. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 138469 (Sub-188TA), filed October 31, 1979. Applicant: DONCO CARRIERS, INC., 4720 S.W. 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. *Frozen foods,* except in bulk, from the facilities of I.T.T. Continental Baking Company, located in WI and the lower peninsula of MI, to Russelville and Crossett, AR, Rome, GA, Chicago, IL, Landover, MD, Natic and Watertown, MA, Minneapolis, MN, St. Louis, MO, Omaha, NE, Oklahoma City, OK, Cleveland and Cincinnati, OH, Dallas, TX, and the District of Columbia, and points in their respective commercial zones, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ITT Continental

Baking Co., P.O. Box 731, Rye, NY 10580. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-195TA), filed October 31, 1979. Applicant: DONCO CARRIERS, INC., 4720 S.W. 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. *Chemicals, plastics, plastic articles and materials, equipment and supplies used in the manufacture and distribution of chemicals, plastics and plastic articles,* (except commodities in bulk, in tank vehicles), from the facilities of U.S. Industrial Chemical Company, located at or near Tuscola, IL, Indianapolis, IN, and Deer Park and Houston, TX, to points in the United States, (except AK and HI), restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U.S. Industrial Chemicals, Co., 900 Park Avenue, New York, NY 10016. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 139349 (Sub-20TA), filed October 23, 1979. Applicant: E Z FREIGHT LINES, 70 Gould and East 46th Streets, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Contract carrier, irregular routes for 180 days. Games or toys, from plantsite of Revell, Incorporated, Venice, CA to all points in the United States. An underlying ETA seeks 90 days authority. Supporting shipper(s): Revell, Incorporated, 4223 Glencoe Avenue, Venice, CA 90291. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 140829 (Sub-331TA), filed October 26, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King (same address as applicant). *Paper and pulpboard cores and tubes and such materials and supplies as are used in the manufacture of paper cores and tubes* between Boone, IA, on the one hand, and on the other, points in IL, KS, MN, MO, NE, ND, SD and WI for 180 days. An underlying ETA seeks 90 days authority. Restricted to shipments originating at or destined to the facilities of Sonoco Products Co. located at or near Boone, IA. Supporting shipper(s): Sonoco Products Co., A. L. Moon, Corporate Traffic Manager, Hartsville, NC 29550. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140829 (Sub-332TA), filed October 12, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King (same address as applicant). *Food preparations* from Franklin Park, IL to points in IA, KS, LA, MO, NH, OK and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fearn International, Inc., Ron Williamson, Corp. Director of Distribution, 9353 West Belmont Ave., Franklin Park, IL 60131. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 141269 (Sub-3TA), filed November 6, 1979. Applicant: CHAS. R. MORGAN, INC., 18574 South Highway 99E, Oregon City, Oregon 97045. Representative: Earle V. White, White & Southwell, 2400 S.W. 4th Avenue, Portland, Oregon 97201. Contract, irregular—*Malt beverages* from Portland, Oregon to points in California north of the counties of Monterey, San Benito, Fresno, and Inyo, and points in NV in the counties of Washoe, Carson City, Douglas, Storey, Lyon, and Churchill for 180 days. An underlying ETA seek 90 days authority. Supporting shipper(s): Blitz Weinhard Company, 1133 West Burnside Street, Portland, Oregon 97209. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, OR 97204.

MC 141548 (Sub-7TA), filed October 18, 1979. Applicant: INTERIOR TRANSPORT, INC., P.O. Box 3347, Spokane, WA 99220. Representative: George H. Hart, 1100 I.B.M. Building, Seattle, WA 98101. *Chairlifts and Tramways, K.D.,* from the plant site of Riblet Aerial Tramway Co., Inc. in Spokane, WA to points in and west of PA, MI, OH, IN, IL, MO, AR and TX (except AK, HI and WA), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Riblet Aerial Tramway Co., Inc., E. 814 Grace, Spokane, WA 99207. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 142508 (Sub-123TA), filed October 9, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Meat, meat products and meat by-products (except in bulk) restricted to traffic having a subsequent movement by water* from points in CO, IL, IN, IA, KY, MI, MN, MO, NE, OK, OH, TN and WI to Wilmington, DE; Jacksonville, Miami and Tampa, FL; New Orleans, LA; Boston, MA; Newark, NJ; New York, NY; Charleston, SC; Houston, TX; Philadelphia, PA; Norfolk, VA and Kenosha, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): A. J. Cunningham Packing Corp., Rajesh Gundavda, Export Traffic, 1776 Heritage Drive, Quincy, MA 02171. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142508 (Sub-124TA), Filed October 9, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 0810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Commodities dealt in and sold by automotive parts stores* from the facilities of Standard Motor Products in Edwardsville, KS to points in TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Standard Motor Products, Ernest Kent, Traffic Manager, 380 Southern Boulevard, Bronx, NY. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 144398 (Sub-5TA), filed October 12, 1979. Applicant: WAYNE TRANSPORT, INC., Box 366, Milaca, MN 56353. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Sugar, in bulk,* from the facilities utilized by North Central Sugar Marketing Cooperative at or near Wahpeton, ND and Renville, MN to points in IA, MN, NE, SD and WI, for 180 days. Supporting Shipper(s): North Central Sugar Marketing Cooperative, 400 S. Cty. Rd. 18, Room 490, Shelard Plaza, Minneapolis, MN 55426. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 144858 (Sub-25TA), filed October 29, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam St., Omaha, NE 68102. *Such commodities* as are manufactured and/or distributed by the Eastman Kodak Company (except commodities in bulk), (1) between Rochester, NY on the one hand, and on the other, Hollywood, Lyoth, Los Angeles, Oakland, Palo Alto, San Francisco, San Ramon, Travis AFB and Whittier, CA and (2) between Windsor, CO on the one hand, and on the other, Hollywood, Lyoth, Los Angeles, Oakland, Palo Alto, San Francisco, San Ramon, Travis AFB and Whittier, CA, for 180 days. Supporting Shipper(s): Eastman Kodak Company, 2400 Mt. Read Blvd., Rochester, NY 14650. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145359 (Sub-18TA), filed September 21, 1979. Applicant:

THERMO TRANSPORT, INC., P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, Suite 945—9000 Keystone Crossing, Indianapolis, IN 46240. *Copper, brass, aluminum and bronze articles, cable materials, wire, wire products and materials and supplies used in the distribution thereof* from the facilities of Revere Copper and Brass Incorporated at Rome, NY to Paducah, KY, Trenton and Joplin, MO; Minneapolis and St. Paul, MN; Emporia, KA, LaPorte, IN; Pemberville, OH; Logansport, IN; Bloomington, IL and Jefferson City, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Revere Copper and Brass Incorporated, P.O. Box 191, Rome, NY 13440. Send Protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 145559 (Sub-4TA), filed October 5, 1979. Applicant: NORTH ALABAMA TRANSPORTATION, INC., P.O. Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), from Nashville, Lebanon, Milersville, Green Brier, Cookeville, Murfreesboro and McMinnville, TN, and points in their commercial zones, to points in CA, OR, WA, CO, NV, UT, AZ, ID, and WY, for 180 days. An underlying ETA seek 90 days authority. Supporting shipper(s): Mid-South Shippers Association, Inc., 230 Willow, Nashville, TN 37210. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 146078 (Sub-12 TA), filed October 26, 1979. Applicant: CAL-ARK, INC., P.O. Box 394, Malvern, AR 72104. Representative: John C. Everett, P.O. Box A, Prairie Grove, AR 72753. (1) *Such merchandise* as is dealt in by wholesale, retail, chain grocery and food business houses and (2) *materials, equipment and supplies* used in manufacture, distribution and sale of commodities in (1): between points in AR, TN, LA, TX, MS, GA, and KS on the one hand, and on the other, facilities of Ralston Purina Company at or near Oklahoma City, OK, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, 13700 N. Lincoln Blvd., Edmond, OK 73034. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 146379 (Sub-3TA), filed October 16, 1979. Applicant: AUTO EXPRESS, INC., 1520 Paterson Plank Road, North Bergen, NJ 07047. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Used passenger automobiles, in secondary movements, in truckaway service, (1) from points in NY to point in CA; FL; Phoenix, AZ; St. Louis, MO; Dallas, TX; Detroit, MI; Chicago, IL; Cleveland, OH; and Minneapolis, MN and their commercial zones, (2) from St. Louis, MO; Detroit, MI; Chicago, IL; Cleveland, OH and their commercial zones to points in FL and CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are seven (7) supporting shippers on file at the Newark, NJ and Washington, D.C. offices. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 146989 (Sub-5TA), filed October 30, 1979. Applicant: GOLDEN-HAMMONS CARTAGE CO., INC., d.b.a. G & H CARTAGE, 1749 Florida, Memphis, TN 38109. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *General commodities, moving on freight forwarders bills of lading,* between Memphis, TN; St. Louis, MO; Cincinnati, OH: Cleveland, OH: Kansas City, MO; and Milwaukee, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Burlington Northern Air Freight, Inc., 2785 Rudder Road, Memphis, TN. Send protests to: Floyd A. Johnson, Suite 2006—100 N. Main St., Memphis, TN 38103.

MC 146998 (Sub-2TA), filed October 15, 1979. Applicant: SERVALL TRANSPORT LTD., 123 Rexdale Boulevard, Rexdale, On Canada M9W 1P3. Representative: S. Harrison Kahn, Attorney at Law, Kahn & Kahn, suite 733 Investment Building, 1511 K Street NW., Washington, D.C. 20005. *Concrete Pipe,* from ports of entry on the Niagara Frontier between the United States and Canada and Hamburg, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Bestpipe Limited, Kitchener, Ontario Canada. Send protests to: R.H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 147348 (Sub-4TA), filed October 26, 1979. Applicant: SOUTHWEST FREIGHT DISTRIBUTORS, INC., 1320 Henderson, North Little Rock, AR 71224. Representative: James M. Duckett, 927 Pyramid Life Building, Little Rock, AR 72201. *General commodities* (with the usual exceptions), from Little Rock, AR, to points in TX, LA, MS, TN, MO, KS, and OK, restricted to shipments destined to the facilities of Electrolux Division of Consolidated Foods, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper: Electrolux Corporation, 2777 Summer Street, Stamford, CT 06905. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 147379 (Sub-3TA), filed October 31, 1979. Applicant: GERALD LEE WEBER d.b.a. JERRY WEBER TRUCKING, P.O. Box N, Akron, CO 80720 Representative: Nancy P. Bigbee of Jones, Meiklejohn, Kehl & Lyons, 1660 Lincoln Street, suite 1600, Denver, CO 80264. *Malt Beverages,* from Ft. Worth, TX, to Wolcott and Glenwood Springs CO, for 180 days. Restricted to service provided under a continuing contract/s with Orrison Frontier & Distributing d.b.a. Orrison Distributing, Inc., 302 W. 8th, Box 128, Glenwood Springs, CO. Authority sought for underlying 90-day ETA. Supporting shipper: Orrison Distributing, Inc., 302 West 8th, P.O. Box 128, Glenwood Springs, CO 81601. Send protests to: District Supervisor R.L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 147948 (Sub-6TA), filed October 16, 1979. Applicant: A. J. ROSS ENTERPRISES, INC., 225 Smith Street, Keasbey, NJ 08832. Representative: Morton E. Kiel, suite 1832, 2 World Trade Center, New York, NY 10048. *Structural steel* from Newington, CT to keasbey, NJ and New York, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Levinson Steel Co., P.O. Box 1617, Pittsburgh, PA 15230. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 148198 (Sub-1TA), filed October 15, 1979. Applicant: A. MATTEO TRUCKING, INC., 1465 Crown Point Road, Verga, NJ 08093. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. *Aluminum powder,* from Flemington, NJ to New Kensington, PA. *Empty containers* used in the transportation of aluminum powder, from New Kensington, PA to Flemington, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Conoco, Inc., P.O. Box 2197, Houston, TX 77001. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 148389 (Sub-1TA), filed October 2, 1979. Applicant: MILBAX TRUCKING, INC., P.O. Box 1124, Aurora, IL 60507. Representative: Meyer & Maton, 10 South LaSalle Street, room 1620, Chicago, IL 60603. *Metal cutting fluids and soaps and materials and supplies used in the manufacture of such fluids*

and soaps, between St. Charles, IL and points in CA, CO, TX, OK, LA, NY, NJ, VA, NC, GA, PA, OH, KY, MI, MO, WI and MN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: S. H. Mack and Company, Inc., 445 Kautz Road, St. Charles, IL 60174. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148439 (Sub-1TA), filed October 25, 1979. Applicant: CONDON TRANSPORT, INC., 126 East Jackson Street, Ripon, WI 54971. Representative: James Evans, 145 West Wisconsin Avenue, Neenah, WI 54956. Contract carrier; irregular rotes; (a) *Tires and such commodities as are dealt in by retail and wholesale automotive stores* (b) (1) From Ripon, WI to points on MN and the UP of Mi and (2) from Chicago, IL and its commecial zone, Columbus, OH; Fort Wayne, IN; Minneapolis-St. Paul, MN and its commercial zone, Manchester, IA; Miami, OK; Oaks, PA and Tuscaloosa, AL to points in the UP of MI, MN and WI, under continuing contract(s) with Payless Tire Stores, Inc., Ripon, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Payless Tire Stores, Inc., P.O. Box 184, Ripon, WI 54971. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin, Ave., Rm. 619, Milwaukee, WI 53202.

MC 148488 (Sub-1TA), filed October 25, 1979. Applicant: ROBERT J. FUTCH d.b.a. BAMBI'S, 206 Cliffton Drive, Port Wentworth, GA 31407. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Contract Carrier,* irregular routes, *transporting (1) lumber (2)* molding and materials, supplies and machinery used in the manufacture of molding, (1) from Port Wentworth, GA to Greenville, SC (2) from Greenville, SC to points in GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lawton Lumber Co., Inc., Washington & Florida Avenue, Greenville, SC 29602. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 148498 (Sub-1TA), filed October 25, 1979. Applicant: GREELEY COMMUTER SYSTEM, LTD., 2628 65th Avenue, Greeley, CO 80631. Representative: Ronald L. Frazier (same address as applicant). General commodities, limited to packages of less than 100 lbs. between points in Weld, Adams and Larimer, Counties, on the one hand, and on the other, Stapleton Airport, Denver, CO for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): 17 statement of support can be seen at Headquarters or the Denver field office Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 148528 (Sub-TA), filed October 2, 1979. Applicant: RAUNIKER, INC., 220 Fairway Drive, Carl Junction, MO 64834. Representative: Clyde Christy, Suite 110L, Credit Union Building, 1010 Tyler, Topeka, KS 66612. *Gasoline, Gasohol and Diesel Fuel,* (1) From the facilities of Farmland Industries, Inc. at or near Coffeyville, KS to points in Barton, Newton, Christian, Jasper, Lawrence, McDonald and Vernon Counties, MO, and points in OK east of I–35 and north of I–40, except Oklahoma City, OK. (2) From the facilities of Sun Oil Co., at or near Tulsa, OK and the facilities of OKC Refining, Inc. at or near Okmulgee, OK to points in Barton, Christian, Jasper, Lawrence, McDonald, Newton and Vernon Counties, MO and Cherokee, Labette, Montgomery, Crawford, Bourbon and Neosho Counties, KS. (3) From the Pipeline Terminals at or near Jasper and Mt. Vernon, MO to points in OK east of I–35 and north of I–40 except Oklahoma City, OK and Cherokee, Labette, Montgomery, Crawford, Bourbon, and Neosho Counties, KS. Supporting shipper(s): Derby Refining Co., Box 1030, Wichita, KS 67201; Hale Petroleum Co., Inc., P.O. Box 167, Columbus, KS 66725; Consumers Oil Stations, Inc., Box 1949, Tulsa, OK 74101; Addis Oil Co., Inc., 527 Maple, Box 212, Chetopa, KS 67336; Langford Oil Company, 202 North Joplin, Pittsburg, KS 66762; and B & M Oil Company, Inc., P.O. Box 1173, Bartlesville, OK 74003. Send protests to: Vernon Coble D/S, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 148609 (Sub-TA), filed October 17, 1979. Applicant: A M & M, Inc., 33 Bolivar Highway, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., Room 909, 100 North Main Street, Memphis, TN 38103. *Foodstuffs, except meat, meat products, meat by-products, not frozen, and except commodities in bulk,* from the facilities of Vlasic Foods, Inc. at (1) Millsboro, DE to WV, PA, MD, NY and NJ; (2) Greenville, MS to KS, AL, AR, TN and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Vlasic Foods, Inc., 33200 West 14 Mile Rd., West Bloomfield, MI 48033. Send protests to: Floyd A. Johnson, Rm. 2006–100 N. Main St., Memphis, TN 38103.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-39301 Filed 12-20-79; 8:45 am]

BILLING CODE 7035-01-M

[No. 37244]

Petition for Modification of Outstanding Order in Docket No. 15234 Delivery Charge Before Pro Rating Rates on Steel Bars

AGENCY: Interstate Commerce Commission.

ACTION: Notice of petition filing.

SUMMARY: The Southwestern Freight Bureau (Southwestern or petitioner), on behalf of carriers operating in Western Trunk Lines and Southwestern territories, has requested permission to deduct a delivery charge of $20.00 per trailer before prorating the balance of the revenue on a Commission formula prescribed in docket No. 15234, *In The Matter of Divisions of Freight Rates In Western And Mountain Pacific Territories,* 156 I.C.C. 94 (1929). Petitioner seeks to deduct the delivery charge on shipments of steel bars moving in trailer on flat car service. The deduction would be subject to a minimum weight of 80,000 pounds, when loaded in or on not more than two trailers, moving from Inver Grove and St. Paul, MN, to Tulsa, OK. Petitoner alleges that the revenue generated at the X–357 level is insufficient because of increased drayage, fuel, and labor costs. The Commission seeks comments on whether petitioner should be authorized to depart, as requested, from the prior rate prescription. Following the comment period, the Commission will decide whether to allow the delivery charge before prorating rates on steel bars.

DATE: Comments on or before January 21, 1980. Comments should be filed under docket No. 37244.

ADDRESS: Comments should be submitted to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder (202) 275–7693.

Dated: December 10, 1979.

By the Commission, Division 1, Commissioners Clapp, Trantum and Alkexis.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-39302 Filed 12-20-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 247
Friday, December 21, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, December 19, 1979.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: Additional item to be considered.

Agenda, Item No., and Subject

Broadcast—1—Memorandum Opinion and Order (BC Docket No. 79-219): "Motion for Rescission of Notice and Other Procedural Relief" filed by the ACLU and other parties asking the Commission to rescind its *Notice of Inquiry and Notice of Proposed Rule Making* in BC Docket 79-219, radio deregulation, and for other relief.

Additional information concerning this item may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: December 18, 1979.

[S-2468-79 Filed 12-19-79; 10:57 am]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, December 19, 1979.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: Additional item to be considered.

Agenda, Item No., and Subject

Private Radio—8—Title: Notice of Proposed Rule Making to allow operation of low power limited coverage systems in the 22,000 to 23,600 MHz band. Summary: The FCC proposed to allow operational-fixed licensees to operate in the 22,000 to 23,600 MHz band. Systems in this band would be used for traffic control, closed circuit TV, energy monitoring and control, digital voice, transmissions of high speed digital data and other short haul communications whose maximum distance would not exceed 25 miles. Operation of these systems would be similar to operational-fixed systems in the 12,200 to 12,700 MHz band. The 12,000 to 12,700 MHz band is presently proposed for broadcast satellite service. If this proposal is adopted, the 22,000 to 23,600 MHz band would be used to accommodate some existing and future operations which are now authorized in the 12,200 to 12,700 MHz band.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: December 17, 1979.

[S-2469-79 Filed 12-19-79; 10:57 am]

BILLING CODE 6712-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, December 17, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Bank of Baroda, Bombay, India, a United States branch of a foreign bank, located at One Park Avenue, New York, New York, for Federal deposit insurance.

Application of Israel Discount Bank Ltd., Tel Aviv, Israel, two United States branches of a foreign bank, located at 511 Fifth Avenue, New York, New York, and 1350 Broadway, New York, New York, for Federal deposit insurance.

Application of Bank Hapoalim B.M., Tel Aviv, Israel, a United States branch of a foreign bank, located at 3 Penn Center Plaza, Philadelphia, Pennsylvania, for Federal deposit insurance.

Application of the Trust Company of New Jersey, Jersey City, New Jersey, for Federal deposit insurance coincident with withdrawal from the Federal Reserve System.

Recommendation regarding the liquidation of assets acquired by the Corporation from Franklin National Bank, New York, New York (Case No. 44,152-L).

Recommendation regarding the liquidation of assets acquired by the Corporation from State Bank of Clearing, Chicago, Illinois (Legal Division memorandum dated December 7, 1979).

Recommendation with respect to payment for legal services rendered and expenses incurred by Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Recommendation with respect to payment for legal services rendered by Casey, Lane & Mittendorf, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Memorandum re: Possible Conflicts of Interest in Connection with Attorneys' Fees to Directors, Trustees, Officer or Stockholders.

The Board further determined, by the same majority vote, that Corporation business required the additon to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Notice of acquisition of control: Ennis State Bank, Ennis, Texas; and

Recommendation regarding the liquidation of assets acquired by the Corporation from United States National Bank, San Diego, California (Case No. 44,144-NR).

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 17, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2485-79 Filed 12-18-79; 5:00 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, December 17, 1979, the Corporation's Board of Directors determined, on motion of Chariman Irvine H. Sprague, seconded by Director William M. Issac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Audit Report: Review of Electronic Data Processing Services Provided to the Division of Bank Supervision by the Division of Management Systems and Financial Statistics, dated September 10, 1979.

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Request by the Comptroller of the Currency for a report on the competitive factors involved in a proposed merger of The Citizens National Bank and Trust Company, Wellsville, New York, and the State Bank of Belmont, Belmont, New York.
Memorandum and Resolution re: Policy Statement on Interagency Coordination of Formal Corrective Action by the Federal Bank Regulatory Agencies.
Memorandum and Resolution re: Policy Statement on Interagency Coordination of Bank Holding Company Inspections and Subsidiary Bank Examinations.
Memorandum and Resolution re: Joint Notice of Statement of Policy on Disclosure of Statutory Enforcement Actions.
Memorandum re: Report of Condition for U.S. Branches and Agencies of Foreign Bank.
Proposed contract for assistance in relocating Corporation employees and their families.
Recommendation with respect to payment for legal services rendered and expenses incurred by Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.
Recommendation with respect to payment for legal services rendered by Casey, Lane & Mittendorf, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.
Memorandum and Resolution re: Joint Notice of Proposed Policy Statement on Disposition of Credit Life Insurance Income.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: December 17, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2486-79 Filed 12-18-79; 5:00 pm]

BILLING CODE 6714-01-M

5

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 December 24, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Thursday, December 27, 1979, at 10:00 a.m., immediately followed by a closed 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) (4), (8), (9)(i), and (10).

Commissioners Loomis, Evans, and Pollack determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, December 27, 1979, at 10:00 a.m., will be:

1. Consideration of whether to adopt Rules 2a–6 and 15a–4 of the Investment Company Act of 1940 to modify its requirements regarding the assignment of contracts for services of an investment adviser or principal underwriter and the temporary service by an investment adviser without a written contract approved by investment company shareholders. For further information, please contact Mark Goldfus at (202) 272–2048.

2. Consideration of whether to grant the application by A. T. Broad & Co. for relief pursuant to Rule 252(f) of Regulation A. For further information, please contact Thomas J. Baudhuin at (202) 272–2644.

The subject matter of the closed meeting scheduled for Thursday, December 27, 1979, immediately following the 10:00 a.m. open meeting, will be:

Formal orders of investigation.
Freedom of Information Act appeal.
Personnel matter.
Institution and settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceeding of an enforcement nature.
Litigation matter.
Institution of injunctive action.
Settlement of administrative proceeding of an enforcement nature.
Order compelling testimony.

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: Mike Rogan at (202) 272–2091.

December 18, 1979.

[S-2467-79 Filed 12-18-79; 5:10 pm]

BILLING CODE 8010-01-M

Friday
December 21, 1979

Federal Register

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

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. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of 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, 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

New York.—NY79–3038.

Modification 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.

Connecticut:	
CT79–2010	Apr. 6, 1979.
CT79–2011	Apr. 6, 1979.
District of Columbia:	
DC79–3039	Oct. 19, 1979.
Illinois:	
IL79–2031	May 4, 1979.
Maryland:	
DC79–3039	Oct. 19, 1979.
New York:	
NY79–3011	May 18, 1979.
Pennsylvania:	
PA78–3064	Sept. 22, 1978.
PA78–3065	Sept. 22, 1978.
PA78–3070	Sept. 29, 1978.
PA78–3099	Dec. 15, 1978.
PA79–3004	Mar 16, 1979.
Virginia:	
DC79–3039	Oct. 19, 1979.
VA78–3075	Nov. 3, 1978.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Massachusetts:	
MA78–2089(MA79–2085)	Sept. 22, 1978.
New York:	
NY78–3095(NY79–3036)	Dec. 1, 1978.
Ohio:	
OH79–2043(OH79–2086)	May 4, 1979.
Virginia:	
VA79–3002(VA79–3055)	Feb. 23, 1979.
VA75–3094(VA79–3056)	Sept. 19, 1975.

Cancellation of General Wage Determination Decisions

None

Signed at Washington, D.C. this 14th day of December 1979.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

NEW DECISION

STATE: New York COUNTY: Ulster
DECISION NO.: NY79-3038 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.

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.67	.95	.41		.02
BOILERMAKERS	13.19	5%	15%	7%	.02
BRICKLAYERS:					
Bricklayers, Caulkers, Cleaners, Cement Masons, Plasterers, Pointers, Marble Masons, Stone Masons, Tile & Terrazzo Workers:					
Building Where General Contract does not exceed $300,000 & the masonry contract including labor & material does not exceed $500,000	9.55	2.25	2.10	a	.06
	8.40	1.65	1.40	a	
CARPENTERS:					
Carpenters, Millwrights, Piledrivers, Dockbuilders, & Soft Floor Layers	10.75	.75	1.05	.55	.05
CEMENT MASONS, HEAVY & HIGHWAY	10.05	2.25	2.10	b	.06
ELECTRICIANS:					
Hardenburg, Denning, Rochester, Wawarsing Twps. & that portion of Gardiner & Shawangunk Twps. west of a line following the Shwangunk Kill from the Orange County Line north to the Walkill River & continuing north along the Wallkill River & Lloyd, New Paltz, Esopus, Rosendale, Marbletown, Ulster, Hurley, Olive Kingston, Saugerites, Woodstock & Shandaken Twps.	10.60	.75	3%+1.05	.50	½%
Remainder of County	11.45	7.4%	3%+1.00	.60	½%
GLAZIERS	12.85	.66	1.91	.67	.01
IRONWORKERS	10.75	1.78	2.98	1.60	
LATHERS	9.57	1.05	.15	1.00	.01

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION (CONTD.)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LEADBURNERS	$10.75	.40	.25	c	.01
PAINTERS:					
Brush, Roller & Tapers Steel, Structural Steel, Towers, Smokestacks, Fire Escapes, Flagpoles & Bridges	9.41	.80	.75		.01
	10.16	.80	.75		.01
Sandblasting & Spray	10.46	.80	.75		.01
Paper & Vinyl Hangers, Tapers	9.41	.80	.75	d	.01
PLUMBERS & STEAMFITTERS:					
Twps. of Wawarsing, Plattekill, Marlboro & Shawangunk	11.75	1.10	1.90		.15
Remainder of County	10.00	1.90	.80	1.30	.05
ROOFERS:					
Cold Tar Pitch, Mopping & Dipping Application or ripping off	11.70	1.00	1.95		.35
Asphalt Builtup, Asbestos Tile, Tile, Ceramic Tile, Slate, Tectum, Spray Insulation	11.20	1.00	1.95		.35
Cold process & Resaturation, Asphalt Shingle	8.70	1.00	1.95		.35
Pitch	9.20	1.00	1.95		.35
SHEET METAL WORKERS	10.97	1.645	2.28	1.04	.12
SPRINKLER FITTERS	13.54	.75	1.05		.08
WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day
B-Memorial Day
C-Independence Day
D-Labor Day
E-Thanksgiving Day
F-Christmas Day

FOOTNOTES:

a. 2 hours off with pay on Election Day.

b. Paid Holidays: A through F, Lincoln's Birthday, Washington's Birthday, Good Friday, Columbus Day, November Election Day and Veteran's Day.

c. Paid Holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve provided the employee works the 30 full days during the 90 calendar days prior to the holiday and the regularly scheduled work days immediately preceeding and following the holiday.

d. Employee receives $1 per day extra when hanging vinyl or fabric.

LABORERS, BUILDING:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Common Laborers, Flagmen, Mason Tenders, Mortar Mixers, Hod Carriers, Scaffold Builders, Concrete Men, Signalman, Vivrator Men, Poured gypsum roof work, wrecking Walking Power Buggy, Landscaper, Chipping Hammer (air or electric 1" or under), Operation and tending of all power driven hand fed mortar or concrete mixers, pumpcrete Machines, Plastering, Fireproofing, and Accoustic Pumps and Mixers	9.60	1.05	1.05		
Asphaltmen, Pipelayers, Air or Electric Jackhammer, Air Track, Wagon, Joy and Jib Drills, Powdermen, Gunite or Sandblasting, Barmen, Chain Saw Operator, Riding Power Buggy, Vibro, Barco, Joy Tamper or similar type Tamper (air or gas), Walk Behind Roller, Granite Curbing, All Fork Lifts and Laser Operations	9.85	1.05	1.05		
Blasters, Form Setters, Burner Acetylene Torch, Ingersoll Rand, Heavy Duty Crawler-Master type HCMZ, Drill Machine or equivalent All wrecking work 50' or more above the ground	10.25	1.05	1.05		
Small construction, alteration, and repair where the general construction contract price does not exceed $250,000 (all Classifications)	6.80	1.05	1.05		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
HEAVY AND HIGHWAY CONSTRUCTION					
GROUP I	$9.70	1.05	1.05	a	
GROUP II	9.95	1.05	1.05	a	
GROUP III	10.35	1.05	1.05	a	

HEAVY AND HIGHWAY CONSTRUCTION

GROUP I

Laborer, pitman, flagman, chuck tender, dump men, handling and distributing of drinking water, placing and maintenance of all flares, lights, barricades and all reflective type materials for traffic control.

GROUP II

Concrete men, vibrator men, asphalt men, joint setter, signal men, mason tenders, mortar men, pipelayers, rip rap and dry stone layers, steel rod carriers, jackhammer, pavement breaker, wagon drill, air track, jib rig and joy drill op., power buggy op., gunnite and sandblasting, coal passers and other machine op., sprayer and nozzle men on mulching and seeding machines, all seeding and sod laying, all landscape work, grade checkers, all bridge work, walk behind self-propelled power saw walk behind rollers and tampers of all types, wrecking laborers (including barmen and burnermen), all sheeting and sharing coming under the laborers jurisdiction bit grinder, operator of form pin pullers and drivers, joint and jet sealers and filling and wiring of baskets for gabion walls, permanent sign man.

GROUP III

Concrete finisher on highways, form setter, granite stone layer, Ingersoll rand heavy duty crawler-master type HCMZ or equivalent or any drill using a 4" or larger bit.

HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Columbus Day; Good Friday; Election Day; Veteran's Day; provided employee works one day in the calendar week in which the holiday falls and reports for work the first working day following the holiday.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
Electricial Overhead and Undeground Distribution Work:					
Lineman and Technicians	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					

	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.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: BUILDING, HEAVY & HIGHWAY, ROAD, STREET & SEWER CONSTRUCTION					
GROUP 1	$15.63	12%+.40	10%	a	3%
GROUP 2	13.81	12%+.40	10%	a	3%
GROUP 3	12.93	12%+.40	10%	a	3%
GROUP 4	12.82	12%+.40	10%	a	3%
GROUP 5	12.59	12%+.40	10%	a	3%
GROUP 6	12.10	12%+.40	10%	a	3%
GROUP 7	11.81	12%+.40	10%	a	3%
GROUP 8	11.64	12%+.40	10%	a	3%
GROUP 9	11.59	12%+.40	10%	a	3%
GROUP 10	11.64	12%+.40	10%	a	3%
GROUP 11	11.42	12%+.40	10%	a	3%
GROUP 12	11.59	12%+.40	10%	a	3%
GROUP 13	10.78	12%+.40	10%	a	3%
GROUP 14	10.61	12%+.40	10%	a	3%
GROUP 15	10.27	12%+.40	10%	a	3%

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION

GROUP 1
Helicopters pilot/engineer

GROUP 2
Autograde-combination subgrader, base MTL spreader & base trimmer (CMI & similar type); autograde placer-trimmer-spreader-combination (CMI & similar types); autograde slip form paver (CMI & similar types); backhoes (all types, including all combination hoe loaders); central power plants (all types); concrete paving machines; cranes (all types, including overhead & straddle travelling type); cranes, gantry; derricks - land or floating (building & heavy construction rate only), drillmaster, quarry master (down the hole drill); draglines; elevator graders; engines, large diesel (1625 HP) and staging pump; front end loaders (5 yds. & over); gradalls; grader, rago; helicopters co-pilot and communication engineer; jacks, screw air hydraulic power operated unit or console type (not hand jack or pile load test type); locomotive (large); mucking machines; pavers (21E and over); paver, resinous, Broyhill; pavement and concrete breaker (i.e. superhammer); pavement breaker truck mounted; piledriver; scooper (loader and shovel) Koehring; shovels; treechopper with boom; trench machines.

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONTD.)

GROUP 3
Pump, staging

GROUP 4
A-frame, boom attachment on loaders; boring & drilling machines; brush chopper, shipper & shredder; cableways; carryalls; cherry pickers - 6 tons & under (over 6 tons - crane rate applies); concrete pump; concrete pump system, pumpcrete, squeezecrete & similar types; conveyors, 125' & over; economobiles (hilo, lull, hyster similar type equipment); forklifts; front end loaders (2yds. but less than 5 yds.); groove cutting machines (ride or type); heater planer; hoist (Chicago Boom); Pans, LeTourneau, DW's Ukes, pumpcrete-unit type; pumpcrete machines, squeezecrete & concrete pumping; scrapers-LeTourneau, DW's Ukes; side booms; squeezecrete; "straddle" carrier, Ross and similar types; winch trucks (hoisting).

GROUP 5
Aerial platform (used as hoist); hoists all types except Chicago Boom type (building & heavy construction rate only); elevator or house cars (building and heavy construction rate only); roof hoists.

GROUP 6
Asphalt spreaders; bridge deck finisher; grader, finish only; rollers-blacktop.

GROUP 7
Asphalt curbing machines; asphalt plant engineer; autograde tube finisher & texturing machine (CMI & similar types); autograde concrete machine (CMI & similar types); autograde curb trimmer & sidewalk shoulder, slip-form (CMI & similar types); barbending machines (power); batchers, batching plant & crusher on site; bet convey or system; boilers and steam jennies (building & heavy construction rate only); boom type skimmer machines (building & heavy construction rate only); car dumpers (railroad); compressor and blower type units; concrete breaking machines; concrete finishing machines; concrete saws & cutters (ride on type); concrete spreaders-hetzel, recomatic & similar types; concrete vibrators (highway, road, street & sewer construction rate only); conveyors, under 125 ft.; crushing machines; ditching machine, small (ditch witch or similar); drill doctor (duties include dust collector); dope pots (mechanical with or without pump); dumpsters; fine grade machine (large type); front end loaders (1 yd. & over but less than 2 yds.) - highway, road, street & sewer construction rate only; front end loaders (under 2 yds.) - building and heavy construction rates only; generators; giraffe grinders; graders and motor patrols; gunnite machines (excluding nozzle); hammer vibratory (in conjunction with generator); hoppers; hopper doors (power operated); ladders (motorized) - building & heavy construction rate only;

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONTD.)

GROUP 7 (Contd.)
laddervator; lights, portable generating light plants; locomotive (dinky type); mechanic; mixers (excepting paving mixers); motor patrols & graders; pavers (under 21E); pavement breakers-small, self-propelled ride on type (also maintains compressor or hydraulic unit); pipe bending machine (power); pitch pump; plaster pump (regardless of size) - building & heavy construction rate only; post hole digger; rod bending machines (power); scales, power; seaman pulverizing mixer; silos; skimmer machines (boom type) - highway, road, street & sewer construction rate only; steam jennies and boilers; steel cutting machines, services & maintains; vibrating plants (used in conjunction with unloading); welder and repair mechanic.

GROUP 8
Compressors (2 or 3 within a total distance of 100' constitutes a battery) - building & heavy construction rate only; welding machines, gas or electric converters of any type - (2 or 3 in battery) - building and heavy construction rates only; welding system, multiple (rectifier transformer type) - building and heavy construction rate only.

GROUP 9
Brooms & Sweepers; bulldozer, D5 and over; fireman; sprinkler & water pump trucks (used on job site or in conjunction with job site); stone spreaders; sweepers & brooms; tractor, D8 & over; water and sprinkler trucks (used on job site or in conjunction with job site).

GROUP 10
Compressors (2 or 3 within a total distance of 100' constitutes a battery) - highway, road, street and sewer construction rate only.

GROUP 11
Front end loaders (under 1 yd.) - highway,road, street & sewer construction rate only.

GROUP 12
Bulldozer under D5; rollers - grade fill or stone base; tractors, under D8.

GROUP 13
Compressor (single); heaters (Nelson or other type including propane, natural gas or flow type units); pumps (4 inch suction & over including submersible pumps); pumps (2 or less than 4 inch suction including submersible pumps); pumps, diesel engineer & hydraulic (immaterial of power) - highway, road, street & sewer construction rate only; temporary heating plant (Nelson or other type, including propane, natural gas or flow type units); welding machines, gas or electric converters of any type -

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONTD.)

GROUP 13 (Cont'd.)
single (building & heavy construction rate only); welding machines, gas or electric converters of any type (2 or 3 in battery) - highway, road, street & sewer construction rate only; wellpoint systems (including installation and maintenance).

GROUP 14
Concrete spreaders, (small type) convey or loaders (not including elevator graders) - highway, road, street & sewer construction rate only; farm tractors (highway, road, street & sewer construction rate only); fertilizing equipment; fine grade machine (small type) - highway, road, street & sewer construction rate only; form line graders (small type) - highway, road, street & sewer construction rate only; grease, gas, fuel and oil supply trucks; mixers, concrete small (highway, road, street & sewer construction rate only); mulching equipment; road finishing machines (small type) - highway, road, street & sewer construction rate only; seeding equipment; tamping machines, vibrating self-propelled; welding machines, gas or electric converters of any type-single (highway, road, street & sewer construction rate only).

GROUP 15
Assistant engineer/oiler; mechanics helper; tire repair and maintenance.

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day & Veterans Day provided the employee works any of the 3 days in the 5 day work week preceeding the holiday and the first work day after the recognized holiday.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: STEEL ERECTION					
GROUP 1	$17.44	12%+.4¢	10%	a	3%
GROUP 2	15.63	12%+.4¢	10%	a	3%
GROUP 3	14.72	12%+.4¢	10%	a	3%
GROUP 4	13.98	12%+.4¢	10%	a	3%
GROUP 5	12.20	12%+.4¢	10%	a	3%
GROUP 6	11.81	12%+.4¢	10%	a	3%
GROUP 7	11.66	12%+.4¢	10%	a	3%
GROUP 8	11.29	12%+.4¢	10%	a	3%
GROUP 9	10.73	12%+.4¢	10%	a	3%

50¢ per hour on machines where "Cat Head" or "Sheave Point" is at least 100 feet above ground level and less than 140 feet; 75¢ per hour on machines where "Cat Head" or "Sheave Point" is 140 feet, or over above ground level.

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day & Veterans Day provided the employee works any of the 3 days in the 5 day work week preceeding the holiday and the first work day after the recognized holiday.

POWER EQUIPMENT OPERATORS: STEEL ERECTION

GROUP 1
Helicopters pilot/engineer.

GROUP 2
Cranes (all cranes - land or floating with booms - including jib, 140 feet and over above the ground); derricks (land or floating with booms including jib, 140 feet and over above the ground); helicopters co-pilot & communications engineer.

GROUP 3
Cranes (all cranes - land or floating with booms - including jib, less than 140 feet above the ground); derricks (land or floating, with booms including jib, less than 140 feet above the ground).

GROUP 4
Aerial platform used as hoist; A-frame; cherry pickers - 6 tons and under (over 6 tons - crane rate applies); fork lifts; hoists (all types except Chicago Boom type); jacks (screw air hydraulic power operated unit or console type, not hand jack or pile load test type); side booms.

GROUP 5
Compressors (2 or 3 in battery); generators; welding machines (gas or electric converters of any type 2 or 3 in battery multiple welders) welding system multiple (rectifier transformer type).

GROUP 6
Maintenance engineer

GROUP 7
Fireman

GROUP 8
Compressor (single); rod bending machines (power); welding machines (gas or electric converters of any type-single).

GROUP 9
Assistant engineer/oiler; straddle carrier.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Drivers on LeTourneau tractors, double barrel Euclids, Athey wagon & similar equipment (except when hooked to scrapers), low beds, I-Bean, pole trailers, road oil distributors tire trucks tractors and trailers with 5 axle and over	$10.50	.95	1.05		a
Equipment 25 yds. & over up to and including 30 yd. bodies cable dump trailers powder and dynamite trucks	10.40	.95	1.05		a
Equipment up to and including 24 yds. bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks and all other tractor trailers	10.20	.95	1.05		a
Ten wheelers, grease trucks and tiller men	10.10	.95	1.05		a
Straight trucks	10.00	.95	1.05		a
Pick-up trucks used for hauling material parts escort man over the road	10.00	.95	1.05		a

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F;

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Drivers on LeTourneau tractors, double barrel Euclids, Athey wagon & similar equipment (except when hooked to scrapers), low beds, I-Bean, pole trailers, road oil distributors, tire trucks tractors and trailers with 5 axle and over	$11.00	.95	1.05	a+b	
Equipment 25 yds. & over up to and including 30 yd. bodies cable dump trailers, powder and dynamite trucks	10.90	.95	1.05	a+b	
Equipment up to and including 24 yds. bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks and all other tractor trailers	10.70	.95	1.05	a+b	
Ten wheelers, grease trucks and tiller men	10.60	.95	1.05	a+b	
Straight trucks	10.50	.95	1.05	a+b	
Pick-up trucks used for hauling material parts escort man over the road	10.50	.95	1.05	a+b	
Helpers	10.40	.95	1.05	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Washington's Birthday, Election Day, Veteran's Day, Lincoln's Birthday, Election Day, Good Friday.

b. 3 day bereavement pay (spouse, mother, father, mother in law, father in law, grandmother, grandfather, sister, brother, children, grandchildren.

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))

MODIFICATION PAGE 1

DECISION NO. CT79-2010 - MOD. #7 (44 FR 20913 - April 6, 1979) Fairfield, Litchfield, & Windham Counties, Connecticut	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Power Equipment Operators Heavy & Highway Construction					
Class 14 Track Backhoe Oiler	$ 6.24	1.05	.95	a	.15
Change:					
Truck Drivers (Building, Heavy & Highway Construction)					
Class 1	8.26	.79	.80	a	
Class 2	8.36	.79	.80	a	
Class 3	8.46	.79	.80	a	
Class 4	8.41	.79	.80	a	
Class 5	8.51	.79	.80	a	
Class 6	8.56	.79	.80	a	

CLASS 1 - Two Axle Trucks; Helpers
CLASS 2 - Three Axle Trucks; Two Axle Ready Mix
CLASS 3 - Four Axle Trucks; Heavy Duty Trailer-up to 40 Tons
CLASS 4 - Three Axle Ready-Mix
CLASS 5 - Four Axle Ready-Mix; Specialized Earth Moving Equipment other than Coventional Type on-the-road Trucks and Semi-Trailer (including Euclids)
CLASS 6 - Heavy Duty Trailer-40 Tons and over

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day & F-Christmas Day

FOOTNOTE:
a. 7 Paid Holidays: A through F and Good Friday

DECISION NO. CT79-2011 - (44 FR 20921 - April 6, 1979) Hartford, Middlesex, New Haven, New London, & Tolland Counties, Connecticut	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Power Equipment Operators Heavy & Highway Construction					
Class 14 Track Backhoe Oiler	$ 6.24	1.05	.95	a	.15
Change:					
Truck Drivers (Building, Heavy & Highway Construction)					
Class 1	8.26	.79	.80	a	
Class 2	8.36	.79	.80	a	
Class 3	8.46	.79	.80	a	
Class 4	8.41	.79	.80	a	
Class 5	8.51	.79	.80	a	
Class 6	8.56	.79	.80	a	

CLASS 1 - Two Axle Trucks; Helpers
CLASS 2 - Three Axle Trucks; Two Axle Ready Mix
CLASS 3 - Four Axle Trucks; Heavy Duty Trailer-up to 40 Tons
CLASS 4 - Three Axle Ready-Mix
CLASS 5 - Four Axle Ready-Mix; Specialized Earth Moving Equipment other than Coventional Type on-the-road Trucks and Semi-Trailer (including Euclids)
CLASS 6 - Heavy Duty Trailer-40 Tons and over

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day & F-Christmas Day

FOOTNOTE:
a. 7 Paid Holidays: A through F and Good Friday

DECISION NO. DC79-3039 MOD. NO. 2 (44 FR 60513 - October 19, 1979) District of Columbia, Maryland - Montgomery & Prince Georges; D. C. Training School; Virginia - Independent City of Alexandria, Arlington & Fairfax Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Heavy Construction excluding water & sewer lines: All Counties		0			
Building Construction: Excluding Alexandria, Va.					
Tile Setters	$12.59	.70	.95		.04
Truck Drivers:					
Boom truck	8.90	.74	.425	e+f	
Small dump, water sprinkler, grease and oil	8.65	.74	.425	e+f	
Flat, pick-up hauling materials, small euclids, dump over 8 wheels	8.75	.74	.425	e+f	
Trailers, low boys, tractor pulls	8.95	.74	.425	e+f	
Helpers	8.50	.74	.425	e+f	
Carryalls, large Euclids, Euclid water sprinkler, tunnel work under ground	9.50	.74	.425	e+f	
Mechanics	8.80	.74	.425	e+f	

DECISION NO. IL79-2031 - MOD. #4
(44 FR 26424 - May 4, 1979)
Bureau, LaSalle, Livingston, Marshall, Putnam & Woodward Counties, Illinois

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
GLAZIERS: Bureau, LaSalle, East 1/3 of Marshall, North 4/5 of Livingston & Putnam Counties	$12.46	.60	.30		.01

DECISION #NY79-3011 - Mod. #2
(44 FR 29249- May 18, 1979)
Bronx, Kings, Queens, New York & Richmond Counties, New York

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers	11.50	1.28	3.68		
Carpenters, Building: Carpenters, Dock Builders, Pile-drivermen, Soft Floor Layers	12.48	1.70	1.78	1.01	.04
Carpenters, Heavy: Carpenters, Dock Builders, and Piledrivermen	12.38	1.70	1.78	1.01	.04
Ironworkers: Ornamental Finisher	11.23	1.48	3.05	.83	.14
Structural	12.25	1.78	3.58	1.60+f	.11
Painters: Brush	10.92	9½%	1.04+q	3%	
Spray, Spray Gun, Scaffold Work	13.26	9½%	1.04+q	3%	
Roofers: Composition, Damp, Waterproofers	10.50	2.69	2.70		.10
Stonemasons	13.00	.75	1.00		
Stone Derrickmen and Riggers	13.62	.98	1.01		
Terrazzo Workers	11.88	1.32	1.50		
Tile Setters	11.225	1.15	1.10		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA78-3064 MOD. NO. 8 (43 FR 43224 - September 22, 1978) Schuylkill County, Pennsylvania					
CHANGE:					
ASBESTOS WORKERS	$11.61	1.12	.90		.01
ELECTRICIANS: North Manheim, South Manheim, West Brunswick, Wayne, Washington, Pottsville, Schuylkill Haven Twps.	12.49	.78	3%+.30		.03
SPRINKLER FITTERS	13.55	.75	1.05		.08
DECISION NO. PA78-3065 MOD. NO. 7 (43 FR 43226 - September 22, 1978) Sullivan County, Pennsylvania					
CHANGE:					
CEMENT MASONS	10.60				
ELECTRICIANS: Western Part of County	9.98	.60	3%+.85	.75	.02
SPRINKLER FITTERS	13.55	.75	1.05		.08
DECISION NO. PA78-3070 MOD. NO. 8 (43 FR 45162 - September 29, 1978) Lancaster County, Pennsylvania					
CHANGE:					
ASBESTOS WORKERS	11.61	1.12	.90		.01
ELECTRICIANS: W. Calico, E. Calico, Brecknock, E. Carl & Caernarvon Twps Twps.	12.49	.78	3%+.30		.03
Remainder of County	10.45	.60	3%		1/8%
MARBLE SETTERS	9.20	.45	.45		
SPRINKLER FITTERS	13.55	.75	1.05		.08
TILE SETTERS	9.20	.45	.45		
TERRAZZO WORKERS	9.20	.45	.45		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA78-3099					
MOD. NO. 8					
(43 FR 58729 - December 15, 1978)					
Bradford, Tioga, Union Counties, Pennsylvania					
CHANGE:					
ASBESTOS WORKERS	$11.875	.80	.60		.01
CEMENT MASONS	10.60				
ELECTRICIANS:					
ZONE I	9.98	.60	3%+.85	.75	.02
SPRINKLER FITTERS	13.55	.75	1.05		.08
DECISION NO. PA79-3004					
MOD. NO. 5					
(44 FR 16319 - March 16, 1979)					
Northumberland County, Pennsylvania					
CHANGE:					
ELECTRICIANS:					
Delaware, Lewis & Trubut Twps.	9.98	.60	3%+.85	.75	.02
SPRINKLER FITTERS	13.55	.75	1.05		.08
DECISION NO. VA78-3075-Mod. #5					
(43 FR 51590-November 3,1978)					
York County and the cities of Hampton and Newport News (including Langley AFB, Fort Eustis and Fort Monroe) Virginia					
CHANGE:					
SEWER AND WATER CONSTRUCTION					
Laborers	$3.38				
Pipelayers	4.59				
Truck Drivers	3.50				
Backhoe	6.50				
Cranes	7.90				

STATE: MASSACHUSETTS COUNTY: SUFFOLK
DECISION NO. MA79-2085 DATE: Date of Publication
Supersedes Decision no. MA78-2089, dated September 22, 1978 in 43 FR 43209
DESCRIPTION OF WORK: Building Construction, (including Residential), Heavy and Highway Construction and Marine Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.81	1.20	1.10		.10
BOILERMAKERS	11.80	1.05	10%		.02
BRICKLAYERS & STONEMASONS	11.05	.85	1.40		.12
Residential	8.84	.85	1.40		.12
CARPENTERS & SOFT FLOOR LAYERS	11.05	.90	1.00		.07
CEMENT MASONS	11.65	1.15	.60		.20
ELECTRICIANS	13.23	.75	3%+.55		.07
ELEVATOR CONSTRUCTORS	12.815	1.045	.82	a+b	.035
ELEVATOR CONSTRUCTORS' HELPERS	8.97	1.045	.82	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	11.85	.77	.69		.03
IRONWORKERS:					
Ornamental, Reinforcing and Structural	11.64	1.00	1.50		.06
LABORERS (BUILDING):					
Laborers, Carpenter Tenders, Wrecking Laborers	8.95	.70	1.00		.10
Jackhammer Op., Pavement Breakers, Asphalt Rakers, Carbide Core Drilling Machine, Chain Saw Op., Pipelayer, Baro Type Jumping Tampers; Laser Beam,Concrete Pump, Mason Tenders, Motorized Mixers, Ride-on Motorized Buggy, Fence and Beam Rail Erectors	9.20	.70	1.00		.10
Air Track, Block, Pavers, Rammers Curb Setter	9.70	.70	1.00		.10
Blasterers, Powdermen	9.95	.70	1.00		.10
Pre Cast Floor and Roof Plank Erectors	9.45	.70	1.00		.10
LATHERS	11.30	1.00	.55		.03

DECISION NO. MA79-2085

LINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen	$12.50	.70	3%+.50	d	3/8of1%
Equipment Operators	11.17	.70	3%+.50	d	3/8of1%
Driver Groundman	8.93	.70	3%+.50	d	3/8of1%
Groundman	8.18	.70	3%+.50	d	3/8of1%
MARBLE & TILE SETTERS, TERAZZO WORKERS	10.40	.85	1.50		
MILLWRIGHTS	11.70	.95	1.00		.10
PAINTERS:					
Brush, New Construction	11.51	.82	1.20		.04
Structural Steel	13.63	.82	1.20		.04
Spray & Sandblasting	12.51	.82	1.20		.04
Repaint, Alterations:					
Residential					
Brush	9.71	.82	1.20		.04
Structural Steel	13.63	.82	1.20		.04
Spray & Sandblasting	10.71	.82	1.20		.04
PILEDRIVERMEN	11.60	.85	1.00		
PLASTERERS	10.50	.45	1.30		.02
VENEER PLASTERERS	10.15	.45	.30		.02
PLASTERERS' TENDERS	8.75	.60	.80		.10
PLUMBERS	13.30	1.02	1.48		.05
ROOFERS:					
Journeyman Mechanic	10.20	.70	1.55		.05
Reroofing & Repair	9.65	.70	1.55		.05
Pitch Work	11.20	.70	1.55		.05
SHEET METAL WORKERS	12.08	1.16	1.50		.10
SPRINKLER FITTERS	12.66	.65	.95		.04
STEAMFITTERS	13.36	.94	1.20		.07

DECISION NO. MA79-2085

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Holidays: A through F and the day after Thanksgiving Day.

d. Holidays: A through F, Bunker Hill Day, provided the employee has been employed 5 working days prior to any one of the listed holidays.

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HEAVY & HIGHWAY LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 8.95	.70	1.00		.10
CLASS II	9.20	.70	1.00		.10
CLASS III	9.70	.70	1.00		.10
CLASS IV	11.30	.70	1.00		.10

CLASSIFICATIONS

CLASS I - Carpenter Tenders, Cement Finisher Tenders, Laborers, Wrecking Laborers

CLASS II - Asphalt Rakers, Fence and Guard Rail Erectors, Laser Beam Op., Mason tender, Pipelayer, Pneumatic Drill Op., Pneumatic Tool Op., Wagon Drill Op.

CLASS III - Air Track Op., Block Rakers, rammer, Curb Setters

CLASS IV - Blasters, Powdermen

DECISION NO. MA79-2085

BUILDING CONSTRUCTION: POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.71	1.18	1.15	a	.03
CLASS II	12.59	1.18	1.15	a	.03
CLASS III	10.62	1.18	1.15	a	.03
CLASS IV	11.58	1.18	1.15	a	.03
CLASS V	9.39	1.18	1.15	a	.03
CLASS VI	9.97	1.18	1.15	a	.03

CLASS I - Cranes, Shovels, Truck cranes, Cherry Pickers, Draglines, Trench Hoes, Backhoes, Three Drum Machines, Derricks, Pile Drivers, Elevator Towers, Hoists, Gradalls, Shovel Dozers, Front End Loaders, Fork Lifts, Augers, Boring Machines, Rotary Drills, Post Hole Hammers, Post Hole Diggers, Pumpcrete Machines, Asphalt Plant (on Site), Concrete Batching and/or Mixing Plant (on Site), Crusher Plant (on Site), Paving Concrete Mixers, Timber Jacks, Boom over 150' Including Jib additional $.50 per hour; Boom over 185' including Jib - additional $.90 per hour; Boom 210' Including Jib - additional $1.25 per hour; Boom over 250' including Jib - additional $1.90 per hour Boom over 295' including Jib - additional $2.65 per hour

CLASS II - Sonic or Vibratory Hammer, Graders, Tandem Scrapers, Concrete Pumps, Bulldozers, Tractors, York Rakes, Mulching Machines, Portable Steam boiler, Portable Steam Generators, Rollers, Spreader, Tampers (Self Propelled or Tractor Drawn), Asphalt Pavers, Mechanic Maintenance, Paving Screed Machines, Stationary Steam Boilers, Paving Concrete Finishing Machines, Cal Trucks, Ballast Regulators, Switch Tampers, Rail Anchor Machinery, Tire Trucks (when operated by the Employer on the job Site)

CLASS III - Pumps (1-3 Grouped), Compressors, Welding Machines (1-3 Grouped), Generators, Concrete Vibrators, Lighting Plants, Heaters (Power Driven 1-5), Well-Point Systems (Operating and Installing), Syphones-Pullsometers, Concrete Mixers, Values Controlling Permanent Plant Air to Steam, Conveyors, Jackson Type Tampers, Single Diaphragn Pump, Lighting Plants

CLASS IV - Assistant Engineers (Firemen)

Class V - Oilers (other than truck cranes and gradalls)

CLASS VI - Oilers on Truck Cranes and Gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; D-Independence Day; D-labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA&9-2085

HEAVY & HIGHWAY CONSTRUCTION: POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$12.71	1.18	1.15	a	.03
Hourly preminum for boom lengths including jib					
over 150 feet + $.50					
Over 185 feet + $.90					
Over 210 feet + 1.25					
Over 250 feet + 1.90					
Over 295 feet + 2.65					
GROUP 2	12.59	1.18	1.15	a	.03
GROUP 3	10.62	1.18	1.15	a	.03
GROUP 4	11.58	1.18	1.15	a	.03
GROUP 5	9.39	1.18	1.15	a	.03
GROUP 6	9.97	1.18	1.15	a	.03

GROUP 1 - Power Shovels, Cranes, Truck Cranes, Derricks, Pile Driver, Trenching Machines, Mechanical Hoist Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Three Drum Machines, Pumpcrete Machines, Uke Loaders, Shovel Dozers, Front End Loaders, Mucking Machines, Shaft Hoists, Steam Engines, Backhoe, Gradalls, Cable ways, Fork Lifts, Cherry Pickers, Boring Machines, Rotary Drills, Post Hole Hammers, Port Hole Diggers, Asphalt Plant on Job Site, concrete Batching and/or Mixing Plant on Job Site, Crusher Plant on Job Site, Paving Concrete Mixers, Timber Jacks

GROUP 2 - Sonic or Vibratory Hammers, Graders, Scrapers, Tandem Scrapers, Bulldozer, Tractors, Mechanic Maintenance, York Rakes, Mulching Machines Paving Screed Machines, Stationary Steam Boilers, Paving Concrete Finishing Machine, Grout Pumps, Portable Steam Boilers, Portable Steam Generators, Rollers, Spreaders, Asphalt Pavers, Locomotives or Machines used in Place thereof, Tampers, Self Propelled or Tractor Drawn, Cal Truck, Ballast Regulators, Rail Anchor Machines, Switch Tampers

GROUP 3 - Pump (1-3 Grouped), Compressors, Welding Machine (1-3 Grouped), Generators, Lighting Plants, Heaters (Power Driven) (1-5), Syphons-Pulsometers, Concrete Mixers, Valves Controlling Permanent Plant Air Steam,Conveyors, Wellpoint System (Operating and Installing)

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CLASSIFICATIONS CONt'D

GROUP 4 - Assistant engineers (Fireman)

GROUP 5 - Oilers (Other than Truck Cranes & Gradalls)

GROUP 6 - Oilers (On Truck Cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

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MARINE CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$12.71	1.18	1.15	a	.03
GROUP II	13.89	1.18	1.15	a	.03
GROUP III	12.66	1.18	1.15	a	.03
GROUP IV	12.59	1.18	1.15	a	.03
GROUP V	10.62	1.18	1.15	a	.03
GROUP VI	11.58	1.18	1.15	a	.03
GROUP VII	9.39	1.18	1.15	a	.03
GROUP VIII	9.97	1.18	1.15	a	.03

GROUP I - Shovels, Cranes, Truck Cranes, Cherry Pickers, Derricks, Pile Drivers two or more Drum Machines, Lighterns, Derricks Boats, Trenching, Mechanics Hoists Pavement Breakers, Cement Concete Pavers, Draglines, Hositing Engines, Pumpcrete Machines, Elevating Graders, Shovels Dozers, Front End Loaders, Backhoe, Gradalls, Cable Way, Boring Machines, Rotary Drills, Post Hole Hammer, Post Hole Diggers, Fork Lifts, Timber Jacks, asphalt Plant (on Site), Concrete Batching &/or Mixing Plant (on Site), Crusher Plant, (on site Paving Concrete Mixers; Booms over 150' including Jib - additional $.50 per hour - Booms over 185' including Jib - additional $.90 per hour; Booms over 210' including Jib - additional $1.25 per hour; Booms over 250' including Jib - additional $1.90 per hour; Booms over 295' including Jib additional $2.65 per hour

GROUP II - Master Mechanic

GROUP III _ Swinger Engines

GROUP IV - Portable Steam Boilers, Portable Steam Generators, Sonic or Vibratory Hammer, Graders, Scrapers, Tandem Scrapers, Concrete Pumps, Bulldozers, Tractors York Rakes, Mulching Machines, Rollers, Spreaders, Tamper Self-propelled or Tractor Drawn, Asphalt Pavers, Concrete Mixers with side Loaders, Mechanics - Maintenance, Cal Trucks, Ballast, Regulator, Switch Tampers, Rail Anchor Machines, Tire Trucks

GROUP V - Pumps, Compressors, Welding Machines, Heaters (Power Driven), Valves controlling Permanent Plan Air or Steam, Well Point Systems, Augers - Powered by Independence Engines & Attached to Pile Drivers, Hydraulic Saws, Generators, Lighting Plants, Syphons-Pulsometers, Concrete Mixers, conveyors.

DECISION NO. MA79-2085

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP VI - Assistant Engineers (Firemen)

GROUP VII - Oiler (other than truck Cranes and Gradalls)

GROUP VIII - Oilers on truck Cranes and Gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

A. Holidays: A Through F; Washington's Birthday; Patroits' Day; Columbus & Veterans' Day

DECISION NO. MA79-2085

BUILDING, HEAVY & HIGHWAY CONSTRUCTION TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 8.515	.75	.80	a+b	
CLASS II	8.665	.75	.80	a+b	
CLASS III	8.715	.75	.80	a+b	
CLASS IV	8.815	.75	.80	a+b	
CLASS V	8.915	.75	.80	a+b	
CLASS VI	9.165	.75	.80	a+b	
CLASS VII	9.415	.75	.80	a+b	

CLASS I - Station Wagons, Panel Trucks and Pickup Truck

CLASS II - Two Axle Equipment; Helpers on Low Bed When Assigned at the Discretion of the Employer, Warehousemen, Forklift Operators

CLASS III - Three Axle Equipment and Tiremen

CLASS IV _ Four and Five Axle Equipment

CLASS V - Specialized Earth Moving Equipment Under 35 Tons other than Convential Type Trucks, Low Bed, Vachual, Mechanics, Paving Restoration Equipment, Mechanics

CLASS VI - Specialized Earth Moving Equipment over 35 Tons

CLASS VII - Trailers for Earth Moving Equipment (Double Hookup)

FOOTNOTES:

a. One Half Day's Pay Each Month in which an Employee has Worked 15 Days Provided he has been Employed for 4 Months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day Provided an Employee works two Days of the Calendar Week in which the Holiday falls.

Note: 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)).

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: ONEIDA
DECISION NO.: NY79-3036 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY78-3095 dated December 1, 1978 in 43 FR 56402
DESCRIPTION OF WORK: Building Construction, (excluding 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	11.80	1.05	10%		.02
BRICKLAYERS, CEMENT MASONS, POINTERS, CAULKERS, CLEANERS, PLASTERERS AND STONE MASONS, BUILDING	10.85	.60	.90		
CEMENT MASONS, (HEAVY AND HIGHWAY)	10.30	.70	.70		
CARPENTERS, (BUILDING):					
Carpenters & Soft Floor Layers	9.85	.70	.65	a	.03
Piledrivermen & Millwrights	10.10	.70	.65	a	.03
CARPENTERS, (HEAVY AND HIGHWAY)	10.10	.70	.65	a	.03
ELECTRICIANS:					
Verona and Vienna Twps. west of State Highway 13:					
Electricians	13.30	.77	3%+1.10		.05
Cable Splicers	14.15	.77	3%+1.10		.05
Remainder of County:					
Electricians	12.10	.80	3%+.60		.07
Cable Splicers	13.30	.80	3%+.60		.07
ELEVATOR CONSTRUCTORS	11.18	.745	.56	b+c	.025
ELEVATOR CONSTRUCTORS' HELPERS	7.83	.745	.56	b+c	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB)	5.59				
GLAZIERS:					
Twps. of Florence, Camden, Vienna, Annsville, Verona, Vernon, Augusta, Lee, Rome City, Ava, Western, Floyd, Boonville and Steuben	10.00	.80			.01
Remainder of County	8.435	.175	.30		

DECISION NO. NY79-3036

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Structural, Ornamental, Reinforcing, Machinery Mover, Rigger, Rodmen, Fence Erector and Stone Derrickman	10.27	1.11	1.02		.04
Sheeters	10.52	1.11	1.02		.04
Sheeters, Bucker-up	10.395	1.11	1.02		.04
LABORERS, (BUILDING):					
Twps. of Forestport, Remsen, Trention, Marcy, Deerfield, Whitestown, New Hartford, Kirkland, Marshall, Paris, Sangerfield, Bridgewater and the City of Utica:					
Laborers	8.00	1.20	.95	d	
Pipelayers, mortar mixers (hand or machine), motor buggy operator, (walk behind), power high lift	8.15	1.20	.95	d	
Blasters, form setters and motor buggy rider type	8.50	1.20	.95	d	
Wagon drill operator	8.40	1.20	.95	d	
Remainder of County:					
Laborers, Common	7.825	.60	.65	e	
All rock drilling equipment	8.225	.60	.65	e	
Blasters	8.425	.60	.65	e	
Vibrator op., chain saw op., air or electric tool op., gas buggy op., acetylene torch op. on demolition work, pipelayers, scaffold builders, mortar mixer, pavement breaker op.	8.025	.60	.65	e	
LATHERS	8.93	.65	.40		.01
LEAD BURNERS	10.75	.40	.25	f	.01
MARBLE SETTERS, TERRAZZO WORKERS & TILE SETTERS	9.57	.60	.90		
MARBLE, TILE, TERRAZZO FINISHERS	8.30	.50			

DECISION NO. NY79-3036

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Twps. of Florence, Camden, Vienna, Annsville, Verona, Vernon, Augusta, Rome City, Ava, Western, Floyd, Boonville and Steuben:					
New Construction:					
Brush and Roller	11.62	.80	.50	g	
Paperhangers, Vinyl Hangers and Tapers	12.20	.80	.50	g	
Metalizing	13.77	.80	.50	g	
Steel, Working with picks, Bosun Chair, Window Jacks, Swing Stage, Safety Belts, Steeple Jack, Spray, Sandblasting, Steamcleaning, Epoxy, Bridge and Hydro-blasting	12.31	.80	.50	g	
Repaint Work:					
Brush and Roll	9.84	.80	.50	g	
Paperhangers, Vinyl Hangers and Tapers	10.43	.80	.50	g	
Metalizing	12.01	.80	.50	g	
Steel, working with Picks, Bosun Chair, Window Jacks, Swing Stage, Safety Belts, Steeple Jack, Spray, Sandblasting, Steamcleaning, Epoxy, Bridge and Hydro-blasting	10.54	.80	.50	g	
Remainder of County:					
Brush	8.70	.175	.30		
Spray	9.30	.175	.30		
Sandblasting	9.70	.175	.30		
Paper and Vinyl Hangers, Epoxy, Steel, Taping, Swing Stage, Bosun Chair and Monkey Suit	8.95	.175	.30		

DECISION NO. NY79-3036

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS AND STEAMFITTERS	11.26	.89	1.36		.05
ROOFERS	11.60	1.00	1.35		
SHEET METAL WORKERS	10.655	.60	.80		.07
SPRINKLER FITTERS	13.54	.75	1.05		.08

Welders - Receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: B and D provided the employee is on the payroll the week before and the week after the holiday.

b. 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.

c. Holidays: A through F, Day after Thanksgiving.

d. Holidays: B and D provided the employee works the day immediately before and the work day immediately following the holiday.

e. Holidays: A through E, plus 2 hours off with pay on Election Day for the purpose of voting, provided the employee works the day before the holiday and the day after the holiday.

f. Holidays: A through F; Washington's Birthday and Good Friday, X-mas Eve, providing employee has worked 30 full days the 90 calendar days prior to the holiday, and the regularly scheduled work-days immediately preceding and following the holiday.

g. Holidays: C, D, and E.

DECISION NO. NY79-3036

Twps. of Florence, Camden, Annsville, Lee, Ava, Boonville, Western, Steuben, Vienna, Rome, Floyd, Westmoreland, Veron, Augusts and Verona

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: HEAVY AND HIGHWAY CONSTRUCTION					
CLASS A	9.19	.65	.65	a	
CLASS B	9.39	.65	.65	a	
CLASS C	9.59	.65	.65	a	
CLASS D	9.79	.65	.65	a	

PAID HOLIDAYS:

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 tenders, 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, motor 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 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. NY79-3036

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: HEAVY AND HIGHWAY CONSTRUCTION					
Remainder of County:					
CLASS A	7.99	1.40	1.10	a	
CLASS B	8.19	1.40	1.10	a	
CLASS C	8.39	1.40	1.10	a	
CLASS D	8.59	1.40	1.10	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 tenders, 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 breakers, 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.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
Electrical Overhead and Underground Distribution Work:					
Lineman and technicians	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	8.8875	1.00	3%+.75	a	3½%
All Pipe Type Cable Installations:					
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	9.3375	1.00	3%+.75	a	3½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Sub-station, Switching Structures (when not part of the line), Traffic 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 Mobile Equipment 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	.40	3%+.25	a	1%
Splicers	8.89	.40	3%+.25	a	1%
Groundman Digging Machine Operator	7.73	.40	3%+.25	a	1%
Groundman	5.72	.40	3%+.25	a	1%
Groundman Truck Driver	6.82	.40	3%+.25	a	1%
Groundman Dynamiteman	6.60	.40	3%+.25	a	1%

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's 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.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
HEAVY AND HIGHWAY CONSTRUCTION					
GROUP I	11.48	1.15	.85	a	.15
GROUP II	11.09	1.15	.85	a	.15
GROUP III	10.01	1.15	.85	a	.15
GROUP IV	9.05	1.15	.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.

FOOTNOTE:

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 (factor 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 garder, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver tractor drawn belt-type loader, truck crane, tunnel shovel.

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POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D

GROUP II - Backhoe (tractor mounted, rubber tired), bitumonous 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 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 stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widner, roller (all above subgrade), 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 to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, 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, generators, pumps, welding machines (3 or less of any type of combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), light plants, mulching machine, oiler parapet-concrete or pavement grinder, power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION					
CLASS 1	11.78	1.05	.75	a	.15
CLASS 2	11.18	1.05	.75	a	.15
CLASS 3	11.18	1.05	.75	a	.15
CLASS 4	12.47	1.05	.75	a	.15
CLASS 5	12.28	1.05	.75	a	.15
CLASS 6	13.78	1.05	.75	a	.15
CLASS 7	12.78	1.05	.75	a	.15
CLASS 8	12.28	1.05	.75	a	.15

FOOTNOTE:

a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day, providing employee has worked 5 consecutive working days before and the working day after the holiday.

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION

CLASS 1: Asphalt and blacktop roller; automated concrete spreader (CMI or equivalent); automated fine grade machine (CMI); backhoe; belt placer; blacktop spreader (such as Barber Greene and Blawknox); blacktop plant (automated); Blast or rotary drill (truck or cat mounted); boom truck; cableway; caisson auger; carry-all-scraper-self loading; central mix plant (automated); cherry picker over five (5) ton capacity; compressors; pump; generator or welding machine (when used in a battery of not more than four (4); crane; crusher-rock; derrick; diesel power unit; dragline; dredge; dual drum paver; elevating grader (self-propelled or towed); elevator hoist - two cage; excavator - all purpose - hydraulically operated; fork lift (factory rating 15 ft. or more); front end loader (4 c.y. and over); gradall; grader (power); head tower (saur man or equal); hoist (2 or 3 drums); locomotive; maintenance engineer; maintenance welder; mine hoist; mucking machine or mole; overhead crane fixed permanent; pile driver; quarry master or equivalent; refrigeration equipment - for soil stabilization; shovel; side boom; slip form paver; straddle buggy (ross carrier, lumber carrier) tractor drawn belt type loader (euclid loader); trenching machine (digging capacity of over 4 ft. depth); truck crane operator; tunnel shovel; vibro or sonic hammer controls (when not mounted in proximity to the rig operator)

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POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION (CONT'D)

CLASS 2: "A" Frame truck; blacktop plant (non-automatic); boring machine; bulldozer; cage hoist; carry-all scraper; central mix plant (non-automated); Cherry picker five (5) tons and under; compressor (315 c.f. and over); concrete paver (single drum over 16S); concrete pump; core boring machine; drill rigs-tractor mounted; elevator - as a material hoist; fork lift (factory rating less than 15 ft.); front end loader (under 4 cu. yds.); gunnite machine; high pressure boiler (15 lbs. and over); hoist (one drum); hydraulic breaking hammer (drop hammer); Kolman plant loader (screening gravel); maintenance grease man; mixer for stabilized base - self-propelled (seaman mixer); monorail machine; Parapet concrete or pavement grinder; post hole digger (truck or tractor mounted); power sweeper (Wayne or similar); Pump 4" and over; Pumpcreate or squeeze-crete; road widener (front end of grader or self-propelled); shell winder (motorized); snorkel (overhead arms); roller; trenching machine (digging capacity of 4 ft. or less); tugger hoist; vibro tamp; well drill; well point system (submersible pumps when used in lieu of well-point system); winch (motor driven); winch cat; winch truck

CLASS 3: Compressor (under 315 cu. ft.); concrete paver or mixer (under 16S); concrete pavement spreaders and finishers (not automated); conveyor (over 12 ft.); electric submersible pump (4" and over); farm tractor with or without accessories; fine grade machine (not automated); fireman; form tamper; generator (2,500 watts and over); hydraulic pump; mechanical heaters - more than two (2) mechanical heaters or any mechanical heater or heaters whose combined output exceeds 640,000 BTU per hour (manufacture's rating; mulching machine; oiler; power driven welding machine - 300 amp. and over (other than all electric); one welding machine under 300 amp. will not require an engineer unless in a battery); power heaterman (hay drier) pump (under 4"); revinius widner (road widener); steam cleaner or Jenny; tractor with or without towed accessories, post driver (truck or tractor mounted)

CLASS 4: Master Mechanic

CLASS 5: Tower Crane

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POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION (CONT'D)

CLASS 6: Crane or Derrick with a boom length over 300 ft. including jib

CLASS 7: Crane or Derrick with a boom length over 150 ft. including jib, and on a piledriver with leads or boom length of over 100 ft.

CLASS 8: Quad 9 bulldozer or multibowl scraper

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	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, dumpsters, greasers, truck tiremen, mechanic helpers

CLASS 2 - Tandems, batch trucks, mechanics

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.

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: Statewide
DECISION NO: OH79-2086 DATE: Date of Publication
Supersedes Decision No. OH79-2043, dated May 4, 1979 in 44 FR 26504
DESCRIPTION OF WORK: Heavy and Highway Construction (Does not include Railroad Construction)

BRICKLAYERS & STONE MASONS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADAMS & SCIOTO COUNTIES	$12.90		.50		.05
ALLEN, AUGLAIZE, MERCER & VAN WERT COS.	12.29		.60		.02
ASHLAND, CRAWFORD, HARDIN, HOLMES, MARION, MORROW, RICHLAND, & WAYNE (except Twps. of Milton & Chippewa) Cos. & WYANDOT Co. (except Twps. of Crawford, Richland, Ridge & Tymochtee)					
Bricklayers	12.23	.70	1.00		.02
Sewer Bricklayers	12.23	.70	1.00		.02
ASHTABULA COUNTY					
Bricklayers	12.92	.95	1.00		
Sewer Bricklayers	13.17	.95	1.00		
ATHENS COUNTY	12.35	.70	1.00		.05
BROWN, BUTLER, CLERMONT, HAMILTON, PREBLE (Twps. of Dixon, Gratis, Isreal, Lanier, & Somers), & WARREN COS.	13.595	.65	.45		.02
CARROLL, COLUMBIANA (Twps. of Butler, Hanover, Knox & West), MAHONING (Twp. of Smith), STARK, & TUSCARAWAS COS.	12.29	.95	.70		.01
CHAMPAIGN, CLARK & LOGAN COS.	10.47	.85	1.10		.03
CLINTON & HIGHLAND COS.	10.00				
COLUMBIANA CO., (Twps. of Center, Elk Run, Fairfield, Middletown, New Waterford, Perry, Salem & Unity), MAHONING CO. (except Smith Twp.)	12.595	.75	1.00		.02

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BRICKLAYERS & STONEMASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COLUMBIANA Co. (Twps. of E. Liverpool, Franklin, Madison, St. Clair, Washington, Wayne & Yellow Creek), JEFFERSON Co. (Twps. of Bush, Creek & Saline)	$11.90	.70	.50		
COSHOCTON, GUERNSEY, KNOX, LICKING, MORGAN, MUSKINGUM Counties	11.05	.70	1.30		.10
CUYAHOGA CO. & MEDINA CO. (except the Twps. of Chatham, Wadsworth, Guilford, Westfield, Sharon, Lafayette, Harrisville, Homer, Litchfield & Spencer)	13.66	1.15	1.33		.04
DARKE, MIAMI, & SHELBY Cos.	11.18	.85	1.10		.03
DEFIANCE, FULTON (except Twps. of Amboy, Fulton, & Swan Creek), HENRY (except Twps. of Barlo, Damascus, Liberty, Marion, Monroe, Richfield, Washington & that part of Harrison outside City limits of Nepolean), PAULDING, PUTNAM, & WILLIAMS Cos.	12.68	1.20	.50		
DELAWARE, FRANKLIN, MADISON, PICKAWAY & UNION COS. Bricklayers	12.44	.80	1.00		.03
ERIE, HANCOCK & HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.) WYANDOT (Tymochtee, Crawford, Ridge, & Richland Twps.) & ISLAND OF LAKE ERIE North of SANDUSKY Cos.	12.44	.70	1.10		.01
FAIRFIELD, HOCKING & PERRY Cos.	11.05	.70	1.30		.10
FAYETTE, PIKE, & ROSS Cos.	12.86		.50		.05
FULTON (Rem. of Co.), HENRY (Rem. of Co.), LUCAS, & WOOD (Rem. of Co.) Cos.	13.175	1.06	1.40		.01
GALLIA & MEIGS Cos.	12.95	.70			
GEAUGA & LAKE Cos.	14.52	.70	1.00		75.00p/y
GREENE & MONTGOMERY Cos. & Remainder of PREBLE CO.	11.93	.85	.75		.03

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BRICKLAYERS & STONEMASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HARRISON Co. & the Remainder of JEFFERSON Co.	$11.33	.50			.02
JACKSON & VINTON Cos.	12.30	.70	.40		.05
LAWRENCE County	11.50		.50		.05
LORAIN Co. & MEDINA Co. (Chatham, Harrisville, Homer, Litchfield, & Spencer Twps.)	13.60		.80	a	.01
MEDINA (Remainder of Co.), PORTAGE, SUMMIT & WAYNE (Twps. of Milton & Chippewa) COS. Bricklayers	12.91	.88	.80		.02
NOBLE Co. (Remainder of Co.) & WASHINGTON Co.	11.85	.70	.50		.05
TRUMBULL COUNTY	13.09	.75	.50		.02

FOOTNOTE: a. 2 pd. Holidays: Independence Day and Labor Day

CARPENTERS & PILEDRIVERMEN					
ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS. Carpenters	11.80	.55	1.00		.03
Piledrivermen	12.09	.55	1.00		.03
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT, & WYANDOT COS. Carpenters	11.47	.60	1.00		.04
Piledrivermen	12.12	.60	1.00		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASHLAND, CRAWFORD, ERIE (East of B & O Railroad Tracks), HURON, LORAIN and RICHLAND Counties					
Carpenters	$12.82	.70	1.00	b	.08
Piledrivermen	13.60	.95	1.67		.05
ASHTABULA, CUYAHOGA, GEAUGA and LAKE Counties					
Carpenters	13.87	.95	1.40		.05
Piledrivermen	13.60	.95	1.67		.05
ATHENS, HOCKING, VINTON and WASHINGTON Counties					
Carpenters	11.47	.60	1.00		.04
Piledrivermen	12.12	.60	1.00		.04
BELMONT and MONROE COUNTIES					
Carpenters	10.75	.92	.95		.02
Piledrivermen	11.82	.50	.50		.03
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON and WARREN Counties					
Carpenters	13.55	.60	.65		.075
Piledrivermen	13.55	.60	.65		.075
CARROLL, STARK, TUSCARAWAS and WAYNE Counties					
Carpenters	11.88	.60	.70		.02
Piledrivermen	12.36	.60	.70		.02
COLUMBIANA, HARRISON & JEFFERSON Counties					
Carpenters	10.75	.92	.95		.02
Piledrivermen	11.85	5.5%	10%		.5%
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE & SHELBY Counties					
Carpenters	11.55	.90	1.25		.07
Piledrivermen	11.55	.90	1.25		.07
DEFIANCE, HENRY, PAULDING and WILLIAMS Counties					
Carpenters	13.12	1.20	.75		
Piledrivermen	13.70	1.20	.75		.05
ERIE (West of B & O Railroad Tracks), OTTAWA, SANDUSKY & SENECA Cos. and City of Fostoria in HANCOCK & WOOD Counties					
Carpenters	12.82	.70	1.00	b	.08
Piledrivermen	13.70	1.20	.75		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FULTON, LUCAS, HANCOCK & WOOD Cos. excluding the City of Fostoria					
Carpenters; Piledrivermen	$13.70	1.20	.75		.05
MAHONING & TRUMBULL COS.					
Carpenters	11.72	1.29	1.20		.05
Piledrivermen	12.51	1.29	1.20		.05
MEDINA, PORTAGE & SUMMIT COS.					
Carpenters	12.85	.60	1.00		.02
Piledrivermen	13.60	.95	1.67		.05

FOOTNOTE: b. 2 Paid Holidays: Memorial Day & Independence Day.

CEMENT MASONS:

ASHTABULA, BROWN, BUTLER, CLERMONT, COLUMBIANA, DEFIANCE, ERIE, HAMILTON, HIGHLAND, HURON, MAHONING, MEDINA, OTTAWA, PAULDING, PORTAGE, SANDUSKY, SENECA, STARK, SUMMIT, TRUMBULL, WARREN and WILLIAMS COS.	12.08	.60	.45		.02
CUYAHOGA, FULTON, GEAUGA, HANCOCK, HENRY, LAKE, LORAIN, LUCAS, PUTNAM, And WOOD COS.	12.73	.60	.45		.02
REMAINING COUNTIES	11.53	.60	.45		.02

ELECTRICIANS:

ADAMS, JACKSON COUNTY (All but Coal, Jackson, Liberty Milton & Washington Twps.), PIKE County (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish and Union) and SCIOTO COS.	12.50	.50	3%+.60	1.00	.04
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, & VAN WERT COS. & WYANDOT Co. (West of Crane, Pitt, & Tymochtee Twps.)	13.20	.60	3%+.43		.04

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ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASHLAND, CRAWFORD, HURON (Twps. of Greenwich, New Haven, Richmond, & Ripley) Knox (N½ inclu. Clinton, Howard, Liberty, Monroe & Union Twps.), MARION, MORROW, RICHLAND, & WYANDOT (Rem. of Co.) COS.	$13.15	.60	3%+.50		.1%
ASHTABULA Co. (all but Colebrook, Orwell, Wayne, Williamsfield & Windsor Twps.)	14.05	1.00	3%+1.00		.2%
ASHTABULA (Rem. of Co.), GEAUGA (Twps. of Auburn, Middlefield, Parkman, & Troy), MAHONING (Milton Twp.), PORTAGE (Twps. of Charleston, Edinburg, Freedom, Hiram, Palmyra, Paris, & Windham & TRUMbull (except Hubbard & Liberty Twps.) COS.	14.29	.75	7%	.7%+c	
ATHENS, MEIGS, MONROE, MORGAN, NOBLE, VINTON (East of Clinton, Elk and Swan Twps.) & WASHINGTON Cos.	12.45	.50	3%+.80	1.25	.04
BELMONT Co.	12.60	.50	3%+.35	1.00	.04
BROWN, CLERMONT & HAMILTON COUNTIES					
Within 18 Mi. of Hamilton County Court House	13.70	.70	3%+.80		½%
From 18 to 21 Miles	14.00	.70	3%+.80		½%
From 21 to 25 Miles	14.10	.70	3%+.80		½%
Over 25 Miles	14.25	.70	3%+.80		½%
BUTLER Co. & WARREN Co. excluding Clear Creek, Franklin & Wayne Twps.):					
West of Interstate 75	12.35	.50	3%+.75		½%
East of Interstate 75	12.90	.50	3%+.75		½%
CARROLL (S. of Fox, Harrison, Rose & Washington Twps.), HARRISON, & JEFFERSON COS.	14.00	7%	10%	10%	½%

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ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARROLL (Rem. of Co.), COLUMBIANA (Knox Twp.), HOLMES, MAHONING (Smith Twp.), STARK, TUSCARAWAS (N ½ excl. Twps. of Auburn, Clay, Rush, York, Salem, Jefferson, Oxford, Washington, Perry, & Bucks), & WAYNE (S. of Baughman, Chester, Green, & Wayne Twps.) Cos.	$13.35	.55	3%+.60		.3%
CHAMPAIGN & CLARK Cos. & MADISON CO. (Twps. of Paint, Pike, Somerford, Stokes & Union)	12.09	.75	3%+.90		.04
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS. & WARREN CO. (Rem. of Co.)					
Within 11 Mi. Radius of 3rd & Main Streets, Dayton	13.28	.75	3%+1.00		.5%
Beyond 11 Mi. Radius	13.51	.75	3%+1.00		.5%
COLUMBIANA Co. (except Twps. of Butler, Fairfield, Knox, Perry, Salem & Unity)	12.58	1.63	3%+.50		.08
COLUMBIANA (Twps. of Butler, Fairfield, Perry, Salem, & Unity), MAHONNING (exclu. Milton & Smith Twps.), & TRUMBULL (Twps. of Hubbard & Liberty) Cos.	13.73	.75	9%		.5%

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ELECTRICIANS (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COSHOCTON Co., GUERNSEY, KNOX (Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, and College Twps.), LICKING CO., MUSKINGUM, PERRY, TUSCARAWAS CO. (S½ incl. Twps. of Auburn, Clay, Rush, York, Salem, Jefferson, Oxford, Washington, Perry, and Bucks)	12.10	.40	3%+1.02		.03
CUYAHOGA, GEAUGA (Twps. of Bainbridge, Chester, & Russell), and LORAIN (Twp. of Columbia) Cos.	14.62	.90	3%+.51		.03
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD Cos.	14.90	.65	3%+.55		.1%
DELAWARE, FAIRFIELD, FRANKLIN, MADISON (Rem. of Co.) & PICKAWAY CO. (Excl. Deer Creek, Perry, Pickaway, Salt Creek & Wayne Twps.) & UNION Cos.	13.15	.40	3%+1.02		.06
ERIE CO., HURON CO. (Rem. of Co.)	14.05	.73	3%		.1%
FAYETTE, HIGHLAND, HOCKING, JACKSON CO. (Rem. of Co.), PICKAWAY, PIKE, ROSS, & VINTON COS.	13.35	.40	3%		.02
GALLIA CO.	12.97	.50	3%+1.00	1.00	.04
GEAUGA (except Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell, & Troy Twps.), & LAKE COS.	14.13	.85	3%+.70		.2%
LAWRENCE COUNTY	12.52	.50	3%+1.00	1.00	.04
LORAIN Co. (Rem. of Co.) and MEDINA Co. (Twps. of Litchfield & Liverpool)	13.95	.75	3%+1.00		.1%

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ELECTRICIANS (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MEDINA (Rem. of Co.), PORTAGE (exclu. Twps. of Charleston, Edinburg, Freedom, Hiram, Palmyra, Paris, & Windham), SUMMIT, & WAYNE (Rem. of Co.) Cos.	13.66	.74	3%+.65		.2%
FOOTNOTE: c. $25.00 per year					
IRONWORKERS:					
ADAMS(½), GALLIA, JACKSON (S½), LAWRENCE, PIKE (S½), & SCIOTO COS.					
Up to 10 miles from Union Hall in Ashland, Ky.	11.27	.90	1.05		.01
10 to 15 miles from Union Hall in Ashland, Ky.	11.42	.90	1.05		.01
15 to 30 Miles from Union Hall in Ashland Ky.	11.52	.90	1.05		.01
20 Miles & over from Union Hall in Ashland, Ky.	11.62	.90	1.05		.01
ADAMS,(W½), BROWN, BUTLER (S½), CLERMONT, CLINTON (S. of a line drawn from Blanchester to Lynchburg), HAMILTON, HIGHLAND (exclu. E 1/5 and portion of Co. inside lines drawn from Marshall to Lynchburg & from the N. Co. line through E. Monroe to Marshall) & WARREN (S ½) COS.					
Reinforcing	12.18	1.00	2.25		.02
Ornamental; Structural	13.08	1.00	1.45		.03
ALLEN (S½), Auglaize, BUTLER (N ½), CHAMPAIGN (W 2/3), CLARK (W 3/4), CLINTON (excl. S. of a line drawn from Blanchester to Lynchburg), Darke, Greene, Highland (Inside lines drawn from Marshall to Lynchburg & from the N. Co. line through E. Monroe to Marshall), LOGAN (W 2/3),					

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IRONWORKERS (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MERCER (S½), MIAMI, MONTGOMERY, PREBLE, SHELBY, & WARREN (N½) Cos. Within 15 miles radius of Local Union Office #290	12.36	1.00	1.45		.06
Outside 15 miles radius of Local Union Office #290	12.51	1.00	1.45		.06
ALLEN (N½), DEFIANCE (except portion S. of a line drawn from where Rt. 66 meets the N. line through Independence to the E. Co. border), Mercer (N½), PAULDING, PUTNAM (except portion E. of a line drawn from the N. border down thru Miller city to where 696 meets the S. border), VAN WERT, & WILLIAMS (except portion E. of a line drawn from Pioneer thru Stryker to the S. border) Cos.	12.35	1.00	1.70		.02
ASHLAND, CARROLL, COSHOCTON (exclu. portion w. of a line beginning at NW Co. line going thru Walhonding & Tunnel Hill to the S. Co. line), HOLMES, RICHLAND, STARK, TUSCARAWAS, & WAYNE Cos.	12.58	.80	.95		.05
ASHTABULA (NE ¼) Co.	13.00	1.86	1.01		.15
ASHTABULA (S½), CUYAHOGA, ERIE (Exclu. W 1/3), GEAUGA (except portion E. of a line from Austinburg to Middlefield & South), HURON (Exclu. portion W.					

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IRONWORKERS (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
of a line drawn from the N. border through Monroeville & Willard), LAKE, LORAIN, MEDINA, PORTAGE (Exclu. Ravenna Ordnance Depot), & SUMMIT Cos.	13.72	1.04	1.45		.03
ASHTABULA (NW ¼), COLUMBIANA, GEAUGA (E. of a line from Austinburg to Middlefield & South), MAHONING, PORTAGE (E. of a line from Middlefield to Shalersville to Deerfield), & TRUMBULL Cos.	13.00	.75	1.30		.09
ATHENS, MEIGS, MORGAN, NOBLE & WASHINGTON Cos.	11.17	.90	1.20		.01
BELMONT, GUERNSEY, HARRISON, JEFFERSON, MONROE, & MUSKINGUM (except portion W. of a line starting at Adams Mill going to Adamsville & going from Adamsville through Blue Rock to the S. border) Cos.	12.36	.90	1.75		.05
CHAMPAIGN (E 1/3), CLARK (E½), COSHOCTON (W. of a Line Beginning at NW Co. line going through Walhonding & Tunnel Hill to the S. Co. line), CRAWFORD (S. of Rte 30), FAYETTE, HARDIN (except a line drawn from Roundhead to Maysville), HIGHLAND (E 1/5), HOCKING, JACKSON (N½ of Co.), KNOX, LOGAN (E 1/3), MARION, MORROW, MUSKINGUM (W. of a line starting at Adams Mill going to Adamsville and going from Adamsville thru Blue Rock to the S. border), PERRY, PIKE (N½), ROSS, VINTON, & WYANDOT (S. of Rte 30) Cos.	12.35	1.00	2.20		.05

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IRONWORKERS (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CRAWFORD (Area between lines drawn from where hwy 598 & 30 meet thru N. Liberty to the N. border & from said hwy junction point due W. to the border), DEFIANCE (S. of a line drawn from where Rte. 66 meets the N. line thru Independence to the E. Co. border), ERIE (W 1/3), FULTON, HANCOCK, HARDIN (N. of a line drawn from Maysville to a point 4 miles S. of the N. line on the E. line), HENRY, HURON (W. of a line drawn from the N. border thru Monroeville & Willard), LUCAS, OTTAWA, PUTNAM (E. of a line drawn from the N. border down thru Miller City to where 696 meets the S. border), SANDUSKY, SENECA, WILLIAMS (E. of a line drawn from Pioneer thru Stryker to the S. border), WOOD, & WYANDOT (Area N. of Rte. # 30) Cos.	13.45	1.06	1.48		.06
DELAWARE, FAIRFIELD, LICKING, MADISON, PICKAWAY, & UNION COUNTIES	12.25	1.00	2.20		.05
FRANKLIN COUNTY	12.10	1.00	2.20		.05
PAINTERS:					
ADAMS, HIGHLAND, JACKSON, PIKE & SCIOTO COUNTIES					
Brush	12.55		.60		
Spray	13.55		.60		
ALLEN, AUGLAIZE, DEFIANCE, HARDIN, MERCER, PAULDING, PUTNAM, SHELBY, VAN WERT & WILLIAMS COUNTIES	10.80	.73	.50		.03
ASHLAND, CRAWFORD, MARION, MORROW, & RICHLAND COS.					
Brush	9.80		.50		
Structural Steel	10.30		.50		
Spray	10.55		.50		

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PAINTERS (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASHTABULA, CUYAHOGA, GEAUGA, & LAKE COS, LORAIN (North East Part) and PORTAGE & SUMMIT Cos. (North of the Ohio Turnpike)					
Brush	13.31	.82	1.00		.05
Bridge and Open Steel; Closed Steel Over 55'	14.01	.82	1.00		.05
Closed Steel Below 55'; Spray	13.71	.82	1.00		.05
ATHENS & HOCKING Counties					
Brush	12.00				
Spray	12.65				
BELMONT, HARRISON & JEFFERSON COS.	10.05	.50	.40		
BROWN, CLERMONT & HAMILTON COS.					
Brush	13.70		.35		25.00p/y
Spray	14.20		.35		25.00p/y
BUTLER & WARREN Counties					
Brush	11.73				
Spray	12.23				
CARROLL, HOLMES, STARK, TUSCARAWAS & WAYNE COS.					
Brush	11.46	.93	.60		.02
Spray	11.99	.93	.60		.02
Structural Steel	12.17	.93	.60		.02
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY & PREBLE COUNTIES					
Brush; Roller	12.59		.80		.08
Structural Steel	12.99		.80		.08
Spray	13.09		.80		.08
COLUMBIANA, MAHONING, PORTAGE (Ravenna Ordnance Depot), & TRUMBULL COS					
Brush	12.65	.75	1.00		
Sandblasting; Spray	13.35	.75	1.00		
COSHOCTON COUNTY					
Brush; Roller	8.10				
Spray; Sandblasting	8.60				
Sandblasting pot tend	7.60				

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PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, MADISON, PICKAWAY & UNION COS.					
Brush	11.54	.85	.85		.02
Structural Steel	11.84	.85	.85		.02
Spray	12.04	.85	.85		.02
ERIE, HANCOCK, HURON, SANDUSKY, SENECA & WYANDOT COUNTIES					
Brush	10.80	.70	.70		50.00p/yr
Structural Steel	11.65	.70	.70		50.00p/yr
FULTON, HENRY, LUCAS, OTTAWA & WOOD COUNTIES					
Brush	11.93	1.06	1.30		
Spray	12.48	1.06	1.30		
Bridge Railings	12.18	1.06	1.30		
GALLIA, LAWRENCE, MEIGS, & VINTON COUNTIES					
Brush; Roller	10.70			d	
Sandblasting; Spray; Waterblasting	11.00			d	
GUERNSEY County					
Brush; Roller; Sandblasting and Steamcleaning	9.50				
KNOX, LICKING, MUSKINGUM and PERRY COUNTIES					
Sandblasting; Steel; Bridge	9.00				
Spray	9.45				
LORAIN COUNTY (Rem. of Co.)					
Brush	11.85	.85	.10	e	
Spray; Sandblasting	12.35	.85	.10	e	
Roller	12.10	.85	.10	e	
MONROE, MORGAN, NOBLE, & WASHINGTON COS.					
Bridges; Guard Rails; & Structural Steel	11.72	.60	.40		.02
ROSS COUNTY					
Brush	11.00				
Spray	11.25				

FOOTNOTES: d. 6 paid holidays: Decoration Day; July 4th; Thanksgiving Day; Christmas Day; New Year's Day; & Veteran's Day

e. 2 paid holidays: Labor Day and July 4th

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PLUMBERS AND STEAMFITTERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADAMS, ATHENS, GALLIA, HIGHLAND, JACKSON, LAWRENCE, PIKE, SCIOTO, & VINTON COS.	$13.17	.85	1.00		
ALLEN, AUGLAIZE, HARDIN, MERCER, SHELBY & VAN WERT COS.	13.65	.60	.90		.05
ASHLAND, CRAWFORD, ERIE, HURON, KNOX, LORAIN, MORROW, RICHLAND & WYANDOT COS.	14.28	.80	.95		.05
ASHTABULA, CUYAHOGA, GEAUGA & LAKE COS., MEDINA CO. N. of RT. 18 & Smith Rd. & SUMMIT CO. N. of Rt. 303					
Plumbers	14.13	.90	1.10		.02
Pipefitters	13.61	1.31	1.30		.15
BELMONT CO. & MONROE CO. South of Rt. 78	11.20	.40	9%	10%	.05
BROWN, CLERMONT, HAMILTON & WARREN COS. (N. of Rte #63 excluding Lebanon and S. Lebanon)					
Plumbers; Gas Fitters	13.82	1.05	1.20		.07
Steamfitters; Pipefitters	13.00	1.025	1.30		.08
BUTLER Co. (North Half)	14.10	.90	1.00		.05
BUTLER Co. (South Half) & Warren (S. of Rte. #63 including Lebanon and S. Lebanon) Cos.	14.12	.80	1.10		.02
CARROLL Co. (Except Twps. of Ross, Monroe, Union, Lee, Orange, Perry & London), STARK & WAYNE COS.	13.32	.50	.70	f	.10
CARROLL (Twps. of Ross, Monroe, Union, Lee, Orange, Perry & London), COSHOCTON, GUERNSEY, HOLMES, MORGAN (South of State Rte. #78 & from McConnelsville West on State Rte #37 to the Perry Co. line), MUSKINGUM, NOBLE, & TUSCARAWAS COS.	13.80	.70	.60		.08

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PLUMBERS & STEAMFITTERS (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHAMPAIGN, CLARK, GREENE (Twps. of Cedarville, Ceasar Creek, New Jasper, Jefferson, & Ross), LOGAN & MADISON (West of Rt. 38 including the city of London) COS.	$13.30	.83	.85		.04
CLINTON, DARKE, FAYETTE, GREENE (Rem. of Co.), MIAMI, MONTGOMERY, & PREBLE COUNTIES	13.06	1.05	1.05		.03
COLUMBIANA (excluding Washington & Yellow Creek Twps. & Liverpool Twp. secs. 35 & 36 - West of County Rd. #427), MAHONING Cos. & TRUMBULL Co. (Hubbard & Liberty Twps. Youngstown Municipal Airport & the Filtration Plant of the Mahoning Valley Sanitary District)	13.44	1.07	.80		.05
COLUMBIANA (Washington & Yellow Creek Twps., & Liverpool Twp. secs 35 & 36 West of County Rd. #427), HARRISON AND JEFFERSON COUNTIES	12.86	.80	8%	8%	.12
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD Cos.	14.38	1.25	1.05		.12
DELAWARE, FAIRFIELD, FRANKLIN, HOCKING, LICKING, MADISON (Rem. of Co.), MARION, PERRY, PICKAWAY, ROSS & UNION Cos.	13.77	.96	.82		.06
MEDINA (Rem. of Co.), PORTAGE, & SUMMIT (S. of Rte #303) Cos.: Plumbers; Pipefitters	13.20	.85	1.20		.05
MEIGS, MONROE (Rem. of Co.), MORGAN (Rem. of Co.), & WASHINGTON COS.	12.83	.62	.75		.06
TRUMBULL CO. (Rem. of Co.)	13.60	1.07	.99		.03

FOOTNOTE:
f. One paid holiday: Labor Day providing employee has worked 5 consecutive days before and after the holiday

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	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2	Basic Hourly Rates ZONE 3	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$11.08	$10.00	$ 9.57	.80	.80		.10
GROUP II	11.205	10.125	9.695	.80	.80		.10
GROUP III	11.28	10.20	9.77	.80	.80		.10
GROUP IV	11.43	10.35	9.92	.80	.80		.10
GROUP V	11.73	10.65	10.22	.80	.80		.10

GROUP I - Asphalt Laborer; Carpenter Tender; Concrete Curing Applicator; Dump Man (Batch Trucks); Flagman; Grade Checker; Guardrail & Fence Installers; Joint Setter; Laborers (Construction); Landscape Laborer; Mesh Handlers & Placers; Plant Laborers or Yardmen; Right-of-way Laborers; Riprap Laborer & Grouter; Scaffold Erector; Seal Coating Surface Treatment or Road Mix Laborer; Sign Installer; Slurry Seal; Utility Man or Handyman; & Waterproofing Laborer

GROUP II - Asphalt Raker; Concrete Puddler; Kettle Man (Pipeline); Machine Driven Tools; Mason Tender; Mortar Mixer; Power Buggy or Power Wheelbarrow; Sheeting & Shoring Man; & Surface Grinder Man

GROUP III - Air Track & Wagon Drill; Bottom Man; Car Pusher (Without Air); Cofferdam (Below 25 feet deep); Concrete Saw Man; Cutting with Burning Torch; Form Setter; Hand Spiker (Railroad); Pipelayer; Tunnel Laborer (Without Air) and Caisson; Undergroundman (Working in Sewer & Waterline, Cleaning, Repairing & Reconditioning); & Welder Tender (Pipeline)

GROUP IV - Blaster; Muckers; Powder Man; Top Lander; Wrencher (Mechanical Joints & Utility Pipeline); & Yarner

GROUP V - Concrete Crew in Tunnels; Curb Setter & Cutter; Gunnite Nozzle Man; Miner Without Air; Utility Pipeline Tapper; & Waterline Caulker

ZONE DEFINITIONS

ZONE 1 - Cuyahoga, Geauga & Lake Cos.
ZONE 2 - Ashtabula, Erie, Huron, Lorain, Lucas, Mahoning, Medina, Ottawa, Portage, Stark, Summit, Trumbull & Wood Cos.
ZONE 3 - Remainder of Counties

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POWER EQUIPMENT OPERATORS ZONE 1 - Columbiana, Mahoning & Trumbull Cos.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.01	.65	.80		.14
CLASS II	11.32	.65	.80		.14
CLASS III	10.68	.65	.80		.14
CLASS IV	10.27	.65	.80		.14
CLASS V	10.17	.65	.80		.14
CLASS VI	12.28	.65	.80		.14

CLASS I - Asphalt Planer Heater; Austin Western & Similar Type; Backhoe; Batch Plant-Central Mix; Batch Plant-Portable Concrete; Beam Builder-Automatic; Backfiller W/Drag Attachments; Boat Derrick; Boat-Tug; Boring Mach. Attached to Tractor; Bullclam; Bulldozer; C.M.I. Road Builder & Similar Types; Cable Placer & Layer; Carrier-Straddle; Carryall - Scraper or Scoop; Chicago Boom; Compactor W/Blade attached; Concrete Spreader Finisher Comb., Crane; Crane-Stationary or climbing; Crane-Electric Overhead; Crane-Side Boom; Crane Truck; Crane-Tower; Derrick-Boom; Derrick-Car; Diggers-Wheel (Not Trencher or Road Widener); Double Nine; Drag Line; Dredge; Drill-Kenny or Similar Type; Electromatic; Fork Lift; Frankie Pile; Gradall; Grader-Power; Gurry; Gurry-Self-Propelled; High Lift; Hoist-Monorail; Hoist-Stationary & Mobile Tractor; Hoist-2 or 3; Jackall; Jumbo Mach.; Kocal or Kuhlman; Land-Seagoing Vehicle; Loader - Elevating; Loader-Front End; Locomotive; Mechanic as Welder; Metro Clip Harvester w/ Boom; Mucking Mach.; Paver-Asphalt Finishing Mach.; Paver - Road Concrete; Paver-Slipform; Place Crete Mach; Post Driver; Power Driven Hydraulic Pumps & Jacks; Pump Crete Machine; Regulator-Ballast; Rigs-Drilling; Shovels; Spikemaster; Stonecrusher; Tie Puller & Loader; Tie Tamper; Tractor-Double Boom; Tractor w/ Attachments; Trucks-Boom; Truck-Tire-Assigned to Job; Trench Mach.; Tunnel Machine (Mark 21 Java or Similar); Whirley

CLASS II - Asphalt Plant; Bending Machine; Boring Mach.; Chip Harvester W/O Boom; Cleaning Mach.- Pipeline Type; Coating Mach-Pipeline Type; Concrete Belt Placer; Concrete Finisher; Concrete Planer or Asphalt; Concrete Spreader; Elevator; Fork Lift Walk Behind; Form Line Mach.; Grease Truck Op.; Grout Pump; Gunnite Mach.; Huck Bolting Mach.; Hydraulic Scaffold; Paving Breaker; Pipe Dream; Pot Fireman; Power Broom; Refrigeration Plant; Sasgen Derrick; Seeding Mach.; Self-Propelled Mobile Vibrator Compactor or Roller; Hoist-Single Drum; Soil Stabilizer (Pump Type); Spray Cure Mach.-Self Propelled; Straw Blower Mach.; Sub-Grader; Tube Finisher or Broom C.M.I. or Similar Type; Tugger Hoist

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POWER EQUIPMENT OPERATORS
ZONE 1 - Columbiana, Mahoning & Trumbull Counties (Cont'd)

CLASS III - Batch Plant-Job Related; Boiler Op.; Compressor (125 CFM or Over); Curb Builder (Self-Propelled); Generator- Steam; Jack-Hydraulic Driven; Mixer-Concrete; Mulching Mach.; Pin Puller; Pulverizer; Pump; Road Finishing Mach. (Pulltype); Roller; Saw-Concrete-Self-Propelled; Signal Man; Spray Cure Mach. Motor Powered; Spreader (Side Driver Shoulder Attachment); Tractor; Trencher-Form; Water Blaster

CLASS IV - Brake Man; Compressor Under 125 CFM; Conveyor; Conveyor 12 Feet or Under Other Than Servicing Bricklayers; Deck Hand; Drill Wagon; Fireman; Generator Sets; Heaters-Portable Power (2 to 5); Ladavator; Roller (Walk Behind 1 Ton or over); Steam Jenny; Syphons; Tender-Mechanic; Jacks Hydraulic (Railroad); Vibrator-Gasoline; Welding Machines (2) (Fuel Burning)

CLASS V - Oiler

CLASS VI - Rigs-Pile Driving or Caisson Type

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	Basic Hourly Rates ZONE 2	Basic Hourly Rates ZONE 3	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.33	$12.59	.96	1.00		.15
CLASS B	13.23	12.47	.96	1.00		.15
CLASS C	12.19	11.43	.96	1.00		.15
CLASS D	11.72	11.00	.96	1.00		.15
CLASS E	9.53	8.64	.96	1.00		.15

CLASS A - Air Compressor On Steel Erection; Asphalt Plant Engineer (Cleveland District Only); Boiler Op.; Compressor or Generator When Mounted On Rig; Cableway; Combination Concrete Mixer & Tower; Concrete Plants (Over 4 Yds. Cap.); Concrete Pumps; Cranes (All Types Incl. A Frames, Boom Trucks, Cherry Pickers); Derricks; Draglines; Dredge (Dipper Clam or Suction); Elevation Grader or Euclid Loader; Floating Equipment (All Types); Helicopter Crew (Hoist or Winch); Hoes (All Types); Hoisting Engines (Including Shaft & Tunnel Work); Industrial Type Tractor; Jet Engineer Dryer (D8 or D9) Diesel Tractor; Locomotives (Standard Guage); Maintenance Op. Class A; Mixer (Paving Single or Double Drum); Mucking Mach.; Multiple Scraper; Piledriving Mach. (All Types); Power Shovel; Quad 9 (Double Pusher); Refrigerating Mach. (Freezer Operation); Rotary Drill on Caisson Work; Slip Form Paver; Tower Derricks; Tree Shredder; Trench Mach. (Over 24" Wide); Truck Mounted Concrete Pump; Tug Boat; Tunnel Mach. and/or Mining Machine; Wheel Excavator

CLASS B - Asphalt Paver; Automatic Subgrader Mach. Self-Propelled (CMI Type); Boring Mach. Op. (More than 48"); Bulldozers; Endloader; Kolman Loader (Production Type Dirt); Lead Grease Man; Maintenance Op., Class B (in Zone 2 Portage & Summit Cos. only); Power Grader; Power Scraper; Push Cat; Trench Mach. (24" Wide & Under)

CLASS C - Air Compressor on Tunnel Work (Low Pressure); Asphalt Plant Engineer (in Zone 2 Portage & Summit Cos. Only); Locomotive (Narrow Guage); Concrete Mixers (More than 1 Bag Cap.); Mixers (1 Bag Cap. - Side Loader); Power Boiler over 15 lb. Pressure; Pump Op. Installing & Operating Well Points; Pumps (4" & Over Discharge); Rollers (Asphalt); Utility Op. (Small Equipment); Welding Mach. & Generators.

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POWER EQUIPMENT OPERATORS (CONT'D)

CLASS D - Back Fillers; Bar (Joint & Mesh Installing Mach.); Batch Plant; Boring Mach. Op. (48" or less); Bull Floats; Burlap & Curing Mach.; Compressor (Portable, Sewer, Hvy. & Hwy.); Concrete Plant (4 Yd. & Under Cap.); Concrete Saw (Multiple); Conveyors (Hwy.); Crusher, Deckhand; Drill Highway (W. Integral Power); Farm Type Tractors W/ Attachs. (Hwy.); Finishing Mach.; Fireman (Floating Equipment, All Types); Fork Lift (Hwy.); Form Trenchers; Hydro Hammer; Hydro Seeder; Pavement Breaker; Plant Mixers; Post Driver; Post Hole Digger (Power Auger); Power Brush Burner; Power Form Handling Equip.; Road Widening Trencher; Rollers (Brick, Grade, Macadam); Self-Propelled Power Spreader; Self Propelled Power Subgrader; Steam Fireman; Tractor (Pulling Sheepfoot Roller or Grader); Vibratory Compactor W/Integral Power

CLASS E - Drum Fireman (Asphalt Plant); Inboard-Outboard, Motor Boat-Launch; Oil Heaters (Asphalt Plant); Oilers; Power Driven Heaters; Pumps (Under 4" Discharge); Signalmen; Tenders; Tire Repairmen

ZONE DEFINITIONS

ZONE 2 - Ashtabula, Cuyahoga, Erie, Geauga, Lake, Lorain, Medina, Portage & Summit Counties

ZONE 3 - Remainder of Counties

DECISION NO. OH79-2086

TRUCK DRIVERS ZONE 1 - CUYAHOGA, LAKE & GEAUGA COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 8.70	26.00a	26.00a	b&c	
CLASS II	8.85	26.00a	26.00a	b&c	
CLASS III	9.20	26.00a	26.00a	b&c	
CLASS IV	9.20	26.00a	26.00a	b&c	

CLASS I - Straight & Dumps (Including Asphalt); Straight Fuel; Warehousemen
CLASS II - Semi Fuel; Semi Pole Drivers (Hauling Steel Pipe); & Semi Tractor Drivers
CLASS III - Agitator or Bulk Concrete Drivers; Dry Batch Truck; Ready-Mix
CLASS IV - Carry-All Driver; Darts; Double Hook-up Tractor Trailers Including Team Track & Railroad Siding; Euclids; Extra Long Trailers & Semi Pole Trailers, Except When Hauling Steel Pipe; Fork Lifts; Hi-Lifts; Low Boys; Semi-Tractor & Tri-Axle Trailer; Tag Along Trailer, Expandable Trailers, Load (Requiring Road Permits); Tandem Tractor, Tandem Trailer & Tri-Axle Trailer; Tank Asphalt Spreaders; & Tournarockers

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgivng Day; F-Christmas Day.

FOOTNOTES:

a. Per Week Per Employee

b. One week's paid vacation for one year of service; two weeks for five years; three weeks for ten years & four weeks for seventeen years.

c. Seven paid holidays: A through F Plus National Election Day

DECISION NO. OH79-2086

TRUCK DRIVERS ZONE II - Remainder of the State	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.97	25.00a	18.50a		.05
CLASS II	10.02	25.00a	18.50a		.05
CLASS III	10.07	25.00a	18.50a		.05
CLASS IV	10.17	25.00a	18.50a		.05
CLASS V	10.27	25.00a	18.50a		.05
CLASS VI	10.44	25.00a	18.50a		.05

CLASS I - Asphalt Distributors; Batch Trucks; 4 Wheel Service Truck; 4 Wheel Dump Trucks; & Oil Distributors
CLASS II Tandems
CLASS III - Fuel Trucks; Pole Trailers; Ready Mix Trucks; & Semi-Tractor Trucks
CLASS IV - All Trucks Five Axle & Over
CLASS V - Asphalt Oiler Spraybar Man When Operated From Cab
CLASS VI - Euclid Wagons; Euclid End Dumps; Heavy Duty Equipment; & Low Boys

FOOTNOTE:
a. Per Week Per Employee

DECISION NO. OH79-2086

LINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADAMS, ATHENS, GALLIA, LAWRENCE, MEIGS, & SCIOTO COS., JACKSON CO. (except Coal, Jackson, Liberty, Milton & Washington Twps.), PIKE CO. (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish & Union), & VINTON CO. (E. of Clinton, Elk & Swan Twps.):					
Cable Splicers; Linemen Welders	$14.00	.50	3%+.50	1.00	½%
Linemen	12.73	.50	3%+.50	1.00	½%
Operators: All Mechanized Equipment	10.18	.50	3%+.50	1.00	½%
Groundmen	8.27	.50	3%+.50	1.00	½%
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT, & WYANDOT (Twps. of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge & Salem) Cos.:					
Linemen	13.53	.60	3%		½%
Equipment Operators	12.18	.60	3%		½%
Groundmen; Truck Drivers	8.95	.60	3%		½%
ASHLAND, CRAWFORD, HURON (Twps. of Richmond, New Haven, Ripley & Greenwich), KNOX (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown & Jefferson), MARION, MORROW, RICHLAND, & WYANDOT (Twps. of Sycamore, Crane, Eden, Pitt, Antrim & Tymochtee) COS.:					
Equipment Operators; Linemen	12.30	.60	3%+.50		½%
Line Truck Driver	8.00	.60	3%+.50		½%
Groundmen	7.38	.60	3%+.50		½%
ASHTABULA, except Twps. of Colebrook, Orville, Wayne, Williamsfield, & Windsor:					
Cable Splicers; Equipment Ops.; Line Truck Drivers; & Linemen	12.05	.90	3%+.85		½%
Groundmen	9.80	.90	3%+.85		½%

DECISION NO. OH79-2086

LINE CONSTRUCTION (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASHTABULA (Twps. of Colebrook, Wayne, Williamsfield, Orwell, & Windsor), COLUMBIANA (Twps. of Butler, Fairfield, Perry, Salem, & Unity), GEAUGA (Twps. of Auburn, Middlefield, Parkman, Burton, & Troy), MAHONING (excl. Smith Twp.), PORTAGE (Charleston, Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris, Windom Twps.), & TRUMBULL COS.:					
Cable Splicers; Linemen; Operator - Poledigging Equipment	$14.07	.45	3%		½%
Groundmen	11.26	.45	3%		½%
BELMONT COUNTY:					
Equipment Operators; Linemen & Technicians	12.60	.50	3%+.35	1.00	.04
Cable Splicers; Welders	12.85	.50	3%+.35	1.00	.04
Groundmen	10.08	.50	3%+.35	1.00	.04
BROWN, CLERMONT, & HAMILTON COS.:					
ZONE I: Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati:					
Linemen; Machine Ops.	13.90	.70	3%+.60		½%
Groundmen	10.41	.70	3%+.60		½%
ZONE II: Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati;					
Linemen; Machine Ops.	14.20	.70	3%+.60		½%
Groundmen	10.65	.70	3%+.60		½%
ZONE III: Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati:					
Linemen; Machine Ops.	14.30	.70	3%+.60		½%
Groundmen	10.73	.70	3%+.60		½%
ZONE IV: Over 25 mi. radius from Hamilton Co. Court House, Cincinnati:					
Linemen; Machine Ops.	14.45	.70	3%+.60		½%
Groundmen	10.84	.70	3%+.60		½%

DECISION NO. OH79-2086

LINE CONSTRUCTION (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUTLER, WARREN (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union & Washington Twps.) Cos.:					
ZONE I: West of Interstate #75:					
Linemen	$12.35	.50	3%+.75		½%
Cable Splicers	12.85	.50	3%+.75		½%
Groundmen	8.645	.50	3%+.75		½%
ZONE II: East of Interstate #75:					
Linemen	12.90	.50	3%+.75		½%
Cable Splicers	13.40	.50	3%+.75		½%
CARROLL (N ½ incl. Fox, Harrison, Rose & Washington Twps.), COLUMBIANA (Knox Twp.), HOLMES, MAHONING (Smith Twp.), STARK, TUSCARAWAS (N. of Auburn, Clay, Rush, & York Twps.), & WAYNE (S. of Baughman, Chester, Green & Wayne Twps.) COS.:					
Cable Splicers; Linemen	13.35	.55	3%+.60		.3%
Line Equipment Ops.	11.60	.55	3%+.60		.3%
Groundmen; Truck Drivers	7.95	.55	3%+.60		.3%
CARROLL (S. of Fox, Harrison, Rose & Washington Twps.), HARRISON, & JEFFERSON COS.:					
Linemen; Line Equipment Ops.; Truck Drivers	14.00	7%	10%	10%	½%
Cable Splicers	14.50	7%	10%	10%	½%
Groundmen	9.10	7%	10%	10%	½%

DECISION NO. OH79-2086

LINE CONSTRUCTION (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHAMPAIGN, CLARK, CUYAHOGA, GEAUGA (Bainbridge, Russell & Chester Twps.), LORAIN (Columbia Twp.), & MADISON (except Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, & Pleasant Twps.) Cos.:					
Cable Splicers; Equipment Ops.; Linemen	$15.43	.60	3%		½%
Groundmen	10.03	.60	3%		½%
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, WARREN (Wayne, Clear Creek, & Franklin Twps.), COS.:					
Cable Splicers; Linemen	13.28	.75	3%+1.00		½%
Operators:					
Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	13.28	.75	3%+1.00		½%
Line Truck with Winch or Pole & Steel Handling	9.96	.75	3%+1.00		½%
None-Specialized Truck & Misc. Equipment; Groundmen - Truck Driver	7.76	.75	3%+1.00		½%
COLUMBIANA (Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West & Yellow Creek Twps.):					
Linemen; Heavy Equipment Ops.	12.58	13%	7%		½%
Groundmen & Truck Drivers	11.35	13%	7%		½%
COSHOCTON, GUERNSEY, MUSKINGUM, PERRY, & TUSCARAWAS (Rem. of Co.):					
Cable Splicers; Equipment Ops.; Linemen	13.00	.50	3%		½%
Groundmen	7.88	.50	3%		½%

DECISION NO. OH79-2086

LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.:					
Linemen	$14.92	.70	3%	a	½%
Technicians	14.39	.70	3%	a	½%
Cable Splicers	15.17	.70	3%	a	½%
Operator Class I	11.88	.70	3%	a	½%
Operator Class II	10.47	.70	3%	a	½%
Groundmen	8.97	.70	3%	a	½%
DELAWARE, FRANKLIN, MADISON, (Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range & Pleasant Twps.), PICKAWAY (Twps. of Circleville, Darby, Harrison, Jackson, Madison, Monroe, Muhlenburg, Scioto, Walnut, & Washington), & UNION COS.:					
Cable Splicers; Equipment Ops. & Linemen	13.98	.50	3%		½%
Groundmen	7.88	.50	3%		½%
ERIE, & HURON (Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Fitchville, & New London Twps.):					
Cable Splicers; Equipment Ops. & Linemen	14.05	.73	3%		½%
Truck Driver (winch) Groundman; Groundman	9.13	.73	3%		½%
FAIRFIELD, KNOX (Butler, Clay, College, Harrison, Hilliar, Jackson, Morgan, Milford, Miller, & Pleasant), & LICKING COS.:					
Cable Splicers; Linemen; Operators: All Mechanized Equipment	12.90	.70	3%		½%
Groundmen - Truck Driver	10.21	.70	3%		½%
Groundmen	7.85	.70	3%		½%

DECISION NO. OH79-2086

LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FAYETTE, HIGHLAND, HOCKING, JACKSON (Coal, Jackson, Liberty, Milton, & Washington Twps.), PICKAWAY (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), PIKE (Excl. Camp Creek, Marion, Newton, Scioto, Sunfish, & Union Twps.), ROSS, VINTON (W ½ of Co., incl. Clinton, Elk & Swan Twps.) COS.:					
Linemen; Equipment Operators	13.35	.40	3%		½%
Truck Drivers	7.92	.40	3%		½%
Groundmen	7.57	.40	3%		½%
GEAUGA (Excl. Bainbridge, Chester, Russell, Auburn, Middlefield, Parkman & Troy Twps.), & LAKE COS.:					
Cable Splicers; Equipment Ops. & Linemen	14.13	.85	3%+.70		½%
Truck Drivers (Winch) Groundman; Groundman	9.18	.85	3%+.70		½%
LORAIN (Exclu. Columbia Twp.), & MEDINA (Litchfield & Liverpool Twps.) Cos.:					
Cable Splicers; Equipment Op.; & Linemen	13.95	.75	3%+1.00		½%
Truck Driver (winch) Groundman; Groundman	9.07	.75	3%+1.00		½%
MEDINA (Brunswick, Chatham, Granger, Guilford, Harrisville, Hinckley, Homer, Lafayette, Medina, Montville, Sharon, Spencer, Wadsworth, Westfield, & York Twps.), PORTAGE (Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantus, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro & Suffield Twps.), SUMMIT, & WAYNE (Northern ½ of Co.) COS.:					

DECISION NO. OH79-2086

LINE CONSTRUCTION (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MEDINA CO. (CONT'D)					
Linemen	$13.66	.74	3%+.65		½%
Cable Splicers	14.46	.74	3%+.65		½%
Equipment Operators	10.25	.74	3%+.65		½%
Truck Drivers; Groundman	6.83	.74	3%+.65		½%
MONROE, MORGAN, NOBLE, & WASHINGTON COUNTIES:					
Cable Splicers; Equipment Operators.; Linemen	13.98	.60	3%		½%
Groundmen	7.88	.60	3%		½%
POWER EQUIPMENT OPERATORS: Statewide, except Columbiana, Mahoning & Trumbull Cos.:					
Well & Pump Work (Incl. Drilling & Repair of all Water Wells; Test Holes & Wells; & Installation & Repair of Deep Well Type & Shallow Well Pumps on Water wells)					
Well Driller & Pump Installer	7.60	.34	.27	a&b	

FOOTNOTE: a. 10 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; Christmas Eve; Christmas Day; New Year's Eve; & Good Friday

DECISION NO. OH79-2086

FOOTNOTES:

a. 9 Paid Holidays: New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; Christmas Eve Day; & Christmas Day
b. Employees who have been in continuous employment of the company for less than 1 year as of January 1 will receive pro-rated vacation based on 5/12 day per full month of employment, but not exceeding 5 days' vacation; 3rd continuous calendar year - 2 wks' paid vacation; 11th continuous calendar year - 3 wks' paid vacation

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)).

SUPERSEDEAS DECISION

STATE: VIRGINIA

COUNTIES: Bedford, Botetourt, Carroll, Craig, Floyd, Franklin, Giles, Henry, Montgomery, Patrick, Pulaski & Roanoke. The Cities of Bedford, Galax, Martinsville, Radford, Roanoke & Salem.

DECISION NO. VA-79-3055

DATE: Date of Publication

Supersedes Decision No. VA-79-3002 dated February 23, 1979 in 44 FR 10961

DESCRIPTION OF WORK: Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asphalt Raker	$3.71				
Carpenter, Structure	5.15				
Carpenter Structure Helper	3.82				
Concrete Finisher	4.58				
Concrete Finisher Helper	4.05				
Electrician	5.00				
Fence Erector/Guardrail	3.26				
Ironworker, Reinforcing	5.00				
Ironworker, Reinforcing Helper	3.50				
Ironworker, Structural	5.00				
Laborer, Unskilled	3.00				
Landscape Worker	3.20				
Mechanic	4.64				
Mechanic Helper	3.30				
Painter, Bridge	5.38				
Pipelayer	3.00				
Asphalt Distributor Operator	3.78				
Asphalt Paver Operator	4.00				
Backhoe Operator	4.91				
Bulldozer Operator	4.64				
Bulldozer Operator, Utility	3.50				
Concrete Paving Machine Operator	3.75				
Crane, Derrick & Dragline:					
1 yd. & under	5.45				
over 1 yd.	5.54				
Drill Operator	4.25				
Loader:					
2 yds. & under	4.01				
over 2 yds.	4.53				
Motor Grader Operator:					
Fine Grade	5.50				
Rough Grade	5.00				
Oiler/Greaser	4.22				
Power Tool Operator	4.24				
Roller Operator:					
Finish	3.74				
Rough	3.72				
Scraper Pan Operator	5.00				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Stone Spreader Operator	$3.99				
Tractor Operator-Utility	3.50				
Truck Driver, Heavy Duty:					
7 C.Y. & under	3.45				
over 7 C.Y.	4.00				
Truck Driver:					
Single Rear Axle	3.50				
Multi Rear Axle	3.70				

Welder-receive rate prescribed for craft performing operation to which welding is incidental.

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).

SUPERSEDEAS DECISION

STATE: Virginia

COUNTIES: Albermarle County & the Independent City of Charlottesville

DECISION No. VA79-3056

DATE: Date of Publication

Supersedes Decision No. VA75-3094 dated September 19, 1975 in 40 FR 43415

DESCRIPTION OF WORK: Building Construction, (excluding single family homes & garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$7.75				
CARPENTERS	5.50				
CEMENT MASONS	7.50				
DRY WALL MECHANIC	6.50				
ELECTRICIANS	6.75				
GLAZIERS	4.00				
IRONWORKERS:					
Structural & Reinforcing	5.33				
LABORERS, UNSKILLED	3.78				
LATHERS	7.50				
PAINTERS, BRUSH	4.94				
PLUMBERS & STEAMFITTERS	6.00				
ROOFERS	6.00				
SHEET METAL WORKERS	6.50				
SPRINKLER FITTERS	8.50				
TILE SETTERS	6.23				
TRUCK DRIVERS	4.50				
POWER EQUIPMENT OPERATORS:					
Backhoe Operators	4.89				
Bulldozer Operators	5.00				
Loaders	5.00				
Scraper Pan Operator	5.00				
Roller Operators	4.50				
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 classifications listed may be added after award only as provided in the Labor Standards Contract Clauses (29 CFR, 5.5 (a) (1) (ii)).					

[FR Doc. 79-38888 Filed 12-20-79; 8:45 am]

BILLING CODE 4510-27-C

federal register

Friday
December 21, 1979

Part III

Office of the Special Counsel

Prohibited Personnel Practices and Activities; Procedures for the Receipt and Investigation of Allegations

OFFICE OF THE SPECIAL COUNSEL, MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1250–1269

Prohibited Personnel Practices and Activities: Procedures for the Receipt and Investigation of Allegations

AGENCY: Office of the Special Counsel.

ACTION: Final rules.

SUMMARY: These regulations set forth the procedures for the receipt and investigation by the Office of the Special Counsel of allegations of prohibited personnel practices in Federal agencies and activities prohibited by other civil service law, rule, or regulation. The regulations also establish procedures for the receipt and referral of whistleblower allegations to agencies for investigation or a report.

EFFECTIVE DATE: December 20, 1979.

FOR FURTHER INFORMATION CONTACT: Mary Eastwood, Associate Special Counsel (Investigations), Office of the Special Counsel, 1717 H. Street, N.W., Washington, D.C. 20419 (202–653–7140).

SUPPLEMENTARY INFORMATION: The Special Counsel published interim procedures for operations in the **Federal Register** on January 30, 1979 (44 FR 6060). On August 24, 1979, proposed final regulations were published for comment (44 FR 49956). These regulations supersede the interim regulations. Comments were received from eleven Federal agencies, one labor organization, and five public interest groups. Following is a summary of the major comments and changes in the regulations as published on August 24.

Definitions

(§ 1250.3). The definition of "whistleblower" has been revised to make clear that disclosure of information prohibited by statute is not protected except as noted below. The definition is also expanded to make clear that proctected disclosures may be either oral or written, and that the information may be disclosed to any person, whether within or outside the agency. Further, protected disclosures include disclosures to the Special Counsel, an agency Inspector General, or other agency employee designated by the agency head to receive such information, even if the disclosure would otherwise be prohibited by statute or required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

One commentor suggested the deletion of the statement that where the information disclosed affects only the personnel situation of the complainant it will be treated as an allegation of a prohibited personnel practice or violation of other civil service law, rule, or regulation, and the complainant will not be considered a whistleblower. This change has not been made in the regulations because the Special Counsel has direct investigative jurisdiction in such cases. The intent of the statement is to retain investigative authority in this Office rather than referring the matter to the agency, as in the case of whistleblower allegations.

A definition of "abuse of authority" has been added (§ 1250.3(f)).

The definition of prohibited personnel practices (§ 1250.3(b)(9)) relating to reprisal for exercising an appeal right granted by law, rule, or regulation, has been revised to make clear that the exercise of an appeal right includes the initial filing of a complaint or a grievance. Employees who win their complaints or grievances of course do not have to "appeal". It would be contrary to the purpose of the Civil Service Reform Act if only employees who *lost* their complaints or grievances and had to appeal to another entity were protected from reprisals.

One commentor suggested that the definition of prohibited personnel practices (§ 1250.3(b)(10)), relating to discrimination based on conduct that does not adversely affect the performance of the employee or applicant or the performance of others, be amended to make explicit that discrimination based on union activity or membership is covered. Such discrimination is an unfair labor practice and, of course, is within the primary responsibility of the Federal Labor Relations Authority (5 U.S.C. 7116). Although discrimination because of union activities could also constitute a prohibited personnel practice, specific examples of proctected conduct are not set forth in the definition to avoid any construction that may limit the applicability of the provision to the type of conduct expressly mentioned.

Matters Subject to Special Counsel Investigation

(§ 1251.1). A new paragraph (d) has been added to § 1251.1 to include the Special Counsel's authority to investigate matters and order corrective action, under the Freedom of Information Act and the Right to Financial Privacy Act of 1978 on the basis of court findings.

Deferral to Administrative Appeals Procedures

(§ 1251.2). One commenter suggested that the Special Counsel should not investigate any allegation that could have been the subject of an appeal or grievance, except where the complainant can show cause for not filing a timely appeal or grievance. This would be unduly restrictive on the authority of the Special Counsel, particularly since most matters are grievable. Section 1206(e)(2) of title 5, United States Code, contemplates deferral to an administrative proceeding only if the Special Counsel determines that the matter may be more appropriately resolved by that procedure. Many complaints received in the Special Counsel's Office allege that agency procedures are not effective or that there is failure of the agency to process the grievance or other matter. Thus, in some instances where there is an available agency procedure the Special Counsel could not make the statutory determination that the matter may be more appropriately resolved by the agency procedure. Deferral in those situations would not be proper.

Section 1251.2(c) has been revised to provide that where a complainant failed to file a timely administrative appeal, the Special Counsel would not defer if the complainant can show that he was not notified of the time limit and was not aware of it, or that circumstances beyond his control prevented him from filing a timely appeal.

Exhaustion of Agency Procedures as Prerequisite to Special Counsel Action

One commentor suggested that a policy statement can be included in the regulations on whether all other administrative remedies should be exhausted before a whistleblowing complaint is brought to the Special Counsel. Such a statement is not included because the statute clearly provides for direct submission of allegations to the Special Counsel (5 U.S.C. 1206(b)(1)(B)), as well as for submitting allegations to the Special Counsel after they have been disclosed in the agency or elsewhere.

Notice of Terminating Investigations

(§ 1251.4). One agency recommended that the agency, as well as the complainant, be notified when an investigation is completed or terminated. The statute requires that the complainant be notified in all cases (5 U.S.C. 1206(a)(2)). However, in many cases the inquiry or investigation is terminated after review of the material submitted by the complainant and

without any contact with the agency. There are cases in which, even if all allegations were proven, they could not constitute a prohibited personnel practice or violation of any civil service law, rule, or regulations, and cases in which it is clear the Special Counsel has no jurisdiction. No useful purpose would be served in notifying the agency in these cases. Accordingly, this change has not been made in the regulations. However, the Special Counsel's Office does notify agencies of the results of an investigation or the termination of an investigation if there has been some contact with the agency in the case.

Stay of Personnel Actions

(§ 1254.2). Several public interest groups noted that paragraph (d) of § 1254.2 providing that the Special Counsel will not seek a stay where the taking or failing to take a personnel action does not impose an undue hardship on the employee and the matter can be addressed through an available appeals procedure, is inconsistent with Congressional intent. In order to avoid unduly restricting the stay authority, paragraph (d) has been deleted.

One agency recommended that advance notice of requests for 15 day stays pursuant to 5 U.S.C. 1208(a) be given to the agency. The proposed regulation provided that such notice would be given only "where administratively practicable." This provision for notice to the agency has been deleted entirely because the statute does not contemplate any agency response to a Special Counsel petition for a 15 day stay, and no notice is required. As a matter of policy, the Special Counsel will nevertheless promptly inform agencies of all actions taken by the Office affecting them.

Protection of Rights of Alleged Offenders

One commentor suggested that the regulations should require that an alleged offender be informed when a complaint is filed so that he has an opportunity to defend himself during the course of the investigation. It is the Special Counsel's view that the rights of alleged offenders are amply protected by the statute, the regulations of the Merit Systems Protection Board (5 CFR Parts 1200–1202, as added by 44 FR 38342), and the disclosure policy of the Office of the Special Counsel (Appendix I to Part 1261, § F). Moreover, the normal investigative procedures of the Office include opportunity for all witnesses having information regarding a matter to submit their views to the investigator. Accordingly, no change is made in the regulations.

Internal Operating Procedures

Several of the public interest groups made constructive suggestions relating to internal operating procedures for the Office of the Special Counsel. For example, it was suggested that complainants be furnished copies of Special Counsel referrals of whistleblower allegations to agencies for investigation or report under 5 U.S.C. 1206(b) (3) or (7), and any extensions of time given the agency; that the allegations be clearly defined to the agency; and that the complainant be afforded an opportunity to comment on agency reports prior to the Special Counsel's review under 5 U.S.C. 1206(b)(6). A number of these suggestions will be incorporated into the Operations Manual of the Office.

Accordingly, title 5 of the Code of Federal Regulations is amended by revising Parts 1250–1269, as set forth below.

Dated: December 14, 1979.

H. Patrick Swygert,

Special Counsel.

Subchapter B—Office of the Special Counsel

PART 1250—JURISDICTION AND DEFINITIONS

Sec.

1250.1 General authority of the Special Counsel.
1250.2 Scope.
1250.3 Definitions.

Authority.—5 U.S.C. 1206(k); Sec. 204(g) of Reorganization Plan No. 2 of 1978, unless otherwise noted.

§ 1250.1 General authority of the Special Counsel.

The Special Counsel is authorized to carry out the following general functions, as described in this subchapter:

(a) To receive and investigate allegations of prohibited personnel practices and certain other violations of law, rule or regulation.

(b) To receive and refer to agencies for investigation or a report certain disclosures of information reasonably believed by the discloser to evidence a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) To recommend corrective action to the agency involved when it is determined that there is reasonable ground to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

(d) To file with the Merit Systems Protection Board requests to order corrective action (if the agency has not taken the corrective action recommended after a reasonable period), requests for stays of prohibited personnel actions, and complaints for disciplinary action against federal employees, and intervene or otherwise participate in any proceeding before the Board.

§ 1250.2 Scope.

(a) The Special Counsel is required to receive and to investigate allegations of prohibited personnel practices and certain other activities prohibited by civil service law, rule, or regulation involving any Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, except that the prohibited personnel practices set forth below do not apply to:

(1) A Government corporation.

(2) The Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and certain other intelligence agencies excepted by the President.

(3) The General Accounting Office.

(4) The United States Postal Service and the Postal Rate Commission.

(b) The Special Counsel will investigate allegations of Hatch Act violations in any Executive agency, the U.S. Postal Service, and Postal Rate Commission and the District of Columbia Government.

(c) The Special Counsel will receive and act on information which evidences a violation of any law, rule, or regulation, or of mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, involving any Executive agency.

§ 1250.3 Definitions.

As used in this subchapter:

(a) "Personnel action" means—

(1) An appointment;

(2) A promotion;

(3) An adverse action under chapter 75 of title 5, United States Code or other disciplinary or corrective action;

(4) A detail, transfer, or reassignment;

(5) A reinstatement;

(6) A restoration;

(7) A reemployment;

(8) A performance evaluation under chapter 43 of title 5, United States Code;

(9) A decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other personnel action; or

(10) Any other significant change in duties or responsibilities which is inconsistent with the employee's salary or grade level.

(b) "Prohibited personnel practice" means action by an employee who has authority to take, direct others to take, recommend, or approve any personnel action,

(1) That discriminates for or against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status or political afiliation, as prohibited by certain specified laws (see 5 U.S.C. 2302(b)(1)).

(2) To solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless the recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of an evaluation of the work performance, ability, aptitude, or general qualifications of the individual, or an evaluation of the character, loyalty, or suitability of such individual;

(3) To coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity;

(4) To deceive or willfully obstruct any person with respect to such person's right to compete for employment;

(5) To influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;

(6) To grant any preference or advantage not authorized by law, rule or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;

(7) To appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in 5 U.S.C. 3110) of the employee if the position is in the agency in which the employee is serving as a public official (as defined in 5 U.S.C. 3110) or over which the employee exercises jurisdiction or control as an official;

(8) To take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for being a whisteblower, as defined in paragraph (c) of this section.

(9) To take or fail to take a personnel action against an employee or applicant for employment as a reprisal for the exercise of any appeal right granted by law, rule or regulation;

(10) To discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; or

(11) To take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in 5 U.S.C. 2301.

(c) "Whistleblower" means a present or former Federal employee or applicant for Federal employment who discloses information he reasonably believes evidences a violation of any law, rule or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial or specific danger to public health or safety, if the disclosure is not specifically prohibited by statute and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. A protected disclosure may be oral or written and to any person within or outside the agency. Disclosure of information to the Special Counsel, agency Inspector General, or other employee designated by the agency head to receive such information is protected even if the disclosure would otherwise be prohibited by statute or is otherwise required by Executive order to be kept secret. Where the information disclosed affects only the personnel situation of the complainant, it will normally be treated as an allegation of a prohibited personnel practice or violation of other civil service law, rule or regulation, and the complainant will not be considered to be a whistleblower.

(d) "Gross waste of funds" means unnecessary expenditure of substantial sums of money, or a series of instances of unnecessary expenditures of smaller amounts.

(e) "Mismanagement" means wrongful or arbitrary and capricious actions that may have an adverse effect on the efficient accomplishment of the agency mission.

(f) "Abuse of authority" means an arbitrary or capricious exercise of power by a Federal official or employee that adversely affects the rights of any person or that results in personal gain or advantage to himself or to preferred other persons.

PART 1251—INVESTIGATIVE AUTHORITY OF THE SPECIAL COUNSEL

Sec.

1251.1 Matters subject to investigation.
1251.2 Deferral to administrative appeals procedures.
1251.3 Investigation policy in discrimination complaints.
1251.4 Closing cases and terminating investigations.
1251.5 Actions on results of investigations.

§ 1251.1 Matters subject to investigation.

The Special Counsel is authorized—

(a) To receive and investigate allegations of prohibited personnel practices, as defined in section 1250.3 of this subchapter, and to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken (5 U.S.C. 1206(a)).

(b) In addition to matters described in paragraph (a) of this section, to conduct an investigation of any allegation concerning—

(1) Political activity by Federal employees and employees of the District of Columbia Government, prohibited by Subchapter III of Chapter 73 of title 5, United States Code (Hatch Act);

(2) Political activities by certain State and local officers and employees prohibited by Chapter 15 of title 5, United States Code (Hatch Act);

(3) Arbitrary or capricious withholding of information prohibited under section 552 of title 5, United States Code (Freedom of Information Act), except that the Special Counsel shall make no investigation under this subsection of any withholding of foreign intelligence or counter-intelligence information the disclosure of which is specifically prohibited by law or by Executive order;

(4) Activities prohibited by any civil service law, rule, or regulation, including partisan political intrusion in personnel decisionmaking, except when the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure; and

(5) Involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action, except when the Special Counsel determines that such allegation may be resolved more appropriately under an administrative appeals procedure. (5 U.S.C. 1206(e)).

(c) In the absence of an allegation, the Special Counsel is authorized to conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that a

prohibited personnel pratice has occurred, exists, or is to be taken.

(d) To conduct an investigation for the purpose of determining whether disciplinary action is warranted against an agency officer or employee—

(1) whenever a court orders the production of agency records improperly withheld under the Freedom of Information Act and finds that the circumstances surrounding the withholding raise questions of whether agency personnel acted arbitrarily or capriciously (5 U.S.C. 552(a)(4)(F)), and

(2) whenever a court determines that an agency or department of the United States has violated the Right to Financial Privacy Act of 1978 and finds that the circumstances surrounding the violation raises questions of whether an officer or employee acted willfully or intentionally with respect to the violation (section 1117 of Pub. L. 95-630).

§ 1251.2 Deferral to administrative appeals procedures.

Section 1206(e)(2) of title 5, United States Code, provides that the Special Counsel shall make no investigation of allegations described in § 1251.1(b)(4) or (5) of this part, if he determines that the matter may be resolved more appropriately under an administrative appeals procedure. The Special Counsel generally will not initiate an investigation in the following circumstances:

(a) The employee has a pending appeal on the same matter before the Merit Systems Protection Board, the Office of Personnel Management, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority, or a pending grievance under a formal agency or negotiated grievance proceeding, unless there is sufficient evidence submitted with the complaint to the Special Counsel to indicate the matter is not being properly processed.

(b) An administrative appeal proceeding has been completed, unless there is sufficient evidence submitted with the complaint to the Special Counsel to indicate the matter was not properly processed.

(c) An administrative proceeding was available to the complainant but the complainant did not file a timely appeal or otherwise failed to pursue the matter, unless the complainant can show that he was not notified of the prescribed time limit and was not aware of it or that circumstances beyond his control prevented him from filing an appeal within the prescribed time limits.

(d) The complainant alleges a violation of law, rule, or regulation in connection with a promotion action, particularly complaints of nonselection or general charges of "preselection", when the information submitted with the complaint to the Special Counsel does not evidence any prohibited personnel practice, as defined in § 1250.3 of this subchapter. In such circumstances the complainant should utilize the agency or negotiated grievance procedure if the matter is grievable.

§ 1251.3 Investigative policy in discrimination complaints.

The Special Counsel is authorized to investigate allegations of discrimination prohibited by law, as defined in § 1250.3(b)(1) of this subchapter. Since procedures for investigating discrmination complaints have already been established in the agencies and the Equal Employment Opportunity Commission, the Special Counsel will normally avoid duplicating those procedures and will defer to those procedures rather than initiating an independent investigation. However, the Special Counsel will—

(a) Assert independent investigative jurisdiction in those circumstances where it appears that the agency is not processing the complaint consistent with provisions of applicable statutes and regulations; and

(b) In lieu of asserting independent jurisdiction over a complaint, monitor agency or EEOC processing of the complaint, whenever he determines this to be necessary or appropriate.

§ 1251.4 Closing cases and terminating investigations.

(a) The Special Counsel will notify the complainant of the closing of the case and the reasons therefore, when the matter complained of is not within the investigative jurisdiction of the Special Counsel.

(b) The Special Counsel will notify the complainant of the termination of any investigation under this part and the reasons therefore, and any action taken by the Special Counsel on the allegation.

§ 1251.5 Actions on results of investigations.

(a) If the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice, as defined in § 1250.3 of this subchapter, has occurred, exists, or is to be taken, which requires corrective action, he reports his determinations, findings and recommendations to the agency, the Merit Systems Protection Board, and the Office of Personnel Management, and may report such finding to the President (5 U.S.C. 1206(c)(1)). If the agency involved fails to take the action recommended within a reasonable period specified by the Special Counsel, the Special Counsel may request the Board to consider the matter pursuant to 5 U.S.C. 1206(c)(1)(B).

(b) If the Special Counsel has reasonable cause to believe any other violation of any law, rule or regulation has occurred (*i.e.*, violations other than or in addition to a prohibited personnel practice), he is required to report this to the agency head concerned and to require, within 30 days, a certificate by the agency head which states that (1) the agency head has personally reviewed the report of the Special Counsel, (2) what action has been, or is to be taken, and (3) when the action will be completed (5 U.S.C. 1206(c)(3)). Agency head certifications are included in the public list, provided for in § 1260.1 of this subchapter.

(c) When the investigation indicates that disciplinary action against any employee subject to disciplinary charges by the Special Counsel is warranted, the Special Counsel may file a complaint, together with a statement of supporting facts with the Merit Systems Protection Board. The complaint and statement of supporting facts shall be served on the employee at the same time it is filed with the Board. Additionally, in the case of violations of provisions of Chapter 15 of title 5, United States Code (political activity of certain State and local officers and employees), the complaint, including the statement of supporting facts, shall be served on the State or local agency as well as the officer or employee (5 U.S.C. 1206(g)).

(d) In the case of a complaint for disciplinary action against an employee in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States), the Special Counsel shall submit the complaint including a statement of supporting facts and the employee's response to the complaint to the President for appropriate action in lieu of presenting the complaint before the Merit Systems Protection Board. (5 U.S.C. 1206(g)).

(e) When the Special Counsel believes that there is in an agency a pattern of prohibited personnel practices not otherwise appealable to the Merit Systems Protection Board under any law, rule or regulation, the Special Counsel may file a complaint with the Board against the agency involved to obtain an order for appropriate corrective action. (5 U.S.C. 1206(h)).

(f) If, in connection with any investigation under this part, the Special

Counsel determines that there is reasonable cause to believe that a criminal violation by an employee has occurred, he shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget. The referral of an alleged criminal violation to the Attorney General does not preclude the Special Counsel from conducting any investigation or proceeding concerning prohibited personnel practices instituted under this part. (5 U.S.C. 1206(c)(2)).

PART 1252—DISCLOSURES OF INFORMATION (WHISTLEBLOWING)

Sec.

1252.1 Applicability.
1252.2 Referral to agency heads under 5 U.S.C. 1206(b)(3); reports from agency heads.
1252.3 Referral to agency heads under 5 U.S.C. 1206(b)(7).
1252.4 Failure of agency head to file report.
1252.5 Review of agency report.
1252.6 Foreign intelligence or counterintelligency information.

§ 1252.1 Applicability.

This part applies to disclosures of information not specifically required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs, which the discloser reasonably believes evidences a violation of any law, rule or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to the public health or safety.

§ 1252.2 Referral to agency heads under 5 U.S.C. 1206(b)(3); reports from agency heads.

(a) If after review of the information received under this part the Special Counsel determines that there is a substantial likelihood that the information discloses a violation of any law, rule or regulation, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health or safety, he will, if the information was transmitted to him by an employee or former employee or applicant for employment in the agency which the information concerns, or by an employee who obtained the information in connection with the performance of his duties and responsibilities, require the head of the agency to conduct an investigation of the information and any related matters and to submit to the Special Counsel a written report setting forth the findings of the head of the agency.

(b) Any report required by the Special Counsel under this section shall be submitted within sixty (60) calendar days after the date on which the Special Counsel transmitted the information to the head of the agency, or within any reasonable longer period of time agreed to in writing by the Special Counsel or designee of the Special Counsel. In the event the agency finds that it is unable to adequately investigate and report within the time limit imposed by the statute, the agency shall as soon as practicable, but not less than 15 days before the date the report is due to the Special Counsel, the President, and the Congress, submit a written request to the Special Counsel specifying the additional time required and the reasons therefore.

(c) Any report required under this section shall be reviewed and signed by the agency head and shall include: (1) A summary of the information with respect to which the investigation was initiated; (2) a description of the conduct of the investigation; (3) a summary of any evidence obtained from the investigation; (4) a listing of any violation or apparent violation of any law, rule, or regulation; (5) a description of any corrective action taken or planned to be taken as a result of the investigation, including, but not limited to, changes in agency rules, regulations, or practices, restoration of any aggrieved employee, disciplinary action against any employee, and referral to the Attorney General of any evidence of a criminal violation.

(d) Any report required under this section shall be submitted, by the agency head, to the Congress and the President, as well as to the Special Counsel.

(e) The Special Counsel will transmit a copy of the agency head's report to the party who made the disclosure to the Special Counsel, except when the report includes evidence of criminal violations referred to the Attorney General.

§ 1252.3 Referral to agency heads under 5 U.S.C. 1206(b)(7).

If the Special Counsel does not require an investigation by the head of the agency, the agency head shall, within a reasonable time (but no later than 60 days) after the information was transmitted to him by the Special Counsel, review the information, make any inquiry necessary, and inform the Special Counsel, in writing, of what action has been or is to be taken and when such action will be completed. The Special Counsel will inform the complainant of the report of the agency head.

§ 1252.4 Failure of agency head to file report pursuant to § 1252.2.

Whenever the Special Counsel does not receive a required report from an agency head within the time specified in the letter of referral, the Special Counsel may transmit a copy of the information which he sent to the agency head to the President and to the Congress, together with a statement noting the failure of the agency head to file the required report.

§ 1252.5 Review of agency report.

Upon receipt of any report of the head of an agency under §1252.2, the Special Counsel shall review the report and determine whether the findings of the head of the agency appear reasonable and whether the agency's report contains the information required.

§ 1252.6 Foreign intelligence or counterintelligence information.

Any disclosure under this part involving foreign intelligence or counterintelligence information, the disclosure of which is specifically prohibited by law or Executive order, shall be transmitted by the Special Counsel to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

PART 1253—FILING OF COMPLAINTS AND ALLEGATIONS

Sec.

1253.1 Place of filing.
1253.2 Form and content.
1253.3 Withdrawal of complaint.
1253.4 Request for stay of personnel action.
1253.5 Disclosure of identity of complainant or whistleblower.

§ 1253.1 Place of filing.

All complaints, allegations, and information under this subchapter should be submitted to the Office of the Special Counsel, Merit Systems Protection Board, 1717 H Street, NW, Washington, DC 20419, or to the appropriate field office listed below:

450 Golden Gate Avenue, Room 11454, Box 36007, San Francisco, CA. 94102

1100 Commerce Street, Room 9E23, Dallas, Texas 75242

§ 1253.2 Form and content.

(a) Complaints, allegations and information may be submitted in any written form, but should include:

(1) The name and mailing address of the complainant or whistleblower, unless the matter is submitted anonymously;

(2) The department or agency, location and organizational unit complained about;

(3) A concise description of the actions complained about, names and positions of employees who took these actions, if known to the complainant, and dates, preferably in chronological order, together with any documentary evidence the complainant may have;

(4) In the case of any allegation of a prohibited personnel practice, the personnel action, as defined in section 1250.3, that has been taken or is proposed to be taken;

(5) In the case of reprisal for disclosure of information by a whistleblower, the information believed to evidence violation of law, rule, or regulation, mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health or safety and when, to whom, and how or in what form it was disclosed;

(6) In the case of reprisal for exercising appeal rights, the action or specific matter that was appealed or grieved, the procedure involved, dates, and name of official or officer appealed to, and decision on or status of the appeal.

(7) A statement as to whether or not the complainant consents to the Special Counsel revealing the complainant's identity to the agency.

(b) If the complainant or whistleblower does not furnish sufficient information, the Special Counsel may request the complainant to do so before acting on the complaint.

§ 1253.3 Withdrawl of complaint.

A complaint may be withdrawn at any time. However, the Special Counsel may conduct an investigation in the absence of a complaint and withdrawal of a complaint does not necessarily result in termination of the investigation.

§ 1253.4 Request for stay of personnel action.

(a) A request for a stay of personnel action should be submitted to the Special Counsel as early as possible and should include:

(1) Any available documentary evidence of the personnel action taken or to be taken; and

(2) A chronology of facts evidencing a prohibited personnel practice, as defined in § 1250.3 of this subchapter, has occurred or is to be taken.

(b) If possible, the facts supporting a request for a stay of personnel action should be sworn to or affirmed by the complainant.

§ 1253.5 Disclosure of identity of complainant or whistleblower.

(a) The identity of any complainant or whistleblower may not be disclosed without his consent, unless the Special Counsel determines that the disclosure of the identity is necessary in order to carry out his functions.

(b) The Special Counsel will determine to disclose the identity of a comlainant or whistleblower without express consent only if:

(1) It is clear from the submissions of the complainant or whistleblower that his identity has already been disclosed with respect to the matter complained of (*e.g.* where the party has filed a grievance, complaint, or appeal on the matter or reported the matter to the agency inspector general or equivalent official without anonymity), or

(2) Immediate action by the Special Counsel is necessary and there is not sufficient time to secure express consent to disclose identity. In such cases, the complainant or whistleblower will be notified of the disclosure immediately.

PART 1254—PROSECUTIONS

Sec.

1254.1 Complaint.
1254.2 Stay of personnel actions.
1254.3 Enforcement of board decisions.
1254.4 petition for withholding order.
1254.5 Hearings on complaints filed by the Special Counsel.
1254.6 Dismissal by the Special Counsel.

§ 1254.1 Complaint.

The Special Counsel is authorized to file with the Merit Systems Protection Board, a complaint for disciplinary action against an employee, specifying the law, rule, or regulation violated, together with a statement of supporting facts. The rights of employees against whom complaints are filed are set forth in the Board's regulations (5 CFR 1201.124).

§ 1254.2 Stay of personnel actions.

(a) The Special Counsel may request any member of the Board to order a stay of any personnel action for 15 calendar days if the Special Counsel determines that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice. The stay shall be effective on order of the Board member or on the fourth calendar day (excluding Saturdays, Sundays, and legal holidays) following submission of the petition to the Board member provided the Board member does not deny the stay within three calendar days of submittal.

(b) The Special Counsel may request any member of the Board to extend the period of any stay for a period of not more than 30 calendar days.

(c) The Special Counsel may request the Board to order a further extension of the stay for such period as the Board considers appropriate.

§ 1254.3 Enforcement of Board decisions.

(a) If the Special Counsel determines that disciplinary action should be taken against an employee for knowing and willful refusal or failure to comply with an order of the Board, he is authorized to file a complaint setting forth the substance of the violation charged with specificity, including a statement of supporting facts, and to file the complaint with the Board.

(b) The complaint, including the statement of supporting facts, must be served upon the employee at the same time it is filed with the Board.

§ 1254.4 Petition for withholding order.

When the Special Counsel determines that a State or local agency has failed to remove an employee after a decision requiring such action by the Merit Systems Protection Board under 5 U.S.C. 1505, or that the employee was reemployed within 18 months in a State or local agency of the same State, the Special Counsel may initiate proceedings for a witholding order as provided under 5 U.S.C. 1506, by filing a petition for a withholding order with an administrative law judge designated by the Board.

§ 1254.5 Hearings on complaints filed by the Special Counsel.

Any employee against whom the Special Counsel presents a complaint to the Merit Systems Protection Board shall, pursuant to the regulations of the Board, have the right to a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer, to be represented by an attorney or other representative, to a hearing before the Board or an administrative law judge designated by the Board, to have a transcript kept of any hearing, to a written decision and reasons therefor, and a copy of any final order on the complaint.

§ 1254.6 Dismissal by the Special Counsel.

The Special Counsel or his designee may, with leave of the Board or administrative law judge, file a dismissal of all or part of a complaint at any time prior to the close of the hearing before the Board or administrative law judge. Prosecution by the Special Counsel with respect to any of the charges so dismissed shall thereupon terminate.

PART 1255—ANCILLARY MATTERS

Subpart A—Discovery

Sec.
1255.1 Subpenas.
1255.2 Testimony and evidence.
1255.3 Depositions and interrogatories.
1255.4 Witness fees.

Subpart B—Prohibition on Disciplinary Action During Pendency of Investigation by Special Counsel

1255.5 Prohibition on Disciplinary Action During Pendency of Investigation by Special Counsel.

Subpart C—Advisory Opinions; Intervention; Requests to Merit Systems Protection Board to Review Office of Personnel Management Regulations

1255.6 Advisory Opinions.
1255.7 Intervention.
1255.8 Requests to Merit Systems Protection Board to Review Office of Personnel Management Regulations.

Subpart A—Discovery

§ 1255.1 Subpenas.

(a) The Special Counsel may issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia. A subpena may be served by a representative of the Special Counsel, or a U.S. Marshal or Deputy Marshal.

(b) The subpena must be signed by the Special Counsel, or by his designee upon a specific delegation by the Special Counsel. Subpenas may not be signed in blank.

(c) In the case of contumacy or failure to obey a subpena issued by the Special Counsel or his designee, the Special Counsel may request the United States District Court for the judicial district in which the person to whom the subpena is addressed resides, or is served, to issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Upon any failure to obey an order of the court granted pursuant to the application of the Special Counsel, the Special Counsel may request the court to hold the person or persons to whom the order was directed in contempt of court.

(d) Application to a federal court for enforcement of a subpena issued under this section may be made by the Special Counsel or his designee.

§ 1255.2 Testimony and evidence.

(a) Pursuant to Civil Service Rule V (5 CFR 5.4) all officers and employees in the executive branch, or applicants or eligibles for positions therein, shall give to the Special Counsel, or his authorized representative, all information, testimony, and documentary evidence in regard to matters inquired of arising under the laws, rules, and regulations administered by the Special Counsel.

(b) Whenever required by the Special Counsel or his authorized representative, such persons shall subscribe such testimony and make oath or affirmation thereto before an officer authorized by law to administer oaths. Such oath may be administered by any officer or employee of the Office of the Special Counsel authorized to administer such oaths.

§ 1255.3 Depositions and interrogatories.

The Special Counsel may order the taking of depositions and order responses to written interrogatories. Depositions shall be taken before an officer authorized to administer oaths. Reasonable notice shall be given to the person to be deposed concerning the time, place and subject of the deposition. Answers to interrogatories shall be served upon the Special Counsel or his authorized representative within thirty (30) days of the date of receipt of the interrogatories unless an extension of time has been granted by the Special Counsel or his representative.

§ 1255.4 Witness fees.

(a) Except as provided in paragraph (c) of this section, witness fees and mileage allowances shall be paid by the party requesting the witness to appear, or asking for and receiving a subpena requiring the attendance of a witness or the production of documents or other materials, and shall be tendered to the witness or person who is directed to produce documents or other materials along with the subpena, or, if the witness appears voluntarily, at the time of appearance. When the witness is subpenaed or appears at the request of the United States or an officer or agency thereof, fees and mileage need not be tendered with the subpena or prior to the appearance of the witness or production of evidence; payment shall be made by the agency on whose behalf the witness appeared or was subpenaed, upon the certificate of the Special Counsel or his designee that the witness appeared or produced documents or other evidence.

(b) Witness fees and mileage allowances payable under this section shall be the same as those paid subpenaed witness in the courts of the United States, as set forth in section 1821 of title 28, United States Code.

(c) Employees of the Federal Government who appear voluntarily or pursuant to subpena and who appear in official duty status shall not be entitled to any witness fees or mileage allowance (other than that to which they are entitled under the Federal Travel Regulations). All costs relating to federal employee witnesses shall be paid by the agency against whom the complaint or allegation is filed.

Subpart B—Prohibition on Disciplinary Action During Pendency of Investigation by Special Counsel

§ 1255.5 Prohibition on disciplinary action during pendency of investigation by Special Counsel.

During any investigation initiated by the Special Counsel, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity, without the express approval of the Special Counsel.

Subpart C—Advisory Opinions; Intervention; Requests to Merit Systems Protection Board to Review of Office of Personnel Management Regulations

§ 1255.6 Advisory opinions.

The Special Counsel is not authorized to issue any advisory opinion concerning any law, rule, or regulation (other than an advisory opinion concerning chapter 15 of title 5, U.S. Code, dealing with political activity of State and local officers and employees, or subchapter III of chapter 73 of title 5, United States Code, dealing with political activity of Federal officers and employees).

§ 1255.7 Intervention.

The Special Counsel may intervene or otherwise participate in any proceeding before the Merit Systems Protection Board.

§ 1255.8 Request to the Merit Systems Protection Board to review Office of Personnel Management regulations.

The Special Counsel may file a written complaint with the Merit Systems Protection Board, requesting the Board to review the validity of any provision of any rule, or regulation issued by the Director of the Office of Personnel Management. Such complaint shall specify the manner in which application of specific provisions of the rule or regulation has resulted or will result in causing any employee or agency to take a prohibited personnel practice.

PARTS 1256 THROUGH 1259 [RESERVED]

PART 1260—PUBLIC INFORMATION

Sec.
1260.1 Public list.
1260.2 Freedom of Information Act policy.
1260.3 Procedures for obtaining records.
1260.4 Service charge for information.
1260.5 Appeals.
1260.6 Disclosures by authorized officials.

§ 1260.1 Public list.

A public list of certain noncriminal whistleblower allegations and Special Counsel findings of violations of law, rule, or regulation, together with reports and certifications by heads of agencies, pursuant to 5 U.S.C. 1206(b)(3) and (c), is available to the public between 8:30 a.m. and 5:00 p.m., weekdays (except legal holidays) in the Office of the Special Counsel, Room 215, 1717 H Street, NW., Washington, D.C. 20419,

§ 1260.2 Freedom of Information Act policy.

Upon receipt by the Office of the Special Counsel of a request for agency records under the Freedom of Information Act (5 U.S.C. 552) that are reasonably described, the records shall be provided promptly unless it is determined that one or more of the exemptions under subsection (b) of that Act should be applied to withhold the records. See Appendix I, Disclosure Policy of the Office of the Special Counsel.

§ 1260.3 Procedures for obtaining records.

Requests for records may be made in person or in writing and, except in unusual circumstances, a determination shall be made on a request within 10 days (excluding Saturdays, Sundays, and legal holidays). Requests in writing should be addressed to the Office of the Special Counsel, 1717 H Street, NW., Washington, D.C. 20419. Requests in person may be made by appearing at that address during business hours on a regular business day. Requests in writing should be clearly and prominently marked "Freedom of Information Act Request".

§ 1260.4 Service charge for information.

(a) Requests for records of the Office of the Special Counsel are subject to the following fees for search and duplication:

Photocopies, per page, $0.10.

Manual record search, $5.00 per hour.

Where copies of records have already been made available to an individual in the course of agency proceedings or otherwise, the cost of photocopies to that individual or his representative shall be fifteen (15) cents per page. Fees for search and duplication of automated records shall be provided upon request.

(b) Requests that do not specify that whatever fees are involved shall be acceptable or acceptable up to a designated amount will be deemed not received for purposes of the time limits for a determination until the requester, after being promptly notified of the anticipated fees, agrees to payment.

(c) When the anticipated fees exceed fifty ($50.00) dollars, a deposit of twenty (20%) percent of that amount must be made within thirty (30) days after the requester is so advised. Records will not be released until the deposit is received.

§ 1260.5 Appeals.

Any denial, in whole or in part, of a request for records of the Office of the Special Counsel may be appealed to the Special Counsel or his designee. The appeal shall be in writing and addressed to the Special Counsel at 1717 H Street, NW., Washington, D.C. 20419. Except in unusual circumstances, the Special Counsel or his designee shall make a determination on the appeal within twenty (20) days (excluding Saturdays, Sundays, and legal holidays) after it is received. When a request is denied on appeal, the requester shall be advised of his right to seek judicial review.

§ 1260.6 Disclosures by authorized official.

No employee or former employee of the Office of the Special Counsel shall, in response to a demand of a court or other authority, produce or disclose any information or records acquired as part of the performance of his official duties or because of his official status without the prior approval of the appropriate offical of the Office of the Special Counsel. This section does not apply in cases where the Government is a party.

PART 1261—PRIVACY

Sec.
1261.1 Records maintained on individuals.
1261.2 Access to records and identification.
1261.3 Medical records.
1261.4 Requests for amendment of records.
1261.5 Appeals.
1261.6 Exemptions.
Appendix I—Disclosure Policy of the Office of the Special Counsel.

Authority: 5 U.S.C. 522a.

§ 1261.1 Records maintained on individuals.

Information on individuals that are maintained in any group or system of records by the Office of the Special Counsel and which are retrieved by the name of the individual or some identifying particular assigned to the individual, is subject to the Privacy Act (5 U.S.C. 552a). The terms used in this part that are defined in that section shall have the meanings set forth therein.

§ 1261.2 Access to records and identification.

(a) Individuals may request access to records pertaining to them that are maintained as described in section 1261.1 by addressing an inquiry to the Office of the Special Counsel either by mail or by appearing in person at the offices of the Special Counsel at 1717 H Street, NW., Washington, D.C. 20419, during business hours on a regular business day. Requests in writing should be clearly and prominently marked "Privacy Act Request". Requests for copies of records shall be subject to duplication fees set forth in § 1260.4 of this subchapter.

(b) Individuals making a request in person shall be required to present satisfactory proof of identity, preferably a document bearing the individual's photograph. Requests by mail or submitted other than in person should contain sufficient information to enable the Office of the Special Counsel to determine that the requester and the subject of the record are one and the same. To assist in this process, individuals should submit their name and address, date and place of birth, social security number, and any other known identifying information such as an agency file number or identification number and a description of the circumstances under which the records were compiled.

§ 1261.3 Medical records.

When a request for access involves medical records that are not otherwise exempt from disclosure, the requesting individual may be advised, if it is deemed necessary, that the records will be provided only to a physician designated in writing by the individual. Upon receipt of the designation, the physician will be permitted to review the records or to receive copies by mail upon proper verification of identity.

§ 1261.4 Requests for amendment of records.

Individuals may request amendment of records pertaining to them that are subject to this part. Requests should be addressed, in writing, to the Special Counsel and be clearly and prominently marked "Privacy Act Request". Requests for amendment should include identification of the records together with a statement of the basis for the requested amendment and all available supporting documents and materials. Requests for amendment shall be acknowledged not later than ten (10)

days (excluding Saturdays, Sundays, and legal holidays) after receipt and a determination on the request shall be made promptly.

§ 1261.5 Appeals.

When a request for access or amendment has been denied, a written appeal may be submitted to the Special Counsel or his designee. A final determination on the appeal shall be issued within thirty (30) days (excluding Saturdays, Sundays, and legal holidays) after receipt. Where unusual circumstances prevent a determination within that time period, the time for a determination may be extended an additional thirty (30) working days after the requesting individual has been advised in writing of the reasons for the extension and the estimated date a determination will be made. Where the final determination denies a request for amendment, the requesting individual shall be notified of his right to file a concise statement of reasons for disagreeing with the final determination. A copy of the statement shall be appended to the disputed record and provided to persons to whom the record is disclosed and to prior known recipients of the record. The Office of the Special Counsel may also attach to the statement a concise account of its reasons for not making the amendments requested. The final determination shall contain a notice of the right to judicial review.

§ 1261.6 Exemptions.

The Office of the Special Counsel may claim exemptions from the provisions of the Privacy Act at subsections (c)(3) and (d) as permitted by subsection (k) for records subject to the Act that fall within the category of investigatory material described in paragraphs (2) and (5) and testing or examination material described in paragraph (6) of that subsection. The exemptions for investigatory material are necessary to prevent frustration of inquiries into allegations of prohibited personnel practices or political activity and to protect identities of confidential sources of information. The exemption for testing or examination material is necessary to prevent the disclosure of information which would potentially give an individual an unfair competitive advantage or diminish the utility of established examination procedures. The Office of the Special Counsel also reserves the right to assert exemptions for records received from another agency that could be properly claimed by that agency in responding to a request and the Office of the Special Counsel may refuse access to information compiled in reasonable anticipation of a civil action or proceeding.

PARTS 1262 THROUGH 1269 [RESERVED]

Appendix I to Part 1261.—Disclosure Policy of the Office of the Special Counsel.

A. *General Statement of Policy.* The purpose of this statement is to express the policies of the Office of the Special Counsel regarding the disclosure of information about cases handled by the office in order to both protect the rights of individuals involved and meet the legitimate informational needs of the public through responsible disclosure.

The Office of the Special Counsel has broad statutory authority to receive and investigate allegations of prohibited personnel practices and certain disclosures of information ("whistleblowing"). To carry out these responsibilities, the identity of persons who provide information and cooperate during an investigation must be protected. Unless the Special Counsel can be assured of a free flow of information from complainants, witnesses, and agencies, the investigative and enforcement functions of the Office of the Special Counsel cannot be discharged in an effective and timely manner. If complainants and witnesses are subjected to reprisal, intimidation, or coercion, they may refuse to come forward with complaints and be hesitant to cooperate.

In the same vein, unless agency management officials feel confident that they will not be subjected to embarrassment and unfair publicity based on unwarranted disclosure of complaints and charges, cooperation from agencies may be limited to only that required by law.

At the same time, complainants and the Congress, as well as interested members of the public and press, should be kept fully informed about activities of the Special Counsel and the disposition of matters brought to his attention. The legislation creating the Office of the Special Counsel contains specific statutory mechanisms for disclosure of information to Congress, complainants, and the public. The legislation also contains restrictions on disclosure of information.

Where there appears to be a conflict between the enabling legislation of the Office of the Special Counsel and other statutes governing disclosure and nondisclosure of information, it shall be the policy of the Special Counsel to favor the former where such an interpretation is necessary to carry out its investigative and enforcement functions absent a well-defined and overriding public interest.

B. *Protecting the Identity of Complainants.* The Special Counsel is precluded from disclosing the identity of a complainant without his consent unless it is determined that disclosure is necessary in order to carry out the Special Counsel's functions. Where circumstances surrounding an investigation create a likelihood that the identity of the complainant may become known, the Special Counsel will weigh the public interest in proceeding with the investigation (based on the seriousness of the charges involved and the likelihood of obtaining corrective action) against the possibility of harm to the complainant arising from disclosure of his identity. Except where it would jeopardize the likelihood of success in investigation and enforcement, the complainant will be notified when disclosure of the complainant's identity appears imminent.

C. *Protecting the identity of Witnesses.* It shall be the policy of the Special Counsel to protect the identity of witnesses and sources of information who cooperate during an investigation. However, witnesses who provide affidavits or sworn statements will ordinarily be advised that the affidavit or statement is given without a pledge of confidentiality to the extent that it may be used in a proceeding or for official action arising from the investigation. Agency officials and other interested persons shall not, as a matter of right, be given access to statements of witnesses or information from sources collected by the Special Counsel during an investigation.

D. *Protecting the Privacy of Persons Named in an Investigation.* While an investigation is pending, disclosure of the identity of persons who are being investigated shall be limited to disclosures necessary to proceed with the investigation. When an investigation has been terminated, disclosure of information that would reveal the identity of persons associated with the investigation will be based on a determination of how the public interest would be served by disclosure when balanced against the invasion of personal privacy involved. Unless and until an agency official or employee is formally charged with a violation, the focus of the investigation, for disclosure purposes, shall be on prohibited personnel practices or violations of law of the agency concerned. The identity of a person together with the nature of the charges will be revealed when he is made the subject of a written complaint by the Special Counsel or an agency charging violations of law or prohibited personnel practices.

E. *Access to Information by the Complainant.* The Special Counsel will take reasonable steps to assure that a complainant is advised of the status of an investigation and is given the opportunity to provide information relevant to the investigation. When an investigation is terminated by the Special Counsel, the complainant whose allegation led to the investigation will be advised in writing why the investigation was terminated and the reasons for termination. Where the information provided results in an agency report at the direction of the Special Counsel, the report will be transmitted to the complainant, except when it contains evidence of a criminal violation or when disclosure of the information involved is specifically prohibited by law.

If the information provided by the complainant evidences a violation and the Special Counsel transmits the information *to* the agency head but does not require an investigation, the Special Counsel will inform the complainant in writing of the matters reported *by* the agency head.

F. *Access to Information by Employees Subjected to Disciplinary Action.* When the Special Counsel determines that disciplinary

action should be taken against any employee and has prepared and presented a complaint against the employee together with a statement of supporting facts to the employee and the Merit Systems Protection Board, the employee shall be entitled to review the documents and records relied upon to support the disciplinary action.

Access to the identity of a complainant or sources of information consulted during the investigation leading to the disciplinary action will not routinely be made available. Where the circumstances surrounding the proposal for disciplinary action and the information relied upon to support the complaint make it apparent that the employee should be entitled to such information as a matter of due process, access to the identity of the complainant or sources of information will be granted, as necessary, to meet this standard after the complaint against the employee is served on the employee and Merit Systems Protection Board.

G. *Disclosure of Information to Congress.* By statute, when the Special Counsel requires an agency to conduct an investigation and submit a written report within 60 days after a determination that there is a substantial likelihood of prohibited matters within its authority, the report shall be submitted to the Congress, to the President, and to the Special Counsel for transmittal to the complainant.

Agencies that are directed to submit a report under this authority shall transmit the report directly to the President of the Senate and the Speaker of the House of Representatives to satisfy the reporting requirement to Congress.

When any Member of Congress requests access to records or reports prepared by the Office of the Special Counsel or at its direction, and disclosure is not prohibited by law or Executive order, the records or reports requested, depending on the source of the request, shall be transmitted to the oversight committee for the Office of the Special Counsel in the House of Representatives or the oversight committee for the Office of the Special Counsel in the Senate, to be transmitted to the Member.

H. *Disclosure of Information Pertaining to a Pending Investigation.* While an investigation is pending, the Special Counsel will disclose the following information to a member of the public, generally only upon a written request, except where to do so would interfere with enforcement proceedings, constitute an unwarranted invasion of personal privacy or disclose the identity of the complainant:

(1) Confirmation that an investigation of the matter described by the requester is pending, including the name and location of the agency or agencies involved;

(2) The nature of the matters under investigation;

(3) A description of any formal action taken by the Special Counsel.

Generally, any request for access to records or documents pertaining to an investigation will be denied while the investigation is pending.

I. *Public Disclosure of Noncriminal Matters.* In the public interest, the Office of the Special Counsel has statutory authority to make available to the public a list of noncriminal matters referred to heads of agencies together with the reports and certifications by heads of agencies specified by statute.

The list available to the public shall contain the following information in chronoligical sequence:

(1) The nature of the matter;

(2) The name and location of the agency involved;

(3) The disposition of the matter, including a description of any corrective action ordered;

(4) The names and position titles of any agency officals or employees disciplined by adverse action or by action of the Special Counsel, together with the nature of the action arising from the matter.

The information contained in the list together with any related reports or certifications shall be made available within 10 calendar days after final action by the Special Counsel in the matter.

J. *Control of Records.* Records, reports and related materials prepared by or submitted to the Office of the Special Counsel shall be subject to the exclusive control of the Office of the Special Counsel for purposes of disclosure. Any request for access to such records or reports shall be referred to the Special Counsel. When the request for access to reports or records prepared by agencies involves information that may be lawfully protected from disclosure, the Special Counsel will, where practicable, consult with the agency involved. Requests for access to reports or records of an agency in the custody of the Office of the Special Counsel, but not under its control as described above, shall be referred to the agency concerned.

[FR Doc. 79-38919 Filed 12-20-79; 8:45 am]

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days (excluding Saturdays, Sundays, and legal holidays) after receipt and a determination on the request shall be made promptly.

§ 1261.5 Appeals.

When a request for access or amendment has been denied, a written appeal may be submitted to the Special Counsel or his designee. A final determination on the appeal shall be issued within thirty (30) days (excluding Saturdays, Sundays, and legal holidays) after receipt. Where unusual circumstances prevent a determination within that time period, the time for a determination may be extended an additional thirty (30) working days after the requesting individual has been advised in writing of the reasons for the extension and the estimated date a determination will be made. Where the final determination denies a request for amendment, the requesting individual shall be notified of his right to file a concise statement of reasons for disagreement with the final determination. A copy of the statement shall be appended to the disputed record and provided to persons to whom the record is disclosed and to prior known recipients of the record. The Office of the Special Counsel may also attach to the statement a concise account of its reasons for not making the amendments requested. The final determination shall contain a notice of the right to judicial review.

§ 1261.6 Exemptions.

The Office of the Special Counsel may claim exemptions from the provisions of the Privacy Act at subsections (c)(3) and (d) as permitted by subsection (k) for records subject to the Act that fall within the category of investigatory material described in paragraphs (2) and (5) and testing or examination material described in paragraph (6) of that subsection. The exemptions for investigatory material are necessary to prevent frustration of inquiries into allegations of prohibited personnel practices or political activity and to protect identities of confidential sources of information. The exemption for testing or examination material is necessary to prevent the disclosure of information which would potentially give an individual an unfair competitive advantage or diminish the utility of established examination procedures. The Office of the Special Counsel also reserves the right to assert exemptions for records received from another agency that could be properly claimed by that agency in responding to a request and the Office of the Special Counsel may refuse access to

federal register

Friday
December 21, 1979

Part IV

Environmental Protection Agency

Petroleum Refining Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 419

[FRL 1312-1]

Petroleum Refining Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed regulation.

SUMMARY: EPA proposes regulations to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities which are engaged in refining petroleum. These facilities are defined more specifically as those classed by the Bureau of the Census in Standard Industrial Classification (SIC) 2911. The purpose of this proposal is to provide effluent limitations guidelines for "best available technology," and "best conventional technology," and to establish new source performance standards and pretreatment standards under the Clean Water Act.

The effect of these regulations on the petroleum refining industry would be to require pretreatment of process wastewaters introduced into publicly owned treatment works (POTWs) and treatment of process wastewaters discharged to waters of the United States. After considering comments received in response to this proposal, EPA will promulgate a final rule.

The Supplementary Information section of this preamble describes the legal authority and background, the technical and economic bases, and other aspects of the proposed regulations. That section also summarizes comments on a draft technical document circulated on April 21, 1978, and solicits comments on specific areas of interest. The abbreviations, acronyms, and other terms used in the Supplementary Information section are defined in Appendix A to this notice.

These proposed regulations are supported by three major documents available from EPA. Analytical methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants.* EPA's techincial conclusions are detailed in the *Development Document for Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Petroleum Refining Point Source Category.* The Agency's economic analysis is found in *Economic Analysis of Proposed Revised Effluent Standards and Limitations for the Petroleum Refining Industry.*

DATE: Comments on this proposal must be submitted on or before February 19, 1980.

ADDRESS: Send comments to: Mr. William A. Telliard, Effluent Guidelines Division (WH–552), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. Attention: EGD Docket Clerk, Petroleum (WH–552). The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM–213, (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Technical information and copies of technical documents may be obtained from Mr. William A. Telliard, (202) 755–7733 at the address listed above. The economic analysis may be obtained from Mr. Louis DuPuis, Water Economics Branch (WH–586), Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460, (202) 755–7733.

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I. Legal Authority

The regulations described in this notice are proposed under authority of sections 301, 304, 306, 307, 308, and 501

of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95–217) (the "Act"). These regulations are also proposed in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified March 9, 1979 and in response to the decision of the United States Court of Appeals in *American Petroleum Institute* v. *EPA* 540 F. 2d 1023 (10th Cir. 1976).

II. Background

(a) The Clean Water Act. The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological intergrity of the Nation's waters." Section 101(a). By July 1, 1977, existing industrial dischargers were required to achieve "effluent limitations requiring the application of the best practicable control technology currently available" (BPT), Section 301(b)(1)(A); and by July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable . . . which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" (BAT), section 301(b)(2)(A). New industrial direct dischargers were required to comply with section 306 new source performance standards (NSPS), based on best available demonstrated technology; and new and existing dischargers to publicly owned treatment works (POTWs) were subject to pretreatment standards under sections 307 (b) and (c) of the Act. While the requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under section 402 of the Act, pretreatment standards were made enforceable directly against dischargers to POTWs (indirect dischargers).

Although section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct dischargers on a case-by-case basis, Congress intended that, for the most part, control requirements would be based on regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, sections 304(c) and 306 of the Act required promulgation of regulations for NSPS, and sections 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industry categories, Section 307(a) of the Act required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

EPA was unable to promulgate many of these regulations by the dates contained in the Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the Court. This Agreement required EPA to develop a program and adhere to a schedule for promulgating for 21 major industries BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 65 "priority" pollutants and classes of pollutants. See *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified March 9, 1979.

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the federal water pollution control program, its most significant feature is its incorporation into the Act of several of the basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984, of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 "priority" pollutants and classes of pollutants which Congress declared "toxic" under Section 307(a) of the Act. Likewise, EPA's programs for new source performance standards and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, Congress added section 304(e) to the Act, authorizing the Administrator to prescribe "best management practices" (BMPs) to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

In keeping with its emphasis on toxic pollutants, the Clean Water Act of 1977 also revised the control program for non-toxic pollutants. Instead of BAT for "conventional" pollutants identified under section 304(a)(4) (including biological oxygen demand, suspended solids, fecal coliform and pH), the new section 301(b)(2)(E) requires achievement by July 1, 1984, of "effluent limitations requiring the application of the best conventional pollutant control technology" (BCT). The factors considered in assessing BCT for an industry include the costs of attaining a reduction in effluents and the effluent reduction benefits derived compared to the costs and effluent reduction benefits from the discharge of publicly owned treatment works (Section 304(b)(4)(B)). For non-toxic, nonconventional pollutants, sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of these proposed regulations is to provide effluent limitations guidelines for BAT and BCT, and to establish NSPS, pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS), under Sections 301, 304, 306, 307, and 501 of the Clean Water Act.

(b) Prior EPA Regulations. EPA promulgated BPT, BAT, NSPS, and PSNS for the Petroleum Refining point source category on May 9, 1974 (39 FR 16560, Subparts A–E). The BPT, BAT, and NSPS regulations were challanged in the courts by the American Petroleum Institute and others. Both BPT and NSPS were upheld by the court, but BAT was remanded for further consideration. Interim final PSES were promulgated on March 23, 1977 (42 FR 15684) in response to the Settlement Agreement.

The regulations proposed in this notice will supersede existing NSPS, PSNS and PSES. These proposed regulations will also establish BAT and BCT.

(c) Overview of the Industry. The petroleum refining industry is defined by Bureau of the Census Standard Industrial Classification (SIC) 2911. The raw material of this industry is petroleum material (generally, but not always, crude oil). Petroleum refineries process this raw material into a wide variety of petroleum products, including gasoline, fuel oil, jet fuel, heating oils and gases and petrochemicals. Refining includes a wide variety of physical separation and chemical reaction processes. The Development Document lists over one hundred processes used in the petroleum refining industry. Because of the diversity and complexity of the processes used and the products

produced, petroleum refineries are generally characterized by the quantity of raw material processed, rather than by the quantity and types of products produced.

EPA has identified 285 petroleum refineries in the United States and its possessions. The smallest refinery can refine fifty barrels of oil per day (one barrel equal 42 gallons), while the largest can refine 665,000 barrels per day.

The U.S. refining industry processes a total of about 15 million barrels per day. However, industry growth has slowed in recent years due to a number of factors including efforts to conserve petroleum supplies and competition from foreign suppliers. Growth has averaged about five percent per year and has resulted largely from additions to existing refineries rather than by construction of new ones. Largely because of encouragement from the Department of Energy's crude oil allocation program, a limited number of small, new refineries have been constructed. The ratio of growth in U.S. refining capacity by additions to existing refineries to the growth by construction of new refineries has been approximately 3.5 to 1.

The major sources of process wastewater are cooling water, water used to wash unwanted materials from a process stream, water used as part of a reaction process, and boiler blowdowns. Current treatment systems used by refineries for this process wastewater include (a) in-plant controls of ammonia and water use, and (b) end-of-pipe treatment consisting of oil/water separators, biological treatment and, in some cases, mixed media filtration. Although significant concentrations of toxic and other pollutants are found in untreated waste, data show that application of BPT results in substantial reduction of pollutants. Toxic pollutants were reduced to near or below the concentrations which can be accurately measured using available measurement techniques.

III. Scope of This Rulemaking and Summary of Methodology

These proposed regulations open a new chapter in water pollution control requirements for the petroleum refining industry. In EPA's 1973–1976 round of rulemakings, emphasis was placed on the achievement of best practicable technology (BPT) by July 1, 1977. In general, this technology level represented the average of the best existing performances of well known technologies for control of pollutants of traditional concern.

In this round of rulemaking, in contrast, EPA's efforts are directed toward insuring the achievement by July 1, 1984, of the best available technology economically achieveable (BAT), which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants. In general, this technology level represents, at a minimum, the very best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of a lengthy list of toxic substances.

In the 1977 legislation, Congress recognized that it was dealing with areas of scientific uncertainty when it declared the 65 "priority" pollutants and classes of pollutants "toxic" under section 307(a) of the Act. The "priority" pollutants have been relatively unknown outside of the scientific community, and those engaged in wastewater sampling and control have had little experience dealing with these pollutans. Additionally, these pollutants ofter appear and have toxic effects at concentrations which severly tax current analytical techniques. Even though Congress was aware of the state-of-the-art difficulties and expense of "toxics" control and detection, it directed EPA to act quickly and decisively to detect, measure and regulate these substances. Thus, with the passage of the 1977 legislation, the Nation's water pollution control program was thrust toward the frontiers of science.

EPA's implementation of the Act required a complex development program described in this section and succeding sections of this notice. Initially, because in many cases no public or private agency had done so, EPA and its laboratories and consultants had to develop analytical methods for toxic pollutant detection and measurement, which are discussed under Sampling and Analytical program. EPA then gathered technical and financial data about the industry, which are summarized under Data Gathering Efforts. With these data in hand, the Agency proceeded to develop these proposed regulations.

First, EPA studied the petroleum refining industry to determine whether differences in raw materials, final products, manufacturing processes, equipment, age and size of plants, water usage, wastewater constituents, or other factors required the development of separate effluent limitations and standards for different segments of the industry. This study included the identification of raw waste and treated effluent characteristics including: (1) the sources and volume of water used, the processes employed, and the sources of pollutants and wastewaters in the plant, and (2) the constituents of wastewaters, including toxic pollutants. EPA then identified the constitutents of wastewaters which should be considered for effluent limitations guidelines and standards of performance.

Next, EPA identified several distinct control and treatment technologies, including both in-plant and end-of-process technologies, which are in use or capable of being used in the petroleum refining industry. The Agency compiled and analyzed historical data and newly generated data on the effluent quality resulting from the application of these technologies. The long term performance and operational limitations of each of the treatment and control technologies were also identified. In addition, EPA considered the nonwater quality environmental impacts of these technologies, including impacts on air quality, solid waste generation, and energy requirements.

The Agency then estimated the costs of each control and treatment technology from unit cost curves developed by standard engineering analysis as applied to petroleum refining wastewater characteristics. EPA derived treatment process costs from plant characteristics (production and flow) applied to each treatment process unit cost curve (i.e., powdered activated carbon, metals precipitation, etc.). These unit process costs were added to yield total cost at each treatment level. The Agency evaluated the economic impacts of these costs. (Costs and economic impacts are discussed in detail under the various technology options, and in the section of this notice entitled Costs, Effluent Reduction Benefits and Economic Impacts).

Upon consideration of these factors EPA identified various control and treatment technologies as BCT, BAT, PSES, PSNS, and NSPS. The proposed regulations, however, do not require the installation of any particular technology. Rather, they require achievement of effluent limitations representative of the proper operation of these technologies or equivalent technologies.

The effluent limitations for BAT, BCT and NSPS are expressed as mass limitations (kg/1000 cubic meters raw material) and are calculated by multiplying three figures: (1) achievable long term effluent concentrations based on each control technology (2) achievable wastewater flow and (3) variability factors to account for short term variations in effluent

concentrations (daily and monthly variations). This basic calculation was performed for each regulated pollutant or pollutant parameter. Effluent limitations for PSES and PSNS are expressed as allowable concentrations in milligrams per liter (mg/l). For POTWs which may wish to impose mass limitations, the proposed regulations provide alternate equivalent mass limitations.

IV. Sampling and Analytical Program

As Congress recognized in enacting the Clean Water Act of 1977, the state-of-the-art ability to monitor and detect toxic pollutants is limited. Most of the toxic pollutants were relatively unknown until only a few years ago, and only on rare occasions has EPA regulated or has industry monitored or even developed methods to monitor for these pollutants. As a result, analytical methods for many toxic pollutants, under Section 304(h) of the Act, have not yet been promulgated. Moreover, state-of-the-art techniques involve the use of highly expensive, sophisticated equipment, with costs ranging as high as $200,000 per unit of equipment.

When faced with these problems, EPA scientists, including staff of the Environmental Research Laboratory in Athens, Georgia and staff of the Environmental Monitoring and Support Laboratory in Cincinnati, Ohio conducted a literature search and initiated a laboratory program to develop analytical protocols. The analytical techniques used in this rulemaking were developed concurrently with the development of general sampling and analytical protocols and were incorporated into the protocols ultimately adopted for the study of other industrial categories. See *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants,* revised April 1977.

Because section 304(h) methods were available for most toxic metals, pesticides, cyanide and phenol, the analytical effort focused on developing methods for sampling and analyses of organic toxic pollutants. The three basic analytical approaches considered by EPA were infra-red spectroscopy, gas chromatography (GC) with multiple detectors, and gas chromatography/mass spectrometry (GC/MS). In selecting among these alternatives, EPA considered their sensitivity, laboratory availability, costs, applicability to diverse waste streams from numerous industries, and capability for implementation within the statutory and court-ordered time constraints of EPA's program. The Agency concluded that infra-red spectroscopy was not sufficiently sensitive or specific for application in water. GC with multiple detectors was rejected because it would require multiple runs and be incompatible with program time constraints. Moreover, because this method would use several detectors, each applicable to a narrow range of substances, GC with multiple detectors possibly would fail to detect certain toxic pollutants. EPA chose GC/MS because it was the only available technique that could identify a wide variety of pollutants in many different waste streams, in the presence of interfering compounds, and within the time constraints of the program. In EPA's judgment, GC/MS and the other analytical methods for toxics used in this rulemaking represent the best state-of-the-art methods for toxic pollutant analyses available when this study was begun.

As the state-of-the-art began to mature, EPA began to refine the sampling and analytical protocols, and intends to continue this refinement to keep pace with technology advancements. Resource constraints, however, prevent EPA from reworking completed sampling and analyses to keep up with the evolution of analytical methods. As a result, the analytical techniques used in some rulemakings may differ slightly from those used in other rulemaking efforts. In each case, however, the analytical methods used represent the best state-of-the-art available for a given industry study. One of the goals of EPA's analytical program is the promulgation of additional section 304(h) analytical methods for toxic pollutants, scheduled to be done within calendar year 1979.

Before proceeding to analyze petroleum refining wastes, EPA concluded that it had to define specific toxic pollutants for analyses. The list of 65 pollutants and classes of pollutants potentially includes thousands of specific pollutants; and the expenditure of resources in government and private laboratories would be overwhelming if analyses were attempted for all of these pollutants. Therefore, in order to make the task more manageable, EPA selected 129 specific toxic pollutants for study in this rulemaking and other industry rulemakings. The criteria for selection of these 129 pollutants included frequency of occurrence in water, chemical stability and structure, amount of chemical produced, availability of chemical standards for measurement, and other factors.

EPA ascertained the presence and magnitude of the 129 specific toxic pollutants in petroleum refining wastewaters in a sampling and analysis program involving 23 refineries and two POTWs. The plants were selected primarily to be representative of the manufacturing processes, the prevalent mix of production among plants, and the current treatment technology in the industry. Compliance with BPT requirement is also one of the site selection criteria. Seventeen of these plants were direct dischargers and six were indirect dischargers.

The primary objective of the field sampling program was to obtain composite samples of wastewater to determine presence, absence and relative concentrations of toxic pollutants. Sampling visits were made to correspond to three consecutive days of plant operation. Raw wastewater samples were taken prior to biological treatment. Treated effluent samples were taken subsequent to biological treatment; in some instances samples were taken after effluent polishing (i.e., polishing pond, sand filter). EPA also sampled intake water to determine the presence of toxic pollutants prior to contamination by refining processes.

In all instances, grab samples taken every two hours were combined into twenty-four hour composites. Samples for conventional and nonconventional pollutants were obtained from the 24-hour composite samples. Aliquots from the remaining sample volumes were combined in equal portions at the laboratory to obtain the 72-hour composites for toxic pollutant analysis (acid and base-neutral extractable organics, pesticides, metals). Grab samples were taken in specially prepared vials for volatile (purgeable) organics, total phenols and cyanide. Prior to the plant visits, sample containers were carefully washed and prepared by specific methods, depending upon the type of sample to be taken. Samples were kept on ice prior to express shipment in insulated containers.

The analyses for toxic pollutants were performed according to groups of chemicals and associated analytical schemes. Organic toxic pollutants included volatile (purgeable), base-neutral and acid (extractable) pollutants, total phenols and pesticides. Inorganic toxic pollutants included heavy metals, cyanide and asbestos.

The primary method used in screening and verification of the volatiles, base-neutral, and acid organics was gas chromatography with confirmation and quantification of all priority pollutants by mass spectrometry (GC/MS). Total phenols were analyzed by the 4–AAP method. GC was employed for analysis of pesticides with limited MS

confirmation. The Agency analyzed the toxic heavy metals by atomic adsorption spectrometry (AAS), with flame or graphite furnace atomization following appropriate digestion of the sample. Duplicate samples were analyzed using plasma emission spectrometry after appropriate digestion. Samples were analyzed for cyanides by a colorimetric method, with sulfide previously removed by distillation. Analysis for asbestos was accomplished by microscopy and fiber presence reported as chrysotile fiber count. Analyses for conventional pollutants (BOD5, TSS, pH, and Oil and Grease) and nonconventional pollutants (TOC and COD) were accomplished using "Methods for Chemical Analysis of Water and Wastes," (EPA 625/6–74–003) and amendments.

The high costs, slow pace and limited laboratory capability for toxic pollutant analyses posed difficulties unique to EPA's experience. The cost of each wastewater analysis for organic toxic pollutants ranges between $650 and $1,700, excluding sampling costs (based upon quotations recently obtained from a number of analytical laboratories). Even with unlimited resources, however, time and laboratory capability would have posed additional constraints. Although efficiency has been improving, when this study was initiated a well-trained technician using the most sophisticated equipment could perform only one complete organic analysis in an eight hour work day. Moreover, when this rulemaking study was begun there were only about 15 commercial laboratories in the United States with sufficient capability to perform these analyses. Today there are about 50 commercial laboratories known to EPA which have the capability to perform these analyses, and the number is increasing as the demand for such capability also increases.

In planning data generation for this rulemaking, EPA considered requiring dischargers to perform monitoring and analyses for toxic pollutants under Section 308 of the Act. The Agency refrained from using this authority in developing these regulations because it desired to keep direct control over sample analyses due to the developmental nature of the methodology and the need for close quality control. Additionally, EPA believed that the slow pace and limited laboratory capability for toxic pollutant analyses would have hampered a mandatory sampling and analytical effort. Although EPA believes that the available data support these regulations, the Agency would have preferred a larger data base for some of the toxic pollutants and will continue to seek additional data. EPA will periodically review these regulations, as required by the Act, and make any revisions supported by new data. In developing these regulations, moreover, EPA has taken a number of steps to deal with the limits of science and available data.

V. Data Gathering Efforts

The data gathering effort is described in detail in Section IV of the Development Document. The effort consisted of two general phases—technical questionnaires sent to each of the refineries and sampling and analysis of wastewater streams at selected refineries.

(a) Technical Questionnaires. The purpose of the technical questionnaires was to characterize the industry and thus identify those factors which, pursuant to section 304 of the Act, must be considered in setting effluent limitations based on BAT, BCT, NSPS, PSES and PSNS. Questionnaires were sent to 299 facilities believed to be included in the petroleum refining point source category. Two hundred sixty completed questionnaires were returned; 25 did not return completed questionnaires and 14 claimed not to be operating refineries.

In addition to the engineering data needed to establish effluent limitations in accordance with the Act, the Agency also asked the refineries for any analytical data they may have collected measuring the presence and quantities of both traditional and toxic pollutants. It also asked the refineries to identify any raw materials used which could be a source of toxic pollutant discharge. The questions about raw materials were intended to form a basis for possible best management practices (BMP) regulations. BMP regulations might specify that alternate methods or raw materials be utilized to reduce or eliminate discharges of toxic pollutants (for example, in the refining industry, the use of organophosphate materials as biocides in cooling towers could be specified to replace the ones commonly used which contain chromium and zinc).

Although data existed on the presence and quantity of traditional pollutant parameters, very little data existed on either the presence or quantity of toxic pollutants. The major exceptions were the metallic toxic pollutants and phenol—many of which had been monitored as a result of previous water pollution abatement requirements.

(b) Sampling and Analysis. EPA selected seventeen direct discharging refineries to sample for the presence and concentration of toxic pollutants in untreated process wastewaters and to sample for the efficiency of current treatment methods in reducing the quantities of these pollutants. The seventeen refineries represent a range of the factors required for consideration by EPA in setting effluent limitations, including size, location and age of equipment and facilities. EPA also selected six of the seventeen refineries to determine the effectiveness of granular activated carbon in further reducing amounts of toxic pollutants after presently used treatment but before discharge to waters of the United States. In addition, the effluent from four of the six plants with activated sludge processes were tested to determine the effectiveness of powdered activated carbon. No refineries currently use either of these treatments; EPA therefore installed the equipment to treat a portion of these refineries' effluent. EPA also took samples of the intake water source from all of the direct discharging refineries. The samples were intended to determine what percentage, if any, of the toxic pollutants in a plant's untreated effluent was attributable to its presence in the intake water. In addition to the 17 refineries sampled by RSKERL, Effluent Guidelines Division and its contractors, 8 refineries were sampled by teams from Surveillance and Analysis Divisions in EPA regional offices. These teams sampled the refineries in the course of their checks of facilities for compliance with current wastewater treatment requiremens; the data collected was used to supplement other sources of information.

EPA also selected for sampling and analysis six indirect discharging refineries and the two POTWs into which they discharge. One POTW was a secondary plant (i.e., with biological treatment) and one was a primary plant (i.e., without biological treatment). The intent of this analysis was to determine the presence and concentration of toxic pollutants being discharged to POTWs by indirect discharging refineries and to measure the effectiveness of POTWs in removing these pollutants prior to their discharge into the waters of the United States. Additionally, the study involved sampling and analysis of the sludges produced by the POTWs.

During the above described sampling program, replicate samples at nine of the direct discharging refineries, three of the indirect discharging refineries, and one of the POTWs were given to representatives of the American Petroleum Institute and/or the company. These samples were analyzed separately by the industry and the results of the analyses at the nine direct discharging refineries have been made

available to EPA by the American Petroleum Institute. Analyses of the duplicate samples from the POTW sampling program have not yet been reported to EPA.

(c) Results.—(1) Analytical Results. The analytical data obtained on the concentration of toxic pollutants show significant concentrations of these pollutants in untreated refinery wastewaters. They include, among others, volatile and extractable organics, heavy metals, and cyanide. Results of analyses for traditional pollutant parameters also confirm the findings of the previous study that significant concentrations of traditional pollutant parameters are found in untreated refinery wastes.

During trhe sampling and analysis phase of the data gathering effort, EPA found that BPT treatment substantially reduces toxic pollutant concentrations. Most toxic pollutants are reduced to near or below the concentrations considered accurate for use in the Analytical Protocol developed by the Agency. Discharge of toxic pollutants into U.S. waters continues after BPT treatment, however, even though at much reduced concentrations from that of untreated effluent. Appendix D is a list of toxic pollutants which were found in treated effluents at more than one refinery in concentrations greater than nominal analytical detection limits and in concentrations greater than in the intake water source. Also included in Appendix D are those pollutants found in only one refinery but which could not be attributed to factors unique to that refinery (See discussion of POLLUTANTS NOT REGULATED below).

Analytical results were compared to those reported by the American Petroleum Institute (API) from the duplicate samples taken at nine of the 17 refineries sampled by EPA. While the quantitative concentrations measured by the industry generally differed from those reported by EPA contract laboratories (industry concentrations show a tendancy to be higher than EPA concentrations), the conclusion drawn from the industry data is the same as EPA's. Industry data confirm that substantial concentrations of toxic pollutants are discharged in untreated refinery wastes; that BPT treatment makes substantial reductions in priority pollutant concentrations; and that toxic pollutants are still being discharged to the waters of the United States after BPT treatment.

Results of the analyses of samples taken from the two POTWs show that secondary POTWs reduce the concentration of the toxic pollutants discharged by refineries to similar levels as that achieved by the BPT technology employed by direct discharges. This result is based on refineries operating at existing PSES levels. The analysis also shows that primary treatment (both the primary treatment phase of the secondary POTW and the primary POTW) does not significantly remove many of the toxics discharged by indirect discharging refineries. Analyses of POTW sludges shows that substantial concentrations of priority pollutants (heavy metals) accumulate in sludges of POTWs employing either primary or secondary treatment.

(2) Achievable Pollutant Concentrations (Existing Treatment). EPA reevaluated the final concentrations of regulated pollutants now achieved by existing technology. The results of the data gathering effort indicate that, with one exception, BPT technology is achieving concentrations comparable to those on which the original BPT limitations were based. The data also indicates, however, that plants are currently achieving concentrations of 4AAP phenol far lower than that assumed for BPT. Although BPT limitations for 4AAP phenols were based on a concentration of 100 μg/l, the average 4AAP phenol concentration in the final effluent from the seventeen samples refineries was 19 μg/l. The results ranged from "no phenol detected" to 64 μg/l. Without consideration of any variability factors for short term fluctuations, all of the 17 refineries were meeting concentrations of 4AAP phenol less than the achievable concentrations assumed for BPT.

VI. Industry Subcategorization

In developing these regulations, EPA carefully evaluated characteristics of petroleum refineries to determine if subcategorization of the industry was appropriate. In most industries, factors which affect the ability of facilities to achieve technology-based limitations vary among groups of plants. In such cases, EPA will establish different effluent limitations or standards for the various groups (i.e., subcategories). Additionally, the establishment in the 1977 amendments to the Act of a "cost reasonableness" analysis for BCT limitations provides another basis for subcategorization. Where one group of plants has higher costs per pound of pollutant removal, different BCT limitations may be established. Essentially, subcategorization allows the Agency to more precisely fine tune the requirements of technology based limitations to the capacity of a diverse industry.

The study in support of the previous regulations (BPT, BAT, NSPS,and PSNS) concluded that only one factor of—the total effluent flow per unit of production—significantly affected the ability of the various plants in the industry to achieve effluent reductions. However, rather than establishing limitations for various groups of plants based on their flow, EPA developed five mathematical models which allowed the Agency to predict the total effluent flow of a petroleum refinery based on its size and process characteristics. The Agency, therefore, divided the industry into five subcategories—topping, cracking, petrochemical, lube and integrated. Each subcategory included the refineries whose flow was predicted by one of the five models.

In developing these regulations, EPA reviewed those factors, including BCT costs, which might warrant subcategorization of the industry. Again, the Agency concluded that total effluent flow per unit of production is the only factor which significantly affects a refinery's ability to achieve effluent limitations. After review of the previously developed mathematical models, EPA found that while these models adequately predicted effluent flows before application of BPT, they do not adequately predict current industry effluent flow rates. Thus, other models were considered.

In developing its flow model, EPA evaluated which of the petroleum refinery's production processes were most significant in predicting its total effluent flow. Over one hundred distinct processes were considered, as well as a considerable number of process groupings. Ultimately, the Agency's analysis identified four groups of process variables which form the basis of the proposed flow model. These are crude oil capacity, cracking capacity, asphalt capacity and lube capacity. Together, these four groups represent a total of 49 different processes. Although these processes do not necessarily represent the largest contributions to total flow, EPA found that their use in the mathematical model generated the most accurate predictions of that flow (See Summary of Public Participation section below).

This flow model represents the core of EPA regulations for the petroleum refining industry and it is used in two important ways. First, by comparing a plant's actual flow to its predicted flow, EPA is able to determine which plants have higher or lower flows than the average for comparable plants in the industry. EPA has used this information to determine the capacity of plants to

reduce their level of flow to below that of the current industry average. (See BAT Effluent Limitations section below).

Second, EPA is using the model to determine specific effluent limitations for each plant in the industry. As with the previous regulations, EPA is using the model to adjust a facility's effluent limitations to account for its total wastewater generated per unit of production. (See Appendix H for sample calculations).

This model does adequately predict the flows of all direct discharging refineries. Since this single model supplants the five models which formed the basis for the previous subcategorization, the Agency concludes that no subcategorization of the industry is necessary with respect to effluent limitations and standards applicable to direct discharges.

Additionally, it is the Agency's general policy on pretreatment standards that such standards be expressed as concentration rather than mass limitations. (See 40 CFR Part 128.43 FR 27736). Since EPA has concluded that achievable concentrations of pollutants do not vary among classes of plants within the petroleum refining industry, subcategorization for pretreatment standards is not necessary.

VII. Available Waste Water Control and Treatment Technology

(*a*) *Status of In-Place Technology.* BPT regulations have been in effect since 1974 and there is significant uniformity in treatment performance among direct dischargers. Treatment is generally similar to the model BPT treatment. This includes in-plant control of ammonia and water use and end-of-pipe treatment consisting of oil/water separation, biological treatment, and a final polishing step (e.g. filtration). Many refineries have found that the polishing step is not necessary to meet BPT limitations, or that filtration is more effective before, rather than after, biological treatment. Types of biological treatment used in direct discharging refineries include activated sludge, aerated lagoons, oxidation ponds and trickling filters.

Current wastewater treatment practices by indirect dischargers generally are limited to physical oil/water separation and, in some cases, sour water stripping for ammonia and sulfide control. Substantial concentrations of organic toxic pollutants, metals, and cyanide were also found in the refinery wastes being discharged to POTWs.

(*b*) *Control Technologies Considered for Use in This Industry.* EPA identifed specific control and treatment technologies appropriate to the pollutants discharged by the petroleum refining industry. Some are currently in use in the petroleum refining industry and others have been successfully applied in other industries. The control and treatment technologies considered in the EPA study are the following:

(*1*) *Reuse and Recycle of Waste Waters.* Total effluent flow can be reduced by both in-plant control and the use of treated and untreated waste waters as alternative water sources for processes which currently use outside water sources. This is a demonstrated technology in the petroleum refining industry (examples include using treated effluent as make-up to cooling towers, pump gland cooling systems, washdown waters, and fire water systems).

Flow reduction is not a single, discrete option, but represents a range of options from no reduction to complete reduction (zero discharge). EPA has evaluated three levels of flow now met by refineries. These levels represent reductions of 27 percent, 52 percent and 100 percent (zero discharge) throughout the industry. In evaluating this option, EPA has assumed that a reduction in total flow will result in a corresponding reduction in total mass discharge of pollutants. A fuller discussion of this issue can be found in the development document and below in the summary of public participation section of this preamble.

(*2*) *Powdered Activated Carbon Enhancement of Biological Treatment.* Addition of powdered activated carbon to aerated biological systems, significantly improves the removal capabilities of biological treatment, as reported both in the petroleum refining and other industries.

(*3*) *Granular Activated Carbon Treatment After BPT Treatment.* This treatment technology has not been demonstrated in the petroleum refining industry. It has been used on a limited basis in other industries and in treatment of municipal water supplies.

(4) Metals Removal. The removal of metals (such as chromium and zinc) by pH adjustment, precipitation, and clarification is a demonstrated technology in the petroleum refining industry as well as other industries.

(5) Biological Treatment (Pretreatment). Wastewaters discharged to POTWs were found to contain high concentrations of toxic pollutants. These concentrations are significantly reduced at direct discharging refineries which use biological treatment.

The costs of applying these technologies were developed through compilation of cost data supplied by equipment manufacturers and by application of standard engineering data and cost estimation techniques. The technical contractor which supported EPA in the development of these proposed regulations has extensive experience in the preparation of engineering cost estimates.

None of the in-plant control or end-of-pipe treatment technologies considered in the development of these regulations is considered to be innovative. All of the in-plant controls and process modifications, as described in this preamble and, more specifically in the Development Document, have either been used or investigated for use in this industry and do not represent major process changes. The end-of-pipe treatment technologies have been applied in this industry or other industries.

VIII. BAT Effluent Limitations

The factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, non-water quality environmental impacts (including energy requirements) and the costs of application of such technology (Section 304(b)(2)(B)). In general, the BAT technology level represents, at a minimum, the best economically achievable performance of plants of various ages, sizes, processes or other shared characteristics. Where existing performance is uniformly inadequate, BAT may be transferred from a different subcategory or category. BAT may include process changes or internal controls, even when not common industry practice.

The statutory assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser* v. *Costle, supra*). In developing the proposed BAT, however, EPA has given substantial weight to the reasonableness of costs. The Agency has considered the volume and nature of discharges, the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic impacts of the required pollution control levels.

Despite this expanded consideration of costs, the primary determinant of BAT remains effluent reduction capability. Effluent limitations for the petroleum refining industry are expressed as mass limitations, i.e., restrictions on the total quantity of pollutants which may be discharged. Since the total mass of most pollutants in an effluent stream depends on both

the total effluent flow and the concentration of pollutants in that flow, the six options considered for BAT include various combinations of flow reduction and improved performance of waste treatment technology.

(a) BAT options considered. (1) *Option One*—Require effluent limitations based on an average flow reduction of 27 percent achieved through greater reuse and recycle of wastewater. This option would not require additional end-of-pipe treatment since limitations would be based upon the performance of BPT end-of-pipe technology; phenol (4AAP) limitations, however, would be based on a long term achievable concentration of 19 μg/l (See discussion under BAT Selection and Decision Criteria below). Effluent limitations on ammonia, sulfide, COD and pH would be set at BPT levels.

The level of flow for this option is now achieved by 50 percent of the facilities in the industry. The Development Document contains a fuller discussion of the manner in which figures were derived. Since treatment of pH, ammonia, and sulfide is based on process changes or in-plant controls, no further reduction from BPT levels would be achieved by a reduction in final effluent flow. EPA does not have sufficient data to conclude that the concentration of COD in treated effluent remains constant as flow is reduced. Consequently, COD, pH, ammonia, and sulfide limitations are being maintained at BPT levels. (See Summary of Public Participation).

For the 165 direct discharging refineries affected by this regulation, $19.3 million additional investment would be required with an annual cost of $7.7 million including interest and depreciation. This amounts to $.00005 per gallon of product. No closures would be expected. Refining capacity and consumption would remain unaffected.

(2) Option Two—Require effluent limitations based on an average 52 percent flow reduction achieved through greater reuse and recycle of wastewater. This option would not require additional end-of-pipe treatment since limitations would be based on the performance of BPT end-of-pipe technology. In-plant side stream treatment may be required in a small number of facilities to remove corrosive or scale forming constituents. Mass limitations on 4AAP phenol would be based on the 19 μg/l currently achieved by industry. Effluent limitations on ammonia, sulfide, COD and pH would be set at BPT levels.

The level of flow for this option is now achieved by 34 percent of the industry; an average reduction of 52 percent would be required throughout the industry.

Although precise costs have not yet been calculated for this option, EPA has concluded, based on its technological evaluation of the industry, that the costs for Option Two approximate those projected for Option three below. For the 165 direct discharging refineries affected by this regulation, $113.0 million additional investment would be required with an annual cost of $48.7 million including interest and depreciation. This amounts to $.0002 per gallon of product. No closures would be expected. Refining capacity and consumption would remain unaffected.

In order to confirm its assessment of costs EPA intends to conduct an engineering field survey of the costs associated with Option Two. This survey will be completed and a report prepared prior to final promulgation of these regulations. EPA will publish a notice in the **Federal Register** when the report is available to the public. Comments on the cost approximation for Option Two are requested (see solicitation of Comments section below).

(3) Option Three—Require effluent limitations based on a combination of OPTION ONE flow reduction and improved end-of-pipe treatment. Improved end-of-pipe treatment was evaluated with the use of powdered activated carbon (PAC). Several pilot studies have demonstrated this technology; it has been used at full scale by one plant in the industry. This combination of treatment produces mass limitations equivalent to those produced by flow reduction alone under Option Two.

For the 165 direct discharging refineries affected by this regulation, $113.0 million additional investment would be required with an annual cost of $48.7 million including interest and depreciation. This amounts to $.0002 per gallon of product. No closures would be expected. Refining capacity, and consumption would remain unaffected.

(4) *Option Four.*—Require mass limitations based on Option Two plus segregation and separate treatment of cooling tower blowdown. Cooling tower blowdown would be treated for metals (reduction of hexavalent chromium to trivalent chromium, pH adjustment, precipitation and clarification). Limitations for other process streams would be based on treatment in existing BPT treatment systems.

Treatment of segregated streams may result in the removal of more toxics than would use of biological treatment on a combined, more dilute, waste stream. Potential contamination of biological sludges by cooling tower biocides (generally containing chromium and zinc) would be reduced. Removal of organic toxic pollutants in the biological treatment system may be increased since the wastewater would not be diluted with cooling tower water prior to treatment.

EPA has not made a detailed cost analysis for this option. While the cost of metals treatment can be estimated, the cost of segregating cooling tower blowdown from other process streams cannot be estimated with available data. The engineering survey, described above (See Option 2) will also be used to collect data on the technical requirements and cost of cooling water segregation.

(5) *Option Five*—Require effluent limitations based on Option One flow reductions plus the addition of granular activated carbon (GAC) to control residual toxic organic pollutants dissolved in the wastewater discharged from Option 1 technology.

While GAC is not a demonstrated technology in the petroleum refining industry, it has been used in other industries and in treating municipal water supplies. EPA conducted pilot "treatability" tests at six refineries during the data gathering effort. Several technical articles have been published comparing GAC with other technologies in treating refinery wastes. Although results of the Agency study were inconclusive, it can be generally stated that toxic pollutant removal increases with the use of GAC. This removal, however, appears to be only marginally better than with PAC (Option Two) and the cost of GAC is much greater than PAC.

EPA evaluated the economic impact of this option during the previous round of guidelines (See Prior EPA Regulations discussion above). While EPA did not reevaluate the economic impact of this option, the earlier economic impact analysis predicted that some refineries could be expected to close if this option were adopted.

(6) *Option Six*—Require zero discharge from existing refineries. This could be achieved by further reuse and recycle, evaporation, and/or subsurface reinjection of wastewaters. Fifty-five existing refineries are now at zero discharge.

This is a demonstrated technology, but costs were not calculated for this option. While additional costs for building a new refinery to achieve zero discharge can be calculated (See New Source Performance Standards below), the costs of retrofitting an existing refinery are highly site specific. Costs, however, would be significantly higher

than costs for applying any of the other options.

(b) BAT selection and decision criteria—EPA has selected Option Two as the basis for proposed effluent limitations. This option was selected because it was best supported by available data and because it affords further reduction in total pollutant discharges through the use of proven technology. It provides reasonable further progress towards the Clean Water Act's goal of the elimination of the discharge of pollutants. Further, these limitations are also technologically and economically achievable through the use of Option Three. Thus, all facilities have several ways to achieve this limitation. They may meet it totally through flow reduction or through a combination of flow reduction and improved treatment.

Available data show that existing treatment is reducing the concentration of 4AAP phenols to 19 μg/l (See data gathering effort section above). Consequently mass limitations on phenols will be based on that achievable concentration. In order to validate this decision, EPA is presently requesting, under section 308 of the Act, that 37 refineries believed to have installed BPT model technology send data to EPA for further evaluation of what constitutes a proper achievable concentration of 4AAP phenols based on BPT treatment technology. That data will also allow EPA to make a determination of whether the variability factors used to determine daily and monthly fluctuations should be changed as a result of the lower concentrations. Mass limitations on all other pollutants are based on those final concentrations already part of the BPT limitations.

EPA does not have complete data on the cost of achieving these limitations solely through the use of flow reduction and requests comments on this matter. Further, EPA specifically requests comments and data regarding the proposed change in the achievable concentration of 4AAP phenol (see Solicitation of Comments section below).

Option Four still remains a serious candidate for the basis of final regulations. EPA has data establishing that greater quantities of metals and toxic organics can be removed when introduced into separate treatment systems at higher concentrations. EPA has only limited data on the costs required to segregate flows from cooling towers. This matter is presently under study and comments are requested.

Option Five was not selected because GAC allows only slightly better pollutant removal than PAC (Option Three) and because the cost of GAC is considerably higher than the cost of PAC.

Option Six was not selected because, in the Agency's judgment, the costs of retrofitting for zero discharge on a uniform national basis would be significantly higher than the selected option and may result in a substantial number of plant closures. Nevertheless, this option still remains a serious candidate for any subsequent revisions of BAT limitations, especially for certain sizes and/or types of plants.

IX. BCT Effluent Limitations

The 1977 amendments added section 301(b)(4)(E) to the Act, establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in section 304(b)(4)—BOD, TSS, fecal coliform and pH—and any additional pollutants defined by the Administrator as "conventional." On July 30, 1978, EPA designated oil and grease as a conventional pollutant (44 FR 44501).

BCT is not an additional limitation; rather it replaces BAT for the control of conventional pollutants. BCT requires that limitations for conventional pollutants be assessed in light of a new "cost-reasonableness" test which involves a comparison of the cost and level of reduction of conventional pollutants from the discharge of publicly owned treatment works (POTW) to the cost and level of reduction of such pollutants from a class or category of industrial sources. As a part of its review of BAT for certain "secondary" industries, the Agency has promulgated a methodology for this cost test. (See 44 FR 50732, Aug. 29, 1979). The Agency compares industry costs with that of an "average" POTW with a flow of 2 mgd and costs (1977 dollars) of $1.18 per pound of pollutant removal (BOD and TSS).

EPA applied this methodology to the costs for removing conventional pollutants in the petroleum refining industry and concluded that BCT limitations based on a 52 percent reduction in total effluent flow by greater recycle and reuse of wastewaters (Option Two) or a 52 percent reduction in pollutants discharged by a combination of flow reduction and powdered activated carbon enhancement of activated sludges (Option Three) are reasonable. At this level, the total annualized cost for BCT technology is $48.7 million and EPA projects that 48.7 million pounds of BOD and TSS will be removed throughout the industry by Option Two technology. Based on these figures, the cost to pollutant reduction ratio for Option Two is $1.00 per pound of BOD and TSS removed (compared to a POTW cost of $1.18 per pound of BOD and TSS). Therefore, EPA proposes, BCT effluent limitations at the proposed BAT (Option Two) level. BCT investment, annualized costs, and economic impact are included in the BAT analyses.

X. New Source Performance Standards (NSPS)

The basis for new source performance standards (NSPS) under section 306 of the Act is the best available demonstrated technology. New plants have the opportunity to design the best and most efficient petroleum refining processes and wastewater treatment technologies; Congress, therefore, directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies capable of reducing pollution to the maximum extent feasible.

(a) NSPS Options Considered. (1) *Option One*—Require performance standards based on the same technology proposed for BAT, including wastewater flow control by recycle and reuse of wastewaters after BPT treatment. As discussed under BAT Option Two, application of this technology will ensure a high degree of removal of toxic pollutants. Similar reductions in pollutant mass discharge can be achieved by BAT Option Three. This level of treatment is similar to current NSPS, and no additional expenditures are required due to these revised standards.

(2) *Option Two*—Require performance standards based on grandular activated carbon (BAT Option Five). As discussed under BAT Option Five, GAC allows somewhat better pollutant removals than NSPS Option One, but is considerably more expensive.

(3) *Option Three*—Require a performance standard of zero discharge. Unlike BAT Option Six, there is no cost of retrofitting to come into compliance with a zero discharge requirement. Zero discharge of refinery wastes is a demonstrated technology; fifty-five refineries have been identified by EPA which are currently achieving no discharge of wastewaters to U.S. waters. The American Petroleum Institute (API) has published a technical report which makes a detailed evaluation of the technologies capable of achieving no discharge of refinery wastes. The report also calculates the costs to be expected if those technologies were designed into a new refinery (i.e., without the need to retrofit existing equipment). This option

would require new source of the size and configuration likely to be built in the 1980's to incur additional investment of $9.5 million with an annual cost of $3.5 million including interest and depreciation. If a level of price protection is instituted that maintains industry capacity at current levels, these regulations will essentially have no effect, since new refineries will not be entering the industry in the foreseeable future. If a level of price protection is instituted that allows for growth in refinery capacity proportional to growth in consumption, the cost of compliance of $.001 a gallon will be reflected in higher product prices of the same amount.

(b) NSPS Selection and Decision Criteria—EPA has selected Option Three as the basis for proposed new source performance standards. Zero discharge is a demonstrated technology in the petroleum refining industry and, based on available data, can be economically achieved. Consequently, EPA believes that the Act requires that Option Three be the basis for NSPS. EPA, however, solicits other data which would support or refute the assumption that zero discharge is an achievable technology for new sources on a nationwide basis. Additionally, EPA solicits comments on the other options suggested. (See solicitation of comments section below.)

XI. Pretreatment Standards

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for both existing sources (PSES) and new sources (PSNS) of pollution which discharge their wastes into publicly owned treatment works (POTWs). These pretreatment standards are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of POTWs. In addition, the Clean Water Act of 1977 adds a new dimension to these standards by requiring pretreatment of pollutants, such as heavy metals, that limit POTW sludge management alternatives. The legislative history of the Act indicates that pretreatment standards are to be technology based and, with respect to toxic pollutants, analogous to BAT. The Agency has promulgated general pretreatment regulations which establish a framework for the implementation of these statutory requirements. (See 43 FR 27736, June 26, 1978).

A determination of which pollutants may pass through or be incompatible with POTW operations, and thus be subject to pretreatment standards, depends on the level of treatment employed by the POTW. In general, more pollutants will pass through or interfere with a POTW employing primary treatment (usually physical separation by settling) than one which has installed secondary treatment (settling plus biological stabilization).

Section 301(b)(1)(B) of the Act requires most POTWs to have installed secondary treatment by July 1, 1977. There are, however, two groups of POTWs which have not yet met this requirement. One group remains subject to the obligation and contains POTWs which are scheduled to install secondary treatment within the next few years. A second group of POTWs will be exempt from the requirement to install secondary treatment. Under Section 301(h) of the Act, POTWs which discharge into marine waters may, under certain circumstances, receive a waiver from this requirement. EPA has promulgated regulations dealing with the issuance of section 301(h) waivers. (44 FR 34784, June 15, 1979).

(a) Pretreatment Options Considered. (1) *Option One*—Establish pretreatment for all refineries which requires metals (chromium) removal (pH adjustment, precipitation and clarification) and existing PSES controls of ammonia and oil and grease. Metals removal would be required only for cooling tower blowdown, since that is the major source of the heavy metals of concern—chromium and zinc. Under this option, organic priority pollutants would pass through primary POTWs which have not yet complied with Section 301(b)(1)(B) of the Act and those POTWs which are granted waivers under Section 301(h).

For the 53 indirect discharging refineries affected by this regulation $9.6 million additional investment would be required with annual costs of $5.2 million including interest and depreciation. No closures would be expected. A new indirect discharging refinery of the size and configuration likely to be built in the 1980's would incur additional investment of $0.3 million with annual costs of $0.2 million including interest and depreciation. Refining capacity and domestic consumption would be unaffected by this regulation.

(2) *Option Two*—Establish two pretreatment standards. Pretreatment for those refineries discharging into POTWs which have been granted waivers under Section 301(h) would be based on concentrations achievable after application of BPT technology. Pretreatment for other indirect discharging refineries would contain the limitations identified in Option One.

At this time the economic effects for this option are the same as for Option One, since there are no POTWs which have been granted waivers under Section 301(h). Costs were developed, however, for seven indirect discharging refineries to install biological treatment. These costs are presented in the Development Document.

(b) Selection of pretreatment technology and decision criteria—EPA has selected Option Two as the basis for pretreatment standards. Based on its sampling and analysis program, EPA has determined that pollutants found in petroleum refining wastes after present PSES treatment do not pass through secondary POTWs and that only metals limit the POTW sludge management alternatives. Consequently, for metals only, EPA is proposing additional pretreatment standards for indirect dischargers whose wastes go to POTWs employing secondary treatment.

The Agency additionally proposes that this limitation apply to those indirect dischargers whose wastes go to a primary POTW which is scheduled to install secondary treatment. Although EPA has determined that petroleum refining wastes pass through primary POTWs, the Agency believes that it woud be improper to require industrial sources discharging into such POTWs to install treatment systems which will be unnecessary when the POTWs come into compliance with the requirement of secondary treatment.

EPA is, however, proposing specific pretreatment standards based on application of BAT technology for those indirect dischargers whose wastes go to POTWs with 301(h) waivers. Since POTWs with 301(h) waivers will remain at primary treatment, only specific limitations on indirect dischargers will ensure that their wastes do not pass through into waters of the United States. Such standards, however, will apply only where a valid 301(h) waiver has been granted. Those sources discharging into a POTW which has a pending application for a 301(h) waiver will be subject to the generally less stringent pretreatment standards based on secondary treatment in the POTW until such time as the waiver is finally approved. The Agency requests comments on the approach it has adopted for determining which pollutants must be regulated through pretreatment standards. (See Solicitation of comments section below.)

XII. Regulated Pollutants

The basis upon which the controlled pollutants were selected is set out in Section VI of the Development Document.

(a) *BAT.* EPA has selected two toxic pollutants for control of toxic discharges

in the petroleum refining industry. Specific effluent limitations are being established for total phenol (4AAP) and chromium (both total chromium and hexavalent chromium). These pollutants are subject to limitations expressed in kilograms per 1000 cubic meters of raw material.

Pollutants which have the same requirement under BPT and BAT include COD, ammonia and sulfide.

(b) *BCT.* The pollutants selected for control by BCT technology are those pollutants limited by BPT which have been classified as conventional pollutants—BOD5, TSS, and oil and grease. These pollutants are subject to limitations expressed in kilograms per 1000 cubic meters of raw material. Additionally, a BCT limitation for pH is set at BPT levels.

(c) *Pretreatment Standards.* In establishing existing PSES, EPA found that ammonia and oil and grease interfere with the operation of POTWs at levels which may be discharged by indirect dischargers in the petroleum refining industry. Although the existing PSES also contain a technology based limitation for chromium, this limitation was included only as guidance to those POTWs which found it necessary or desirable to limit chromium. The Agency proposes that the chromium limitation now be adopted as a mandatory pretreatment standard since EPA has found that chromium accumulates in POTW sludges and will limit the sludge management alternatives of the POTW. The same pollutants (chromium, oil and grease, and ammonia) are also selected for control in PSNS. The pretreatment standards are expressed as maximum daily concentrations (milligrams per liter). Informational mass limitations are also provided for those POTWs which find it necessary or desirable to limit total mass discharge of pollutants.

(d) *NSPS.* Since the new source performance standard is zero discharges all pollutants are regulated.

XIII. Pollutants Not Regulated

The Settlement Agreement contained provisions authorizing the exclusion from regulation, in certain instances, of toxic pollutants and industry subcategories. These provisions have been re-written in a Revised Settlement Agreement which was approved by the District Court for the District of Columbia on March 9, 1979.

It should be noted that the limitations in this regulation has been developed to cover the general case for this industry subcategory. In specific cases, it may be necessary for the NPDES permitting authority to establish permit limits on toxic pollutants which are not subject to limitations in this regulation. (See relationship to NPDES permits section).

(a) *BAT Limitations.* Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by Section 304(h) analytical methods or other state-of-the-art methods. Data collected by EPA, the American Petroleum Institute, and individual companies were used in making decisions not to regulate specific toxic pollutants. Eighty-five toxic pollutants were not found at any of the seventeen refineries sampled. These pollutants are excluded, therefore, from regulation and are listed in Appendix B to this notice.

Paragraph 8(a)(iii) of the Revised Settlement Agreement also allows the Administrator to exclude from regulation toxic pollutants detected in the effluent from a small number of sources and uniquely related to those sources. Appendix C lists the 7 toxic pollutants which satisfy this criterion. Although certain other pollutants were found in the treated effluent at only one refinery, their presence in the untreated effluent of a number of facilities indicate that they are not uniquely related to that source.

Paragraph 8(a)(iii) of the Revised Settlement Agreement also allows the Administrator to exclude from regulation toxic materials which were detected but for which no treatment technology is known to the Administrator that will reduce discharges of the pollutant. Cyanide is discharged in significant amounts by the petroleum refining industry (see Section VI of the Development Document) but EPA is not aware of any end-of-pipe technology which will reduce cyanide discharges beyond those presently discharged by the petroleum refining industry. Based on the available data, EPA is not able to determine which processes generate cyanide found in the untreated waste. EPA, however, plans to continue study of this problem to determine whether cyanide discharges can be reduced by in-plant control.

Paragraph 8(a)(iii) of the Revised Settlement Agreement also allows the Administrator to exclude from regulation toxic pollutants which will be effectively controlled by the technology upon which are based other effluent limitations. The Agency believes that the technology upon which BAT effluent limitations for phenol (4AAP) and chromium are based will effectively control the organic and metallic toxic pollutants listed in Appendix D. The toxic pollutants listed in Appendix D are, therefore, excluded from regulation.

(b) *Pretreatment Standards.* On the basis of sampling at six refineries which practice indirect discharge and two POTWs, the Agency concludes that the organic priority pollutants listed in Appendix F discharged by refineries in compliance with existing PSES do not pass through or interfere with a secondary POTW. The Agency proposes in this notice to require pretreatment standards which limit the same pollutants at the same concentrations as interim final PSES. The pollutants limited under PSES include oil and grease and ammonia. Additionally, EPA establishes a standard for total chromium based on interim final PSES guidance. As with BAT, EPA will continue to study methods for reducing the discharge of cyanides.

This standard, however, only applies to those refineries which discharge into a POTW which is required by the Act to achieve effluent limitations based on secondary treatment. Appendix G is a list of those priority pollutants which were found to pass through POTWs which only apply primary treatment. Therefore, the Agency concludes that existing regulations cannot be used to exclude these pollutants from regulation when a POTW has been granted an exemption under section 301(h) of the Act from the requirement to achieve effluent limitations based on secondary treatment. As discussed above (Regulated pollutants section) the Agency proposes to limit the toxic pollutant total phenol (4AAP). As in the case of BAT, the Agency believes that the technology upon which pretreatment standards for phenol (4AAP) and chromium are based will effectively control the other organics and metals listed in Appendix F.

XIV. Non-Water Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may aggravate other environmental problems. Therefore, sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of these regulations on air pollution, solid waste generation, and energy consumption. This proposal was circulated to and reviewed by EPA personnel responsible for non-water quality environmental programs. While it is difficult to balance pollution problems against each other and against energy utilization, EPA is proposing regulations which it believes best serve often competing national goals.

The following are the non-water quality environmental impacts (including energy requirements) associated with the proposed regulations:

Air Pollution—Imposition of BAT, BCT, NSPS, and pretreatment standards will not create any additional air pollution problems.

Solid Waste—A study by EPA's Office of Air Quality and Standards shows that considerable amounts of solid wastes are already being generated by the petroleum refining industry. Some of this solid waste is generated by current wastewater treatment equipment, but the majority is generated by other sources such as process sources, storage tank bottoms, etc. Proposed BAT and PSES will increase these wastes by as much as 15,000 metric tons per year beyond BPT levels. Most of this amount will be additional sludge from the use of powdered activated carbon, if used (BAT OPTION THREE) as an alternative to some of the flow reduction in BAT OPTION TWO. These sludges will contain additional organic toxic pollutants and some additional metals.

On the other hand, EPA estimates that implementation of proposed pretreatment standards will result in POTW sludges having lesser quantities and concentrations of toxic pollutants. POTW sludges will become more amenable to a wider range of disposal alternatives, possibly including beneficial use on agricultural lands.

Energy Requirements—EPA estimates that the achievement of proposed BAT and BCT effluent limitations will result in a net increase in electrical energy consumption of approximately 28.4 million kilowatt-hours per year. Proposed pretreatment standards are projected to add another 1.9 million kilowatt-hours to electrical energy consumption for existing indirect dischargers.

XV. Costs, Effluent Reduction Benefits, and Economic Impact

Executive Order 12044 requires EPA and other agencies to perform Regulatory Analysis of certain regulations. 43 FR 12661 (March 23, 1978). EPA's proposed regulations for implementing Executive Order 12044 require a Regulatory Analysis for major significant regulations involving annual compliance costs of $100 million or meeting other specified criteria. 43 FR 29891 (July 11, 1978). Where these criteria are met, the proposed regulations require EPA to prepare a formal Regulatory Analysis, including an economic impact analysis and an evaluation of regulatory alternatives. The proposed regulations for the petroleum refining industry do not meet the proposed criteria for a formal Regulatory Analysis. Nonetheless, this proposed rulemaking satisfies the formal Regulatory Analysis requirements.

EPA's economic impact assessment is set forth in *Economic Analysis of Proposed Revised Effluent Standards and Limitations for the Petroleum Refining Industry* November 1979, EPA 440/2–79–027. This report details the investment and annual costs for the industry as a whole and for individual plants covered by the proposed petroleum refining regulations. The data underlying the analysis were obtained from the "Estimation of Costs Associated with the Application of BAT Limitations for the Petroleum Refining Point Source Category on a Plant-by-Plant Basis", March, 1979 and supplements, publicly available economic information, and data from the Agency survey of the industry. The report assesses the impact of compliance costs in terms of plant closures, production changes, price changes, employment changes, local community impacts, and balance of trade effects.

Refined petroleum products hold such economic importance in our society that price fluctuations tend to have serious consequence; as a result, the U.S. government stringently controls the industry. Some of the major economic controls on the industry are crude oil price controls, product price controls, and price protection from imported refined products. The economic analysis assumes that crude oil and product price controls will be essentially eliminated by the time these regulations require compliance, but considers two scenarios of price protection. The first scenario assumes a level of price protection for domestic refineries that maintains the current capacity. The second scenario assumes a level of price protection such that capacity increases parallel to the increase in total domestic consumption. The economic impacts of the regulations, including refinery closings, are discussed separately for each of these scenarios. A more complete discussion of possible future scenarios and the selection of these two is presented in the Economic Analysis.

Refinery closures are evaluated on an individual refinery basis. Refineries with costs of more than $.001 per gallon are analyzed in detail including a comparison of the estimated cash flow per unit of production with unit costs of complying with the regulations. If the refinery generates a cash flow greater than the unit costs of compliance, it is not considered a potential closure.

For new sources, EPA considers the impact of the regulations on the costs of production of new capacity. The Department of Energy has predicted that during the period form 1985 to 2000 most of the growth of petroleum product consumption will be in gasoline, distillate fuels, and petrochemical feedstocks. In keeping with this prediction, the economic analysis for new sources was based on a 190,000 barrel a day refinery with a configuration appropriate for emphasizing production of these products.

Of the 285 domestic refineries, 218 are expected to incur additional costs to comply with these regulations. The investment required would be $132.2 million with an annual cost of $53.9 million including interest and depreciation. No refinery closures would be expected due to these regulations and the equivalent of 610 jobs to operate pollution control equipment would be added to current industry employment of 160,000. Other economic effects would depend on the course of public policy regarding refineries and are discussed below.

Scenario One—The first economic scenario assumes tariffs on imported goods are set in a manner that gives the industry a relatively low level of protection from imported products. As a result, current refining capacity is maintained and no new sources enter the industry. Price leves are unaffected by these proposed regulations, and the average pollution control cost of $.0002 a gallon is absorbed by the refineries. The proposed regulations would not affect refining capacity, domestic consumption, or the balance of trade.

1. BAT/BCT—EPA estimates that 165 directly discharging refineries would incur additional costs to meet these requirements. Additional investment would be $113.0 million with annual costs of $48.7 million including interest and depreciation. These costs would be absorbed by the refineries rather than passed on as price increases. None of the refineries would be expected to close due to these regulations and refinery capacity would remain unchanged.

2. PSES—Approximately 53 indirect discharging refineries would incur additional costs to meet these requirements. Additional investment would be $9.6 million with annual costs of $5.2 million including interest and depreciation. These costs would be absorbed by the refineries rather than passed on as price increases. None of these refineries would have compliance

costs of $.001 or more per gallon of product. None of the refineries would be expected to close due to the regulation and refinery capacity would remain unchanged. Since prices would be unaffected, domestic consumption and the balance of trade would also remain unchanged by these regulations.

3. NSPS/PSNS—Since refinery capacity is held at current levels for this scenario, no major new capacity is constructed. These new source requirements then have no economic effects.

Scenario Two—The second economic scenario allows for a level of industry price protection such that refining capacity grows at the same rate as domestic consumption. In other words, domestic refineries retain the same share of the domestic market as they do now. In this scenario the price level is set high enough to attract new refineries, with new source pollution control equipment, into the industry. These proposed regulations increase the cost of production at new refineries by $.0001 to $.001 a gallon of product, and raise the industry-wide price level by the same amount.

1. BAT/BCT—EPA estimates 165 direct discharging refineries would incur additional costs to meet these requirements. Additional investment would be $113.0 million with an annual cost of $48.7 million including interest and depreciation. None of this cost is absorbed by the refineries, however, since the price level is set high enough to attract new refineries. Existing refineries would be in a much more favorable financial situation compared to Scenario One because of the elevated price levels necessary to attract new refineries to the industry. No closures would be expected, and capacity, domestic consumption, and the balance of trade would be unchanged by these BAT/BCT regulations.

2. PSES—Approximately 53 indirect discharging refineries would incur additional costs to meet these requirements. Additional investment would be $9.6 million with annual costs of $5.2 million including interest and depreciation. As with direct dischargers, none of this cost is absorbed by the refineries. No closures would be expected, and capacity, domestic consumption, and the balance of trade would remain unchanged by these PSES.

3. New Sources—In economic Scenario Two, refinery capacity grows at the same rate as domestic consumption, encouraged by price increases due to higher tariffs. New capacity brought on stream is either a zero discharge facility (since NSPS allows no discharge) or a facility subject to PSNS. The additional costs and resulting price increases are based on a 190,000 barrel a day refinery configured to emphasize products for which additional capacity is most needed. If this new refinery would discharge to a municipal treatment system, an additional $0.3 million investment would be required with annual costs of $0.2 million including interest and depreciation. This would amount to $.0001 per gallon. Price increases would be no more than $.0001 a gallon due to PSNS. If this refinery is at an acceptable site from which it could not discharge to a municipal treatment system, the refinery would have to achieve zero discharge to be in compliance with NSPS. Additional investment of $9.5 million with annual costs of $3.5 million including interest and depreciation would be required as compared to the costs of meeting current NSPS. This would amount to $.001 per gallon, causing price increases of up to $0.001 a gallon. Depending on sites available for new refineries, prices would increase from $.0001 to $.001 per gallon.

Effluent Reduction Benefits

EPA estimates that achievement of BAT effluent limitations will remove approximately 123,300 pounds per year of chromium, 86,180 pounds per year of phenols (total–4AAP), and substantial quantities of other toxic pollutants. EPA estimates that achievement of BCT effluent limitations will remove approximately 48.7 million pounds per year of conventional pollutants.

XVI. Best Management Practices

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" ("BMPs"), described under Authority and Background. EPA intends to develop BMPs which are: (1) applicable to all industrial sites; (2) applicable to an designated industrial category; and (3) capable of guiding permit authorities in establishing BMPs required by unique circumstances at a given plant.

EPA is considering promulgating BMPs specific to the petroleum refining industry at some time in the future. One area of concern is the potential for leaks and spills of toxic pollutants stored in on-site facilities and not subject to controls under section 311(j)(1)(c) of the Act. Another process which might be controlled by BMPs is cooling tower blowdown. It is possible that refineries could be required to monitor for chromium and zinc in both cooling tower blowdown and in effluent discharge. In the event of persistently high discharges of these compounds, the permitting authority may require that certain refineries cease using corrosion inhibitors which contain zinc and chromium and use alternate organophosphate corrosion inhibitors or other alternates. Additionally, EPA may promulgate BMPs requiring dikes, curbs, or other measures to contain leaks and spills of toxic pollutants not controlled under section 311(j)(1)(c) of the Act.

XVII. Upset and Bypass Provisions

An issue of recurrent concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent limitations guidelines is necessary because such upsets will inevitably occur due to limitations in even properly operated control equipment. Because technology-based limitations are to require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have divided on the question of whether an explicit upset or excursion exemption is necessary or whether upset or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F. 2d 1253 (9th Cir. 1977) with *Weyerhaeuser* v. *Costle, supra.* and *Corn Refiners Association, et al.* v. *Costle*, No. 78–1069 (8th Cir., April 2, 1979). See also *American Petroleum Institute* v. *EPA*, 540 F. 2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540 F. 2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train*, 539 F. 2d 973 (4th Cir. 1976).

While an upset is an unintentional episode during which effluent limits are exceeded, a bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. Bypass provisions have, in the past, been included in NPDES permits.

EPA has determined that both upset and bypass provisions should be included in NPDES permits and has recently promulgated NPDES regulations which include upset and bypass permit provisions 44 FR 3285, (June 7, 1979). The upset provision establishes an upset as an affirmative defense to presecution for violation of technology-based effluent limitation. The bypass provision authorizes bypassing to prevent loss of life, personal injury or severe property damage. Consequently, although

permittees in the petroleum refining industry will be entitled to upset and bypass provisions in NPDES permits, these proposed regulations do not address these issues.

XVIII. Variances and Modifications

Both BAT and BCT effluent limitations are subject to EPA's "fundamentally different factors" variance. See *E. I. du Pont de Nemours and Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra.* This variance recognizes factors concerning a particular discharger which are fundamentally different from the factors considered in this rulemaking. Although this variance clause was set forth in EPA's 1973–1976 industry regulations and will not be included in the petroleum refining or other industry regulations. See the final NPDES regulations at 44 FR 32854, 32950 (June 7, 1979), for the text and explanation of the "Fundamentally different factors" variance. Final NPDES regulations will be promulgated shortly.

Pretreatment standards for existing sources are subject to the "fundamentally different factors" variance and credits for pollutants removed by POTW's. See 40 CFR 403.7, 403.13; 43 FR 27736 (June 26, 1978). Pretreatment standards for new sources are subject only to the credits provision in 40 CFR 403.7. New source performance standards are not subject to modification through EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. See *duPont* v. *Train, supra.*

XIX. Relationship to NPDES Permits

The BAT, BCT, and NSPS limitations in these regulations will be applied to individual petroleum refining plants through NPDES permits issued by EPA or approved state agencies, under section 402 of the Act. Upon the promulgation of final regulations, the numerical effluent limitations must be applied in all federal NPDES permits thereafter issued to petroleum refining direct dischargers. Permits issued by States with NPDES authority may contain more stringent limitations than those proposed here. In addition, on promulgation, the pretreatment limitations are directly applicable to indirect dischargers.

The previous section discussed the availability of variances and modifications from national limitations, but there are other issues relating to the interaction of these regulations and NPDES permits. One matter which has been subject to different judicial views is the scope of NPDES permit proceedings in the absence of effluent limitations guidelines and standards. Under currently applicable EPA regulations, states and EPA Regions issuing NPDES permits prior to promulgation of these regulations must include a "re-opener clause," providing for permits to be modified to incorporate "toxics" regulations when they are promulgated. See 43 FR 22159 (May 23, 1978). To avoid cumbersome modification procedures, EPA has adopted a policy of issuing short-term permits, with a view toward issuing long-term permits only after promulgation of these and other BAT regulations. The Agency has published rules designed to encourage states to do the same. See 43 FR 58066 (Dec. 11, 1978). However, in the event that EPA finds it necessary to issue long term permits prior to promulgation of BAT regulations, EPA and states will follow essentially the same procedures utilized in many cases of initial permit issuance. The appropriate technology levels and limitations will be assessed by the permit issuer on a case-by-case basis, on consideration of the statutory factors. See *U.S. Steel Corp.* v. *Train*, 556 F. 2d 822, 844, 854 (7th Cir. 1977). In these situations, EPA documents and draft documents (including these proposed regulations and supporting documents) are relevant evidence, but not binding, in NPDES permit proceedings. See 44 FR 32854 (June 7, 1979).

Another noteworthy topic is the effect of these regulations on the power of NPDES permit issuing authorities. The promulgation of these regulations does not restrict the power of any permit-issuing authority to act in any manner not inconsistent with law or these or any other EPA regulations, guidelines or policy. For example, the fact that these regulations do not control a particular pollutant does not preclude the permit issuer from limiting such pollutant on a case-by-case basis, when necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of state or Federal law require limitation of pollutants not covered by these regulations (or require more stringent limitations on covered pollutants), such limitations *must* be applied by the permit-issuing authority.

With respect to monitoring requirements, the Agency intends to establish a regulation requiring permittees to conduct additional monitoring when they violate permit limitations. The provisions of such monitoring requirements will be specific for each permittee and may include analysis for some or all of the toxic pollutants or the use of biomonitoring techniques. The additional monitoring is designed to determine the cause of the violation, necessary corrective measures, and the identity and quantity of toxic pollutants discharged. Each violation will be evaluated on a case-by-case basis by the permitting monitoring contained in the permit is necessary. A more lengthy discussion of this requirement appears at 44 FR 34407, (June 14, 1979).

One additional topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which have been considered in developing these regulations. The Agency wishes to emphasize that, although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. EPA has exercised and intends to exercise that discretion in a manner which recognizes and promotes good faith compliance efforts and conserves enforcement resources for those who fail to make good faith efforts to comply with the Act.

XX. Summary of Public Participation

On April 21, 1978, EPA circulated a draft technical development document to interested parties, including the American Petroleum Institute (API), the Natural Resources Defense Council (NRDC), and affected state and local authorities. That document did not include recommendations for specific effluent limitations and pretreatment standards. Instead it presented the technical basis for these proposed regulations. A public meeting was held on June 1, 1978 for presentation and discussion of comments by interested parties. A brief summary of major comments is presented below. The Agency received a number of comments relating to specific technical information in the Development Document. These have not been summarized here but have been considered in revising the Development Document.

(1) Comment—A number of participants expressed concern about the limited amount of data available to the Agency for establishing BAT limitations and pretreatment standards, especially for toxic pollutants.

Response—EPA recognizes that the data base for toxic pollutants is limited. Data limitations result from a history of infrequent monitoring or regulation, and the high costs, sophistication, time delays, and limited laboratory availability for toxic pollutant analyses. The Agency has sought and utilized all available data, except to the extent that it has not required mandatory sampling and analyses under Section 308 of the Act. EPA solicits additional voluntary data submissions.

(2) Comment—Reductions in flow have not been documented to result in reductions in pollutant discharge, particularly for Chemical Oxygen Demand.

Response—As stated in the section Available Waste Water Control and Treatment Technology, the Agency has concluded that effluent concentraton from a given size treatment system will not change as effluent flow is decreased. EPA has recognized that Chemical Oxygen Demand may be an exception and is not regulating COD until sufficient information is available to establish the relationship between effluent COD concentration and flow reduction. A technical paper is referenced in the Development Document describing measurements made at one refinery which significantly decreased effluent flow (increased reuse/recycle of wastewaters). That refinery reported that effluent concentrations of all pollutants remained constant after the flow reductions except COD. Total COD discharged was reduced but not in direct proportion to the flow reduction.

(3) Comment—Wastewater reduction and reuse may require extensive additional treatment before it can be used for some applications. In areas where there is a scarcity of suitable raw water, extensive treatment of wastewater for reuse may be economically justified. However, there is a point considerably short of total recycle where it becomes uneconomical to treat wastewater for reuse.

Response—EPA recognizes that the establishment of BAT and NSPS considers factors such as cost and that zero discharge while technically feasible (some refineries have already achieved it) may require very high costs (particularly retrofit costs for existing refineries). EPA has carefully considered costs of technology options in selecting BAT and NSPS technologies. Thus, EPA is proposing a stepwise approach toward higher recycle rates for existing refineries and zero discharge of pollutants only for new sources (see discussion under Option Two of Best Available Technology Economically Achievable and Option Three of New Source Performance Standards).

(4) Comment—Numerous comments were received stating that the flow model presented in the Draft Development Document was invalid for a number of statistical and technical reasons. The comments also stated that some of the data used in the model were not correct.

Response—EPA has mailed to each refinery which responded to the original questionnaires a printout of important information which EPA used to characterize their refinery and has asked them to verify or correct the information. Considerable additional flow modeling effort has also been expended with the result that a much improved flow model represents the basis for these proposed regulations. EPA will continue its flow modeling efforts, and any improvement will be reflected in the final regulations.

(5) Comment—All major sources of wastewater are not represented as variables in the flow model.

Response—The intent of the flow model is not to identify and quantify each source, or even major source, of wastewater in the refinery. The variables contained in the model are not necessarily the major contributors of wastewater (cooling tower blowdown, for example, although generally one of the largest contributors to wastewater flow is not a variable). The intent is to determine, if possible, the total refinery effluent flow by using a number of process or other variables. By considering the variables in the model (49 processes in 4 groups), the model does predict the effluent flow within statistical acceptability.

(6) Comment—Effluent limitations are obtained by multiplying achievable values of three parameters—(1) wastewater flow, (2) pollutant concentration, and (3) a variability factor to account for short term fluctuations in pollutant concentration. Wastewater flow rates also vary and an additional variability factor should be used to account for fluctuations in wastewater flow.

Response—Pollutant concentrations in final wastewater flow will vary somewhat even with good operation of the treatment system. Additional variability will occur in poorly operated treatment systems. The variability factors used to establish these proposed regulations are intended to account only for uncontrollable variations in pollutant concentrations. The Agency believes that where variations can be controlled with available technology, these sources of variation should be controlled. A large part of the variation in effluent flow (about 75% of the variation) is attributable to variations in amount of crude oil processed. This variation will be considered by the establishment of limitations based on the mass pollutant discharged per unit of crude oil processed (kg of pollutant/1,000 cubic meters of crude throughput).

Technology is available to control the remaining variation in effluent flow. That technology is equalization—providing a large storage volume for the effluent and controlling the rate of discharge. Equalization was considered as a part of BPT technology, and costs and economic impacts for equalization were calculated when BPT was promulgated. Based on the use of equalization, no variability factors were used for flow variations in establishing BPT limitations, and the Agency believes that none are necessary in these regulations if available BPT technology is used.

XXI. Solicitation of Comments

EPA invites and encourages public participation in this rulemaking. The Agency asks that any deficiencies in the record of this proposal be pointed to with specificity and that suggested revisions or corrections be supported by data.

EPA is particularly interested in receiving additional comments and data on the following issues:

(1) The Agency is reviewing the sampling and analytical methods used to determine the presence and magnitude of toxic pollutants, and solicits comments on the data produced by these methods, and the methods themselves.

(2) The Agency is considering the possibility of establishing numerical effluent limitations for toxic pollutants other than phenol and chromium. The Agency is considering mass limitations for the following additional toxic pollutants: ethylbenzene, 50 μg/l; naphtalene, 50 μg/l; 2,4 dimethylphenol, 50 μg/l; benzene, 50 μg/l; toluene, 50 μg/l. The concentrations being considered are thirty day average concentrations. Mass limitations would be calculated by multiplying the concentrations by the achievable flow for the selected option. Daily maximum limitations would be calculated by multiplying the thirty day limitation by a variability factor to account for daily fluctuations in pollutant concentration. The technical bases for these limitations

are presented in the development document. EPA requests comments on these limitations and their bases.

(3) In recognition of the limits of available data and the expense of monitoring for the toxic pollutants listed in solicitation of comment (2) above, EPA is also considering the possibility of regulating those toxic pollutants with limitations on "indicator" pollutants rather than or as an alternative to limitations on the specific toxic pollutants discussed above. The sampling and analysis data (see Data Gathering Efforts section above) show that when concentrations of certain traditional pollutants are reduced, concentrations of toxic pollutants are also reduced. While relationships between "indicator" pollutants and toxic pollutants may not be quantifiable on a one-to-one basis, control of the "indicator" would reasonably assure control of toxics with similar physical and chemical properties responsive to similar treatment mechanisms (e.g.: 2,4 dimethyl phenol is treated by biodegradation and could be controlled with BOD*5* as an "indicator" of biodegradation performance). This method of toxics regulation could obviate the difficulties, high costs, and delays of monitoring and analysis that could result from limitations solely on the toxic pollutants. Specifically, EPA is considering limitations on oil and grease, total suspended solids, biochemical oxygen demand, and total organic carbon as "indicator" pollutants. Limitations would be based on "indicator" pollutant concentrations and flows achievable with technologies identified as BAT and BADT (See Best Available Technology Economically Achievable and New Source Performance Standards sections above). It is the Agency's position that when used as "indicator" pollutants, BAT limitations may be established for conventional pollutants without regard to the BCT cost test. Moreover, when non-toxic, non-conventional pollutants (such as total organic carbon) are used as "indicator" pollutants, it is the Agency's position that such limitations are not subject to Section 301(c) or Section 301(g) modifications. EPA requests comments on the use of specific limitations on the discharge of "indicator" pollutants as an alternative to limitations on the toxic pollutants described above in this section.

(4) A study by an industry trade association (the American Petroleum Institute) (API) concludes that for new refineries total recycle (no discharge) is not only technically feasible, but may be economically more favorable than treatment for discharge to U.S. waters; fifty-five existing refineries already practice zero discharge. EPA specifically solicits comments and data which would support or refute the achievability of no discharge on a nationwide basis for new refineries. Comments on the other options identified for new source standards are also solicited.

(5) As stated in the section Data Gathering Efforts, EPA found that the seventeen refineries sampled during the data gathering effort were achieving a significantly lower effluent concentration of total phenol (4AAP) than that assumed in establishing BPT limitations. Other technical studies have reached the same conclusion. Therefore, the Agency is proposing to use 19 $\mu g/l$ as the achievable long term concentration for total phenol (4AAP). EPA requests comments and data which would either verify or refute the assumption that a lower concentration of total phenol (4AAP) is achievable in petroleum refineries.

(6) EPA assumes that POTWs have installed secondary treatment in deciding whether pollutants pass through or are incompatible with POTWs. EPA makes this assumption regardless of whether a refinery is actually discharging into a POTW with secondary treatment. The only exception to this assumption would be if a refinery discharges into a POTW which is not required by the Clean Water Act to achieve effluent limitations based on secondary treatment. These are refineries discharging into a POTW which has received a waiver under section 301(h) of the Act. (See discussion under Pretreatment Standards above). EPA solicits comments on this approach to selecting pollutants for control by pretreatment standards.

(7) Possible underestimation of control technology costs was an issue raised during the public comment meeting and in written comments. In order to perform a meaningful comparison of EPA cost data and industry cost data, EPA requests detailed information on salient design and operating characteristics; actual installed cost (not estimates of replacement costs) for each unit treatment operation or piece of equipment, the date of installation and the amount of installation labor provided by plant personnel; and the actual cost for operation and maintenance, broken down into units of usage and cost for energy (kilowatt hours or equivalent), chemicals, and labor (work-years or equivalent).

(8) The Agency is considering best management practices (BMPs) for specific application in this industry (see Best Management Practices). EPA requests comments on the clarity, specificity, and practicability of these BMPs, as well as information and suggestions concerning additional BMPs which may be appropriate.

(9) EPA has obtained from the industry a substantial data base for the control and treatment technologies which serve as the basis for the proposed regulations. Plants which have not submitted data, or which have compiled data more recent than that already submitted, are requested to forward these data to EPA. These data should be individual data points, not averages or other summary data, including flow, production, and all pollutant parameters for which analyses were run. Please submit any qualifications to the data, such as descriptions of facility design, operating procedures, and upset problems during specified periods.

(10) EPA requests that POTWs which receive wastewaters from petroleum refining plants submit data which would document the occurrence of interference with collection system and treatment plant operations, permit violations, sludge disposal difficulties, or other incidents attributable to the pollutants contained in POTW influent.

Dated: November 27, 1979.

Douglas M. Costle,

Administrator.

Appendix A [1]—Abbreviations, Acronyms and Other Terms Used in this Notice

Act—The Clean Water Act.
Agency—The U.S. Environmental Protection Agency.
BAT—The best available technology economically achievable, under Section 304(b)(2)(B) of the Act.
BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act.
BMP—Best management practices under Section 304(e) of the Act.
BPT—The best practicable control technology currently available, under Section 304(b)(1) of the Act.
Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended by the Clean Water Act of 1977 (Pub. L. 95–217).
Direct discharger—A facility which discharges or may discharge pollutants into waters of the United States.
Indirect discharger—A facility which discharges or may discharge pollutants into a publicly owned treatment works.
NPDES permit—A National Pollutant Discharge Elimination System permit issued under section 402 of the Act.
NSPS—New source performance standards, under section 306 of the Act.
POTW—Publicly owned treatment works.

[1] Appendix A through H will not appear in the Code of Federal Regulations.

PSES—Pretreatment standards for existing sources of indirect discharges, under section 307(b) of the Act.
PSNS—Pretreatment standards for new sources of direct discharges, under section 307(b) and (c) of the Act.
RCRA—Resource Conservation and Recovery Act (PL 94-580) of 1976, Amendments to Solid Waste Disposal Act.

Appendix B—Toxic Pollutants Not Detected In Treated Effluents (Direct Discharge)

Organics

acrolein
acrylonitrile
chlorobenzene
1,1,1-trichloroethane
1,1-dichloroethane
1,1,2-trichloroethane
chloroethane
2-chloroethylvinyl ether
chloroform
methyl chloride
methyl bromide
bromoform
trichlorofluoromethane
dichlorodifluoromethane
chlorodibromomethane
vinyl chloride
acenaphthene
benzidine
1,2,4-trichlorobenzene
hexachlorobenzene
hexachloroethane
bis(chloromethyl) ether
bis(2-chloroethyl) ether
2-chloronaphthalene
2,4,6-trichlorophenol
2-chlorophenol
1,2-dichlorobenzene
1,3-dichlorobenzene
1,4-dichlorobenzene
3,3'-dichlorobenzidine
2,4-dinitrotoluene
2,6-dinitrotoluene
1,2-diphenylhydrazine
4-chlorophenyl phenyl ether
4-bromophenyl phenyl ether
bis(2-chloroisopropyl) ether
bis(2-chloroethoxy) methane
hexachlorobutadiene
hexachlorocyclopentadiene
isophorone
nitrobenzene
2-nitrophenol
2,4-nitrophenol
4,6-dinitro-o-cresol
N-nitrosodimethylamine
N-nitrosodiphenylamine
N-nitrosodi-n-propylamine
pentachlorophenol
butyl benzyl phthalate
di-n-octyl phthalate
3,4-benzofluoranthene
benzo(k) fluoranthane
acenaphthylene
dibenzo(a,h)anthracene
ideno(1,2,3-cd)pyrene
2,3,7,8-tetrochlorodibenzo-p-dioxin (TCDD)

Pesticides

aldrin
dieldrin
chlordane
4,4'DDT
4,4'-DDE
4,4'-DDD
a-endosulfan-Alpha
b-endosulfan-Beta
endosulfan sulfate
endrin
endrin aldehyde
heptachlor
heptachlor epoxide
a-BHC-Alpha
b-BHC-Beta
r-BHC-Gamma
g-BHC-Delta
PCB-1242
PCB-1254

Others

asbestos (fibrous)

Appendix C—Toxic Pollutants Found in Only One Refinery Effluent (at Concentrations Higher Than Those Found in the Intake Water) and Which Are Uniquely Related to the Refinery at Which it Was Detected (Direct Discharge)

1. Organics

Carbon tetrachloride
1,1-dichloroethylene
1,2-dichloropropane
1,2-dichloropropylene
2,4-dichlorophenol
di-n-butyl phthalate
dimethyl phthalate

2. Pesticides

None

3. Metals

None

4. Others

None

Appendix D—Toxic Pollutants Detected in Treated Effluents of More Than One Refinery or Detected in the Treated Effluents of One Refinery But Not Uniquely Related to the Refinery at Which it Was Detected (Direct Discharge)

1. Organics

Benzene
1,2-dichloroethane
1,1,2,2-tetrachloroethane
parachlorometa cresol
1,2-trans-dichloroethylene
2,4-dimethylphenol
ethylbenzene
fluoranthene
methylene chloride
dichlorobromomethane
naphthalene
4-nitrophenol
N-nitrosodi-n-propylamine
bis(2-ethylhexyl) phthalate
diethyl phthalate
benzo(a)anthracene
benzo(a)pyrene
chrysene
anthracene
benzo(ghi)perylene
fluorene
phenanthrene
pyrene
tetrachloroethylene
toluene
trichloroethylene

2. Metals

antimony (total)
arsenic (total)
beryllium (total)
cadmium (total)
copper (total)
cyanide (total)
lead (total)
mercury (total)
nickel (total)
selenium (total)
silver
thallium (total)
zinc (total)

Appendix E—Toxic Pollutants Not Detected in Discharges to POTWs (Indirect Discharge)

1. Organics

acrolein
acrylonitrile
carbon tetrachloride
1,1-dichloroethane
1,1,2-trichloroethane
1,1,2,2-tetrachloroethane
chloroethane
2-chloroethylvinyl ether
1,1-dichloroethylene
1,2-trans-dichloroethylene
1,2-dichloropropane
1,2-dichloropropylene
methyl chloride
methyl bromide
bromoform
dichlorobromomethane
trichlorofluoromethane
dichlorodifluoromethane
chlorodibromomethane
trichloroethylene
vinyl chloride
benzidine
1,2,4-trichlorobenzene
hexachlorobenzene
hexachloroethane
bis(chloromethyl) ether
bis(2-chloroethyl) ether
2-chloronaphthalene
2,4,6-trichlorophenol
parachlorometa cresol
2-chlorophenol
1,2-dichlorophenol
parachlorometa cresol
2-chlorophenol
1,2-dichlorobenzene
1,3-dichlorobenzene
1,4-dichlorobenzene
3,3'-dichlorobenzidine
2,4-dichlorophenol
2,6-dinitrotoluene
fluoranthene
4-chlorophenyl phenyl ether
4-bromophenyl phenyl ether
bis(2-chloroisopropyl) ether
bis(2-chloroethoxy) methane
hexachlorobutadiene
hexachlorocyclopentadiene
nitrobenzene
2-nitrophenol
4-nitrophenol
2,4-dinitrophenol
4,6-dinitro-o-cresol
N-nitrosodiphenylamine
N-nitrosodi-n-propylamine
bis(2-ethylhexyl) phthalate
dimethyl phthalate
benzo(a)pyrene

3,4-benzofluoranthene
benzo(k)fluoranthene
acenaphthylene
benzo(ghi)perylene
dibenzo(a,h)anthracene
ideno(1,2,3-cd)pyrene
2,3,7,8-tetrachloro-dibenzo-p-dioxin(TCDD)

2. Pesticides

dieldrin	g-BHC-Delta
chlordane	PCB-1242
4,4'-DDD	PCB-1254
a-endosulfan-Alpha	PCB-1221
b-endosulfan-Beta	PCB-1232
endosulfan sulfate	PCB-1248
endrin	PCB-1260
endrin aldehyde	PCB-1016
heptachlor	toxaphene
4-BHC-Gamma	

3. Metals

antimony (total)	silver (total)
beryllium (total)	thallium (total)
cadmium (total)	

4. Others (Asbestos, 4AAP Phenol)

Not analyzed

Appendix F—Toxic Pollutants Detected in Discharges to POTW (Indirect Discharge)

1. Organics

benzene
chlorobenzene
1,2–dichloroethane
1,1,1-trichloroethane
chloroform
ethylbenzene
methylene chlroide
tetrachloroethylene
toluene
acenaphthene
2,4-dimethylphenol
2,4-dinitortoluene
1,2-diphenylhydrazine
isophorone
naphthalene
N–nitrosodiphenylamine
pentachlorophenol
phenol
butyl benzyl phthalate
di-n-butyl phthalate
di-n-octyl phthalate
diethyl phthalate
benzo(a)anthracene
chrysene
anthracene
fluorene
phenanthrene
pyrene

2. Pesticides

aldrin	hepatachlor epoxide
4,4'-DDT	a-BHC-Alpha
4,4'-DDE	b-BHC-Beta

3. Metals

arsenic (total)	mercury (total)
chromium (total)	nickel (total)
copper (total)	selenium (total)
lead (total)	zinc (total)

4. Others (Asbestos, 4AAP Phenol)

Not analyzed

Appendix G—Toxic Pollutants Found to Pass Through POTW with Only Primary Treatement (Indirect Discharge)

1. Organics

benzene
1,2-dichloroethane
1,1,1-trichloroethane
chloroform
ethylbenzene
methylene chloride
tetrachloroethylene
toluene
2,4-dimethylphenol
naphthalene
phenol
butyl benzyl phthalate
di-n-butyl-phthalate
di-n-octyl phthalate
diethyl phthalate

2. Pesticides

4,4'-DDT	a-BHC-Alpha
4,4'-DDE	b-BHC-Beta

3. Metals

arsenic (total)	mercury (total)
chromium (total)	nickel (total)
copper (total)	selenium (total)
lead (total)	zinc (total)

4. Others (Asbestos, 4AAP Phenol)

Not analyzed

Appendix H

The following derivation presents the development of mass limitations for phenol, based upon Option 2, from the flow model discussed in Section V.

(1) Mass = Flow x concentration x variability (equation 1)

BAT Mass = .48 x Mass (based on average 1976 industry flow)

(2) Flow Model (See Section IV of the Development Document) = 0.004C + 0.048K + 0.48(A+L) (equation 2)

Where:

Flow = million gallons per day/1000 barrels of petroleum liquid and natural gas liquids

C = summation of the crude oil and fed natural gas liquids to the atmospheric distillation, vacuum distillation, crude desalting (in units of 1,000 bbls/day)

K = summation of the petroleum liquids fed to the catalytic cracking processes (in unit of 1,000 bbls/day)

A = summation of the petroleum liquids fed to the asphalt processes (in units of 1,000 bbls/day)

L = summation of the petroleum liquids fed to the lube processes (in units of 1,000 bbls/day)

(3) Concentration and variability factor
Phenol = 19 μg/l (concentration)
1.7 (variability factor for 30 day averages)

(4) Sample Calculation
Mass = Flow x concentration x variability factor x .48 = (.004C + .046 *K* + .048 (*A* + *L*)) x .019 mg/l x 1.7 x 8.34 x .48
Mass (lbs of Phenol) = 0.0005C + 0.0060K + 0.0062(A + L)

Part 419 is revised to read as set forth below:

PART 419—PETROLEUM REFINING POINT SOURCE CATEGORY

General Provisions

Sec.
419.10 Applicability.
419.11 General Definitions.

BPT Limitations

Subpart A—Topping Subcategory

419.20 Applicability; description of the topping subcategory.
419.21 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart B—Cracking Subcategory

419.30 Applicability; description of the cracking subcategory.
419.31 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart C—Petrochemical Subcategory

419.40 Applicability; description of the petrochemical subcategory.
419.41 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart D—Lube Subcategory

419.50 Applicability; description of the lube subcategory.
419.51 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart E—Integrated Subcategory

419.60 Applicability; description of the integrated subcategory.
419.61 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

BAT, BCT Limitations and New Source and Pretreatment Standards

Subpart F—Petroleum Refining Point Source Category

419.70 Applicability; description of the petroleum refining subcategory.
419.71 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
419.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
419.73 New source performance standards (NSPS).
419.74 Pretreatment standards for new and existing sources.

419.75 Pretreatment standards for facilities discharging into certain publicly owned treatment works with only primary treatment.

Appendix—Sample calculation of phenol effluent limitations for a typical refinery.

Authority: Sections 301, 304(b), (c), (e), and (g), 306(b) and (c), 307(b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977), (the "Act"); 33 United States. 1311, 1314(b), (c), (e), and (g), 1316(b) and (c), 1317(b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

General Provisions

§ 419.10 Applicability.

This part applies to any petroleum refinery which discharges or may discharge pollutants to waters of the United States or which introduces or may introduce pollutants into a publicly owned treatment works.

§ 419.11 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) The term "ballast" means the flow of waters, from a ship, which is treated at the refinery.

(b) The term "feedstock" means the crude oil and natural gas liquids fed to the topping units.

(c) The term "once-through cooling water" means those waters discharged that are used for the purpose of heat removal and do not come into direct contact with any raw material, intermediate, or finished product.

(d) The term "crude throughput" or "C" means the summation of the crude oil and natural gas liquids fed to the crude processes in unit of 1,000 bbl/day (when using the English unit tables) or 1,000 cubic meters/day (when using the metric unit tables).

(e) The term "crude processes" means atmospheric distillation, vacuum distillation and crude desalting processes.

(f) The term "cracking throughput" or "K" means the summation of the petroleum liquids fed to the cracking processes in unit of 1,000 bbl/day (when using the English unit tables) or 1,000 cubic meters/day (when using the metric unit tables).

(g) The term "cracking processes" means hydrocracking, visbreaking, thermal cracking, fluid catalytic cracking and moving bed catalytic cracking processes.

(h) The term "asphalt and lube throughput" or "AL" means the summation of the petroleum liquids fed to the asphalt and lube processes in unit of 1,000 bbl/day (when using the English unit tables) or 1,000 cubic meters/day (when using the metric unit tables).

(i) The term "asphalt and lube processes" means asphalt production, asphalt oxidizing, asphalt emulsifying, hydrofining, hydrofinishing, lube hydrofining, white oil manufacturing, propane dewaxing, propane deasphalting, propane fractioning, propane deresining, Duo Sol solvent treating, solvent extraction, duotreating, solvent dewaxing, solvent deasphalting, lube vacuum tower, oil fractionation, batch still (naphta strip), bright stack treating, centrifuge and chilling MEK dewaxing, butane dewaxing, MEK–Toluene dewaxing, deoiling (wax), naphthenic lube production, SO_2 extraction, wax pressing, wax plant (with neutral separation), furfural extracting, clay contacting-percolation, wax sweating, acid treat, phenol extraction, lube and fuel additives, sulfanate plant, MIBK, wax slabbing, rust preventives, petrolatum oxidation, grease manufacture processes. These processes are described in more detail in Sections IV and V of the development document.

(j) The term "process wastewater" means all the wastewater from the refinery with exception to storm water, ballast water, sanitary wastewater, and noncontact once through cooling water.

(k) The following abbreviations shall mean: (1) "bbl" means barrel (one barrel equals 42 gallons), and (2) "R" means the ratio of cooling tower blowdown flow to total effluent flow.

BPT Limitations

Subpart A—Topping Subcategory

§ 419.20 Applicability; Description of the topping subcategory.

The provisions of this subpart are applicable to discharges from any facility which produces petroleum products by the use of topping and catalytic reforming whether or not the facility includes any other process in addition to topping and catalytic reforming. The provisions of this subpart are not applicable to facilities which include thermal processes (coking, visbreaking, etc.) or catalytic cracking.

§ 419.21 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD5	22.7	12.0
TSS	15.8	10.1
COD [1]	117	60.3
Oil and grease	6.9	3.7
Phenolic compounds	.168	.076
Ammonia as N	2.61	1.27
Sulfide	.149	.068
Total chromium	.345	.20
Hexavalent chromium	.028	.012
pH	Within the range 6.0 to 9.0	
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	8.0	4.25
TSS	5.6	3.6
COD [1]	41.2	21.3
Oil and grease	2.5	1.3
Phenolic compounds	.060	.027
Ammonia as N	.99	.45
Sulfide	.053	.024
Total chromium	.122	.071
Hexavalent chromium	0.10	.0044
pH	Within the range 6.0 to 9.0	

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgment of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day:	Size factor
Less than 24.9	1.02
25.0 to 49.9	1.08
50.00 to 74.9	1.16
75.0 to 99.9	1.26
100 to 124.9	1.38
125 to 149.9	1.50
150 or greater	1.57

(2) Process factor.

Process configuration:	Process factor
Less than 2.49	0.62
2.5 to 3.49	0.67
3.5 to 4.49	0.80
4.5 to 5.49	0.95
5.5 to 5.99	1.07
6.0 to 6.49	1.17
6.5 to 6.99	1.27
7.0 to 7.49	1.39
7.5 to 7.99	1.51
8.0 to 8.49	1.64
8.5 to 8.99	1.79
9.0 to 9.49	1.95
9.5 to 9.99	2.12
10.0 to 10.49	2.31
10.5 to 10.99	2.51
11.0 to 11.49	2.73

Process configuration:	Process factor
11.5 to 11.99	2.98
12.0 to 12.49	3.24
12.5 to 12.99	3.53
13.0 to 13.49	3.84
13.5 to 13.99	4.18
14.00 or greater	4.36

(3) See the comprehensive example Subpart D § 419.51(b)(3).

(c) The following allocations constitute the quantity and quality of pollutants or pollutant properties controlled by this paragraph and attributable to ballast, which may be discharged after the application of best practicable control technology currently available, by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (b) of this section:

(1) *Ballast.* The allocation allowed for ballast water flow, as kg/cu m (lb/M gal), shall be based on those ballast waters treated at the refinery.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	metric units (kilograms per cubic meter of flow)	
BOD5	0.048	0.026
TSS	.033	.021
CAOD	.47	.24
Oil and grease	.015	.008
pH	Within the range 6.0 to 9.0	
	English units (pounds per 1,000 gal of flow)	
BOD5	0.40	0.21
TSS	.26	.17
COD	3.9	2.0
Oil and grease	.126	.067
pH	Within the range 6.0 to 9.0	

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/1.

Subpart B—Cracking Subcategory

§ 419.30 Applicability; description of the cracking subcategory.

The provisions of this subpart are applicable to all discharges from any facility which produces petroleum products by the use of topping and cracking, whether or not the facility includes any process in addition to topping and cracking. The provisions of this subpart are not applicable however, to facilities which include the processes specified in Subparts C, D, or E of this part.

§ 419.31 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currency available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD5	28.2	15.6
TSS	19.5	12.6
COD	210	109
Oil and grease	8.4	4.5
Phenolic compounds	.21	.10
Ammonia as N	18.8	8.5
Sulfide	.18	.082
Total chromium	.43	.25
Hexavalent chromium	.035	.016
Ph	Within the range 6.0 to 9.0	
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	9.9	5.5
TSS	6.9	4.4
COD	74	38.4
Oil and grease	3.0	1.6
Phenolic compounds	.074	.036
Ammonia as N	6.6	3.6
Sulfide	.065	.029
Total chromium	.15	.088
Hexavalent chromium	.012	.0056
pH	Within the range 6.0 to 9.0	

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 bbl of feedstock per stream day:	Size factor
Less than 24.9	0.91
25.0 to 49.9	0.95
50.0 to 74.9	1.04
75.0 to 99.9	1.13
100.0 to 124.9	1.23
125.0 to 149.9	1.35
150.0 or greater	1.41

(2) Process factor.

Process configuration:	Process factor
Less than 2.49	0.58
2.5 to 3.49	0.63
3.5 to 4.49	0.74
4.5 to 5.49	0.88
5.5 to 5.99	1.00
6.0 to 6.49	1.09
6.5 to 6.99	1.19
7.0 to 7.49	1.29
7.5 to 7.99	1.41
8.0 to 8.49	1.53
8.5 to 8.99	1.67
9.0 to 9.49	1.82
9.5 or greater	1.89

(3) See the comprehensive example Subpart D § 419.51(b)(3)

(c) The provisions of § 419.21(c)(1) apply to discharges of process waste water pollutants attributable to ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged a total organic carbon concentration not to exceed 5 mg/1.

Subpart C—Petrochemical Subcategory

§ 419.40 Applicability; description of the petrochemical subcategory.

The provisions of this subpart are applicable to all discharges from any facility which produces petroleum products by the use of topping, cracking and petrochemical operations, whether or not the facility includes any process in addition to topping, cracking and petrochemical operations. The provisions of this subpart shall not be applicable however, to facilities which include the processes specified in Subparts D or E of this part.

§ 419.41 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) The following limitations establish the quantity or quality of pollutant or pollutants properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for thirty consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD5	34.6	18.4
TSS	23.4	14.8
COD	210	109
Oil and grease	11.1	5.9
Phenolic compounds	.25	.120
Ammonia as N	23.4	10.6
Sulfide	.22	.099
Total chromium	.52	.30
Hexavalent chromium	.046	.020
pH	Within the range 6.0 to 9.0	

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	12.1	6.5
TSS	8.3	5.25
COD	74	38.4
Oil and grease	3.9	2.1
Phenolic compounds	.088	.0425
Ammonia as N	8.25	3.8
Sulfide	.078	.035
Total chromium	.183	.107
Hexavalent chromium	.016	.0072
pH	Within the range 6.0 to 9.0	

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor:

1,000 bbl of feeds per stream-day:	Size factor
Less than 24.9	0.73
25.0 to 49.9	0.76
50.0 to 74.9	0.83
75.0 to 99.9	0.91
100.0 to 124.9	0.99
125.0 to 149.9	1.08
150.0 or greater	1.13

(2) Process factor:

Process configuration:	Process factor
Less than 4.49	0.73
4.5 to 5.49	0.80
5.5 to 5.99	0.91
6.0 to 6.49	0.99
6.5 to 6.99	1.08
7.0 to 7.49	1.17
7.5 to 7.99	1.28
8.0 to 8.49	1.39
8.5 to 8.99	1.51
9.0 to 9.49	1.65
9.5 or greater	1.72

(3) See the comprehensive example Subpart D § 419.51(b)(3).

(c) The provisions of § 419.21(c)(1) apply to discharges of process waste water pollutants attributable to ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the disclosure allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not be exceed 5 mg/1.

Subpart D—Lube Subcategory

§ 419.50 Applicability; description of the lube subcategory.

The provisions of this subpart are applicable to all discharges from any facility which produces petroleum products by the use of topping, cracking and lube oil manufacturing processes, whether or not the facility includes any process in addition to topping, cracking and lube oil manufacturing processes. The provisions of this subpart are not applicable however, to facilities which include the processes specified in Subparts C and E of this part.

§ 419.51 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000m ³ of feedstock)	
BOD5	50.6	25.8
TSS	35.6	22.7
COD	360	187
Oil and grease	16.2	8.5
Phenolic compounds	.38	.184
Amonia as N	23.4	1056
Sulfide	.33	1.0
Total chromium	.77	.45
Hexavalent chromium	.068	.030
pH	Within the range 6.0 to 9.0	
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	19.9	9.1
TSS	12.5	8.0
COD	127	66
Oil and grease	5.7	3.0
Phenolic compounds	.133	.065
Ammonia as N	8.3	3.8
Sulfide	.118	.053
Total chromium	.273	.160
Hexavalent chromium	.024	.011
pH	Within the range 6.0 to 9.0	

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor:

1,000 bbl of feedstock per stream day:	Size factor
Less than 49.9	0.71
50.0 to 74.9	0.74
75.0 to 99.9	0.81
100.0 to 124.9	0.88
125.0 to 149.9	0.97
150.0 to 174.9	1.05
175.0 to 199.9	1.14
200.0 or greater	1.19

(2) Process factor.

Process configuration:	Process factor
Less than 6.49	0.81
6.5 to 7.49	0.88
7.5 to 7.99	1.00
8.0 to 8.49	1.09
8.5 to 8.99	1.19
9.0 to 9.49	1.29
9.5 to 9.99	1.41
10.0 to 10.49	1.53
10.5 to 10.99	1.67
11.0 to 11.49	1.82
11.5 to 11.99	1.98
12.0 to 12.49	2.15
12.5 to 12.99	2.34
13.0 or greater	2.44

(3) Example of the application of the above factors.

Calculation of the Process Configuration

Process category	Processes Included	Weighting factor
Crude	Atm. crude distillation	1
	Vacuum crude distillation	
	Desalting	
Cracking and coking.	Fluid cat. cracking	6
	Vis-breaking	
	Thermal cracking	
	Moving bed cat. cracking	
	Hydrocracking	
	Fluid coking	
	Delayed coking	
Lube	Further defined in the development document.	13
Asphalt	Asphalt production	12
	Asphalt oxidation	
	Asphalt emulsifying	

(c) The provisions of § 419.21(c)(1) apply to discharges of process waste water pollutants attributable to point source subject to the provisions of ballast water by this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/1.

Example.—*Lube Refinery 125,000 bbl per Stream Day Throughput*

Process	Capacity (1,000 bbl per stream day)	Capacity relative to throughput	Weighting factor	Processing configuration
Crude:				
Atm	125	1		
Vacuum	60	.48		
Desalting	125	1		
Total		2.48	× 1 =	2.48

Example.—*Lube Refinery 125,000 bbl per Stream Day Throughput*—Continued

Process	Capacity (1,000 bbl per stream day)	Capacity relative to throughput	Weighting factor	Processing configuration
Cracking—FCC	41	.328		
Hydrocracking	20	.160		
Total		.488	× 6 =	2.93
Lubes	5.3	.042		
	4.0	.032		
	4.9	.039		
Total		.113	× 13 =	1.47
Asphalt	4.0	.032	× 12 =	.38
Refinery process configuration			=	7.26

NOTES

See table § 419.42(b)(2) for process factor. Process factor=0.88.
See table § 419.42(b)(1) for size factor for 125,000 bbl per stream day lube refinery. Size factor=0.93.
To calculate the limits for each parameter, multiply the limit § 419.42(a) by both the process factor and size factor
BOD5 limit (maximum for any 1 day)=17.9×0.88×0.93=14.6 lb. per 1,000 bbl of feedstock.

Subpart E—Integrated Subcategory

§ 419.60 Applicability; description of the integrated subcategory.

The provisions of this subpart are applicable to all discharges resulting from any facility which produces petroleum products by the use of topping, cracking, lube oil manufacturing processes, and petrochemical operations, whether or not the facility includes any process in addition to topping, cracking, lube oil manufacturing processes and petrochemical operations.

§ 419.61 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD5	54.4	28.9
TSS	37.3	23.7
COD	388	198
Oil and grease	17.1	9.1
Phenolic compounds	.40	.192
Ammonia as N	23.4	10.6
Sulfide	.35	.158
Total chromium	.82	.48
Hexavalent chromium	.068	.032
pH	Within the range 6.0 to 9.0	

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	19.2	10.2
TSS	13.2	8.4
COD	136	70
Oil and grease	6.0	3.2
Phenolic compounds	.14	.068
Ammonia as N	8.3	3.8
Sulfide	.124	.056
Total chromium	.29	.17
Hexavalent chromium	.025	.011
pH	Within the range 6.0 to 9.0	

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and the maximum average of daily values for thirty consecutive days.

(1) Size factor:

1,000 bbl of feedstock per stream day:	*Size factor*
Less than 124.9	0.73
125.0 to 149.9	0.76
150.0 to 174.9	0.83
175.0 to 199.9	0.91
200.0 to 224.9	0.99
225 or greater	1.04

(2) Process factor:

Process configuration:	*Process factor*
Less than 6.49	0.75
6.5 to 7.49	0.82
7.5 to 7.99	0.92
8.0 to 8.49	1.00
8.5 to 8.99	1.10
9.0 to 9.49	1.20
9.5 to 9.99	1.30
10.0 to 10.49	1.42
10.5 to 10.99	1.54
11.0 to 11.49	1.68
11.5 to 11.99	1.83
12.0 to 12.49	1.99
12.5 to 12.99	2.17
13.0 or greater	2.26

(3) See the comprehensive example Subpart D § 419.51(b)(3).

(c) The provisions of § 419.21(c)(1) apply to discharges of process waste water pollutants attributable to ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants of pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic concentration not to exceed 5 mg/l.

BAT, BCT Limitations and New Source and Pretreatment Standards

Subpart F—Petroleum Refining Point Source Subcategory

§ 419.70 Applicability; description of the petroleum refining subcategory.

This subpart applies to discharges to waters of the United States, and introductions of pollutants into publicly owned treatment works from any petroleum refinery.

§ 419.71 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

(a) The quantity of pollutants discharged from process wastewater shall not exceed the sum of the allocations specified below (3C means 3 multiplied by C):

(1)

Subpart F

Pollutant or pollutant property	BAT crude allocation: Maximum for any 1 day	BAT crude allocation: Average of daily values for 30 consecutive days
	Metric units (kilograms per day)	
Phenol	0.0031C	0.0015C
Total chromium	0.0332C	0.0194C
Hexavalent chromium	0.0028C	0.0013C
	English units (pounds per day)	
Phenol	0.0011C	0.00056C
Total chromium	0.0116C	0.0068C
Hexavalent chromium	0.0010C	0.005C

(2)

Subpart F

Pollutant or Pollutant property	BAT cracking allocation: Maximum for any 1 day	BAT cracking allocation: Average of daily values for 30 consecutive days
	Metric units (kilograms per day)	
Phenol	0.0351K	0.0170K
Total chromium	0.3812K	0.2234K
Hexavalent chromium	0.0326K	0.0147K
	English units (pounds per day)	
Phenol	0.0123K	0.0060K
Total chromium	0.1336K	0.0785K
Hexavalent chromium	0.0114K	0.0052K

(3)

Subpart F

Pollutant or pollutant property	BAT asphalt and lube allocation: Maximum for any 1 day	BAT asphalt and lube allocation: Average of daily values for 30 consecutive days
	Metric units (kilograms per day)	
Phenol	0.0365AL	0.0177AL
Total chromium	0.3975AL	0.2332AL
Hexavalent chromium	0.0340AL	0.0154AL
	English units (pounds per day)	
Phenol	0.0128AL	0.0062AL
Total chromium	0.1393AL	0.0817AL
Hexavalent chromium	0.0119AL	0.0054AL

(b) The limitations for COD, ammonia (as N), sulfide and TOC are the same as those specified in §§ 419.21, 419.31, 419.41, 419.51, and 419.61.

(c) The limitations for ballast water and once through cooling water are the same as those specified in §§ 419.21, 419.31, 419.41, 419.51, and 419.61.

Note.—See Appendix to this regulation for sample calculation of a BAT effluent limitation.

§ 419.72 Effluent limitations guide lines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT):

(a) The quantity of pollutants discharged from process wastewater shall not exceed the sum of the allocations specified below (3C means 3 multiplied by C):

(1)

Subpart F

Pollutant or pollutant property	BAT crude allocation: Maximum for any 1 day	BAT crude allocation: Average of daily values for 30 consecutive days
	Metric units (kilograms per day)	
dOD5	2.195C	1.166C
TSS	1.509C	0.9601C
Oil and grease	0.686C	0.366C
	English units (pounds per day)	
BOD5	0.7691C	0.4086C
TSS	0.5288C	0.3365C
Oil and grease	0.240C	0.128C

(2)

Subpart F

Pollutant or pollutant property	BCT cracking allocation: Maximum for any 1 day	BCT cracking allocation: Average of daily values for 30 consecutive days
	Metric units (kilograms per day)	
BOD5	25.24K	13.41K
TSS	17.35K	11.04K
Oil and grease	7.89K	4.21K
	English units (pounds per day)	
BOD5	6.845K	4.699K
TSS	6.081K	3.870K
Oil and grease	2.76K	1.47K

(3)

Subpart F

Pollutant or pollutant property	BCT asphalt and lube allocation: Maximum for any 1 day	BCT asphalt and lube allocation: Average of daily values for 30 consecutive days
	Metric units (kilograms per d9ay)	
BOD5	26.33AL	13.99AL
TSS	18.10AL	11.52AL
Oil and grease	8.23AL	4.39AL
	English units (pounds per day)	
BOD5	9.229AL	4.903AL
TSS	6.345AL	4.038AL
Oil and grease	2.88AL	1.54AL

(b) the pH shall be within the range of 6 to 9.

(c) The limitations for ballast water and once through cooling water are the same as those specified in §§ 419.21, 419.31, 419.41, 419.51, and 419.61.

§ 419.73 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

(a) There shall be no discharge of pollutants from process wastewaters to the waters of the United States.

(b) The limitations for ballast water and once through cooling water are the same as those specified in §§ 419.21, 419.31, 419.41, 419.51, and 419.61.

§ 419.74 Pretreatment standards for new and existing sources.

Any point source subject to this subpart which introduces pollutants into a publicly owned treatment works which has not been granted a waiver from achieving effluent limitations based on secondary treatment under section 301(h) of the Act must achieve the following pretreatment standards (in addition to complying with 40 CFR Part 403 in the case of new sources and except as provided in 40 CFR Part 403.13 in the case of existing sources):

(a) The following standards apply to the total refinery flow contribution to the POTW.

Subpart F

Pollutant or pollutant property	Pretreatment standards—Maximum for any 1 day
	Milligrams per liter (mg/1)
Oil and grease	100
Ammonia	100

(b) The following standard is applied to the cooling tower blowdown portion of the refinery flow to the POTW or may be applied to the total refinery flow by multiplying the standard by the ratio of the cooling tower blowndown flow to the total refinery flow to the POTW.

Subpart F

Pollutant or pollutant property	Pretreatment standards—Maximum for any 1 day
	Milligrams per liter (mg/1)
Total chromium	1

(c) Informational mass limitations are as follows:

Subpart F

Pollutant or pollutant property	Pretreatment standards—Maximum for any 1 day
	Metric units (kilograms per day)
Oil and grease	9.57C+109.52K+114.30AL
Ammonia	9.57C+109.52K+114.30AL
Total chromium	R×(0.0957C+1.0952K+1.1430AL)
	English units (pounds per day)
Oil and grease	3.35C+38.35K+40.02AL
Ammonia	3.35C+38.35K+40.02AL
Total chromium	R×(0.0335C+0.3835K+0.4002AL)

§ 419.75 Pretreatment standards for facilities discharging into certain publicly owned treatment works with only primary treatment.

Any point source subject to this subpart which introduces pollutants into a publicly owned treatment works which has been granted a waiver from achieving effluent limitations based on secondary treatment under section 301(h) of the Act must achieve the following pretreatment standards (in addition to complying with 40 CFR Part 403 in the case of new sources and except as provided in 40 CFR 403.13 for Existing Sources):

Subpart F

Pollutant or pollutant property	Pretreatment standards—301(h) Waivers	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/1)	
Phenol	0.067	0.032
Total chromium	0.725	0.425
Hexavalent chromium	0.06	0.03

(b) Information mass limitations are as follows:

(1)

Pollutant or pollutant property	Crude allocation	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Metric units (kilograms per day)	
Phenol	0.0031C	0.0015C
Total chromium	0.0332C	0.0194C
Hexavalent chromium	0.0028C	0.0013C
	English units (pounds per day)	
Phenol	0.0011C	0.00052C
Total chromium	0.0116C	0.0068BC
Hexavalent chromium	0.0010C	0.0005C

(2)

Pollutant or pollutant property	Cracking allocation	
	Mmaximum for any 1 day	Average of daily values for 30 consecutive days
	Metric units (kilograms per day)	
Phenol	0.0351K	0.0170K
Total chromium	0.3812K	0.2234K
Hexavalent chromium	0.0326K	0.0147K
	English units (pounds per day)	
Phenol	0.0123K	0.0060K
Total chromium	0.1336K	0.0783K
Hexavalent chromium	0.0114K	0.0052K

(3)

Pollutant or pollutant property	Asphalt and lube allocation	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Metric units (kilograms per day)	
Phenol	0.0365AL	0.0177AL
Total chromium	0.3975AL	0.2332AL
Hexavalent chromium	0.0340AL	0.0154AL
	English units (pounds per day)	
Phenol	0.0128AL	0.0062AL
Total chromium	0.1393AL	0.0817AL
Hexavalent chromium	0.0119AL	0.0054AL

Appendix—Sample Calculation

The following example presents the derivation of a BAT phenol effluent limitation for a typical refinery

Refinery X Y Z

Refinery processes	Refinery throughput 1000 bbl/day
Atmospheric crude distillation	100
Vacuum crude distillation	75
Desalting	50
Total crude processes (C)	225
FCC	25
Hydrocracking	20
Total cracking processes(K)	45
Asphalt production	5
Hydrofining	3
Was processing	1
Total asphalt and lube processes (AL)	9

Monthly average phenol discharge (lbs/day) $=0.0005(225)+0.0060(45)+6.2\times 10^{-3}(9)=0.44$.

[FR Doc. 79-38413 Filed 12-20-79; 8:45 am]
BILLING CODE 6560-01-M

federal register

Friday
December 21, 1979

Part V

Department of Labor

Mine Safety and Health Administration

Employment Standards Administration

Miners Suffering From Pneumoconiosis, Providing for a Central Processing Point for Discrimination Complaints; Memorandum of Understanding

DEPARTMENT OF LABOR

Mine Safety and Health Administration, Employment Standards Administration

Memorandum of Understanding

The Mine Safety and Health Administration (MSHA), U.S. Department of Labor, and the Employment Standards Administration (ESA), U.S. Department of Labor, are entering into this agreement in order to provide a central processing point for discrimination complaints filed under sections 105(c) and 428 of the Federal Mine Safety and Health Act of 1977 (Mine Act). Section 105(c) (set forth below) prohibits discrimination against miners, representatives of miners, or applicants for employment in mines, including coal, metal, and nonmetal mines. Section 428, however, is part of the Black Lung Benefits title (Title IV) of the Mine Act, and only prohibits discrimination against coal miners who are suffering from pneumoconiosis. This agreement, therefore, deals only with complaints associated with coal mine employment, not with employment in metal and nonmetal mines.

Coordinating the handling of complaints which may be made by coal miners, representatives of such miners, or applicants for employment in coal mines will improve services to complainants and make more efficient use of Government resources. This agreement designates the agency to receive complaints of discrimination, sets forth a procedure for investigation and initiation of adjudication of these complaints, and provides for consultation and cooperation between MSHA and ESA.

A. Jurisdiction

1. MSHA jurisdiction includes complaints involving alleged violations of section 105(c) of the Mine Act, which provides in pertinent part: *

(c)(1) No person shall discharge or in any manner discriminate against or cause to be discharged or cause discrimination against or otherwise interfere with the exercise of the statutory rights of any miner, representative of miners or applicant for employment in any coal or other mine subject to this Act because such miner, representative of miners or applicant for employment has filed or made a complaint under or related to this Act, including a complaint notifying the operator or the operator's agent, or the representative of the miners at the coal or other mine of an alleged danger or safety or health violation in a coal or other mine, or because such miner, representative of miners or applicant for employment is the subject of medical evaluations and potential transfer under a standard published pursuant to section 101 or because such miner, representative of miners or applicant for employment has instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such miner, representative of miners or applicant or employment on behalf of himself or others of any statutory right afforded by this Act.

Miners, representatives of miners, and applicants for employment are entitled to make or file complaints under section 105(c). Such complaints may be filed within 60 days of the occurrence of the alleged violation.

2. ESA jurisdiction includes complaints involving alleged violations of section 428 of the Mine Act, which provides in pertinent part: [1]

(a) No operator shall discharge or in any other way discriminate against any miner employed by him by reason of the fact that such miner is suffering from pneumoconiosis. No person shall cause or attempt to cause an operator to violate this section. For the purposes of this subsection the term "miner" shall not include any person who has been found to be totally disabled.

Only miners who are suffering from pneumoconiosis, but not applicants for employment, are covered by section 428. However, a miner may complain of discrimination under section 428 because he or she is suffering from pneumoconiosis, even though such miner has not filed a claim for black lung benefits. Section 428 provides that a complaint alleging discrimination is to be filed within 90 days after the occurrence of the alleged violation.

3. ESA and MSHA will have concurrent jurisdiction over complaints in which the facts of the situation could give rise to a claim under both section 105(c) and section 428. MSHA and ESA will consult with each other whenever such a "concurrent jurisdiction" complaint is received. ESA will make the final determination as to whether a violation of section 428 has occurred, and MSHA shall make the final determination as to whether a violation of 105(c) has occurred.

B. Offices Responsible for Coordination

The MSHA Coal Mine Safety and Health Branch of Special Investigations and the ESA Office of Worker's Compensation Programs, Division of Coal Mine Worker's Compensation Programs, will be responsible for coordination and consultation in the handling of the discrimination complaints covered by this agreements.

C. Procedure

1. Any complaint by a coal miner, representative of such miner, or applicant for employment in a coal mine which alleges discrimination prohibited by the Mine Act may be filed at any MSHA or ESA Black Lung office. Such complaints shall be considered filed for the purposes of both section 105(c) and section 428. Reports of such complaints will be transmitted to MSHA's Coal Mine Safety and Health Special Investigations Branch and will be assigned a number. All complaints will then be referred immediately to the appropriate MSHA district or subdistrict office for investigation. Since MSHA has a coal mine safety and health staff which regularly investigates discrimination complaints, MSHA will be responsible for investigation of all complaints and for preparation of an investigative report which will be sent to the Special Investigations Branch. The Special Investigations Branch will review and analyze the report. Based on this analysis, action will be taken on the complaint in one of the following ways:

(a) If a complaint involves a violation of section 105(c) only, MSHA will initiate proceedings before the Federal Mine Safety and Health Review Commission. If MSHA finds no violation of section 105(c), the complainant may file an action on his or her own behalf before the Commission within 30 days of notice of the Secretary's determination that no violation has occurred.

(b) If a complaint involves a violation of section 428 only, ESA will initiate proceedings pursuant to that section after receipt of the investigative report from MSHA. If, in ESA's judgment, further investigation is needed before a decision can be made, the complaint will be returned to MSHA with a request for additional information on specific issues of concern. If ESA finds no violation of section 428 or the dispute cannot be resolved amicably, any party may request a formal hearing conducted in accordance with the Administrative Procedure Act, 5 U.S.C. 551 et seq.

(c) If it appears to the Special Investigations Branch from the facts found in the investigative report that the complaint involves violations of both sections 105(c) and 428, MSHA will consult with ESA during the review of the report. If it is determined that a complaint gives rise to claims under both section 105(c) and section 428, the complainant will be so advised and will be informed of his or her rights under both sections. If the complainant wishes to proceed with both claims, MSHA will proceed first with the section 105(c) claim. The reason for proceeding first

* (Full text of section 105(c) contained in Appendix A)

[1] (Full text of section 428 contained in Appendix B)

with the section 105(c) complaint is that such cases must be processed within specific time frames, and in some instances, section 105(c) affords greater protection to miners exercising rights under the statute. Ordinarily, ESA will hold the section 428 claim in abeyance until the proceedings under section 105(c) are concluded.

D. Period of Agreement

This agreement shall continue in effect unless modified or terminated by mutual consent of both parties or terminated by either party upon thirty (30) days advance written notice to the other.

This agreement will become effective on the date of the last signature.

Dated: December 10, 1979.

Robert B. Lagather,

Assistant Secretary of Labor for Mine Safety and Health.

Dated: December 10, 1979.

Donald Elisburg,

Assistant Secretary of Labor for Employment Standards.

Approved:

Dated: December 11, 1979.

Ray Marshall,

Secretary of Labor.

Appendix A

Section 105(c) states as follows:

(c)(1) No person shall discharge or in any manner discriminate against or cause to be discharged or cause discrimination against or otherwise interfere with the exercise of the statutory rights of any miner, representative of miners or applicant for employment in any coal or other mine subject to this Act because such miner, representative of miners or applicant for employment has filed or made a complaint under or related to this Act, including a complaint notifying the operator or the operator's agent, or the representative of the miners at the coal or other mine of an alleged danger or safety or health violation in a coal or other mine, or because such miner, representative of miners or applicant for employment is the subject of medical evaluations and potential transfer under a standard published pursuant to section 101 or because such miner, representative of miners or applicant for employment has instituted or caused to be instituted any proceeding under or related to this Act of has testified or is about to testify in any such proceeding, or because of the exercise by such miner, representative of miners or applicant for employment on behalf of himself or others of any statutory right afforded by this Act.

(2) Any miner or applicant for employment or representative of miners who believes that he has been discharged, interfered with, or otherwise discriminated against by any person in violation of this subsection may, within 60 days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall forward a copy of the complaint to the respondent and shall cause such investigation to be made as he deems appropriate. Such investigation shall commence within 15 days of the Secretary's receipt of the complaint, and if the Secretary finds that such complaint was not frivolously brought, the Commission, on an expedited basis upon application of the Secretary, shall order the immediate reinstatement of the miner pending final order on the complaint. If upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall immediately file a complaint with the Commission, with service upon the alleged violator and the miner, applicant for employment, or representative of miners alleging such discrimination or interference and propose an order granting appropriate relief. The Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section) and thereafter shall issue an order, based upon findings of fact, affirming, modifying, or vacating the Secretary's proposed order, or directing other appropriate relief. Such order shall become final 30 days after its issuance. The Commission shall have authority in such proceedings to require a person committing a violation of this subsection to take such affirmative action to abate the violation as the Commission deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner to his former position with back pay and interest. The complaining miner, applicant, or representative of miners may present additional evidence on his own behalf during any hearing held pursuant to this paragraph.

(3) Within 90 days of the receipt of a complaint filed under paragraph (2), the Secretary shall notify, in writing, the miner, applicant for employment, or representative of miners of his determination whether a violation has occurred. If the Secretary, upon investigation, determines that the provisions of this subsection have not been violated, the complainant shall have the right, within 30 days of notice of the Secretary's determination, to file an action in his own behalf before the Commission, charging discrimination or interference in violation of paragraph (1). The Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section), and thereafter shall issue an order, based upon findings of fact, dismissing or sustaining the complainant's charges and, if the charges are sustained, granting such relief as it deems appropriate, including, but not limited to, an order requiring the rehiring or reinstatement of the miner to his former position with back pay and interest or such remedy as may be appropriate. Such order shall become final 30 days after its issuance. Whenever an order is issued sustaining the complainant's charges under this subsection, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) as determined by the Commission to have been reasonably incurred by the miner, applicant for employment or representative of miners for, or in connection with, the institution and prosecution of such proceedings shall be assessed against the person committing such violation. Proceedings under this section shall be expedited by the Secretary and the Commission. Any order issued by the Commission under this paragraph shall be subject to judicial review in accordance with section 106. Violations by any person of paragraph (1) shall be subject to the provisions of sections 108 and 110(a).

Appendix B

Section 428 (30 U.S.C.A. 938) states as follows:

Prohibition of discrimination by operators of miners suffering from pneumoconisosis; procedure; costs and penalties.

(a) No operator shall discharge or in any way discriminate against any miner employed by him by reason of the fact that such miner is suffering from pneumoconiosis. No person cause or attempt to cause an operator to violate this section. For the purposes of this subsection the term "miner" shall not include any person who has been found to be totally disabled.

(b) Any miner who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section, or any representative of such miner may, within ninety days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of Title 5. Each hearing examiner presiding under this section and under the provisions of subchapters I, II and III of this chapter shall receive compensation at a rate not less than that prescribed for GS–16 under section 5332 of Title 5. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the Secretary's findings therein.

(c) Whenever an order is issued under this subsection granting relief to a miner at the request of such miner, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary to have been reasonably incurred by such miner, for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing the violation.

[FR Doc. 79–39034 Filed 12–20–79; 8:45 am]

BILLING CODE 4510–27, 4510–43–M

Friday
December 21, 1979

Federal Register

Part VI

Department of Energy

Office of Conservation and Solar Energy

Residential Conservation Service Program

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 456

[Docket No. CAS-RM-79-101]

Residential Conservation Service Program

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy (DOE) is implementing the Residential Conservation Service (RCS) Program pursuant to Part 1 of Title II of the National Energy Conservation Policy Act (NECPA) (Pub. L. No. 95-619, 92 Stat. 3206, et seq.) The purpose of the Program is to encourage the installation of energy conservation measures, including renewable resource measures, in existing houses by residential customers of larger gas and electric utilities and home heating suppliers.

On November 7, 1979, DOE issued a final rule for the RCS program. (44 FR 64602). Included in the final rule were several reserved sections. This Proposed rule fills in these reserved sections, and proposes additional sections.

This Proposed Rule sets out requirements for certification of installers and inspectors of flue opening modifications (vent dampers) in gas-furnaces; installers and inspectors of automatic intermittent pilot ignition devices (IID's) in gas-fired furnaces; installers and inspectors of wind energy devices, and installers and inspectors of active solar space heating systems, solar domestic hot water systems, and combined active solar space heating and solar domestic hot water systems. The Proposed Rule also sets out proposed requirements for interim material standards and installation standards for urea-formaldehyde (U-F) based foam insulation; standards for thermosiphon hot water heaters; standards for solar swimming pool heaters; loading requirements for installation of loose fill thermal insulation; installation standards for caulks and sealants; material standards for pipe insulation; material and installation standards for flue opening modifications (vent dampers); standards for wind energy devices; and material standards for IID's.

DATES: Written comments must be received by February 19, 1980, 4:30 p.m., e.s.t., in order to ensure their consideration.

PUBLIC HEARING: January 21, 1980.

ADDRESSES: Comments and requests to speak at the hearing should be addressed to: Joanne Bakos, Office of Conservation and Solar Applications, Department of Energy, Mail Stop 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585. See "Comment Procedures" under Supplementary Information below.

HEARING LOCATION: A Public Hearing will begin at 9:00 a.m., January 21, 1980, at Room 3000A, 12th and Pennsylvania Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

James R. Tanck, Director, Residential Conservation Service Program, Office of Conservation and Solar Energy, Department of Energy, Room 3128, 20 Massachusetts Avenue NW., Washington, D.C. 20585, (202) 376-4020.

Susan Caplan, Office of General Counsel, Department of Energy, Room 3228, 20 Massachusetts Avenue NW., Washington, D.C. 20585, (202) 376-4100.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Qualification Procedures.
III. Proposed Standards.
IV. Regulatory Analysis and Urban Impact Assessment.
V. Environmental Impact Statement.
VI. Consultation with Other Federal Agencies.
VII. Contractor Contributions to the Rulemaking.
VIII. Comment and Hearing Procedures.

I. Introduction

The Department of Energy (DOE) proposes to amend Part 456 of Chapter II of Title 10 CFR to complete the rulemaking requirements for Title II, Part 1 of the National Energy Conservation Policy Act (NECPA), Pub. L. No. 95-619. Several areas in the initial proposed rules issued March 19, 1979 (44 FR 16546) were reserved pending further study and investigation. Among these reserved areas were qualification procedures for installers and inspectors of wind energy devices and furnace retrofit devices. Other reserved sections were installation standards for urea-formaldehyde foam insulation, vent dampers, and automatic intermittent pilot ignition devices (IID's). This proposed rulemaking fills in these reserved sections, replaces the previously proposed interim material standard for urea-formaldehyde foam insulation with a new proposed material standard and proposes installation standards for caulks and sealants.

II. Qualification Procedures

DOE determined that four program measures had sufficient potential safety hazards associated with the installation to merit special consideration. These measures included:

- Vent dampers.
- Automatic intermittent pilot ignition devices.
- Wind energy devices.
- Active solar space heating systems, solar domestic hot water systems, and combined active solar space heating and solar domestic hot water systems.
- U-F foam insulation.

Qualification procedures for the installers of U-F foam insulation are the responsibility of the manufacturer rather than the State and are addressed in Section IV below. Qualification procedures for installers and inspectors of vent dampers, IID's, wind energy systems, active solar space heating systems, solar domestic hot water systems, and combined active solar space heating and solar domestic hot water systems are included in § 456.314 for comment. Specific procedures for testing qualifications are left to the discretion of the State.

Regarding furnace retrofit devices, DOE determined that some background in combustion heating systems, in electricity, in codes and regulations and in practical application is necessary to ensure a safe and effective installation.

Regarding installation of wind energy devices, DOE determined that some background in national and local codes and standards, and practical application is essential for an effective installation.

DOE considered three basic factors when developing the requirements for wind energy inspectors. First, the mechanisms whereby States operate quality assurance programs for other building systems vary considerably. DOE has attempted not to impose prescriptive requirements in an area which could lead to disruption in an existing State program. Second, the requirements proposed here reflect DOE's conviction that strong and direct relationships will exist between wind system manufacturers and the installers of those systems. Logically, the relationships should ease the problem of tracing compliance with the proposed standard. Finally, substantial strengthening of the wind system standards would affect the requirements for installers and inspectors, and may serve to ease the requirements for post-installation inspection to a point of verifying documentation. Until issues pertaining to the proposed standards are resolved, it appears unreasonable to prescribe any further specificity regarding qualifications for wind energy system inspectors.

DOE will provide, as part of its Technical Assistance to the States, model qualification programs in the areas of furnace retrofit measures and wind energy devices.

During the comment period on the March 19, 1979, proposed rule, DOE received comments requesting qualification criteria for installers and inspectors of solar systems.

It was noted that many of the past problems of consumer inconvenience concerning solar systems have stemmed from inadequate installation.

DOE acknowledges that a number of poor or improper installations of active solar systems have occurred over the past several years. The quality of installations has been significantly improving. DOE is confident that specific vocational training for solar installers currently available through several avenues could support even further improvements in installation quality. Also, a number of publications are now available incorporating the experience gained during the Federal (i.e., DOE, HUD, NSF) demonstrations. DOE is aware that States employ a variety of approaches (including different institutional mechanisms) to ensure quality of other types of residential active solar system installations. However, DOE is proposing to require the States to provide training or testing of trained installers and inspectors in order to ensure that those installers and inspectors who participate in the RCS program take advantage of these new programs and information channels. See § 456.314(d).

III. Proposed Standards

A. Background

NECPA requires the Secretary to develop material and installation standards necessary to ensure the safety and effectiveness of the installed material. DOE proposes to include in the Renewable Resource Installation and Materials Standards, standards for thermosiphon hot water heaters, swimming pool heaters, and wind systems. DOE also proposes to include in the Energy Conservation Material Standards a standard for urea-formaldehyde (U–F) foam insulation, additional requirements for vent dampers and IID's and a requirement for pipe insulation, and in the Energy Conservation Installation Standards, loading requirements for loose fill thermal insulation, and installation practices for U–F foam, caulks and sealants, vent dampers for gas-fired systems, and IID's.

B. Thermosiphon Hot Water Heaters

At the time of publication of the March 19, 1979, Proposed Rule, DOE had not yet completed its determination of the need for standards to assure the safety and effectiveness of thermosiphon hot water heaters. DOE now concurs with the opinion of several commenters, including the National Bureau of Standards, that the provisions of the *HUD Intermediate Minimum Property Standards* should be adopted for thermosiphon systems installed within the RCS program. Several sections of the HUD standards are appropriate only to active solar systems, however, and are therefore excluded from thermosiphon systems standards.

C. Replacement Swimming Pool Heaters

In the March 19, 1979 Proposed Rule, DOE had reserved the section on standards for replacement solar swimming pool heaters, pending further research, and solicited comments to assist in this research.

Information provided to DOE during the public comment period shows that solar swimming pool heaters vary widely in their physical properties. Many installed systems are of simple, low technology construction and typically can be installed by the consumer. Neither information provided by the commenters, nor DOE's ongoing assessment of these low technology heaters, has demonstrated a need for standards to protect consumer health or safety or to assure general effectiveness of these pool heaters. Thus, no standards are proposed for this class of solar swimming pool heaters.

However, there is evidence that solar pool heaters employing flat plate collectors and utilizing a non-potable working fluid are high technology systems requiring some standard to insure safe and effective installation. Therefore, DOE now proposes that these systems be installed in conformance with the applicable provision of the HUD *Intermediate Minimum Property Standards*. It should be noted that DOE believes that these types of units represent a small portion of the current sales of solar pool heating systems. Also, these types of systems employ components very similar (often ordered from the same suppliers) to the components utilized in solar water heating units and active space heating systems (hydronic).

Therefore, DOE believes that the proposed standard would not impose and undue burden on a developing industry while ensuring safe and effective installations of solar swimming pool heaters.

D. Wind Systems

Small wind energy conversion systems (SWECS) can be cost-effective measures and therefore are appropriate for inclusion in the RCS Program.

DOE has determined that certain standards are required to ensure safe and effective operation of residential SWECS. However, due to the relatively limited experience of the SWECS industry, DOE must exercise caution and not at this time impose restrictive or costly standards which could significantly disrupt industry growth and competition. Therefore, the proposed rule includes general performance and safety standards and, where experience to date has indicated a need, sets out prescriptive standards.

DOE's approach is necessary because of a number of considerations. First, due to the scarcity of engineering data regarding failure of these devices (or their subsystems), DOE cannot state with confidence which portions of SWECS design require standards to ensure safe and effective system operation. Also, due to lack of experience in field operation of residential SWECS, siting requirements need to be established to minimize personal or property injury should a SWECS tower, mechanical component (such as rotor connections), or electrical component (such as controls or interface equipment) fail to meet design specifications.

To DOE's knowledge, consensus standards and model code proceedings have not been initiated for matters specifically related to these devices. DOE will rely upon adequate voluntary consensus standards where they exist. DOE intends to review appropriate consensus standards as they become available for incorporation into this Rule.

DOE presented preliminary standards concerning wind system location and design in the March 19, 1979 RCS Proposed Rule. (44 FR 16546) These preliminary standards were the subject of several comments which questioned such provisions as siting wind systems at least 1½ tower lengths from any property line or occupied structure, and the rated survival wind speed being greater than the highest wind recorded during the last three years at the nearest official weather station having such records. The commenters' opinions varied on the preliminary standards; some felt the provisions were too restrictive, while others felt the provisions to be insufficient to provide assurances of safety and effectiveness.

Partly as a result of comments and partly as a result of its own concern, DOE has prepared and is proposing for comment substantially revised material and installation standards for SEWECS. In preparing this proposed standard, DOE has attempted to incorporate a prudent estimate of provisions which

might be required for safe and effective operation of these devices. Due to the lack of consensus standards in this area, this proposed standard relies mainly on maufacturer testing and self-certification and requires the installer to follow instructions that are required to be supplied by the manufacturer and the utility company.

DOE encourages utilities, manufacturers, affected States, professional societies, test laboratories, and other interested parties to provide DOE with their recommendations as to how to improve the proposed standards published today. Issues pertaining to inclusion of SWECS in the RCS Program as Program measures in a specific locality have already been resolved in the adoption of the RCS Final Rule.

Although DOE actively solicits comments on any portion of the proposed SWECS standard, DOE specifically solicits comments in response to the following questions:

• What facilities and instrumentation are required to perform a meaningful performance test?

• What levels and source of instrument calibration (and traceability) should be specified for the performance testing?

• Are reasonable alternatives to permitting manufacturer certification available? In other areas of standards development, DOE has made known its preference for third party (free from conflict of interest) certification known.

• What is the best means to ensure compliance with the provisions of the proposed standard? DOE is searching for a reasonable enforcement method without imposing undue burdens upon utilities, States, or manufacturers.

• Are additional standards required to ensure safe and efficient operation of these devices? The standard proposed by DOE primarily relates to performance, safety and installation siting DOE is not yet certain that standards relating to operating mechanical portions of a SWECS are required. Constructive criticism with respect to the need for this potential requirement is specifically requested.

In making recommendations, commenters are requested to advise DOE as to the basis for their recommendation. The following questions may prove helpful in formulating recommendations:

• *What is the basis for the requirement?* For instance, is documentable evidence available as to the need for the proposed requirement? Is this requirement commonly applied to similar products or components? What evidence is available that, without the requirement, a safety hazard would exist that a failure would occur or that SWECS effectiveness would substantially decline?

• *How will the requirement effect competition?* For instance, are estimates of effects of the requirement upon product cost available? Are laboratory facilities available to perform any required testing? If so, what similar products or similar tests are performed? At what cost?

In the event that substantial modifications are required as a result of public comment, DOE intends to permit further review of such revision. On the other hand, DOE will consider an absence of meaningful constructive recommendations to mean an acceptance of the standards as proposed. In the unlikely event that DOE is unable to finalize adequate SWECS standards prior to submission of State Plans, DOE will remove SWECS from the list of Program measures.

E. Material Standard for Urea-Formaldehyde Foam Insulation

DOE determined that a material standard is necessary to ensure the general safety and effectiveness of urea-formaldehyde foamed-in-place (U–F foam) insulation in the RCS program. This determination is based upon complaints received by the U.S. Consumer Product Safety Commission (CPSC) and various State agencies involving the release of formaldehyde gas into homes that had been insulated with U–F foam. By October 1979, for instance, the CPSC had received documented health complaints from 485 homeowners. These included reports of eye irritation, respiratory problems, nausea, vomiting, allergic reactions and other symptoms. These symptoms were reported at various times after the foam had been installed.

The product correctly manufactured and installed can be an effective insulating material. However, inconsistencies in the manufacturing process can result in: excessive shrinkage, deterioration of the foamed-in-place materials and off-gassing of urea-formaldehyde vapors. These inconsistencies included:

• Excess formaldehyde content in resin and fresh foam, and

• Excessive catalyst in the foaming agent.

The overall effectiveness and acceptability of U–F foam are difficult to evaluate since the insulation per se does not exist as a shelf item. In contrast with other insulation products, this product is created by the installer at the job site by mixing appropriate amounts of urea-formaldehyde resin, detergent, and catalyst along with various hardeners and conditioners. At the present time, it is not possible to assure that this standard will provide an optimum insulation material. It will, however, in conjunction with the Installation Standard for U–F foam, ensure a greater level of safety and effectiveness than would be possible without the standards or with other existing standards.

The chemistry of U–F foam is complex, and present knowledge of the origin, mechanism and release of formaldehyde from foamed-in-place insulation is meager. Current research indicates that free and hydrolyzable formaldehyde emissions from foam insulation are dependent, in part, upon temperature and humidity. Formaldehyde emissions are identifiable from three sources: free formaldehyde present in the reaction mixture, para-formaldehyde and hydrolyzable formaldehyde. Research shows that increased temperature and humidity accelerate the rate of hydrolysis of U–F foam, resulting in deterioration of the product. High temperature and high humidity not only affect the rate of formaldehyde emission but also adversely affect the physical characteristics of the foam structure. At present there are no reliable predictors at to whether or not formaldehyde off-gassing problems will arise at a given installation. Effective ways of curbing hydrolysis of the foam product are merely speculative at the present time.

The standard proposed in § 456.810 is based upon the Canadian Standard 51–6P–24M. However, significant deviations were made from the Canadian standard in the areas of free formaldehyde content, equipment and installer certification.

DOE recognizes the dispute regarding the extent of the loss in insulating efficiency caused by foam shrinkage. Actual heat loss measurements and laboratory tests performed by both NBS and the Canadian government have shown reductions in thermal resistence of 40 and 50% after shrinkage of U–F foam insulation in wall cavities. In addition, DOE has recently opened 43 wall cavities of homes in Portland, Oregon which had been reinsulated with U–F foam. Results showed that the mean shrinkage was 10.5% from 32 homes while the mean width shrinkage from 41 homes was 8.1%. Experimental investigations conducted by Dynatech R/D Company show there is a "direct relationship between effective thermal performance and size of air gap of the order of 5% loss for each 1% of shrinkage. . . . The results confirm the validity of the NBS Derating Analysis for deriving effective resistance of

materials which shrink within a cavity." (See "The Effective Thermal Performance of an Insulated Standard Stud Wall Containing Air Gaps" by R. P. Tye, A. O. Desjarlais, J. G. Bourne, and S. C. Spinney.) This means that a reduction in the thermal performance of the insulated walls in the Portland Study may have ranged from approximately 40 to 50%. Based on these considerations, The DOE proposed material standard therefore requires a 40% derating of U–F foam effective R- value. DOE did consider, however, tempering this requirement somewhat.

DOE considered permitting a manufacturer who could satisfactorily demonstrate that the shrinkage of a particular product is significantly less than 7 to 10%, to compute the present reduction of the thermal resistivity as 5 times the average expected shrinkage. DOE does not want to unjustly penalize manufacturers who have been successful in reducing shrinkage. However, DOE's information shows that actual shrinkage is often considerably more than manufacturers claim. DOE therefore solicits comments on how workable this approach would be and specifically what might constitute a "satisfactory demonstration" of shrinkage.

DOE proposes a significant change from the Canadian Standard which will require a reduction of the free formaldehyde content in the resin from 1% to 0.5% and a limitation of free formaldehyde in the fresh foam to 0.3%. DOE anticipates that these new requirements will help to reduce the off-gassing effect of free formaldehyde. DOE solicits comments on this position.

Established criteria and test procedures are included for dry density (ASTM D–1622), and flammability (ASTM E–84). Other test requirements for wet density, free formaldehyde content, water absorption, thermal resistivity, setting time, corrosiveness, volume resistivity, water drainage, and shrinkage were taken from the Canadian Standard. Other characteristics of U–F foam which impact the safety and effectiveness of the installed material include: freeze/thaw resistance, friability, temperature and humidity resistance, cell consistency, cell size, decomposition temperature, and inhalation toxicity. Neither the test procedures nor the criteria, however, have yet been established for these characteristics. Unlike the Canadian Standard, DOE did not include a provision for fungi resistance because recent findings in Canada have indicated that the test method for determining the fungi resistance is unreliable. However, a new test procedure needs to be developed. Laboratory tests have indicated that when U–F foams are maintained under moist or humid conditions for extended periods of time, there is a possibility that fungal growth may occur on the cavity wood frame and on the foam itself. Buildings that are to be insulated with U–F foam should therefore be constructed in a manner that will permit the foam to dry in as short a time as possible. This is addressed in the Installation Standard.

Unfortunately the product created at the job site is not the material that is used to satisfy the proposed material standards. This, coupled with the observation that the majority of the tests and suggested values have not yet been established, means that DOE will continue to examine material properties, test procedures and the impact of the proposed standard. If and when additional test procedures are developed which DOE determines will ensure a greater level of safety and effectiveness, DOE will propose them for comment.

In addition to the requirements described above, DOE has also required U–F component manufacturers to recommend equipment and equipment maintenance to their contractors which meet the minimum criteria described in both the material standard in § 456.810 and the installation standard in § 456.909. DOE seeks comment on this additional requirement. DOE has included these minimum equipment requirements to prevent the following problems:

(1) Fluctuating flow ratios of resin and foaming agent solutions resulting in variable density, resin-rich foam or resin-deficient foam.

(2) Blockages of foam dispensation through the exit hose resulting in inconsistent quality foam.

(3) Clogging of supply tubes resulting in resin-rich or resin-deficient foams and variable density.

(4) Suction air leakages that result in resin-deficient or resin-rich foams and variable density foam.

(5) Inadequate air supply resulting in variable density foam.

(6) Use of holding tanks and equipment parts that are acid corrosive resulting in underacidified foam producing foams of heavy density and inconsistent quality.

(7) Lack of thermometers to monitor solution temperatures in hot and cold weather that could result in improperly formulated foam.

(8) Oil contamination that results in foam collapse.

(9) Improper equipment modification resulting in out-of-specification solution temperatures during installation in hot and cold weather.

In addition, DOE has required U–F foam component manufacturers to train and certify installers of their material. An installation instruction manual must be provided to all installers in the training program.

As part of the Technical Assistance package to the States, DOE is considering the development of a model Quality Verification Program which States may want to include in their programs. Although the verification program is not included in the Proposed Rule, it could be an effective complement to the material and installation standards. Comment is requested on the advantages of such a program and suggestions are requested for developing a workable approach.

Numerous comments were received on the proposed material standard for U–F foam published in the March 19, 1979 RCS proposed rule. Several commenters expressed concern that the standard be stringent enough to ensure safety and effectiveness. DOE has tried to do this by placing greater limitations on the free formaldehyde content in resin and fresh foam, by including equipment criteria, and by including a requirement for a manufacturer-sponsored training program.

Several commenters objected to the procedure contained in § 456.810(c)(1) for devaluation of the thermal resistivity of installed U–F foam. Some commenters objected to any attempt at devaluation and others suggested that the more lenient criteria contained in HUD Bulletin No. 74 be used.

Experience with U–F foam in Portland (as discussed above) as well as experimental testing on the reduction of thermal performance conducted by Dynatech, and heat loss measurements and laboratory tests conducted at NBS, have convinced DOE that devaluation of installed U–F foam is necessary. These experiences also indicate that reduction in thermal performance is closer to the 40% devaluation contained in the Canadian Standard than the 28% contained in HUD Bulletin No. 74. DOE has therefore decided to retain the Canadian procedure for thermal resistivity and devaluation.

One commenter suggested that the flame spread of U–F foam tested in accordance with ASTM E–84 should be 75, the same as with all foam plastic insulation. DOE agrees that the requirements should be the same and has included a provision requiring a flame spread of 75 in the Proposed Rule.

One commenter expressed concern that any warning statement on U–F foam material containers would not be seen by the homeowner. DOE has therefore required that a cautionary statement be placed on material containers and presented separately to homeowners prior to installation of U–F foam insulation. The statement reads:

CAUTION: Under some conditions urea-formaldehyde insulation may cause the release of formaldehyde gas into living areas, and the development of adverse health effects. Continued exposure to formaldehyde can cause nausea and vomiting, respiratory difficulties, headaches, eye irritation, and allergic reactions. Such symptoms may develop anywhere from a few days to more than six months after the gas is released.

One commenter suggested the use of the test procedure for corrosion contained in the proposed ASTM standard rather than the procedure contained in the Canadian Standard. DOE did not agree with this suggestion since there is not enough data on the proposed test procedure. DOE is continuing, however, to evaluate the two test methods.

One commenter expressed concern over the allowable percentage of free formaldehyde content in the resin. DOE's research conducted at the University of Iowa suggests that the higher the free formaldehyde content in the foam components, the more likely off-gassing problems are after installation. Although the Canadian standard limits free formaldehyde in the resin to 1%, several major manufacturers claim that 0.3% is obtainable. DOE's studies indicate that reducing the free formaldehyde content to 0.5% will reduce the likehood of off-gassing problems while still providing manufacturers a reasonable opportunity to meet the requirement. Therefore, the Proposed Standard limits free formaldehyde in the resin to 0.5%. In addition, the proposed standard limits the formaldehyde content of fresh foam to 0.3% to further ensure safety since the bulk content must be less than the resin alone.

Several commenters suggested that manufacturers be required to conduct all tests at the same time on the same batch of material. DOE agrees that this suggestion is necessary to ensure accurate, meaningful test results and has included it in the Proposed Rule.

The National Association of Urea Foam Insulation Manufacturers (NAUFIM) submitted detailed comments on equipment criteria, installer certification, and installation procedures. Based on recommendations by NAUFIM, DOE included in the material standard specific requirements for equipment and installer certification which should contribute significantly to ensuring a safe and effective installation.

One commenter suggested that all test requirements be verified by an independent laboratory. DOE gave considerable attention to this suggestion and determined not to require independent testing unless need for such a quality control procedure becomes apparent.

DOE readily acknowledges that there are still many unanswered questions relating to the causes of off-gassing, deterioration of installed U–F foam, nad shrinkage. Information is solicited on the following questions:

(a) What is the incidence of odor complaints and/or health-related problems compared to total U–F foam installations?

(b) Has an attempt been made to diagnose the cause of the complaints? Do the standards proposed here address those causes?

(c) To what extent does the formaldehyde content in U–F foam components influence the potential for off-gassing?

In addition, serious questions have been raised by the CPSC and others concerning safety problems associated with the off-gassing of formaldehyde from U–F foam insulation. Consequently, in assessing the record of the rulemaking and considering whether to issue a final standard for U–F foam, DOE will focus on the following questions:

(a) Whether the standards will adequately address the problems associated with the off-gassing of formaldehyde from U–F foam insulation;

(b) Whether the standards will be effective in confining the off-gassing of formaldehyde to a tolerable level, if such a level exists, and

(c) Whether the standards are practical, are capable of being followed, and are likely to be followed by installers in practice.

The answers to these questions will largely determine whether DOE will issue final standards for U–F foam insulation or will exclude U–F foam from the RCS program. Unless DOE can conclude that, based upon all available data, the proposed standard or some slight modification to it will assure general safety and effectiveness, DOE will exclude U–F foam from the RCS Program.

F. Material Standards for Pipe Insulation

DOE determined in the final rule that standards were necessary for all other insulation materials. Because the potential for insulation-related problems exists for pipe insulation as well as other insulating materials, DOE is proposing a material standard for pipe insulation. A flame spread rating on the exterior surface of 25 is proposed to ensure consistency with NFPA 90. DOE solicits comments on whether a material standard for pipe insulation is necessary to ensure the safety and effectiveness of materials installed under the RCS program.

G. Additional Requirements for Vent Dampers and IID's

Not all vent dampers and IID's can be safely installed on all existing heating systems. Considerable differences exist in appliance controls and control equipment, such as 2, 3, or 4 wire thermostats, circulators, zone controls, tankless coils, boilers with relays, etc. found on units in the field. DOE has determined that installers need some guidance in determining which vent damper and IID's are compatible with which appliances. DOE has therefore required vent damper and IID manufacturers to provide to their installers wiring schematics of those furnace controls panels with which their unit is compatible. We estimate that approximately five wiring schematics would cover 80 to 90% of the furnance controls found in the field today. DOE is aware of the concern expressed by manufacturers over this requirement and solicits comments.

H. Loading Requirements for Installation of Loose Fill Thermal Insulation

Maximum allowable loads are now being proposed for all types of loose fill insulation when installed on attic floors. The proposed rule for the RCS program issued March 19, 1979 included a maximum loading chart only for the installation of vermiculite and perlite insulation on attic floors. In the RCS Final Rule, issued November 7, 1979, the installation standards for all types of loose fill insulation were combined, and a provision for loading was reserved. Loading requirements are proposed here in order to provide an opportunity for comment. The maximum suggested loads are the same as those originally proposed except that they apply to all types of loose fill insulation. They are recommended by various gypsum board manufacturers and the U.S. Gypsum Association. Comments on the March 19 Proposed Rule stated that these values were far too conservative. DOE, however, has no source of information other than gypsum board manufacturers from which to obtain load recommendations, and DOE therefore

solicits comments and test data which would support or contradict the recommendations.

I. Installation Standards for Urea-Formaldehyde Foam Insulation

The Department of Energy has investigated urea-formaldehyde (U–F) foamed-in-place insulation and has identified a substantial number of incidents involving the release of formaldehyde gas into homes that had been insulated with U–F foam. The complaints accompanying these incidents included reports of eye irritation, respiratory problems, nausea, vomiting, allergic reaction, and other symptoms. The Department of Energy has therefore concluded that an installation standard for this material is essential to ensure its safe and effective installation. The proposed standard contained herein initiates this effort by DOE. Interested persons are invited to comment on this standard during the comment period.

DOE recognizes that the promulgation of an installation standard alone cannot ensure compliance and thus a safe and effective installation. Reliance on the quality of U–F foam is highly dependent upon manufacturing process control, qualification of the equipment used, and qualification of the personnel controlling the process. Because U–F foam is manufactured on-site rather than in the factory, DOE has redefined the manufacturer and installer for this section. The "component-material supplier" is the supplier of the resin, foaming agent, and other ingredients to the foam insulation manufacturer. The component-material supplier is responsible for these component materials in all operations up to and including delivery to the insulation manufacturer. The "insulation manufacturer" means the installer who combines these component materials and foams the insulation in place. At a minimum, the insulation manufacturer must pay strict attention to the following to assure adequate quality of the installed product:

- The use of properly aged resin.
- The use of compatible components and proper ratios of each.
- Verification that the temperature of ingredients, mixtures and equipment is under control at all times.
- Assurance that the hose lines are transporting the material as intended.
- Assurance that gun apertures and/or mixing chambers are not faulty or dirty when used.
- Assurance that the premises to be insulated have been properly inspected.
- Assurance that the construction of a particular wall cavity will allow the proper curing of U–F foam.

The standard is not intended to detail specific installation techniques or procedures, but to set forth minimum criteria for a safe and effective application. For instance, although interior fire protective coverings and vapor barriers may be required, details relating to the installation are not included.

DOE does not permit the application of U–F foam in ceilings in the RCS Program. This determination is based on three characteristics of the material:

First, U–F foam has been shown to deteriorate under high temperatures and humidity, conditions frequently found in attics. Secondly, formaldehyde gas is denser than air and any gas liberated by the form may invade the living space below and pose a health hazard to the occupants. Third, when applied, the product contains much moisture which also increases its weight considerably. This combination of moisture and weight on the ceiling surface may result in damage to the ceiling.

DOE requires on all installations in Zone 1 of Figure 1 in § 456.905 that a proper barrier be provided on the interior surface of all walls being insulated in bathrooms and unvented kitchen and laundry areas and that all major cracks on the interior walls be caulked or sealed. The standard also requires the installer to determine if an impermeable vapor barrier exists on the outside of the wall and, if so, to eliminate the barrier. These requirements are included to ensure that the wall permits the venting of formaldehyde vapors to the outside during the curing process.

Even though U–F foam installation standards have not been proposed heretofore, the following comments were received: One commenter recommended including shredded, cured U–F foam as a type of attic insulation. The commenter claimed the product could be pneumatically blown like other loose fill materials. DOE rejected the suggestion since the concept is realtively new and DOE has not had the opportunity to properly evaluate it and observe its characteristics in field installations. DOE may consider this application at a later time.

Several commenters objected to provisions in other installation standards prohibition additional wall insulation, claiming that the addition of U–F foam in an insulated wall cavity could result in additional energy savings. DOE still maintains that, given today's fuel costs, a homeowner is unlikely to recover the cost of adding U–F foam to an already—insulated cavity except in the coldest regions of the country—and only then if minimal insulation is present and if the cost per square foot of material installed is relatively inexpensive. In addition, depending upon the kind of existing insulation and the wall construction, moisture-related complications might occur when liquid components of U–F foam insulation are added. However, DOE has determined that since the issue is largely an economical one, it should be handled through the audit procedure. (See § 456.307 of the Final Rule (44 FR 64668).) No reference is therefore made in the Installation Standard to installing additional wall insulation.

J. Installation Standards For Vent Dampers on Gas-Fired Systems

Automatic vent dampers can be potentially dangerous if they are not installed properly. Vent dampers are intended to shut off the air flow up the vent during periods when the burner is not firing, thereby saving the loss of conditioned air. However, during periods when the burner is firing, the damper must be open to allow hazardous combustion products to be vented outside of the residence. If improperly installed, the vent damper could shut off the vent during burner firing, and cause hazardous combustion products to be vented into the residence with possible fatal results.

Some vent dampers are designed to be retrofitted to some existing heating appliances. These heating applicances may include a large number of models which may be installed differently in each residence. The vent system, combustion air supply, and heated air system may also vary. The capability and experience of the installers may vary.

Recently, the American National Standards Institute promulgated material standards ANSI Z21.66–1977, ANSI Z21.67–1978 and ANSI Z21.68–1978 for vent dampers for use with gas-fired appliances with accompanying installation guidelines. Because of variances in field conditions, DOE was concerned that these installation guidelines did not adequately ensure a safe and effective installation. DOE was concerned that these guidelines did not sufficiently address the intended use of these devices and their compatibility with other systems.

In drafting the Installation Practices for vent dampers, DOE has required practices that go beyond those stated in the ANSI guidelines. Although the Installation Practices may impose additional burdens on installers, they were included to ensure the general

safety and effectiveness of vent damper installations. DOE solicits comments to further improve the workability and safety and effectiveness of the proposed Installation Practices.

The Installation Practices for vent dampers are confined to field installations on forced-air and gravity gas furnances and low-pressure hot water gas boilers. DOE has excluded the installation of vent dampers on oil-fired furnances temporarily from the RCS Program until studies presently underway are complete. Brookhaven National Laboratory has conducted tests which question the effectiveness of such installations on oil-fired units equipped with high efficiency burners. DOE will further investigate this type of installation. DOE in the meantime is soliciting comments on this matter. Vent damper installations on water heaters are excluded because they are beyond the scope of the program. Furthermore, such installations often do not prove cost-effective. Installations on steam boilers were not included because of the relatively minor residential market they encompass. Liquid petroleum gas (LPG) systems were excluded because of the additional safety problems associated with such systems. LPG is heavier than air, and thus there exists the possibility of gases collecting around furnances and creating a hazardous condition. DOE will look further into installation for other types of systems.

Because vent capacities are reduced when the difference between indoor and outdoor temperatures is the least and generally when wind velocities are low, DOE has required that all checks of venting capacity or draft hood spillage be conducted when the outside temperature is above 65° F and the wind velocity is less than 10 MPH. DOE has concluded that checks at any less severe conditions may not indicate the possibility of spillage of hazardous exhaust products. No other satisfactory, proven, technique is known for conducting draft checks. DOE solicits comments on how more flexibility may be added to this procedure. DOE will take the results of research in this matter into account in the Final Rule.

The Installation Practices limit the use of vent dampers to heating systems in heated spaces.

Vent dampers save energy by reducing heated air flow up the vent during periods when the main burner of the heating appliance is off. Most of the heated air is retained in the area adjacent to the heating appliance. If that area is not serviced by the heating system, the vent damper will result in minimal savings and is unlikely to be cost-effective.

The proposed installation standards permit only those installations where the wiring diagrams supplied by the vent damper manufacturer show the vent damper to be compatible with the existing heating system. DOE wants to insure that the maximum possible safety is achieved in every vent damper installation. Because of differences in appliance controls and control equipment, such as 2, 3, or 4 wire thermostats, circulators, zone controls, tankless coils, boilers with relays, etc. found on units in the field, DOE feels this is an important provision. DOE is aware of the concern over this requirement and solicits comments.

Vent dampers are currently being installed with a redundant gas valve or damper-closing temperature control. Dampers with closing temperature controls in lieu of two gas valves are required by ANSI to have at least a 10 percent open area in the nominally closed position. The damper-closing temperature control is designed to allow the vent damper to remain open when the vent gas temperature is above 225°F when tested under specified conditions. This is to keep the damper open if there is a malfunction of the automatic gas valve such that gas flows without a call for heat. A malfunction of the automatic gas valve can allow a flow of gas between zero and full flow. Although the NASI installation guidelines do not provide for a test of the damper-closing temperature control, this proposed standard does. It has been determined by DOE that a vent gas temperature of 375°F measured at full gas flow will provide a vent gas temperature of at least 225°F for the majority of hazardous leaking valve conditions. If this temperature at full gas flow is not above 375°F, DOE has required that a vent damper not be installed with a damper-closing temperature control.

DOE has required the addition of a second automatic gas valve on all Thermally-Actuated Vent Dampers. The vent damper material standards require that thermally-actuated vent dampers pass a flow restriction test only at a vent gas temperature of 370°F. Even though the vent gas temperature at full gas flow may be above 370°F, the vent gas temperature at partial gas flow through a malfunctioning gas valve may be less than 370°F. On units currently being manufactured, the amount of opening may not be proportional (i.e., nonlinear) to the vent gas temperature. It is conceivable that a unit could be manufactured which would snap open at a vent gas temperature of only slightly less than 370°F. A reduced gas input could result in vent gas temperatures that were insufficient to properly open the vent damper. The consequences of such a failure would be hazardous and perhaps fatal. Therefore, DOE has required a redundant gas valve on all thermally-actuated vent damper installations.

Although DOE anticipates some controversy over these requirements, there is a definite need to insure that the maximum safety and effectiveness of vent damper installations are maintained. DOE solicits comments on how flexibility may be built into these provisions, yet still assure the same measure of safety.

The installation standards require an installer to shut off the gas to the appliance prior to installation. DOE considered incorporating a similar requirement to shut off electrical power. This was not included since the installer may be checking for voltage. DOE is concerned, however, that when the installer is checking for loose electrical connections, worn electrical insulation, etc., that a hazardous situation may result. Comments are requested on the importance of turning off electrical power prior to the installation.

DOE is concerned about the safety and effectiveness of vent dampers on water heater/furnace installations using the same vent and combustion air. The American Gas Association's 1977–1978 report on the Space Heating System Efficiency Improvement Program (SHEIP) questions the effectiveness of vent dampers in this situation. DOE would like further comments on this matter.

In addition to comments requested above, DOE would also like to receive comments concerning the following:

- Should vent dampers be allowed when installed in unheated areas if combustion air is taken from a heated space?
- Should the vent damper standards require stricter control on vent damper closing times?
- Since vents tend to settle after numerous off-on cycles, should there be a requirement that the vent damper be inspected during the heating season? Should there be additional inspections after the initial post-installation inspection?

Unless DOE can conclude that, based on upon all available data, the proposed standard or some modification to it will assure general safety and effectiveness, DOE will exclude vent dampers from the RCS program.

K. Installation Standard For Automatic Intermittent Pilot Ignition Devices (IID's)

As part of these proposed rules, DOE is publishing Installation Practices for IID's. DOE is proposing the proposed draft ANSI installation standard. The standard is entitled "Proposed American National Standard for Automatic Intermittent Pilot Ignition Systems for Field Installation." A copy may be obtained by contacting:

Mr. F. G. Hammaker, Administrative Secretary, Z21 American Materials Standards Committee, 8501 E. Pleasant Valley Road, Cleveland, Ohio 44131, (216) 524–4990.

The standard is designed to adapt automatic intermittent ignition systems to existing pilot burners on listed forced air heating appliances and boilers equipped with atmospheric burners. DOE has some concern with the use of the proposed ANSI standard for this proposed regulation. There is no limitation on the voltage or current between the electrodes in the ANSI hardware standard Z21.20—1979 which could result in a startle shock or a lethal hazard. DOE would like to receive further comment on this item. The proposed standard also limits the IID only to ignition systems with recycling pilots. DOE also solicits comments on this constraint.

Unless DOE can conclude that, based upon all available data, the proposed standard or some modification to it will assure general safety and effectiveness, DOE will exclude IID's from the RCS Program.

L. Installation Standards For Caulks And Sealants

DOE is proposing an Installation Standard for caulks and sealants to ensure the effectiveness of the installed material. Comments are solicited on the advantages and disadvantages of including an installation standard for caulks and sealants in the RCS program.

Improper installation of caulks and sealants can contribute to moisture condensation and accumulation of moisture within building elements which can lead to various forms of deterioration such as fungus growth in wood structures, and corrosion of metal fasteners, pipes, and electrical service components. Moisture can also reduce the effectiveness of insulation and with some insulation materials can also cause the leaching of fire retardants and thus contribute to increased fire hazards. In addition, if specific caulks and sealants are used in an application which is not suitable for the material or with existing building materials which are not greatly reduced. Reduced effectiveness will also occur if the area of application is not properly prepared. These areas are addressed in the proposed Installation Standard for Caulks and Sealants.

There is little information available on the quality of contractor-installed caulking. The Tennessee Valley Authority, however, included caulking and weatherstripping in its home weatherization program in November 1978. Since that time they have recalled contractors about 35 percent of the time to correct poor workmanship on caulking and weatherstripping installations.

M. Vent Dampers on Oil-Fired Systems

DOE considered inclusion of UL 17 "Standard for Vent or Chimney Connector Dampers for Oil-Fired Appliances" but determined that the standard was not complete enough to ensure a safe and effective installation. UL 17 is used to check instructions for installation rather than to actually install a vent damper. DOE maintains that the hazards associated with improper installations are sufficient to warrant specific installation criteria. Because they do not now exist, vent dampers for oil-fired furnaces are not currently included in the RCS program. DOE will continue to work on the development of an installation standard for vent dampers on oil-fired systems and will propose it for comment at a later date.

IV. Regulatory Analysis and Urban Impact Assessment

The President, by Executive Order 12044, has directed agencies of the Executive Branch to conduct a Regulatory Analysis of regulations which they prepare that are likely to have a major economic impact. In accordance with OMB Circular A–116, an Urban and Community Impact Assessment should be prepared when the proposed rule is a major policy and program initiative. This assessment should be incorporated into the Regulatory Analysis.

DOE determined that the Residential Conservation Service Program, authorized under Title II, Part 1 of the National Energy Conservation Policy Act, was a major action and required preparation of a Regulatory Analysis and an Urban and Community Impact Assessment. Consequently, the Department prepared the two analyses in draft in conjunction with the publication of the Proposed Rule for the RCS Program on March 19, 1979 (44 FR 16546). These analyses were finalized for publication in conjunction with the Final Rule which was published November 7, 1979 (44 FR 64602). The final Regulatory Analysis, which incorporates the final Urban and Community Impact Assessment, includes analysis of this proposed rule. Although this proposed rule does not in itself constitute a major action, DOE believes that an analysis of its impacts should be incorporated into the Final Regulatory Analysis so that that document reflects the entire impact of the RCS Program.

A single copy of the Final Regulatory Analysis may be obtained by writing:

Mr. James R. Tanck, Director, Residential Conservation Service Program, Office of Assistant Secretary for Conservation and Solar Energy, U.S. Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585.

V. Environmental Impact Statement

In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, DOE prepared an Environmental Impact Statement for the entire Residential Conservation Service Program. The subject matter of this rulemaking was evaluated in the programmatic Environmental Impact Statement. A notice of availability of the Final Environmental Impact Statement was published in the **Federal Register** on November 7, 1979 (44 FR 64602). A copy of the final Environmental Impact Statement may be obtained by writing:

Mr. James R. Tanck. Director, Residential Conservation Service Program Office of Assistant Secretary for Conservation and Solar Energy, U.S. Department of Energy, 20 Massachusetts Avenue, NW., Washington, D.C. 20585.

VI. Consultation With Other Federal Agencies

In preparing this Proposed Rule, issues and options were reviewed by representatives of the National Bureau of Standards and the Consumer Product Safety Commission.

VII. Contractor Contributions To The Rulemaking

The following entities have made contributions to this proposed rulemaking:

1. The National Bureau of Standards assisted in the development of the proposed material and installation standards for conservation measures.

2. The Solar Energy Research Institute (SERI); Rocky Flats Plant of North American Rockwell; and Science Applications, Inc. (SAI) assisted in the development of the proposed standard for wind energy systems. SERI and SAI also assisted in the development of the

thermosiphon hot water heaters and solar swimming pool heaters proposed standards.

3. Calspan, Inc., and Hittman Associates, Inc., assisted in the development of the proposed installation standards for vent dampers and automatic ignition systems and the proposed modification to the material standards for vent dampers.

VIII. Comment And Hearing Procedures

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed procedures, requirements, and criteria. Comments should be submitted to the address indicated in the addresses section of this preamble and should be identified on the envelope and on the documents submitted to DOE with the designation "Residential Conservation Service Program, (Docket No. CAS–RM–79–101)." Fifteen copies should be submitted. All written comments must be received by February 19, 1980, 4:30 p.m., e.s.t., to ensure consideration.

All written comments received on the Proposed Rule will be available for public inspection in the DOE Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday. Any information of data considered by the person furnishing it to be confidential must be so identified and one copy submitted in writing. DOE reserves the right to determine the confidential status of the information of data and treat it according to its determination.

B. Hearing Procedures

The time and place of the public hearing is indicated in the hearing section of this preamble. DOE invites any person who has an interest in the proposed rulemaking or who is a representative of a group or class of persons that has an interest in the proposed rulemaking, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated in the addresses section of this preamble and must be received before 4:30 p.m. on January 7, 1980.

Such a request may be hand delivered to Room 2221C, 20 Massachusetts Avenue, N.W., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Residential Conservation Service Program."

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has an interest; give a concise summary of the proposed oral presentation; and provide a telephone number where he or she may be contacted through the day of the hearing.

Each person who, in DOE's judgement, proposes to present relevant material and information shall be selected to be heard and shall be notified by DOE of his or her participation before 4:30 p.m. on January 14, 1980.

Persons selected to appear at the hearing should submit 15 copies of his or her statement by 4:30 p.m. on January 17, 1980 to:

Joanne Bakos, Office of Conservation and Solar Energy, Department of Energy, Mail Stop 2221C, 20 Massachusetts Avenue, NW., Washington, D.C. 20585.

The hearing will begin at 9:00 a.m., e.s.t. on January 21, 1980, at Room 3000A, 12th and Pennsylvania Avenues, NW., Washington, D.C.

C. Conduct of Hearing

DOE reserves the right to arrange the schedule of presentations to be heard and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard. A DOE official will be designated as presiding officer to chair the hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements.

Any participant who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and material, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20565, between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In consideration of the foregoing, the Department of Energy proposes to amend Chapter II, Title 10 of Part 456 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., on December 13, 1979.

Maxine Savitz,

Acting Assistant Secretary, Conservation and Solar Energy.

1. 10 CFR Part 456 is amended by revising § 456.814(f) and adding §§ 456.314(b), (c) and (d); 456.703; 456.704; 456.705; 456.810; 456.812(e); 456.814(g)(3); 456.905(d)(1)(ii); 456.909; 456.914; 456.915; and 456.916.

2. The table of content is amended by adding the following entries.

* * * * *

Sec.

456.703 Thermosiphon hot water heaters.
456.704 Swimming pool heaters.
456.705 Wind energy devices.
* * * * *
456.810 Standard for urea-formaldehyde foamed-in-place insulation.
* * * * *
456.812 Standards for caulks and sealants, water heater insulation, heating/air conditioning duct insulation and pipe insulation.
* * * * *
456.909 Standard practice for the installation of urea-formaldehyde foamed-in-place insulation.
* * * * *
456.914 Standard practice for the installation of electrically-operated, mechanically-actuated, and thermally-actuated automatic vent dampers for use with gas-fired central furnaces and low-pressure hot-water boilers.
456.915 Standard practices for the installation of automatic intermittent pilot ignition devices (IID's).
456.916 Standard practices for the installation of caulks and sealants.

Authority: Part 1 of Title II of the National Energy Conservation Policy Act, Pub. L. No. 95–619, 92 Stat. 3206, *et seq.;* Department of Energy Organization Act, Pub. L. No. 95–91, 91 Stat. 565, *et seq.*, 42 U.S.C. 7101, *et seq.*

§ 456.314 Qualification procedures for auditors, installers, and inspectors.

* * * * *

(b) *Installers and inspectors of automatic vent dampers and automatic intermittent pilot ignition devices (IID's) for gas-fired central furnaces and low-pressure hot water boilers.* The State Plan shall contain procedures to assure that any person or persons installing automatic vent dampers or automatic intermittent pilot ignition devices (IID's) for gas-fired central furnaces and low-pressure hot water boilers under the

circumstances described in the State Plan pursuant to § 456.305 and any person or persons conducting a post installation inspection of an automatic vent damper or IID pursuant to § 456.313(a) shall have the following qualifications:

(1) Installers' inspectors shall demonstrate an understanding of applicable codes and regulations.

(2) Installers and inspectors shall demonstrate an understanding of gas appliances used in residential buildings, including basic system requirements, components and operation, and shall demonstrate an understanding of general schematics and potential malfunctions of gas appliances.

(3) Installers and inspectors shall demonstrate an understanding of gas appliance controls and safety controls, including automatic gas valves, limit switches, and thermostats. Installers and inspectors shall also demonstrate an understanding of basic furnace and boiler circuitry, including electrical components, and the use of appropriate meters for testing gas appliance circuitry. They shall also demonstrate an understanding of proper component sequencing and be qualified to determine the compatibility of vent dampers and appliances.

(4) Installers and inspectors shall demonstrate an understanding of the purpose, general structure, and operational systems of vent dampers. They shall also demonstrate an ability to service and install electrical, mechanical, and thermal vent dampers and shall be familiar with the advantages and disadvantages of each type. *Exception.* Installers and inspectors of only IID's need not comply with this paragraph.

(5) Installers and inspectors shall demonstrate an understanding of the purpose, basic system requirements and components, and operation of IID's. In addition, they shall demonstrate practical application in servicing and installing IID's, and understanding of general schematics and potential malfunctions of IID's. *Exception.* Installers and inspectors of only vent dampers need not comply with this section.

(6) Installers and inspectors shall demonstrate: (i) an understanding of types of vents, draft diverters, and heat transfer components; (ii) an understanding of venting theory including ventilation air, dilution air, and vent sizing; (iii) an understanding of venting installation procedures; (iv) knowledge of which installations are prohibited; (v) that they are qualified to perform leak and spillage checks; and (vi) that they are qualified to use instrumentation to measure carbon monoxide and carbon dioxide emissions from gas appliances.

(7) Installers and inspectors shall demonstrate an understanding of proper combustion and proper flame characteristics and shall be familiar with gas piping procedures.

(8) Installers and inspectors of vent dampers shall demonstrate an understanding of the installation standards in § 456.914.

(9) Installers and inspectors of IID's shall demonstrate an understanding of the installation standards in § 456.915.

(c) *Installers and inspectors of wind energy devices.* (1) The State Plan shall contain procedures to assure that any person or persons installing a wind energy device under the circumstances described in the State Plan pursuant to § 456.305 and any person or persons conducting a post-installation inspection of a wind energy device pursuant to § 456.313(a) shall have the following qualifications:

(i) Familiarity with the installation standards for wind energy devices in Subpart G;

(ii) Familiarity with the structural characteristics of wind energy devices;

(iii) Familiarity with national and local codes governing the electrical interface between the wind energy device and the utility power supply for the residence; and

(iv) A general knowledge of the test procedures described in § 456.705.

(2) The State Plan shall contain procedures to assure that any person or persons installing a wind energy device under the circumstances described in the State Plan pursuant to § 456.305 shall demonstrate proficiency in the installation of wind energy devices, and familiarity with the testing of wind energy devices in accordance with the procedures described in § 456.705.

(d) *Installers and inspectors of solar domestic hot water systems, active solar space heating systems, and combined active solar space heating and solar domestic hot water systems.* (1) The State Plan shall contain procedures to assure that any person or persons installing a solar domestic hot water system, an active solar space heating system, or a combination thereof, under the circumstances described in the State Plan pursuant to § 456.305, and any person inspecting such systems pursuant to § 456.313(a), shall individually or collectively be knowledgeable about:

(i) The residential construction methods employed in the region and the characteristics of structures that would preclude a safe and enduring solar installation;

(ii) The applicable provisions of the *HUD Intermediate Minimum Property Standards Supplement,* as required in Subpart G;

(iii) The design, operation, installation and degradation of residential hot water and heating systems with which the solar devices will interface; and

(iv) The connection of the solar devices into the existing residential systems, including testing for satisfactory performance of the solar devices and the modified system, according to the requirements of the *HUD Intermediate Minimum Property Standards Supplement* as required for the program in Subpart G.

(2) The State Plan shall contain procedures to assure that any person or persons installing a solar domestic hot water system, an active solar space heating system, or a combination thereof under the circumstances described in State Plan pursuant to § 456.305 shall demonstrate proficiency in the connection of the solar devices into existing residential systems, in conformance with the applicable provisions of the *HUD Intermediate Minimum property Standards Supplement,* as required for the program in Subpart G.

§ 456.703 Thermosiphon hot water heaters.

Thermosiphon Hot Water Heaters shall be constructed and installed in compliance with the applicable provisions of the *HUD Intermediate Minimum Property Standards Supplement,* Solar Heating and Domestic Hot Water Systems, 4930.2, 1977 Edition, with the exception of several specific provisions that are inappropriate to this technology. The excluded sections are 5–615–1.4.2. and Appendix A, which present procedures for calculating active solar domestic hot water system performance.

§ 456.704 Swimming pool heaters.

Solar swimming pool heaters employing glazed flat plate collectors or a non-potable heat transfer fluid to capture and transfer solar energy to the pool water, shall be constructed and installed in compliance with the applicable provision of the *HUD Intermediate Minimum Property Standards Supplement,* Solar Heating and Domestic Hot Water Systems, 4930.2, 1977 Edition. Solar swimmining pool heater systems employing non-glazed collectors and the direct heating of recirculated pool water are exempt from these standards.

§ 456.705 Wind energy devices.

(a) *Scope.* This standard established the requirement for wind energy devices installed or supplied under the RCS program. Only electrical wind energy devices that are interconnected to a utility company's electrical system, known as Small Wind Energy Conversion System (SWECS), that meet the standards of this section may be installed or supplied under the RCS program.

(b) *Definitions.* For purposes of this Subpart:

(1) The term "anemometer" means a device to measure wind speed.

(2) The term "anemometer distance constant" means a measure of the frequency response characteristics of an anemometer; the length of wind run that must pass an anemometer before it indicates 63 percent of the actual amplitude of a step-change gust.

(3) The term "atmospheric test" means the conduct of SWECS testing under natural wind conditions.

(4) The term "bin width" means the size of the wind speed interval (meters per second) used in the method-of-bins.

(5) The term "cylinder of projection of SWECS rotor" means the cylinder whose axis is aligned with the wind direction and passes through the center of the rotor, whose cross-section extends 3 rotor diameters upwind of the rotor and 6 rotor diameters downwind of the rotor.

(6) The term "disconnect" means a device or group of devices or other means by which the conductors of an electrical circuit can be disconnected from their source of supply.

(7) The term "electrical ground" means a conducting connection between an electrical circuit and/or equipment and the earth, or to some conducting body that serves in place of the earth.

(8) The term "electrical load" means an electrical device which utilizes electrical energy.

(9) The term "electrical utility/user interconnection" means physical connection of the electrical hardware of the SWECS to the electrical system of both the utility and the user.

(10) The term "free stream area" means that area in a wind tunnel test section in which the wind speed in the absence of an obstruction, is uniform within ±5 percent.

(11) The term "horizonal axis wind turbine" means a SWECS that has an axis of rotation of the rotor parallel to the plane of the ground.

(12) The term "interconnected SWECS" means a SWECS which is electrically connected to fuel power with the utility grid.

(13) The term "method-of-bins" means a computer data analysis technique as detailed by Akins in reference 1. The method consists of partitioning the wind speeds observed into a number of equally spaced intervals or bins. The average of all power values observed simultaneous with a wind in a given bin is the power associated with the wind speed at the center of the bin.

(14) The term "obstruction frontal area" means the projected area of an obstruction of the ambient wind.

(15) The term "power output curve" means a graphical plot of SWECS power output versus wind speed.

(16) The term "projected frontal area" means the profile area of an object as seen from the direction of the wind velocity.

(17) The term "Rayleigh distribution" means a wind speed distribution function represented by the following probability density equation

$$\text{Hours } (>V) = 8760 \exp. \left[-\frac{\pi}{4}\left(\frac{v^2}{\bar{v}}\right) \right]$$

Where hours:

(>V)=number of hours per year the wind speed exceeds a given wind speed V (meters per second)

V=wind speed (meters per second)

$\bar{V}$=annual gauge wind speed (meters per second)

(18) The term "rated power" means the power output obtained from a SWECS generating at its rated wind speed.

(19) The term "rated wind speed" means the wind speed at which the rated power is specified.

(20) The term "rotor" means a system of rotating elements that convert the energy in the wind into mechanical shaft power.

(21) The term "rotor-swept area" means the area as seen from the direction of the wind that a rotor would pass over during one revolution.

(22) The term "Small Wind Energy Conversion System (SWECS)" means an electrical wind energy device having a rated output of less than 100 kilowatts that is interconnected to a utility company's electrical system.

(23) The term "SWECS Model" means a specific hardware configuration established by the manufacturer for fabrication and sale ot the general public.

(24) The term "thrust" means the force exerted by the wind on the SWECS rotor in the direction of the ambient wind.

(25) The term "tower" means a subsystem of a SWECS that holds the rotor or other collection device above the ground.

(26) The term "towing test" means the conduct of SWECS testing where the SWECS is mounted on a vehicle (such as a truck or train flat car) and the SWECS is moved through still ambient air.

(27) The term "turbulence" means rapid fluctuations in the speed and direction of the wind.

(28) The term "vertical axis" means a line of reference perpendicular to the plane of the ground.

(29) The term "vertical axis wind turbine" means a SWECS that has an axis of rotation of its rotor perpendicular to the plane of the ground.

(30) The term "wind tunnel test" means the conduct of a SWECS test in artificial wind when the SWECS is mounted in a structure designed to control the wind characteristics during the conduct of the test.

(31) The term "yaw" means the rotation of a horizontal axis wind turbine about its yaw axis.

(32) The term "yaw axis" is the vertical axis about which the directional orientation of a horizontal axis wind turbine is changed.

(c) *Incorporation by reference.* The following documents are incorporated as a part of this standard by reference:

(1) National Electrical Code, 1978 edition, by the National Fire Protection Association

Articles

230 (Services)
250 (Grounding)
280 (Lightning Arresters)
300 (Wiring Methods)
310 (Conductors for General Wiring)
445 (Generators)

(2) Sandia Laboratories Report SAND 77–1375, "Performance Evaluation of Wind Energy Conversion Systems Using the Method of Bins," by Akins, R. E.

(d) *Conflicts of Laws.* Local statutes, regulations, and ordinances that conflict with the requirements of this standard shall take precedence over the requirements of this standard.

(e) *Performance.* The following SWECS performance characteristics shall be determined through testing by the manufacturer or a separate testing organization designated by the SWECS manufacturer. If the manufacturer modifies the SWECS model design which impacts on performance or safety, the new model shall be retested appropriately.

(1) *Net power output.* The SWECS net power output shall be defined as a function of wind speed at the center of the SWECS rotor for wind speeds between 4 and 12 meters per second.

The SWECS net power output curve shall be derived from discrete wind speed and simultaneous power output data using the method of bins. A bin width not greater than 1 meter per second shall be used.

(2) *Annual energy production.* Using the SWECS net power curve for paragraph (e)(1) above, the SWECS annual energy production in kilowatt-hours per year shall be computed for annual average wind speeds of 4.5, 5.4, 6.3, 7.1, and 8.0 meters per second (10, 12, 14, 16, and 18 miles per hour). Calculations shall be made using the following requirements:

(i) The Rayleigh distribution shall describe the wind speed duration curve.

(ii) All reported test data involving power output shall be corrected to a standard air density of 1.2 kilograms per cubic meter, using the following equation:

$$P_S = \frac{D_m}{1.2} \times P_m$$

Where:

P_s = power output (kilowatts) corrected to a standard air density of 1.2 kilograms per cubic meter

P_m = measured power output (kilowatts)

D_m = measured air density (kilograms per cubic meter)

(iii) Reference wind data shall be corrected to the center of the SWECS rotor height using the following equation:

$$V_h = V_m \left(\frac{Z_h}{Z_m}\right)^{1/7}$$

Where:

V_h = corrected wind speed (meters per second) at the center of the SWECS rotor

V_m = measured wind speed (meters per second) at a reference height Z_m = (meters).

Z_h = height (meters) above ground level to the center of the SWECS rotor.

Z_m = Height (meters) above ground level where the reference wind speed V_m (meters per second) was measured.

(f) *Safety.* The following SWECS safety characteristics shall be determined through testing by the SWECS manufacturer or a separate testing organization designated by the SWECS manufacturer. The SWECS shall be demonstrated to operate safely, without loss of structural integrity under the following conditions:

(1) *Loss of electrical load.* Loss of user electrical load and/or utility electrical system when the SWECS is producing at least 50 percent of rated power.

(2) *Blade imbalance.* Blade imbalance equivalent to an added weight equal to 10 percent of the blade weight, either placed at the center of gravity of the blades or uniformly distributed along the blade. The SWECS shall be capable of safe operation in winds between 4 and 12 meters per second for at least five minutes or until automatic controls stop the machine.

(3) *SWECS de-energization.* It shall be demonstrated that the SWECS connected to a utility electrical system will safely de-energize when the utility electrical circuit to the SWECS is de-energized.

(4) *Manual shutdown.* Safe operation of the manual shutdown subsystem shall be demonstrated if such a subsystem is incorporated in the SWECS.

(5) *Survival wind speed.* The maximum wind speed (meters per second) the SWECS has survived without loss of structural integrity under controlled test conditions shall be provided by the SWECS manufacturer. This data shall be corrected to standard air conditions in accordance with the following equation:

$$V_s = \left(\frac{D_m}{1.2}\right)^{1/2} V_m$$

Where V_s = wind speed (meters per second) corrected to a standard air density of 1.2 kilograms per cubic meter

V_m = measured wind speed (meters per second)

D_m = measured air density (kilograms per cubic meter).

(g) *Installation.* (1) *Manufacturer's instructions.* The manufacturer shall provide detailed installation instruction to the installer of the SWECS which shall meet the following requirements.

(i) The site area and setback limitation shall be the length of one tower height plus one rotor radii from a property line or a right-of-way for electrical transmission or distribution lines.

(ii) As a minimum, the SWECS manufacturer shall provide to the SWECS installer a standard foundation and anchor design (or specification); a detailed parts list; and clearly written detailed instructions for the assembly, installation, and checkout of the SWECS at a typical site.

(iii) As a minimum, the SWECS manufacturer shall provide the installer with the following information and instructions for interconnecting a SWECS to a utilitity company's electrical system:

(A) The installer or his designated representative shall provide information to the local interconnected utility identifying the performance and safety characteristics of the SWECS to be installed, for purposes of evaluating any necessary modification of the local utility's system protection required by the presence of the SWECS in the local utility electrical system.

(B) The local utility shall be responsible for determining that existing as well as new utility-owned protection devices will ensure safe utility operation with the additional generating capability created by the SWECS.

(C) The SWECS to utility electrical interconnection circuit shall incorporate a means to automatically and manually disconnect the SWECS electrically from the utility electrical system in the event of a utility loss of power, an emergency, or servicing of the utility distribution system. The disconnects shall not interfere with reliability of service and the normal operation of circuit breakers, fuses, and other protective devices. The disconnect shall be lockable in the open-circuit position and access to the disconnect shall be available to the utility company at all times.

(D) The SWECS electrical equipment and the method of interconnecting the SWECS to the local utility electrical system and the user electrical load shall conform to the following articles of the National Electric Code (NEC):

NEC Article and Title

230, Services.
300, Wiring Methods.
310, Conductors for General Wiring.
445, Generators.

The local utility company's specification shall apply where the above NEC articles are determined by the local utility to be inadequate or do not address specific hardware and/or power conditioning criteria required by the local utility for interconnecting the SWECS to its electrical system.

(E) The electrical interconnection to the utility electrical/user load shall be electrically located on the user's side of the utility revenue meter and the main distribution panel.

(F) The electrical interconnection shall be made in such a manner as to protect personnel from electrical contact with energized equipment.

(G) Should the local utility require specific interconnect electrical tests to be conducted on the SWECS prior to approval of the interconnection, the test requirements, test methods, instrumentation and calibration requirements, data reduction, data analysis, and reporting shall be specified by the utility and all special tests shall be conducted at a reasonable expense.

(2) *SWECS installation.* The SWECS shall be installed in accordance with the instructions provided by the

manufacturer except that the onsite installation or components used may deviate from the manufacturer's written instructions or the manufacturer's approved components list, if the installer obtains written approval from the manufacturer. In addition, the following requirements shall be met:

(i) Where tower foundation and anchors require modification from the standard design (or specification) provided by the SWECS manufacturer because actual soil condition is not considered normal soil, the installer shall obtain from the SWECS manufacturer, his designated representative, or a registered professional engineer, a foundation/anchor design (or specification) suitable for the characteristics at the site.

(ii) The SWECS shall be grounded and protected against lightning and line transients in accordance with the National Electrical Code Articles 250 (Grounding) and 280 (Lightning Arresters).

(iii) Unauthorized access to the SWECS tower shall be controlled through local ordnances related to attractive nuisance.

(iv) A SWECS shall not be installed in any location where the expected 20-year maximum wind at the proposed site exceeds the design survival wind speed of the SWECS being considered for installation.

(v) Local noise ordinances shall apply, as appropriate, to noise emanating from an installed SWECS.

(vi) Local electromagnetic interferences ordinances shall apply, as appropriate, to any electromagnetic interference resulting from an installed SWECS.

(vii) The installer shall provide the State designated inspection authority (see § 456.313) with a copy of the manufacturer's instructions and a copy of any written approval of deviation from those instructions within 5 days of completing installation.

(h) *Manufacturer reporting requirements—Final test report.* As a minimum, the SWECS manufacturer or his designated testing organization shall document the results of the tests specified in this section in a final test report which meets the following requirements:

(1) *Final test report location.* A copy of the final test report shall be kept on file with the SWECS manufacturer and, if appropriate, his designated testing organization, for a period of 10 years and shall be available for public inspection.

(2) *Type of load.* The type of load (utility grid, battery charging, constant resistance, etc.) size of load (if applicable) and method of load control (if applicable) used in testing shall be stated on the power/wind speed data sheets which shall be documented in the test report.

(3) *Type and location of instrumentation.* The type and location of the instrumentation used for testing shall be specified in the report.

(4) *Calibration of instrumentation.* The method of calibration used, the calibration time interval, and the traceability of the calibration references to the National Bureau of Standards shall be documented.

(5) *State for towing and wind tunnel tests.* Documents showing test data and/or results developed from towing or wind tunnel tests shall include the following statement:

> The (data) (results) presented were derived from (Towing) (Wind Tunnel) tests and may reflect (higher) (lower) (performance) (safety) information than similar data derived from atmospheric tests due to the absence of significant wind turbulence, gusts, and direction changes.

The inappropriate words provided in the above statement shall be deleted before affixing the above statement to the appropriate document.

(6) *Statement for yaw motion restriction.* In documents showing test data and/or results which were derived from tests where the physical limitation of the towing vehicle made conformance to the SWECS yaw motion test requirement of this section impossible or unsafe, the following statement shall be included:

> The (data) (results) were derived from tests where the yaw motion of the SWECS was restricted to ± (To be specified) degrees, and may reflect (higher) (lower) (performance) (safety) information than similar data derived from tests where full yaw motion was allowed.

The inappropriate words provided in the above statement shall be deleted and the number of degrees of yaw restriction shall be added before affixing the above statement to the appropriate document.

(7) *Net power output and annual energy production results.* Tabulated results of the SWECS net power output and the SWECS annual energy production shall be available to the public from the SWECS manufacturers.

(i) *Utility reporting requirements—Final test report.* (A) As a minimum, the local utility shall document any special interconnection tests it required prior to approving the SWECS interconnection in a final test report.

(B) A copy of the final test report shall be kept on file with the local utility for a period of two years and must be available for public inspection.

(C) The final test report shall include but not be limited to the following:

(*1*) Test requirements;

(*2*) Test methods used;

(*3*) Instrumentation used;

(*4*) Calibration requirements;

(*5*) Data reduction methods used;

(*6*) Data analysis and results; and

(*7*) Recommendations and actions required.

(j) *Labeling requirements.* (1) As a minimum, the following information shall be provided in a label attached to the generator housing or similar accessible location:

(i) System net rated power output (kilowatts), the rated wind speed (meters per second and miles per hour) corrected for standard air density and rotor height;

(ii) Maximum current (amperes), load (ohms), load type (resistive, battery charge, etc.);

(iii) Rotor speed at rated power (revolutions per minute);

(iv) Maximum designed rotor speed (revolutions per minute);

(v) Maximum rotor thrust (newtons and pounds force) (not including wind drag on the tower); and

(vi) System weight (kilograms and pounds) on top of tower.

(2) The following information shall be provided on a label or labels easily read from ground level or located at the SWECS control panel:

(i) Maximum survival wind speed (meters per second and miles per hour) and method of determination (test or analysis); and

(ii) Emergency and manual shutdown procedures if applicable.

(k) *Test Methods.* Allowable test methods for the purpose of obtaining the required information on SWECS performance and safety characteristics are atmospheric, towing, or wind tunnel tests. These test methods shall be subject to the following requirements:

(1) *Atmospheric test.* If an atmospheric test is used, the following requirements shall apply:

(i) For a horizontal axis wind turbine, the SWECS rotor shall be located on a tower or support such that the minimum blade clearance above ground level is 2.5 meters.

(ii) Any obstructions to the flow of air into or from the SWECS rotor which are not an integral part of the SWECS and have a total projected frontal area exceeding 25 percent of the rotor-swept area shall not be permitted within a distance of 5 rotor diameters (of the SWECS being tested) in any direction of the SWECS rotor.

(2) *Towing tests.* If a towing test is used, the following requirement shall apply:

(i) The anemometer location shall be such that the wind speed at the anemometer shall be within ±1 meter per second of the wind speed at the location where the center of the SWECS rotor would be if the SWECS was mounted on the towing vehicle when conducting tests to verify compliance with this requirement.

(ii) Any obstructions to the flow of air into or from the SWECS rotor which are not an integral part of the SWECS and have a total projected frontal area exceeding 25 percent of the rotor-swept area shall not be permitted within the cylinder of projection of the SWECS rotor.

(3) *Wind tunnel tests.* If a wind tunnel test is used, the following requirements shall apply:

(i) The SWECS rotor shall be located at the center of the cross-section area of the wind tunnel test section; and

(ii) The SWECS rotor-swept area shall not exceed 10 percent of the free stream cross-section area of the wind tunnel's test section.

(4) *Yaw motion requirement.* During the conduct of the tests, described in paragraphs (k) (1) through (3) of this section, the SWECS shall be free to operate in its normal configuration in yaw for all yaw motions ±90 degrees from the nominal average wind direction wherever possible. If physical limitations of a towing vehicle make this impossible or unsafe, a physical limitation on the amount of yaw motion is permitted. A disclosure shall be provided with the test results specifying the amount of yaw motion allowed during the test and its effect on the data and results obtained. This requirement does not apply to a vertical axis SWECS.

(5) *Data analysis requirement.* Performance testing shall be conducted over a range of wind speeds including, but not limited to, the interval between 4 meters per second and 12 meters per second. The wind duration at each bin in the interval must satisfy at least one of the following conditions:

(i) The wind speed must be recorded in the given bin for a duration not less than 5 percent of the total test duration;

(ii) The wind speed must be observed in the given bin for at least one minute; or

(iii) The wind speed in the given bin must have been recorded for at least 100 independent observations.

The bin width shall not be greater than 1 meter per second.

(6) *Instrumentation.* The instrumentation used to conduct the tests specified in this section shall meet the following requirements:

(i) The anemometer system used to measure wind speed shall have an accuracy equal to or greater than ±10 percent of reading over the range 4 to 12 meters per second and an anemometer distance constant equal to or less than 10 meters.

(ii) Electrical power output of the system shall be measured or calculated from measured values with an accuracy of ±1 percent of reading.

(iii) All readout or recording devices shall have an accuracy of ±5 percent of reading, a frequency response of at least 0.1 Hertz, and shall be capable of recording or displaying simultaneous wind speed and power output data.

(iv) The anemometer shall be located not less than 1 SWECS rotor diameter and not more than 10 rotor diameters from the center of the SWECS rotor, except that if the anemometer is downwind of the rotor and at a height at or near that of the center of SWECS rotor (±1.5 rotor radii), it shall be not less than 5 rotor diameters nor more than 10 rotor diameters from the location of the SWECS rotor. All wind speed values must be corrected to the height at the center of the SWECS rotor using the locally measured wind shear profile or, if wind shear measurements are not available, the data shall be corrected using the following equation:

$$V_h = V_m \left(\frac{Z_h}{Z_m} \right)^{1/7}$$

Where

V_h = Corrected wind speed (meters per second) at the center of the SWECS rotor Z_h (meters).

V_m = Measured wind speed (meters per second) at a reference height Z_m (meters).

Z_h = Height (meters) above ground level to the center of the SWECS rotor.

Z_m = Height (meters) above ground level where the reference wind speed V_m (meters per second) was measured.

(v) The electrical power instrumentation shall measure the power delivered from the SWECS generator, minus any power used to control the SWECS.

(vi) The calibration of the instrumentation used in the tests specified in this standard shall be traceable to the National Bureau of Standards. The calibration shall be current within the time interval specified by the testing organization.

(7) *Testing organization certification.* The organization conducting any test outlined in this standard shall self-certify that it has met all the testing requirements stated in this standard. A signed statement of compliance with this standard shall be kept on file with the SWECS manufacturer and the organization that conducted the test for a period of 10 years.

§ 456.810 Standard for urea-formaldehyde foamed-in-place insulation.

(a) *Scope.* This section applies to urea-formaldehyde foamed-in-place insulation of existing residential buildings. This material is approved for exterior sidewall application only, and is not approved for use in attics, above ceilings, or under floors.

(b) *Definitions.* (1) "Urea-formaldehyde foam, insulation" (U-F foam) is a cellular plastic material generated in a continuous stream by mixing the components which are an urea-formaldehyde resin, air, and a foaming agent.

(2) "Foamed-in-place" means sprayed or pumped in place to form rigid or semi-rigid insulation in its permanent location.

(3) "Insulation manufacturer" (manufacturer) means the installer who combines these component materials and foams the insulation in place.

(4) "Component-material supplier" (supplier) means the supplier of the resin, foaming agent, and other ingredients to the foam insulation manufacturer.

(5) "ANSI/ASTM B 152–79" means ANSI/ASTM Standard Specification for Copper Sheet, Strip, Plate, and Rolled Bar.

(6) "ANSI/ASTM B 446–75" means ANSI/ASTM Standard Specification for Nickel-Chromium-Molybdenum-Columbium Alloy Rod and Bar.

(7) "ASTM C 177" means ASTM Standard Test Method for Steady State Thermal Transmission Properties by Means of the Guarded Hot Plate.

(8) "ASTM C 236–66" means ASTM Standard Test Method for Thermal Conductance and Transmittance of Built-Up Sections by Means of the Guarded Hot Box.

(9) "ASTM C 518–76" means ASTM Standard Test Method for Steady-State Thermal Transmission Properties by Means of the Heat Flow Meter.

(10) "ASTM D 257" means ASTM Standard Test for D-C Resistance or Conductance of Insulating Materials.

(11) "ASTM D 1622" means ASTM Standard Method of Test for Apparent Density of Rigid Cellular Plastics.

(12) "ASTM E 84" means ASTM Standard Test Method for Surface Burning Characteristics of Building Materials.

(c) *Coverage.* The component material supplier is responsible for ensuring that the requirements contained in this section have been met in all operations

through and including time of delivery to the insulation manufacturer.

(d) *Material requirements.* (1) *Thermal resistivity.* Thermal resistivity shall be tested in accordance with the test method described in paragraph (e)(2) of this section. Thermal resistivity for any given specimen of U-F foam insulation shall not be more than 5 percent below the arithmetic average of the resistivities of the foam specimens tested. Effective thermal resistivity of U-F foam shall be computed as 60 percent of the laboratory thermal resistivity value.

(2) *Fire safety.* The flame spread classification of U–F foam insulation shall not exceed 75, when tested in accordance with ASTM E 84.

(3) *Corrosiveness.* When tested as specified in paragraph (e)(3), the corrosion rates shall not exceed the values specified in Table XIII below.

Table XIII

Metal	Corrosion rate
Carbon Steel	0.15 mm/yr (0.006 in./yr)
Copper	0.025 mm/yr (0.001 in./yr)
Galvanized Steel	0.09 mm/yr (0.0035 in./yr)
Aluminum	0.025 mm/yr (0.001 in./yr)

(4) *Density.* (i) The dry density of U–F foam insulation shall be no less than 10.4 kg/m ^{3} (0.65 lb/ft ^{3}) when tested in accordance with ASTM D 1622.

(ii) The wet density of U–F foam insulation five minutes after foaming shall be between 40 kg/m ^{3} and 88 kg/m ^{3} (2.5 lb/ft ^{3} and 5.5 lb/ft ^{3}) when tested as specified in paragraph (e)(4).

(5) *Water absorption.* Under conditions specified in paragraph (e)(5)(i) of this section, the water absorption of U–F foam insulation shall not exceed 15 percent by volume. When tested in accordance with paragraph (e)(5)(ii) of this section, U–F foam shall not absorb the droplets of methyl violet solution in less than one hour.

(6) *Free formaldehyde content.* (i) The free formaldehyde content of the resin used in U–F foam insulation shall not exceed 0.5 percent by weight when tested as specified in paragraph (e)(6).

(ii) The free formaldehyde content of fresh U–F foam shall not exceed 0.3 percent by weight when tested as specified in paragraph (e)(7).

(7) *Setting time.* U–F foam insulation shall set in not less than 20 seconds and not more than 60 seconds when tested in accordance with paragraph (e)(8).

(8) *Volume resistivity.* The volume resistivity of fresh U–F foam shall be not less than 5 k Ω-cm when tested as specified in paragraph (e)(9).

(9) *Water drainage.* U–F foam insulation shall manifest no water leakage from a plywood cavity when tested in accordance with paragraph (e)(10) of this section.

(10) *Shrinkage.* U–F foam insulation shall not shrink more than 4.0 percent in any direction when subjected to the conditions specified in paragraph (e)(11) of this section.

(11) *Labeling.* (i) Containers of urea-formaldehyde resin and foaming agents shall have labels showing storage temperatures and dates (shelf-life) after which resin and foaming agent are not usable.

(ii) The following warning shall be printed on U–F resin containers and shall be printed for manufacturers to present to residents prior to the installation of U–F foam insulation:

Caution: Under some conditions Urea Formaldehyde insulation may cause the release of formaldehyde gas into living areas, and the development of adverse health effects. Continued exposure to formaldehyde can cause nausea and vomiting, respiratory difficulties, headaches, eye irritation, and allergic reactions. Such symptoms may develop anywhere from a few days to more than six months after the gas is released.

(12) *Additional requirements.* (i) The supplier of the U–F foam components shall train and certify the manufacturers of U–F foamed-in-place thermal insulation. An approved training course and certification requirement shall require proficiency in the following:

(A) Principles of heat transfer and thermal insulations

(*1*) Condensation control/vapor barriers

(*2*) Effects of moisture on thermal insulations

(*3*) Air infiltration

(B) Overview of U–F foam insulation

(*1*) Physical properties

(*2*) Mechanical properties

(*3*) Thermal properties

(*4*) Chemical properties

(C) U-F Foam technology

(*1*) Manufacture and composition of U-F foam components, i.e., resin and catalyst solutions

(*2*) Chemical reactions during production of U-F Foam and of final foamed product

(*3*) Field manufacture of U-F foam *in situ*

(D) Post-installation curing of U-F foam

(*1*) Shrinkage

(*i*) Normal

(*ii*) Excessive

(*2*) Formaldehyde release

(*i*) Inherent post-installation release

(*ii*) Solids content of components and foam

(*iii*) Factors affecting rate of drying

(E) Installation procedures

(*1*) General guidelines

(*i*) Vapor barriers

(*ii*) Wall venting

(*iii*) Drilling and plugging requirements

(*iv*) Problem installations

(*2*) Specific guidelines (covers opening and closing techniques and equipment and tools to use)

(*i*) Brick-on-brick

(*ii*) Concrete block

(*iii*) Brick veneer

(*iv*) Drill and plug

(*v*) Wood shingle and wood shake siding

(*vi*) Slate shingles

(*vii*) Aluminum, vinyl, and steel siding

(*viii*) Clapboard wood siding

(*ix*) Stucco and pebbledash

(*x*) Imitation brick asphalt roll or sheet

(*xi*) Balloon construction

(*xii*) Mobile homes

(*xiii*) Pipe chases

(*xiv*) Knee wall areas

(*xv*) Windows and door frames

(*xvi*) Below grade

(*xvii*) Other applications

(*xviii*) Restricted applications

(F) Proper cavity fill techniques

(*1*) Stud cavity

(*x*) Check for obstructions

(*ii*) How to determine number of holes per cavity necessary for complete fill

(*iii*) Methods of preventing overpressurized or ruptured walls

(*iv*) Demonstration of proper fill technique

(*2*) Continuous cavity, i.e., brick-on-brick

(*i*) Methods of preventing overpressurized or ruptured walls

(*ii*) Demonstration of proper fill technique

(*3*) Other cavities

(*i*) Methods of preventing overpressurized or ruptured walls

(*ii*) Demonstration of proper fill technique

(G) Resin and foaming agent/catalyst handling

(*1*) Storage conditions

(*2*) Solution temperatures during application

(*3*) Shelf life

(*4*) Safety precautions

(*5*) Shipping requirements

(H) Practical demonstration

(*1*) Proper foaming technique

(*i*) Pre-foaming quality control checks

(*ii*) Pre-installation quality control checks

(*iii*) Quality control checks during installation

(*2*) Trouble shooting off-specification foam

(*i*) Off-ratio foam

(*ii*) Incorrect density foam

(*iii*) Over aged resin

(*iv*) Incorrect solution temperatures

(*v*) Faulty, malfunctioning or inadequate equipment

(*vi*) Overacidified or underacidified foaming agent

(*vii*) Effects of using equipment not properly maintained

(I) Equipment

(*1*) Supplier's recommended equipment

(*2*) Proper care and maintenance

(*3*) Troubleshooting

(J) Recordkeeping

(*1*) Required disclosures to consumer

(*2*) Manufacturer's required recordkeeping

(ii) Following the supplier's training programs, and successful completion of a comprehensive examination, manufacturers will then be certified to apply U–F foam insulation.

(A) The supplier shall issue application licenses to the cerrtified dealers and maintain a current roster of its licensed manufacturers.

(B) Annual or semi-annual refresher courses and recertification examination shall be required for each manufacturer to maintain his certification.

(C) Manufacturers trained by a supplier other than their current supplier must use equipment that complies with the current supplier's specifications and must successfully complete that supplier's cerification requirements. Complete re-training is not necessary but is at the current supplier's discretion.

(D) On-site spot checks of installations shall be conducted by the supplier.

(iii) The supplier of the U–F foam components shall provide materials control and installation instructions.

(iv) The supplier of the U–F foam components shall recommend the equipment to be used to manufacture the U–F foamed-in-place thermal insulation. The equipment shall at a minimum meet the following criteria:

(A) The pumping-delivery equipment shall deliver air, dilute resin and dilute foaming agent to the mixing device in the proper flow and volume ratio prescribed by the manufacturer of the materials.

(B) A device shall be included to alert the operator or automatically shut down the system should performance specifications go out of tolerance. Wet density shall be manually adjusted and will not be subject to the alarm or shutdown requirements.

(C) The system shall have provisions to prevent or control oil contamination and/or water condensation in the air supply.

(e) *Test methods.* (1) *Preparation of specimens.* Neither the specimen composition nor foaming conditions shall be altered to produce qualifying samples for the tests required in this section. All tests described in this section shall be conducted on the same batch of U–F foam insulation (made from the same resin, foaming agent, and additives) and under the same conditions. Unless otherwise specified in the following test procedures, the foam shall be prepared and applied in accordance with the supplier's instructions and specified equipment. The temperature of the unreacted materials prior to foaming shall be between 15° and 32° C (59° and 90° F). Unless otherwise specified, specimens shall be foamed at ambient conditions of 23±2° C (73±4° F) and 50±5 percent relative humidity into closed cavities constructed of (nominal) 2 x 4 inch studs (51 x 102 mm) and ½ inch (13 mm) thick exterior grade plywood. Maintain test specimens in the closed cavities in vertical positions at 23±2° C and 50±5 percent relative humidity for 28 days prior to testing. Then remove specimens from cavities and condition at 23±2° C (73±4° F) and 50±5 percent relative humidity until a constant weight (±1.0 percent) is maintained over a three day period.

(2) *Test method for thermal resistivity.* (i) The laboratory value of thermal resistance shall be determined as specified in ASTM C 177, ASTM C 518–76 or ASTM C 236–66, using specimens 75+0, −1 mm (3 in, +0, −.04 in.) thick, a mean temperature of 24° C (75° F) and a mean temperature differential across the specimen of 22±3° C (72±5° F). In cases of a question, ASTM C 177 shall be used. Specimen surfaces shall be either those obtained during foaming or those obtained by slicing the material to remove not more than 5 mm from each side.

(ii) The effective thermal resistance shall be computed as 60 percent of the laboratory thermal resistance value determined by the preceding paragraph.

(3) *Test method for corrosiveness.* (i) The following apparatus and materials shall be used to test for corrosiveness:

(A) Oven capable of maintaining 40±2° C (104±4° F).

(B) Small container, approximately 90 x 50 mm (3.6 x 2 in.) made of inert material such as polypropylene and equipped with a lid so designed that water condensing on it will not drip but will run to the walls of the container. The container shall be designed such that it is not potentially hazardous after it has been sealed at room temperature and heated to 40° C (104° F).

(C) Large container, capable of housing the small container, but which will fit inside the oven.

(D) Test coupons, approximately 50 x 50 mm x 0.0762 mm (2 x 2 x .003 in) thick metal, free of tears, punctures or crimps as follows: 3003 Bare Aluminum, soft temper; ANSI/ASTM B 152–79 type ETP, Cabra No. 110, soft copper; and low carbon, commercial quality, cold rolled shim steel.

(E) Test coupons, approximately 50 x 50 x 1.0 mm (2 x 2 x .004 in) made from hot dipped galvanized sheet steel conforming to Grade A or B, ANSI/ASTM B 446–75 with a total zinc coating of 275–0, +31 g/m². At least 40 percent of the zinc shall be on any one side of the test coupons. (Metal of this quality is used in the manufacturer of truss plates).

(F) 1,1,1-trichloroethane analytical reagent grade. (It has been established that exposure to trichloroethane may present a health hazard and precautions should be taken.)

(G) Balance, capable of determining the mass of the galvanized specimen to an accuracy of 1 mg.

(H) 40 Watt appliance light bulb.

(I) Distilled water, nitric acid 1.002 kg/L, ammonium hydroxide (relative density 0.90), chromium trioxide, silver nitrate, hydriodic acid, reagent grade chemicals.

(J) Several noncorrosive plastic supports and a 150 g mass.

(ii) Prepare foam specimens from blocks. Cut a specimen 60 x 60 mm (2.4 x 2.4 in) square and 15 mm (0.6 in) thick from blocks such that the 60 x 60 mm (2.4 x 2.4 in) surface is that obtained from foaming and not slicing the foam. All other surfaces of the specimen shall be obtained by slicing the foam. Surfaces obtained from foaming shall be placed adjacent to the metal specimens in the test.

(iii) Make duplicate tests for each determination. Wash the metal coupons with 1, 1, 1-trichloroethane to remove any oil or grease. Wash the cleaned specimens under water and ensure they are completely wetted by the water and contain a water-streak free surface. At no time shall the metal coupons be touched with ungloved hands. Handle the cleaned metal specimens with clean forceps. Dry the metal coupons at room temperature. Weigh the coupons and record their masses. Place a noncorrosive plastic screen support in the small container and add 20 mL (deionized) water. Place a foam block on the support at least 5 mm (0.2 in) above the surface of the water. Place the metal coupon on the foam block, put another foam block on the metal coupon and then place on top of the sandwich a non-corrosive plastic screen and a 150 g mass which shall not block air flow to the top foam block. Seal the small container with a lid. Place the small container in the large container, add

sufficient distilled water to the large container and seal it. Place the assembly in an oven at 40 ± 2°C (104 ± 4°F) for 28 days. Upon completion of the test remove the assembly from the oven and dismantle. The large container should still have some water in it. If there is no water present at the end of the test, then results for those materials passing the test are suspect and the test should be repeated. Remove the corrosion products from the metal coupons by the procedures recomended in ASTM Gl. Rinse all metal coupons in distilled water and dry. Examine the specimen and control coupons. The controls shall be metal coupons not exposed in the oven but which are cleaned identically to the specimens. Subtract the loss in mass of the controls from the loss in mass of the specimen coupons. For each set of duplicate specimens to meet the requirements of paragraph (d)(3), the spread between results shall not exceed an absolute value equal to 15 percent of the maximum permissible corrosion rate specified for that material and the average of both results shall be below that maximum limit set for that material.

(iv) Calculations. Corrosion rates shall be calculated by the following equation:

$$\text{Corrosion Rate (mm/yr)} = \frac{87.6 \times W}{A \times T \times D}$$

Where:

W = weight loss in mg to the nearest 0.2 mg

A = total surface area in cm^2 to the nearest 0.01 cm^2

T = time of exposure in hours to the nearest 0.01 hr

D = density in g/cm^3

(4) *Test method for wet density.* Weigh to the nearest gram a measured quantity of freshly foamed material in a tared container within five minutes after formation. Calculate wet density using the formula:

$$\text{Density (kg/m}^3\text{)} = 1{,}000 \times \frac{\text{Weight (g)} - \text{Tare Weight of Container (g)}}{\text{Volume (cm}^3\text{)}}$$

(5) *Test methods for water absorption.* (i) Floating test. Cut three cubes, each 180 × 180 × 90 mm (7.1 × 7.1 × 3.5 in) from a block of foam. Accurately weigh each cube and place them singly on a distilled water surface. The surface in contact with the water shall be that obtained from foaming. After seven days at 23 ± 2°C (73± 4°F) and 50 ± 5 percent R.H., remove the cubes and accurately weigh them. Calculate the percentage of water absorption on a volume basis.

(ii) Droplet test. Prepare a 0.3 percent solution of methyl violet in distilled water. Apply five drops each 0.03 mL, of the solution by means of a syringe to a freshly cut horizontal surface of the foam and to a surface obtained from foaming. Measure the time required by the drops to be completely absorbed through the surface of the foam. This point in time shall be ascertained under direct lighting at the moment when the area to which the drop has been applied become dull. Perform the test at 23 ± 2°C (73 ± 4°F) and 50 percent R.H.

(6) *Test method for free formaldehyde content of resin.* Prepare a standard sulfite solution as follows: Dissolve, without heating, approximately 250 g $Na_2SO_3 7H_2O$ in about 200 mL distilled water. Dilute to one litre. Adjust the pH of the sulfite solution to 8.9 with H_2SO_4, and NaOH solutions. The solution is stable only for a short period of time and it must be used immediately after adjustment of the pH. Place 20 mL distilled water in an Erlenmeyer flask. Accurately weigh approximately 2 g resin solution (ready for foaming) and add it to the flask. Stir the mixture well, add approximately 10 g crushed ice and mix thoroughly. Add 50.0 mL of the standard sulfite solution and titrate immediately with 0.49 g/L H_2SO_4 to pH 8.9. Perform the procedure in duplicate and run a blank. Calculate the percentage formaldehyde content of the resin as follows:

Percent formaldehyde = 3(A–B)D/C

Where:

A = mL of 0.49 g/L H_2SO_4 for the specimen

B = mL of 0.49 g/LH_2SO_4 for the blank

C = mass of resin solution, g

D = normality of the H_2SO_4 solution.

(7) *Test method for free formaldehyde content of fresh U–F foam.* This test shall be conducted on three foam specimens taken from the same slab of foam and one blank. These specimens shall be taken 60 minutes after foaming.

(i) The following apparatus is required:

(A) Four 1000 mL breakers

(B) Mechanical stirrer

(C) 50 mL graduate cylinder

(D) One 100 mL graduate cylinder

(E) Top-loading automatic balance, sensitivity 0.01 g

(F) Two titration burettes, 50 mL capacity,

(ii) Prepare a sulphite solution (1 molar) by dissolving, without heating 252 g $Na_2SO_3 7H_2O$, or 126 g of Na_2SO_3, in about 400 mL of formaldehyde-free distilled water. Dilute to 1000 mL in a volumetric flask. Adjust the pH of the sulphite solution to 8.9 with 0.1 N H_2SO_4, or 0.1 N NaOH solution. The solution is stable only for a short period of time and must be used immediately after adjustment of the pH. To increase its stability, store in a dard cool place.

(iii) Weigh the 1000 mL beakers.

(iv) Cut three foam samples, approximately 50 × 50 ×75 mm (2 × 2 × 3 in) each, and place each in a separate 1000 mL beaker. Re-weigh the beakers and determine the weights of the foam samples.

(v) Compress foam sample to the bottom of the beaker and add 400 mL of a water/methanol mixture (50/50 by volume), previously cooled to 0°C. Mix well, adjust to pH 8.9 with 0.1 N NaOH, and allow to stand for two (2) hours in an ice bath maintaining 0°C.

(vi) For blank, add 200 mL of formaldehyde-free distilled water and 200 mL methanol to 1000 mL beaker and cool at 0°C.

(vii) Add 0.1 N sodium hydroxide (NaOH) solution, dropwise, to pH 9.0 or back titrate with 0.1 N sulphuric acid (H_2SO_4) to a pH of 9.0.

(viii) Quickly add 10 g of cracked ice (2 tablespoons) to one of the beakers only and stir or mix thoroughly. To this beaker, immediately add 50 mL of standard 1 molar sodium sulphite solution from a graduate cylinder and titrate at once with 0.1 N sulphuric acid to a pH of 9.0. Record the number of mL of 0.1 N sulphuric acid in this titration.

(ix) Repeat procedure in Step 6 for the second and third foam sample beakers.

(x) Run the blank by adding 10 g (2 tablespoons) of cracked ice and then quickly adding 50 mL of standard 1 molar sodium sulphite solution from a graduated cylinder, and titrate again with 0.1 N sulphuric acid to a colorless end-point (pH 9.0). Record the number of mL of 0.1 N sulphuric acid added to the blank solution.

(xi) The percentage of free formaldehyde contained in the foam shall be determined by the following equation

$$\text{Percentage Formaldehyde} = \frac{3.003\ (A-B)D}{C}$$

A = mL of 0.1 N H_2SO_4 titrant added to the blank sample

B = mL of 0.1 N H_2SO_4 added to the sample

C = weight of foam in g

D = normality of the H_2SO_4 solution

(8) *Test method for setting time.* A conical specimen with a bottom diameter of approximately 30 cm (12 in) and a height of approximately 30 cm (12 in) shall be made by foaming from a hose. Start a stopwatch immediately after the cone has been formed and immediately commence slicing the cone with a spatula. Record the time when

the foam no longer slices as if it were whipped cream but shears off leaving a smooth surface. This time is the setting time.

(9) *Test Method for Volume Resistivity of Fresh Foam.* Foam the specimen in a plastic box which is made of non-conductive plastic and so designed that it may be opened for easy cleaning. Provide slits in the box to accomodate the brass electrodes forming a 90 mm (3.5 in) cube of foam when they are inserted into the box. The box shall be equipped with grooves, about 2 mm (0.08 in) in depth on the interior between the slits, to act as guides for the electrodes. Insert the electrodes into the slits, through the foam and through the other slits. The bevelled edge of the electrodes shall face outwards during insertion so that the foam specimen is not compressed. Then determine the volume resistivity of the foam in accordance with ASTM D 257 using a potential difference of 110V. the time between foaming the specimen and taking the instrument reading shall not exceed 30 seconds.

(10) *Test method for water drainage.* Prepare a cavity approximately 2440 mm high, 400 mm wide and 90 mm deep (97.6 × 16 × 3.5 in) from wood studs and plywood. Fill the cavity by foaming in place or trowelling. Leave the cavity in a vertical position for 24 hours, during which time the bottom and underside of the structure shall be examined for water. The cavity shall be built so that any free water from the foam can run out easily at the bottom. Caulks, sealants, and adhesives are not to be used in the construction of the cavity.

(11) *Test method for shrinkage.* Construct three boxes, approximately 480 × 480 × 90 mm (19 × 19 × 3.5 in) from nominal 2 × 4 in wood studs and exterior grade plywood. Fill these three boxes with U–F foam, cover them, and maintain for 28 days at 23± 2°C (73 ± 4°F) and 50 ± 5 percent R.H. Then open the boxes and measure the linear shrinkage of the U–F foam in the two principal directions. Report the average of all six determinations as linear shrinkage. If fractures in the specimens occur, the data shall be discounted, and the test repeated.

§ 456.812 Standards for caulks and sealants, water heater insulation, heating/air conditioning duct insulation and pipe insulation.

* * * * *

(e) *Material stardard for pipe insulation.* Pipe insulation shall conform to:

(1) Federal Speicification HH–I–558B, Federal Specification for Mineral Fiber Batts and Blankets—Industrial Type, or

(2) Federal Specification HH–I–573B, Organic Cellular Flexible Unicellular pipe covering.

In addition, the exterior facing shall have a flame spread, when tested in accordance with ASTM E–84, of no more than 25.

456.814 Standards for furnace efficiency modifications.

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(f) *Material standard for automatic intermittent pilot ignition systems (IID's) for gas-fired heating systems. (1) All IID's shall conform to ANSI Z21.20–1975, entitled "American National Standard for Automatic Gas Ignition Systems and Components."*

(2) All IID's shall contain a label stating: "This device should be installed only by approved contractor."

(3) Manufacturers of IID's shall provide to all persons approved for installing the device specific wiring diagrams for all situations in which the IID may be installed.

(g) *Material standard for vent dampers for gas-fired systems.*

* * * * *

(3) *Wiring diagrams and Instructions.* In addition to meeting the above requirements, manufacturers shall provide all persons approved for installing the device with:

(i) Specific wiring diagrams, which show how to connect electrical vent dampers and thermal vent dampers with electrical connections to those appliances with which the vent damper is compatible.

(ii) Specific interconnection diagrams between the motive force and control circuits of those appliances with which a mechanical vent damper is compatible.

(iii) Instructions for installing an additional automatic gas valve when installing thermal vent dampers.

(iv) A verification-of-installation card to be returned to the manufacturer by the installer. The following information shall be requested on the card:

(A) Name of Installer.

(B) Name of Installer's Company.

(C) Name and Address of Purchaser.

(D) Model and Type of Device Installed.

(E) Date of Installation.

§ 456.905 Standard practice for the installation of loose-fill thermal insulation.

* * * * *

(d) *Installation Procedures.* (1) *General* * * *

(ii) Structural damage can be caused by excessive pressures during the installation or can result form installing insulation in constructions too weak to support the imposed load. Install insulation only so as not to cause any of the following conditions:

(A) Separation of finish materials from joists or studs.

(B) Cracking of materials or opening of joints between boards.

(C) Defection of more than 1/200 of the joist or stud spacing.

Note 5.—The following table, which is based on teste and other data submitted by gypsum board manufacturers, may be used to determine whether a gypsum board surface is likely to exceed the maximum allowable deflection specified above. Actual deflection or other failure in service depends on various factors such as:

- Whether the gypsum board is installed with its long side parallel or at right angles to the joists.
- Relative humidity.
- Temperature conditions.

Table 1.—*Maximum Suggested Loads*

(1) Gypsum board ceiling thickness	(2) Frame spacing	(3) Suggested load [1]
½ in	24 in o.c.	1.3 psf.
½ in	16 in o.c.	2.2 psf.
⅝ in	24 in o.c.	2.2 psf.

[1] Includes the weight of both the new and any existing insulation.

§ 456.909 Standard practice for the installation of urea-formaldehyde foamed-in-place insulation.

(a) *Scope.* (1) This practice covers the installation of Urea Formaldehyde foam insulation (U-F foam) in exterior wall cavities of existing residential buildings.

(2) This practice covers the installation process from pre-installation procedures through post-installation procedures. It does not cover the manufacturing of the material components, but it does cover the process of combining components to form foam and it also covers field quality control checks.

(3) This practice provides minimum requirements that will help to insure the installation of insulation in a safe and effective manner. It must be noted that actual conditions in existing buildings vary greatly and in some cases substantial additional care and precaution may have to be taken to assure effective and safe installation.

(4) This practice covers aspects of installation relating to the safety of persons and property, effectiveness, and durability of insulation in service, and prevention of related structural damage to the residence.

(b) *Definitions.* The definitions in § 456.810(b) apply to this section.

(c) *Significance.* (1) This practice recognizes that effectiveness, durability,

prevention of related structural damage, and safety of insulation depends not only on the quality of the insulation materials, but also on their proper and workmanlike installation.

(2) Improper installation of U-F foam may reduce its thermal effectiveness, cause damage to the structure, and cause unsafe conditions.

Note.—Specific hazards that can result from improper installation include:

a. Deterioration or failure of electrical wiring components and heat buildup caused by overfused electrical circuits or by exposed metal wire conductors, when wiring is encapsulated in thermal insulation;

b. U-F foam insulation may release formaldehyde vapor. This occurrence may present a health hazard to the building's occupants.

c. Deterioration of wood structures, paint failures, and corrosion of metal fasteners and electrical components caused by prolonged moisture accumulation within building components.

d. Foam penetration into electric services, cracks, gaps (moldings), heating ducts and passages, interior partition walls and floors not meant to be insulated, recessed electrical or storage components, etc.

e. Buckling, breaking, and cracking of interior or exterior surfaces due to over pressurization or defective construction workmanship or materials, sometimes not related to the insulation.

f. Rendering window mechanisms inoperative or partially operative (blockage of weights by foam, etc.)

(d) *Safety Precautions.* (1) Wear safety equipment to protect hands and eyes against acid contained in the chemicals.

(2) Avoid contact between the uncombined chemical components of U-F foam and building materials to prevent staining or corrosion.

(3) Follow label instructions regarding hazards related to the materials.

(4) Observe all safety rules provided by the installation equipment manufacturer. Properly set relief valves on pressurized liquid and air vessels and exercise proper use of electrical power tools.

(5) Keep all persons not involved in the installation a safe distance from work areas and installation equipment.

(6) Maintain proper ventilation on the job to prevent excessive exposure to formaldehyde gas.

(7) Follow the supplier's instructions for storage of U-F foam components and follow proper methods of disposal of old or unusable resin and foaming agent solutions.

(8) Turn off all power to circuits located within the wall cavities being insulated.

(e) *Installer requirements.* (1) The installation of U–F foam may only be performed by insulation manufacturers trained and certified by the material components supplier.

(2) Persons installing U–F foam must have a working knowledge of the applicable codes and regulations, tools, equipment, and methods necessary for the installation of thermal insulation materials. These persons are also required to have an understanding of the fundamentals of residential construction that affect the installation of insulation.

(f) *Equipment.* (1) Use only equipment which has been recommended by the supplier for use with the supplier's product and has within a period of less than six (6) months prior to the current installation successfully passed the testing requirements of paragraph (f)(4) of this section using the procedures described in paragraph (f)(5).

(2) Ensure that hose lengths conform to the insulation supplier's requirements.

(3) Check the equipment for proper functioning and cleanliness before starting a job. Clean and maintain the equipment according to the equipment manufacturer's instructions but at a minimum, at the following intervals:

(i) Before installing each new batch of U–F foam.

(ii) After every down time of at least 15 minutes.

(iii) At the conclusion of the installation process.

(4) *Equipment testing requirements.* (i) The volume flows shall be consistent from the beginning to the end of continuous foaming operations of a quantity of 20 ± 5 gallons of both resin and foaming agent to within a tolerance of ± 5 percent of the standard set out in paragraph (f)(5)(i) of this section.

(ii) The ratio of flow between the liquid ingredients shall be consistent from beginning to end of continuous foaming of a quantity of 20 ± 5 gallons of both liquid ingredients to within a tolerance of ± 5 percent from manufacturer's prescribed ratio between the liquids when tested in accordance with the test method specified in paragraph (f)(5)(i).

Example. Assuming 20 gallons of foaming agent used and 20.5 gallons of dilute resin, the ratios would be 1 to 1.025 foaming agent to dilute resin, which is an acceptable ratio for a product required to maintain a 1 to 1 ratio.

(iii) The wet density of the U–F foam shall be consistent from beginning to end of continuous foaming of a quantity of 20 ± 5 gallons of both liquid ingredients to within a tolerance of ± 5 percent of the supplier's test procedure. A minimum of three density tests must be taken over the 20 ± 5 gallons pumped of both liquids (shortly after start, middle, and just before the end).

(iv) Alarm shut-down mechanisms shall be tested per paragraph (f)(5)(iii). Equipment that fails the flow ratio per paragraph (f)(5)(i) but does not activate the alarm or shutdown mechanism, constitutes noncompliance to this standard. For each test per paragraph (f)(5)(i) that fails, an additional, successful test must be run. A test failure is one that was interrupted because of alarm or shut-down mechanism being activated. Special provision is given for ultra-sensitive equipment per paragraph (f)(5)(iii).

(v) The equipment shall be subject to a cyclic performance test to simulate typical wall filling conditions. Ten on-off cycles (30 ± 5 seconds on and 15 ± 5 seconds off) shall be run without causing out-of-tolerance flow ratios. The wet density of foam on the first cycle shall be within the supplier's specification and when compared with a wet density test after the last cycle, shall be within ± 5 percent of that from cycle one. Cleaning of the exit hose or other components in contact with mixed ingredients is allowed prior to final wet density test. The ratio of flow between the liquid ingredients shall be within a tolerance of ± 5 percent from the supplier's prescribed ratio between liquid when tested in accordance with the paragraph (f)(5)(iii) test method. The provisions of paragraph (f)(4)(iv) shall apply to this cyclic performance.

(5) *Equipment testing procedures.* (i) Measure the volumes of ingredients consumed while making U–F foam to an accuracy of ± 2.0 percent of full scale. A plastic pipe with a sight glass connected in a verticle position can be calibrated to serve as a graduated column. Set up and prime the liquid systems after connecting the graduated column. Make trial U–F foam to achieve the supplier's proper specification. Note the level of both liquid ingredients in the graduated columns prior to measurement during timed trials. On continuous pumping trials, a minimum of four sets of readings must be taken and spaced uniformly over the pumping period. The elapsed time between each reading must be determined to ± 2.0 percent. If the prescribed amounts of liquid are made into U–F foam and no automatic alarm or shut down has occurred, collect the data as described below:

(A) For each time interval, determine the volume pumped and the time; calculate the ratio of foaming agent to resin of each time interval.

(B) Calculate the overall ratio for the total test period.

(C) Calculate the gallons per minute flow rate for each time interval.

(D) Calculate the total volume pumped for foaming agent and resin at the completion of the test. The foam density at the completion of the test shall be determined per the supplier's prescribed method to specification.

(E) Verify that alarm or shut down devices are working properly per paragraph (f)(5)(iii) since they were not activated during the test.

(ii) The cyclic testing shall measure the volumes of ingredients consumed while making U–F foam to an accuracy of ± 2.0 percent of full scale using graduated columns as described in paragraph (f)(5)(i) of this section. Perform the prescribed checks and note the liquid levels. Perform the prescribed cycle of operations per paragraph (f)(4)(v). Measure the total volume of ingredients used and determine the overall ratio.

(iii) Testing of the alarm or shut down device shall be carried out by another trial per paragraph (i) above, but a progressive restriction of flow of one ingredient shall be induced on the system. This can be done on many systems by crimping a supply hose leading to the mixing device to diminish flow. If the alarm or shut down device fails to activate within five (5) minutes, the system does not comply to this standard. If the system has both alarm and shut down capabilities, the activation of either shall be sufficient for the system to meet this standard. Systems which maintain ratio but give false alarms shall not be rejected, but they will be so classified.

(g) *Foam Generation and Field Quality Control Checks.* (1) Follow the supplier's instructions for generating the foam.

(2) Do not use containers of resin or foaming agent after the dates specified on the container labels by the supplier.

(3) Use only materials supplied by the same insulation supplier and, where that supplier supplies more than one product, ensure that the individual components to be combined are compatible.

(4) Handle all insulation materials in accordance with the supplier's instructions. Keep powdered products dry and free of extraneous materials.

(5) Perform all field quality control checks prescribed by the supplier. At a minimum, perform the following checks at the specified frequencies:

(i) *Setting time (gel time).* Test per Standard for Urea-Formaldehyde Foamed-in-Place Insulation [see § 456.810(8)(e)]. Test before installation each day on each job for each material batch. Check after any change in chemical concentration. Setting time must conform with the supplier's recommendations for the type of structure and procedure being used but shall not exceed 60 seconds nor be less than 20 seconds.

(ii) *Wet density.* Test per Standard for Urea-Formaldehyde Foamed-in-Place Insulation [see § 456.810(e)(4)]. Check the wet density on each new batch of materials, on each new job, and after each down time of at least 45 minutes. Whenever changing from an empty to full container, the density must be retested. The density must also be repetitively tested throughout the foam-making period at a frequency depending on the setting time: for a set time of 20 seconds, check the density at intervals of no more than twenty (20) minutes; for a 60 second set time, check the density at intervals of no more than sixty (60) minutes.

(iii) *Ratio of resin to foaming agent.* Determine the ratio of resin to foaming agent for each batch of materials on each day on each job by measuring the number of gallons of each liquid used.

(iv) *Temperature of liquids.* The temperature of the liquids shall be within the acceptable range specified by the supplier.

(v) *Specific gravity of dilute resin.* Check the specific gravity of each batch of dilute resin with a hydrometer. The tolerance of ± 5.0 percent variance from the supplier's mean value for the supplier specified temperature range shall be acceptable. Do not use materials whose specific gravity is out of range.

(vi) *Water temperature and hardness.* When reconstituting powdered U–F foam components ensure that the water temperature and hardness are within the acceptable ranges specified by the supplier. Maintain a reconstitution record for each batch of material prepared.

(vii) *Uniform cell distribution.* Ensure that the foam is characterized by uniform cell distribution with a cell size not to exceed 1 mm in diameter.

(6) Maintain a record of the results of all field quality control checks and of other pertinent information required by the supplier, including, but not limited to:

(i) Date of application
(ii) Outdoor ambient air temperature
(iii) Material lot number(s)
(iv) Expiration date(s)
(v) Equipment identification number.

(h) *Pre-Installation procedures.* (1) Inspect and identify areas where previous moisture problem has caused paint peeling, warpage, stain, visible fungus growth, rotting, or other structural damage. Do not install insulation in such areas until the resident has been notified and these conditions have been corrected and their sources(s) eliminated. If the resident, after being informed of the moisture condition and the effects of installing insulation in such areas, elects to proceed with the installation, the resident must so state in writing on the contract.

(2) Block all openings in sidewalls through which the insulation material may escape. Seal all wall cavities which open into an attic, basement, or crawl space prior to installing insulation.

(3) For buildings located in Zone I of Figure 1, provide a vapor barrier on the interior surface of all walls to be insulated in bathrooms, and unvented kitchens and laundry areas. Caulk or seal all major cracks on the interior face of exterior walls of these rooms including joints between the floor and wall (except where impractical because of carpeting), between wall and ceiling, at joints around window frames, and around wall penetrations for electrical services (outlets and switches), plumbing stacks, and heating and air-conditioning ducts.

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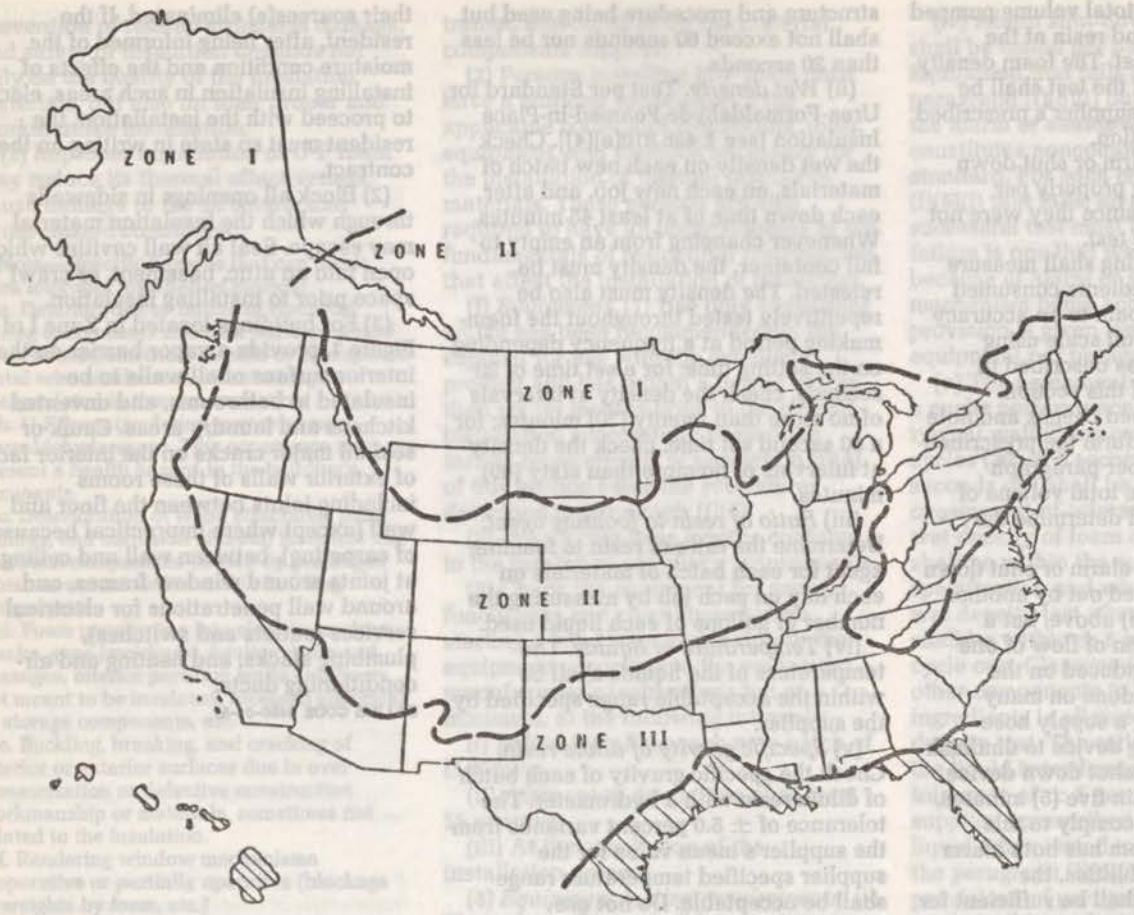

Figure 1. Condensation Zones in the United States

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Note 2.—It is recommended that a vapor barrier and caulking, such as described in this section, also be provided on all walls to be insulated in bathrooms and unvented kitchens and laundry areas in buildings in Zone II of Figure 1 in § 456.905.

Note 3.—The above requirements for moisture control are minimum requirements needed to prevent long-term moisture damage. Homes which are characterized by one or more of the following conditions are more likely to experience excessive moisture accumulation which can be corrected by application of a vapor barrier and caulking as described above and/or additional venting of the wall cavity from the exterior or by additional ventilation of the occupied space:

a. Homes with an area of less than 800 sq. ft.

b. Homes with less than 250 sq. ft. per occupant.

c. Homes with tight wall and ceiling construction and weatherstripped windows and doors.

d. Electrically heated homes or homes with a heating system which uses outside combustion air.

A relative humidity indicator may be installed to monitor the humidity level and determine when excessive moisture accumulation is likely to occur.

(4) Determine the material on the interior of outside wall contructions. Do not install U-F foam unless this material has a finish rating of not less than 15 minutes when tested in accordance with ASTM E 119–76.

Note 4.—Some ½ inch gypsum board (dry wall) provides the required finish rating.

Note 5.—Some U-F suppliers do not recommend applying foam directly against certain types of wall coverings. Some wall coverings that should be approached with caution are: knotty pine tongue and groove, wainscoting, colonial inset board paneling, printed wood paneling, and particle board. Check with the supplier prior to installation.

(5) Determine if the structure has dissimilar metals with large surface areas exposed in the same cavity. (Since the foam is wet with mild acidity, rapid electro-chemical corrosion can take place.) Contact the supplier to obtain assistance in the application to such structures.

(6) Inspect window frames. Identify any windows which contain internal mechanisms such as springs, counterbalance weights, friction strips, etc. in their frames. Follow the supplier's specific installation procedures for foaming these areas.

(7) Provide the customer with a statement identifying the effective thermal resistivity of the material to be installed, as determined by the test method in the standard for Urea-Formaldehyde Foamed-in-place Insulation, and a statement identical to that contained on the caution label printed on the U-F resin containers.

(i) *Installation Procedures.* (1) *General.* (i) Do not install insulation unless the pre-installation procedures have been carried out and any defects which were identified have been corrected and their causes eliminated.

(ii) Do not install insulation unless all field quality control and equipment checks required to be performed prior to installation have been completed. Conduct tests as required during the installation.

(iii) Operate all installation equipment in accordance with the equipment manufacturer's instructions.

(iv) Structural damage can be caused by excessive pressure during installation or can result from installing U-F foam insulation in constructions too weak to withstand normal pressures. Assure that installation does not cause the structural failure of the wall construction or its components. Specifically, the following conditions must not result from the installation:

(A) Separation of finish materials from studs

(B) Cracking of materials or opening of joints between boards

(C) Deflection of more than 1/200 of the stud spacing.

(v) Do not install insulation in wall cavities which themselves are air ducts for heating, ventilation, and/or cooling systems.

(vi) Do not install insulation when the atmospheric relative humidity, or outdoor ambient temperature, or cavity temperature is not within the acceptable range specified by the supplier.

(vii) Install insulation only in cavities which will preclude contact by the insulation with the ground or other sources of water.

(viii) Install insulation only between conditioned and unconditioned spaces.

(ix) U–F foam is a combustible material. Install U–F foam so as to meet the applicable requirements listed below in paragraphs (i)(1)(ix) (A) and (B) of this section.

(A) If a wall cavity contains recessed lighting fixtures or other heat producing devices, either provide a three-inch minimum clearance around the recessed lighting fixtures (including wiring compartments and ballasts) and other heat producing devices not covered in paragraph (B) or do not install U–F foam in the cavity containing such heat producing device(s). Do not cover these devices so as to entrap heat or prevent the free circulation of air, unless they are approved for such purpose.

(B) Provide the minimum clearances around gas fired appliances specified in NFPA–54, the National Fuel Gas Code. Around oil-fired applicances, provide the minimum clearances specified in NFPA–31, Standard for the Installation of Oil Burning Equipment. Around masonry chimneys or masonry enclosing a flue, provide a minimum two-inch clearance from the outside face of the masonry. Around vents, chimney and vent connectors and chimneys other than masonry chimneys, provide the minimum clearances specified in NFPA–211, Standard for Chimneys, Fireplaces, and Vents.

(x) Remove any foam which is inadvertently sprayed on glass or exterior siding before drying occurs.

(xi) Open all entry holes with a technique that permits refinishing with little or no change in appearance.

(2) *Frame Walls.* Insulate frame construction walls (including masonry veneer construction) by one of the following two procedures:

(i) Method A. Do not foam cavities in excess of 10 ft in height by this method.

(A) Make an entry hole (fill port) between half and three quarters of the way up the wall. Make the fill port at least ½" larger in diameter than the outside diameter of the hose to allow air relief and maneuvering of the hose.

(B) Probe the cavity for blockages and make additional fill ports as necessary to ensure complete filling of the cavity. For a typical layout of fill ports, see Figure 2.

(C) Insert the applicating hose into the cavity within approximately 2 to 4 inches from the bottom (see Figure 3, Position "A").

(D) Retrieve the hose at a rate approximately equal to the rate of foam dispensation unless the supplier specifically recommends that the hose remain at the extremity of the cavity for the total filling time.

(E) When the foam reaches the level of the fill port repeat the procedure for the upper part of the cavity (see Figure 3, Position "B").

(ii) Method B. This method may be used to foam cavities in excess of 10 ft in height as well as shorter cavities.

(A) For each unobstructed cavity, make at least three entry holes which correspond to the size of the applicating hose (or adaptor, if used). Place the fill ports at approximately 1½ ft from the bottom, 4 ft from the bottom and 1½ ft from the top of the cavity (see Figure 4). A specific air relief hole may also be provided at the very top of the cavity.

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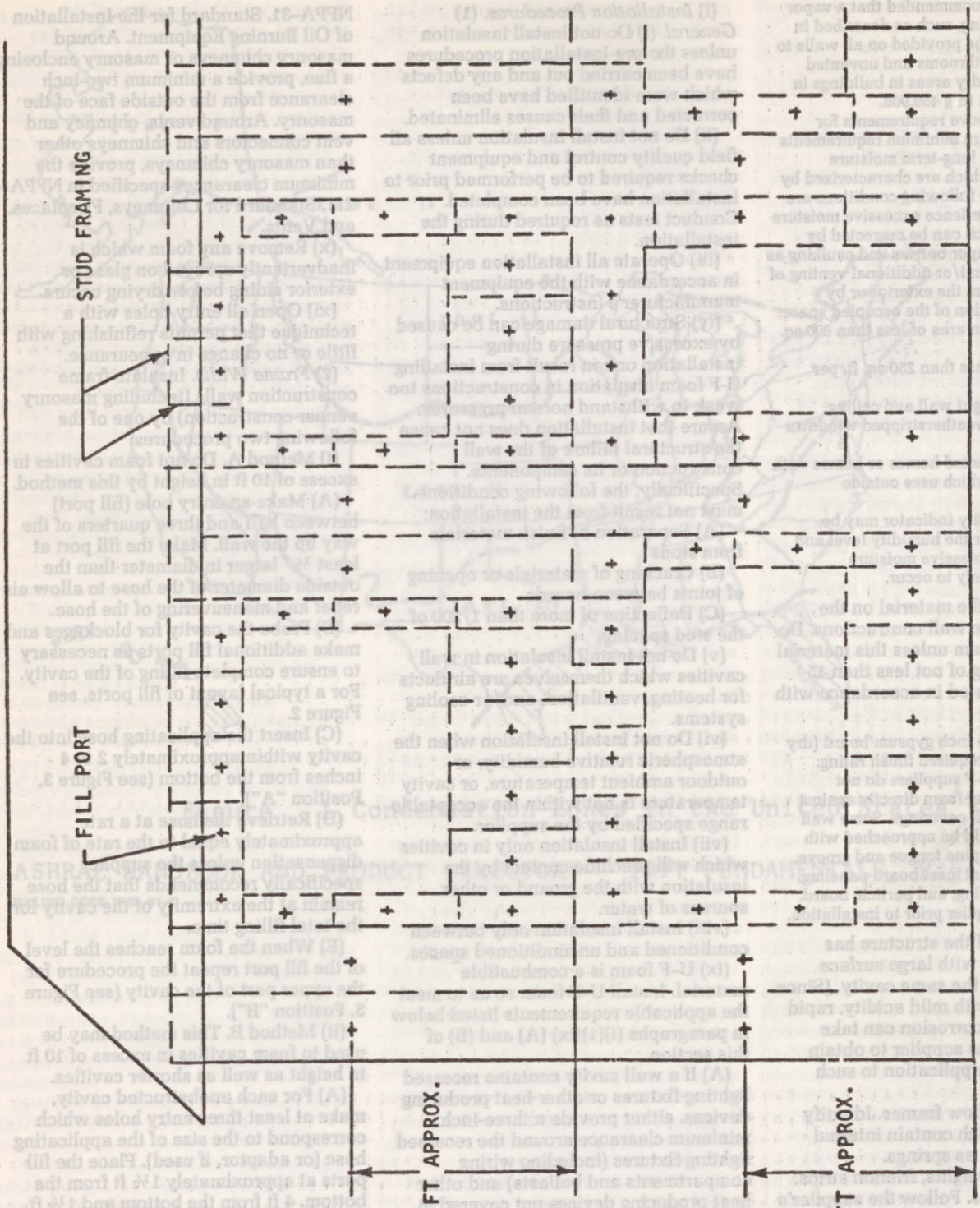

Figure 2. Typical Layout of Fill Ports

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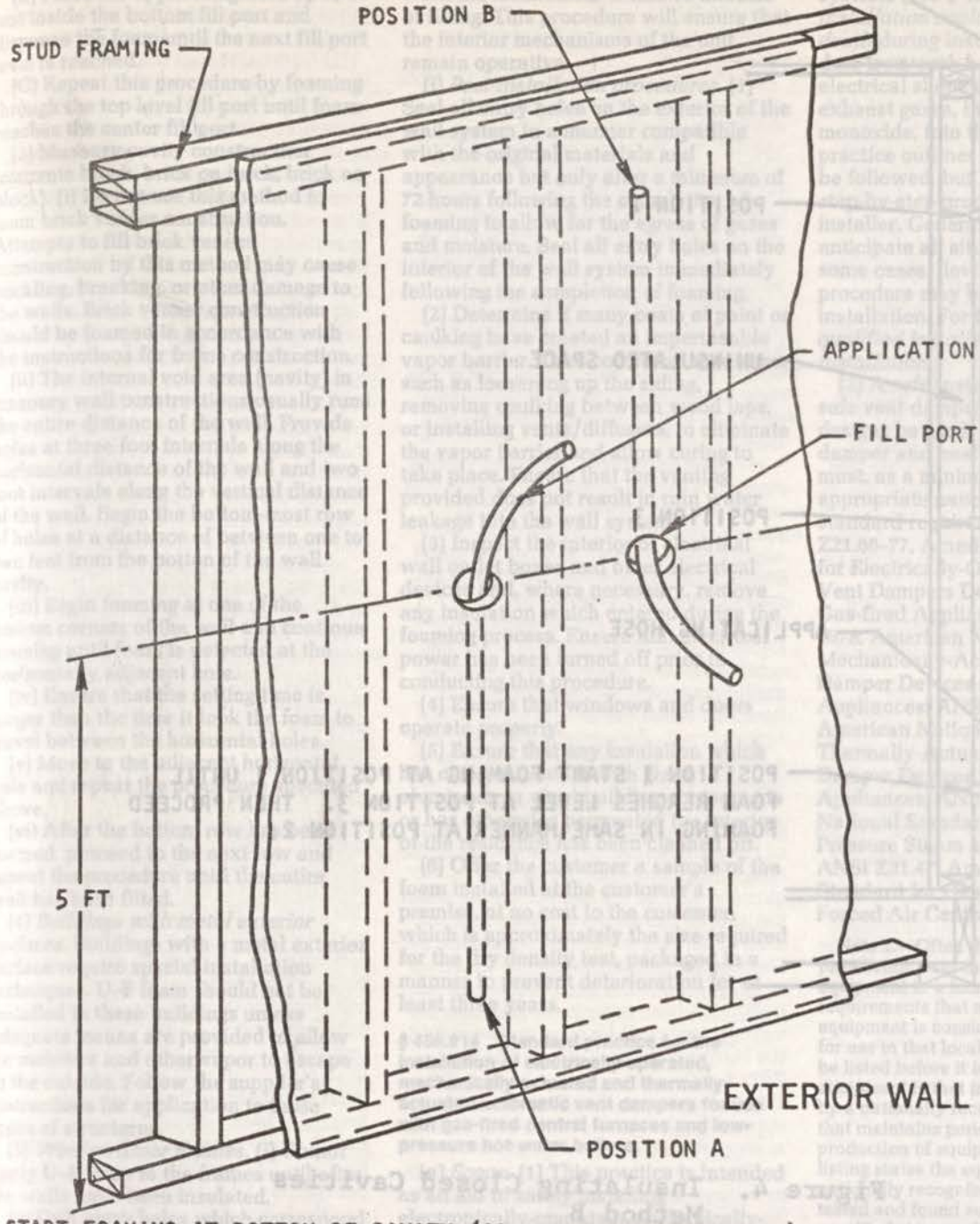

START FOAMING AT BOTTOM OF CAVITY (AS SHOWN IN POSITION A) AND KEEP WITHDRAWING HOSE SLOWLY AS CAVITY FILLS UP. WHEN FOAM STARTS FLOWING OUT OF THE FILL PORT, REVERSE THE HOSE AS SHOWN IN POSITION B AND PROCEED AS BEFORE. CHECK CAVITIES FOR OBSTRUCTIONS (I.E., FIRE STOPS, BLOCKAGES, ETC.) AND DRILL ADDITIONAL FILL PORTS IF NECESSARY.

Figure 3. Insulating Closed Cavities Method A

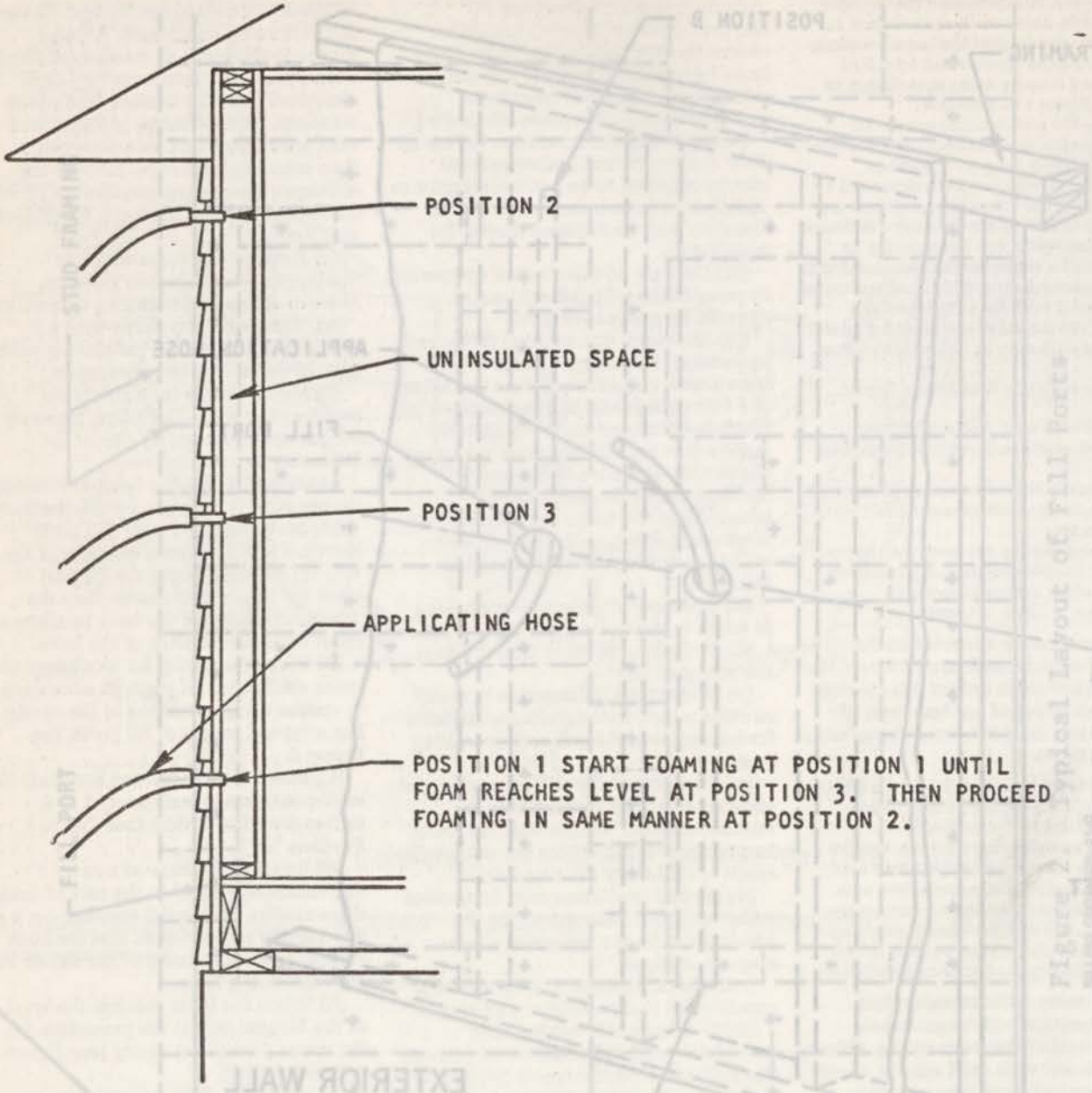

Figure 4. Insulating Closed Cavities
Method B

(B) Place the applicating hose up to or just inside the bottom fill port and dispense the foam until the next fill port level is reached.

(C) Repeat this procedure by foaming through the top level fill port until foam reaches the center fill port.

(3) Masonry cavity construction (concrete block, brick on brick, brick on block). (i) Do not use this method to foam brick veneer construction. Attempts to fill brick veneer construction by this method may cause buckling, breaking, or other damage to the walls. Brick veneer construction should be foamed in accordance with the instructions for frame construction.

(ii) The internal void area (cavity) in masonry wall constructions usually runs the entire distance of the wall. Provide holes at three foot internals along the horizontal distance of the wall and two foot intervals along the vertical distance of the wall. Begin the bottom-most row of holes at a distance of between one to two feet from the botton of the wall cavity.

(iii) Begin foaming at one of the bottom corners of the wall and continue foaming until foam is detected at the horizontally adjacent hole.

(iv) Ensure that the setting time is longer than the time it took the foam to travel between the horizontal holes.

(v) Move to the adjacent horizontal hole and repeat the procedure specified above.

(vi) After the bottom row has been foamed, proceed to the next row and repeat the procedure until the entire wall has been filled.

(4) *Buildings with metal exterior surfaces.* Buildings with a metal exterior surface require special installation techniques. U–F foam should not be installed in these buildings unless adequate means are provided to allow for moisture and other vapor to escape to the outside. Follow the supplier's instructions for application to these types of structures.

(5) *Window-Door Frames.* (i) Do not apply U–F foam to the frames until after the walls have been insulated.

(ii) Drill entry holes which correspond to the size of the applicating hose (or adapter, if used) into the void areas around the frames. Drills holes into the facia of the frame wherever possible.

(iii) Foam each entry hole until foam appears at the adjacent hole or until foam emerges from cracks in and around the moldings.

(iv) If the window has any moving parts within the space to be insulated, work the mechanism of the closure. For a fast setting time (20 seconds) work the mechanism within 15 minutes of filling. For a slow setting time (90 seconds) work the mechanism within 30 minutes of filling. This procedure will ensure that the interior mechanisms of the unit remain operative.

(j) *Post-installation procedures.* (1) Seal all entry holes on the exterior of the wall system in a manner compatible with the original materials and appearance but only after a minimum of 72 hours following the completion of foaming to allow for the egress of gases and moisture. Seal all entry holes on the interior of the wall system immediately following the completion of foaming.

(2) Determine if many coats of paint or caulking have created an impermeable vapor barrier. Take corrective measures, such as loosening up the siding, removing caulking between wood laps, or installing vents/diffusers, to eliminate the vapor barrier and allow curing to take place. Ensure that the venting provided does not result in rain water leakage into the wall system.

(3) Inspect the interior of electrical wall outlet boxes and other electrical devices and, where necessary, remove any insulation which entered during the foaming process. Ensure that electrical power has been turned off prior to conducting this procedure.

(4) Ensure that windows and doors operate properly.

(5) Ensure that any insulation which has come in contact with glass, aluminum, or vinyl building components or has otherwise permeated the interior of the residence has been cleaned off.

(6) Offer the customer a sample of the foam installed at the customer's premise, at no cost to the customer, which is approximately the size required for the dry density test, packaged in a manner to prevent deterioration for at least three years.

§ 456.914 Standard practice for the installation of electrically operated, mechanically actuated and thermally actuated automatic vent dampers for use with gas-fired central furnaces and low-pressure hot-water boilers.

(a) *Scope.* (1) This practice is intended as an aid to safely installing electronically-operated, mechanically-actuated and thermally-actuated, automatic vent dampers on existing appliances. A safe installation requires knowledge and equipment that may be possessed only by qualified installers. (A qualified installer is a person who has specialized training and a working knowledge of the applicable codes and regulations, tools, equipment, and methods necessary for the safe installation of automatic vent dampers for gas-fired applicances and the necessary understanding of the fundamentals of gas-fired heating systems (see § 456.314)). *An improper installation could result in injury or death* during installation or at a later date from such hazardous conditions as electrical shock or the venting of exhaust gases, including carbon monoxide, into the residence. This practice outlines general procedures to be followed, but leaves the detailed step-by-step procedure to the qualified installer. Generalized procedures cannot anticipate all situations. Accordingly, in some cases, deviation from this procedure may be necessary for a safe installation. For this reason, *only qualified installers should perform the installation.*

(2) A safe installation requires that safe vent damper and heating appliance designs be used. Therefore, the vent damper and heating applicance designs must, as a minimum, meet the appropriate nationally recognized standard requirements. These are ANSI Z21.66–77, American National Standard for Electrically-Operated Automatic Vent Dampers Devices for Use with Gas-fired Appliances; ANSI Z21.67–1978, American National Standard for Mechanically-Actuated Automatic Vent Damper Devices for Use with Gas-Fired Appliances; ANSI Z21.68–1978, American National Standard for Thermally-Actuated Automatic Vent Damper Devices for Use with Gas-Fired Appliances; ANSI Z21.13, American National Standard for Gas-Fired Low Pressure Steam and Hot Water Boilers; ANSI Z21.47, American National Standard for Gas-Fired Gravity and Forced Air Central Furances.

Note 1.—Often the authority having jurisdiction over the installation of gas equipment in a locality will have requirements that must be met before equipment is considered safe and is approved for use in that locality. Often equipment must be listed before it is approved. Listed equipment is that included in a list published by a nationally recognized testing laboratory that maintains periodic inspection of the production of equipment that it lists. Each listing states the equipment either meets nationally recognized standards or has been tested and found suitable for use in a specified manner. Listed vent dampers and heating appliances are intended to include only safe designs. Using a listed vent damper on a listed heating appliance does not necessarily imply a safe retrofitted system, however. Not all listed vent dampers are compatible with all listed heating appliances. In addition, the safety of a retrofitted system depends not only on the safe designs of the existing heating appliance and vent damper but also on the manner in which the vent damper is installed.

(3) The installer shall ensure that mechanically-actuated vent dampers are only installed on appliances where the specific interconnection diagrams

between the motive force and control circuits and the heating appliance supplied by the vent damper manufacturer show the device to be compatible with the appliance. Electrically-operated vent dampers and thermal vent dampers with electrical connections shall only be installed on appliances where the specific wiring diagrams supplied by the vent damper manufacturer show the device to be compatible with the appliance. If a wiring or interconnection diagram is not supplied by the vent damper manufacturer which duplicates the heating system on which the installation is desired, the installation must not be attempted.

(4) This practice is intended only for use with individual, automatically operated, gas-fired, hot-air (forced or gravity) furnaces and low-pressure, hot water boilers equipped with draft hoods.

(5) Because vent dampers save energy by reducing heated air flow up the vent during periods when the main burner of the heating appliance is off, do not install vent dampers in areas that are essentially at outdoor temperatures, such as unheated basements, attics, or crawl spaces.

(6) Because vent capacities are reduced when the difference between indoor and outdoor temperatures are the least, and, generally, when wind velocities are low, all checks of venting capacity or draft hood spillage must be conducted when the outside temperature is above 65°F and the wind velocity is less than 10 MPH. Venting may be particularly dependent on wind conditions in certain special situations. Extra caution must be exercised in these special situations that include exposed locations in high wind areas; locations in very hilly terrain; difficult constructional features for venting purposes, such as high pitched roofs; and neighborhoods with sharply varying building heights. In these situations, wind currents directed at the top of the chimney may cause downdrafts at times. If any of these situations are suspected of causing draft problems, it will be necessary to conduct the vent capacity or draft-hood spillage checks on several days under various conditions.

(7) At any point, if it is determined that there is a condition that could result in unsafe operation of the heating system, the appliance must be shut off, the owner informed of the required repairs, and the repairs made before continuing with the installation.

(8) This practice requires the following items be followed in order:

(i) Pre-Installation Procedure in paragraph (b)

(ii) General Installation Procedure in paragraph (c)

(iii) Post-Installation Procedure in paragraph (d)

(b) *Pre-installation procedure.* (1) This pre-installation procedure is to determine whether a gas heating appliance is properly installed and is in a safe condition for continuing use. Perform this procedure before making any attempt to install a vent damper, and do not install a vent damper on an appliance if the determinations required below cannot be made.

(2) Determine with suitable instruments, in the vicinity of the heating appliance, that the concentration of combustible gas is less than 20 percent of the lower explosive limit and that carbon monoxide is less than 50 ppm.

(3) Determine that the heating system meets the requirements of all applicable codes and regulations. The heating system should at least meet the requirements of the American National Standard Fuel Gas Code, ANSI Z223.1–1974 (NFPA No. 54–1974) Part 1, Installation of Gas Piping and Gas Equipment on Nonindustrial Premises.

(4) Conduct a gas leakage test of the appliance piping and control system downstream of the shutoff valve in the supply line to the appliance. *Do not* use a flame or other source of ignition to check for gas leaks.

(5) Inspect the venting system to determine that the cross-sectional area of the vent connector is not less than the area of the draft-hood outlet (the chimney side of the draft-hood) and that the area of the vent is not less than the area of the largest, connected, draft-hood outlet plus 50 percent of the areas of additional connected, draft-hood outlets. If these criteria are not met, the vent system must be in accordance with the National Fuel Gas Code (ANSI Z223.1–1974) paragraphs 1.5.5.3 and 1.5.8.3. Determine that there are no manually adjustable dampers in the vent system. Also visually inspect for positive horizonal pitch (not less than ¼ inch/foot) and determine that there is no blockage, restriction, leakage, corrosion, etc., which could cause an unsafe condition.

(6) Determine that the outside termination of the vent is satisfactory (See National Fuel Gas Code, ANSI Z223.1–1974, 1.5.5.2 and 1.5.6.3). Determine that the chimney is unobstructed, does not have excessive soot buildup, is in good condition, and is either a lined masonry chimney or an approved Type B or Type L vent. Do not install a vent damper in a heating system using any other chimney type, including unlined masonry chimneys and uninsulated, single-wall metal pipes. Determine that the vent connector does not project into the chimney.

(7) Determine that the comfort thermostat(s) is in satisfactory operating condition. Check for excessive dust, corrosion, pitted contacts, and cracked or broken base or housing. Note the comfort thermostat setting so it can be reset after the installation is completed. Then adjust the thermostat for continous operation. Determine that the burner input is in accordance with the heating appliance manufacturer's instructions.

(8) Visually determine that the main burner gas is burning properly and that there is no floating, lifting, or flashback. Adjust the primary air shutter(s) as required. If the appliance is equipped with flame modulation, check for proper main burner operation at low and high flame. Observe burning for evidence of plugged burners, improper flame alignment, combustion product leakage, and improperly adjusted pilot lights.

(9) Shut off all gas to the appliance using the shutoff valve in the supply line to the appliance. Shut off the main burners of all other appliances located within the same room or connected to the same vent. Note the settings of any thermostats that are to be changed so they can be reset after the installation is completed.

(10) Determine that there is sufficient combustion air. In unconfined spaces in buildings of conventional frame or masonry construction, infiltration normally is adequate to provide air for combustion, ventilation, and dilution of flue gases. If the unconfined space is within a building of unusually tight construction, air must be obtained from outdoors or from spaces freely connected with outdoors. Permanent openings having a total free area of not less than one square inch per 5,000 Btu/hr of total input rating of all appliances must be provided. For appliances located within confined areas, follow the recommendations of the National Fuel Gas Code (ANSI Z223.1–1974) paragraphs 1.3.4.3 through 1.3.4.6. Check any ducts for obstructions and other unsafe conditions.

(11) Determine that all electrical wiring at the appliance has no loose connections, charred insulation, cracked or worn insulation, and potential shorting to ground. Determine that fuses and circuit breakers are of correct size and that wires are of correct size for the appliance.

(12) Determine that appliance burners and gas manifolds are not blocked or corroded. Determine that burner alignment will not cause hot spots on the heat exchanger.

(13) *Applicable only to furnaces:* Determine that the heat exchanger has no cracks, openings, leakage deposits, excessive corrosion, and evidence of excessively hot spots. Determine that the recirculating air section of the appliance has no flammable materials or materials that could emit toxic fumes on being heated.

(14) *Applicable only to boilers:* Determine that there is no evidence of water or combustion product leaks.

(15) Insofar as is practical, close all building outside doors and windows. Turn on all exhaust fans (range hood, bathroom exhausts, etc.) so they will operate at maximum speed. Turn on any clothes dryers vented to the outside. Do not operate summer exhaust fans. Make certain that any fireplace(s) is not operating. Close fireplace dampers.

(16) For the following vent system checks, the worst venting conditions that may reasonably exist should be duplicated. The worst venting conditions exist when the space occupied by the heating appliance is at the lowest pressure. If there are exhaust fans in the same room as the heating appliance or if there are no exhaust fans in the residence, the lowest pressure will probably occur when the doors to other spaces of the building are closed. If there are exhaust fans in other rooms, the pressure will probably be lowest when doors connecting these rooms with the heating appliance space are open. Based on these considerations, open or close doors to other spaces of the building as required to produce the lowest pressure in the space occupied by the heating appliance. If it is not known which condition results in the lowest pressure, perform paragraphs 16 through 20 twice—once with doors to other spaces of the building open and once with the doors closed. After the appliances have been off for at least 30 minutes, turn on the gas to the appliance being inspected and place it in operation. *Follow the manufacturer's lighting instructions.* Adjust the comfort thermostat for continuous, full-burner appliance operation.

(17) Test for spillage at the draft hood relief opening at 2 minutes of main burner operation. This short time is necessary to simulate a reasonably severe test. Use a device that will produce unpressurized flame or smoke, such as a match flame or cigarette smoke. Considerable care must be used to determine if flow is in or out of the draft-hood.

Adequate lighting must be provided for observation and the flow around the whole opening must be carefully observed. After testing for spillage at the heating appliance draft-hood, also test for spillage at other draft-hoods connected to the same vent.

(18) Shut off the main burner and let the appliance cool for at least 15 minutes.

(19) Turn on all other fuel-burning appliances that are within the same room or that are connected to the same vent so they will operate at their full inputs. Turn on the appliance being inspected so that it will operate at its full rated input.

(20) Repeat paragraph (17).

(21) At 5 minutes of main burner operation, measure the flue gas temperature and carbon monoxide (CO) concentration at a point one inch before the inlet to the draft-hood at the center of the flue passage(s). This temperature should be at least 200°F. This temperature is necessary to limit condensation within the vent. This temperature should also be less than 550°F, the vent damper maximum design temperature. The maximum carbon monoxide concentration should be 0.04 percent (400 ppm), as permitted for new heating appliances.

(i) *For thermally-actuated vent dampers only:* Measure the temperature at the center of the vent connector six inches after the outlet of the draft hood. The vent gas temperature must be at least 370°F but less than 550°F. This is the temperature at which the damper design has been tested for flow restriction. If the appliance is equipped with flame modulation, rerun the minimum (200°F) flue gas temperature test, the 370°F vent gas temperature test, and the CO test at the lowest flame conditions.

(ii) *For electrically-operated and mechanically-actuated vent damper only:* If the vent damper is not installed with a redundant gas valve, it must be installed with a damper-closing temperature control, and the temperature at the center of the vent connector six inches after the outlet of draft-hood must be measured. This damper-closing temperature control is intended to keep the damper open if the main burner is operating. The vent gas temperature must be more than 375°F to properly actuate the damper-closing temperature control. If this temperature is not above 375°F, do not install a vent damper with a damper-closing temperature control. If the appliance is equipped with flame modulation, rerun the minimum (200°F) flue gas temperature test and the CO test at the lowest flame conditions.

(22) Return doors, windows, exhaust fans, fireplace dampers, and other appliances to their previous conditions of use.

(23) Determine that the pilot(s) is burning properly and that main burner ignition is satisfactory by turning the main power supply switch for the heating appliance off and on. Test the pilot safety device to determine if it is operating properly by extinguishing the pilot burner(s) when the main burner is off and determine that the main gas valve does not open upon a call for heat beyond the safety shut-off time specified by the automatic gas ignition device manufacturer. If this time is not known, a safety shut-off time of one minute must be met. Relight the pilot(s) after this time check.

(24) *Applicable only to furnaces:* Check both the limit control and the fan control to determine that they operate within the heating appliance manufacturer's specifications.

(25) *Applicable only to boilers:* Test low-water cutoffs, automatic-feed controls, high-pressure limit controls, high-temperature-limit controls, relief valves, water pumps, and the circulating system to determine that they are operating within the manufacturer's specifications.

(c) *General installation procedure.* (1) This general installation procedure is to be used in conjuction with installation instructions supplied by the automatic vent damper manufacturer to aid in safely installing a vent damper on an existing appliance. At any point, if it is determined that there is a condition that could result in unsafe operation of the heating system, the appliance must be shut off, the owner informed of the necessary repairs, and the repairs made before continuing with the installation.

(2) Ensure that the manufacturer has supplied specific interconnection or wiring diagrams for the appliance on which the damper is to be installed. Determine that the heating system and vent damper are approved models. Ensure lack of damage in shipping or other obvious damage and ensure that all parts are included. Determine if the vent damper includes a damper-closing temperature control. If the vent damper has a damper-closing temperature control, ensure that the heating appliance control circuit is of sufficient voltage. *For Mechanically-Actuated Vent Dampers Only:* Determine that the range of available motive force (gas pressure, water pressure, etc.) is within the vent damper manufacturer's specified operating range. Determine that the heating appliance automatic gas valve does not have a manual override feature that would permit manual operation of the heating appliance while the damper remains closed.

(3) Shut off all gas and electricity to the heating appliance. *To shut off the*

gas, use the shut-off valve in the supply line to the appliance. To shut-off the electricity, use the main power switch for the heating appliance.

(4) Install the automatic vent damper in strict accordance with the manufacturer's installation instructions. Make certain that the damper is located in that portion of the venting system that serves only the appliance on which the damper is being installed and that it is between the appliance and the first branch (if any) in the vent system. The vent damper must be installed *after* the draft hood, that is, between the draft hood and the chimney. If the damper is equipped with a damper-closing temperature control, the damper must be located within three diameters of the draft hood. The inlet size of the vent damper must not be less than the outlet size of the draft hood. *Do not add any components (such as relays) not specified by the manufacturer.*

(5) Determine that the vent system is adequately supported to hold the additional weight of the vent damper without sagging. This may require band iron straps attached overhead and/or self-tapping screws at each joint. Visually inspect the modified venting system for proper horizontal pitch (not less than ¼ inch/foot).

(6)(i) *For installation of thermally-actuated vent dampers only:* An additional approved automatic gas valve must be installed in accordance with the vent damper manufacturer's installation instructions. This gas valve is intended to shut off gas flow if the other gas valve should stick open, particularly partially open. At reduced gas flow resulting from a partially open gas valve, the vent gas temperature would be reduced and the damper may not open sufficiently to prevent spillage. The additional gas valve may be either an additional valve (without pilot features) located in the gas line between the existing valve and the main burner or a replacement valve that includes two main gas valves within a single unit. Follow the vent damper manufacturer's instructions for installation. After installing a new gas valve, purge air from the effected gas lines and conduct a gas leakage test of the appliance piping and control system down stream of the shut-off valve in the supply line to the appliance.

(ii) *For installation of electrically-operated or mechanically-actuated vent dampers only:* If the vent damper is not equipped with a damper closing temperature control, an additional approved automatic gas valve must be installed in accordance with vent damper manufacturer's installation instructions. This gas valve is intended to shut off gas flow if the other gas valve should stick open. It may be either an additional valve (without pilot features) located in the gas line between the existing valve and the main burner or a replacement valve that includes two main gas valves within a single unit. Follow vent damper manufacturer's instruction. After installing a new gas valve, purge air from the effected gas lines and conduct a gas leakage test of the appliance piping and control system downstream of the shut-off valve in the supply line to the appliance.

(7) Make sure electrical connections are tight and wires are clear of high-temperature locations and properly supported. Route wires to minimize the possibility of their being damaged. All wiring must meet the requirements of all applicable codes and regulations. As a minimum, wiring must meet the requirements of the National Electrical Code, NFPA 70–1975.

(d) *Post-installation Procedure.* (1) This post-installation procedure is to determine that an automatic vent damper is properly installed and that the retrofitted system is in a safe condition for use. At any point, if it is determined that there is a condition that could result in unsafe operation of the heating system, the appliance must be shut off, the owner informed of the necessary repairs, and the repairs made before continuing.

(2) Turn on electrical power to the heating appliance.

(3) *For the installation of electrically-operated and mechanically—actuated vent dampers only:* By operating the furnace burner through the control circuit, determine that the damper operates properly and is correctly sequenced with the heating applicance's operating controls. The damper should be nearly open *before* the gas valve(s) opens and it should remain open when there is a call for main burner operation. The gas valve(s) should close when the damper *begins* to close and should remain closed when there is no call for heat. The damper must open and close freely without evidence of interference or binding. Also determine that the damper closes fully.

Note.—If a boiler gas valve(s) is sequenced by an aquastat, determine that the damper is nearly open prior to the opening of gas valve(s).

(4) If the damper has electrical current requirements, determine the amperage draw of the gas control circuit (including such items as thermostats, humidifiers, controls for electronic filters, etc.) and the vent damper. Check the appliance transformer for adequate capacity. If the transformer does not have adequate capacity, it must be replaced.

(5) Check the setting of any heat anticipator in the comfort thermostat and readjust as necessary.

(6) Insofar as is practical, close all building outside doors and windows. Turn on any exhaust fans (range hood, bathroom exhausts, etc.) so they will operate at maximum speed. Turn on any clothes dryers vented to the outside. Do not operate summer exhaust fans. Make certain that any fireplace(s) is not operating. Close fireplace dampers.

(7) (i) *For Installation of thermally actuated vent dampers only:* For the following vent system checks, the worst venting conditions that may reasonably exist should be duplicated. The worst venting conditions exist when the space occupied by the heating applicance is at the lowest pressure. If there are exhaust fans in the same room as the heating applicance or if there are no exhaust fans in the residence, the lowest pressure will probably occur when the doors to other spaces of the building are closed. If there are exhaust fans in other rooms, the pressure will probably be lowest when doors connecting these rooms with the heating applicance space are open. Based on these considerations, open or close doors to other spaces of the building as required to produce the lowest pressure in the space occupied by the heating appliance. If it is not known which condition results in the lowest pressure, perform paragraphs 6 through 8 twice—once with doors to other spaces of the building open and once with doors closed.

After the appliances have been off for at least 30 minutes, turn on the gas to the applicance on which the damper has been installed and place the applicance in operation. Follow the *manufacturer's lighting instructions.* Adjust the comfort thermostat for continuous full burner appliance operation.

(ii) *For installation of electrically-operated and mechanically-actuated vent dampers only:* Turn on the gas to the heating appliance and place it in operation. *Follow the manufacturer's lighting instructions.* Adjust the comfort thermostat for continuous, full-burner operation.

(8) Test for spillage at the draft hood relief opening at 2 minutes of main burner operation. This short time is necessary to simulate a reasonable severe test. Use a device that will produce unpressurized flame or smoke, such as a match flame or cigarette smoke. Considerable care must be used to determine if flow is in or out of the draft hood. Adequate lighting must be provided for observation and the flow

around the whole opening must be carefully observed.

(9) *For thermally—actuated vent dampers only:* If the appliance is equipped with flame modulation, repeat paragraphs 6 and 7 at the lowest flame conditions.

(10) Visually determine that main burner gas is burning properly and that there is no floating, lifting, or flashback. If the appliance is equipped with flame modulation, determine that proper main burner operation at low and high flame is maintained.

(11) Determine that the pilot(s) is burning properly and that main burner ignition is satisfactory by turning the main power supply switch for the heating appliance off and on. Test the pilot safety device to determine that it is operating properly by extinquishing the pilot burner(s) when the main burner is off and determining that the main gas valve does not open upon a call for heat beyond the safety shut-off time specified by the automatic gas ignition device manufacturer. If this time is not known, safety shut-off time of one minute must be met. Relight the pilot(s) after this check.

(12) (i) *For thermally-actuated vent dampers only:* Cycle the heating appliance through at least three normal operating cycles. The *damper must open and close properly without evidence of interference or binding.* Determine that the damper closes fully. The damper may not close immediately with the thermostat but after a period of time, it should close.

(ii) *For electrically operated and mechanically-actuated vent dampers only:* Cycle the heating appliance through at least three normal operating cycles. Determine that the damper is nearly fully open *before* the main burner gas flow begins and that the main burner gas flow stops as the damper *begins* to close. Damper must open and close freely without evidence of interference or binding. The damper must close fully. If the vent damper includes a damper-closing temperature control, the damper may not close immediately with the thermostat. Test this by operating the heating appliance for 10 minutes. Then reduce the comfort thermostat to shut off the main burner gas flow. The damper should remain open for a period of time and then close.

If the heating appliance is equipped with flame modulation and the vent damper includes a damper-closing temperature control, operate the heating appliance for 10 minutes at the lowest flame conditions. Then reduce the comfort thermostat to shut off the main burner gas flow. The damper should remain open for a period of time and then close.

(13) *Applicable only to furnaces:* If the furnace electrical circuit has been modified during vent damper installation, check both the limit control and the fan control to determine that they operate within the heating appliance manufacturer's specifications.

(14) *Aplicable only to boilers:* If the boiler electrical circuit has been modified during vent damper installation, test low-water cutoffs, automatic-feed controls, high-temperature-limit controls, water pumps, and the circulating system to determine that they are operating within manufacturer's specifications.

(15) *For thermally-actuated vent dampers only:* Return doors, windows, exhaust fans, fireplace dampers, other appliances, and comfort thermostat(s) to their previous conditions of use.

(16) Fill in a label with the installer's name and address and the date of the installation, and apply to the vent damper.

(17) Complete the verification-of-installation card supplied by the vent damper manufacturer pursuant to § 456.814 and return this to the manufacturer.

(18) Leave the vent damper manufacturer's instructions in a conspicuous location near the heating appliance and advise the resident to read these instructions, especially for observations to be performed by the resident.

(19) As required by codes and regulations, notify the appropriate authority that the installation has been completed and turn off the heating appliance until any required inspection is completed.

§ 456.915. Standard practice for the installation of automatic intermittent pilot ignition devices (IID's).

(a) *Scope.* This practice provides minimum requirements for the installation of IID's for gas-fired furnaces.

(b) *Requirements.* Installations shall meet the requirements of Proposed American National Standard for Automatic Intermittent Pilot Ignition Systems for Field Installation, September 11, 1979.

§ 456.916 Standard practices for the installation of caulks and sealants.

(a) *Scope.* (1) These practices apply to the on-site installation of caulks and sealants used to control rain water leakage and major air infiltration through building walls.

(2) These practices do not apply to the sealing of minor cracks at the building's exterior.

(b) *Material selection, joint preparation, and installation procedures.* (1) the type of caulk or sealant chosen for a given application depends on the composition of the adjacent materials, temperature fluctuation, exposure to direct sunlight, width and depth of the crack or joint to be sealed and movement in the joint. Select caulks and sealants, prepare the joint and substrata, and install the material in comformance with the following standards and provisions:

(i) Putty and Oil and Resin Base Types: ASTM C–797–75, Standard Recommended Practices and Terminology for Use of Oil- and Resin-Based Putty and Glazing Compounds.

(ii) Acrylic (Solvent Type) and Butyl Rubber: ASTM C–804–75, Standard Recommended Practices for Use of Solvent-Release Type Sealants.

(iii) Latex Sealing Compounds: ASTM C–790–74, Standard Recommended Practices for Use of Latex Sealing Compounds.

(iv) Chlorosulphonated Polyethylene, Polysulfide-Single Component, Polysulfide-Multicomponent, Polyurethane-Single Component, Polyurethane-Single Component, Polyurethane-Multi-Component and Silicone: Follow the provisions relating to application and use included in the applicable Federal Specifications (see Table 3, § 456.812).

3. It is proposed to amend paragraph (d) in Appendix II to Part 456 by adding additional standards to those approved on November 1, 1979 and which are shown in the table below preceded by an asterisk.

Appendix II to Part 456—Standard Incorporated by Reference

(a) Incorporation by reference of material and installation standards. The material and installation standards identified herein are hereby incorporated by reference into this Part as though set forth in full herein, pursuant to 5 U.S.C. § 552(a).

Incorporation by reference of material and installation standards in 10 CFR Part 456 was approved by the Director of the Federal Register, November 1, 1979 and ————.

(b) Statement of availability.

(1) Copies of the following standards may be obtained at the following addresses:

• American National Standards Institute (ANSI), 1430 Broadway, New York, New York 10018; except that the "Proposed American National Standard for Automatic Intermittent Pilot Ignition

Systems for Field Installations" may be obtained from Mr. F. G. Hammaker, Administrative Secretary, 721 American Materials Standard Committee, 8501 E. Pleasant Valley Road, Cleveland, Ohio 44131; (216) 524–4990.

• American Society of Testing and Materials (ASTM), 1910 Race Street, Philadelphia, PA 19103.

• National Fire Prevention Administration (NFPA), 470 Atlantic Avenue, Boston, MA 02210

• Environmental Protection Agency (EPA), Washington, DC

• U.S. Department of Commerce, National Bureau of Standards (NBS), Washington, DC 20234.

• Building Officials and Code Administrators (BOCA), International, Inc., 17926 S. Halsted St., Chicago, IL 60430.

• Underwriters Laboratory (UL), 208 E. Ohio Street, Chicago, IL 60611.

• Fir and Hemlock Door Association (FHDA), Yeon Building, Portland, OR 97204.

• Superintendent of Documents, Government Printing Office (GPO), Washington, DC 20402.

• Department of Housing and Urban Development (HUD), Office of Technical and Credit Standards, Room 6156, 451 Seventh Street, SW, Washington, DC 20410

• Sandia Laboratory, Environmental Research Division—5333, Albuquerque, NM 87185.

• Consumer Product Safety Commission (CPSC), 1750 K Street NW, Washington, DC

(2) Copies of all standards incorporated by references are available for inspection in the DOE Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

(c) Changes in material and installation standards. Any change to any material or installation standard will be made in accordance with statutory requirements for notice and public comment and with DOE policy for the adoption of rules. Notice of any proposed change will be published in the **Federal Register** and reflected as an amendment to the table in paragraph (d).

(d) Table of Standards incorporated by reference.

Table of Standards

Number	Title	Date approved	Section reference
ANSI:			
ANSI/AAMA 1002.9–1977	"Voluntary Specification for Aluminum Combination Storm Windows for External Applications".	Nov. 1, 1979	§ 456.813.
ANSI/AAMA 1102.7–1977	"Voluntary Specifications for Aluminum Storm Doors"	Nov. 1, 1979	§ 456.813.
*ANSI/ASTM B 152–79	"Standard Specification for Copper Sheet, Strip, Plate, and Rolled Bar"		§ 456.810.
*ANSI/ASTM B 446–75	"Standard Specification for Nickel-Chromium-Molybdenum-Columbium Alloy (UNSO6625) Rod and Bar".		§ 456.810.
ANSI/ASTM D 2156–65 (1975)	"ANSI Standard Method of Tests for Smoke Density in the Flue Gases from Distillate Fuels".	Nov. 1, 1979	§ 456.913.
ANSI Z21.13–1977	"Gas-fired Low Pressure Steam and Hot Water Heating Boilers"	Nov. 1, 1979	§ 456.814 and § 456.914.
ANSI Z21.20–1975	"ANSI Standard for Automatic Gas Ignition Systems and Components"	Nov. 1, 1979	§ 456.814.
ANSI Z21.47–1978	"ANSI Standard for Gas-fired Central Furnaces"	Nov. 1, 1979	§ 456.814 and § 456.914.
ANSI Z21.59–1974	"Gas-fired High Pressure Steam and Hot Water Heating Boilers"	Nov. 1, 1979	§ 456.814.
ANSI Z21.66–1977	"ANSI Standard for Electrically-Operated Automatic Vent Damper Devices for Use with Gas-fired Appliances".	Nov. 1, 1979	§ 456.814 and § 456.914.
ANSI Z21.67–1978	"ANSI Standards for Mechanically-Actuated Automatic Vent Damper Devices for Use with Gas-fired Appliances".	Nov. 1, 1979	§ 456.814 and § 456.914.
ANSI Z21.68–1978	"ANSI Standard for Thermally-Actuated Automatic Vent Damper Devices for Use with Gas-fired Appliances".	Nov. 1, 1979	§ 456.814 and § 456.914.
ANSI Z91.2–1976	"Performance Requirements for Automatic Pressure Oil Burners of the Mechanical Draft Type".	Nov. 1, 1979	§ 456.814 and § 456.913.
ANSI Z96.1–1978/UL 727	"Oil-fired Central Furnaces"	Nov. 1, 1979	§ 456.814.
ANSI Z96.2–1974/UL 296	"Oil Burners"	Nov. 1, 1979	§ 456.814.
ANSI Z96.3–1975/UL 726	"Oil-fired Boiler Assemblies"	Nov. 1, 1979	§ 456.814.
*ANSI Z223.1–1974	"Installation of Gas Piping and Gas Equipment on Non-industrial Premises		§ 456.812 and § 456.914.
ANSI/NWMA I.S. 2–73	"Industry Standard for Wood Windows"	Nov. 1, 1979	§ 456.813.
ANSI/NWMA I.S. 5–73	"Ponderosa Pine Doors"	Nov. 1, 1979	§ 456.813.
ASTM:			
*ASTM C–177–76	"Standard Test Method for Steady State Thermal Transmission Properties by Means of the Guarded Hot Plate".		§ 456.810.
*ASTM C–236–66 (Reapproved 1971)	"Standard Test Method for Thermal Conductance and Transmittance of Built-up Sections by Means of the Guarded Hot Box".		§ 456.810.
ASTM C–516	"Standard Specification for Vermiculite Loose Fill"	Nov. 1, 1979	§ 456.806.
*ASTM C–518–76	"Standard Test Method for Steady State Thermal Transmission Properties by the Means of Heat Flow Meter".		§ 456.810.
ASTM C–520	"Standard Method for Density of Granular Loose-fill Insulation"	Nov. 1, 1979	§ 456.806 and § 456.807.
ASTM C–570–72	"Specification for Oil and Resin Based Caulking Compound for Building Construction"	Nov. 1, 1979	§ 456.812.
ASTM C–578	"Standard Specification for Preformed, Block-Type Cellular Polystyrene Thermal Insulation".	Nov. 1, 1979	§ 456.808
ASTM C–755–73	"Standard Recommended Practice for Selection for Vapor Barriers for Thermal Insulation".	Nov. 1, 1979	§ 456.903.
*ASTM C–790–74	"Standard Recommended Practices for Use of Latex Sealing Compounds"		§ 456.916.
*ASTM C–792–75	"Standard Test Method for Effects of Heat Aging on Weight Loss, Cracking, and Chalking of Elastomeric Sealants".		
*ASTM C–797–75	"Standard Recommended Pratices and Termonology for Use of Oil-and Resin-Based Putty and Glazing Compounds".		§ 456.916.
*ASTM C—804–75	"Standard Recommended Practices for Use of Solvent Release Type Sealants"		§ 456.916.
ASTM C–834–76	"Specification for Latex Sealing Compounds"	Nov. 1, 1979	§ 456.812.
*ASTM D–257–78	"Test for DC Resistance or Conductance of Insulating Materials"		§ 456.810.
*ASTMD–1622–63 (Reapproved 1975)	"Standard Method of Test for Apparent Density of Rigid Cellular Plastics"		§ 456.810.
ASTM E–84	"Standard Test Method for Surface Burning Characteristics of Building Materials"	Nov. 1, 1979	§ 456.808; § 456.809; § 456.810 and § 456.812.
ASTM E–96	"Standard Test Method for Water Vapor Transmission of Materials in Sheet Form"	Nov. 1, 1979	§ 456.805.
ASTM E–119–76	"Standard Methods of Fire Tests of Building Construction and Materials"	Nov. 1, 1979	§ 456.906 and § 456.907.
ASTM E–136–79	"Test for Non-Combustibility of Elementary Materials"	Nov. 1, 1979	§ 456.905 and § 456.906
ASTM E–283–73	"Standard Test Method for Rate of Air Leakage Through Exterior Windows, Curtain Walls and Doors".	Nov. 1, 1979	§ 456.813.
ASTM E–576–76	"Standard Test Method for Dew/Frost Point of Sealed Insulating Glass Units in Vertical Position".	Nov. 1, 1979	§ 456.813.

Table of Standards—Continued

Number	Title	Date approved	Section reference
*ASTM G 1-72	"Standard Recommended Practice for Preparing, Cleaning, and Evaluating Corrosion Test Specimens".		§ 456.810.
BPCA: BOCA Research Report No. 72-23		Nov. 1, 1979	§ 456.813.
EPA: EPA Report No. 600/2-75-069a	"Guidelines for Residential Oil Burner Adjustments"	Nov. 1, 1979	§ 456.913
Federal Specifications:			
HH-I-515 D	"Insulation, Thermal (loose-fill for Pneumatic or Poured Application): Cellulosic or Wood Fiber".	Nov. 1, 1979	§ 456.803; § 456.804 and § 456.805.
HH-I-524 B	"Insulation Board, Thermal (Polystyrene)"	Nov. 1, 1979	§ 456.808.
HH-I-530 A	"Insulation Board, Thermal (Polyurethane and Polyisocyanurate)"	Nov. 1, 1979	§ 456.809.
HH-I-558 B	"Insulation Blocks, Boards, Blankets, Felts, Sleeving, and Pipe Fitting Coverings"	Nov. 1, 1979	§ 456.812.
*HH-I-573 B	"Organic Cellular Flexible Unicellular Pipe Covering"		§ 456.812.
HH-I-574 B	"Insulation, Thermal (Perlite)"	Nov. 1, 1979	§ 456.807.
HH-I-585 C	"Insulation, Thermal (Vermiculite)"	Nov. 1, 1979	§ 456.806
HH-I-1030 A	"Insulation, Thermal (Mineral Fiber for Pneumatic or Poured Application)"	Nov. 1, 1979	§ 456.804 and § 456.805.
HH-I-1252 B	"Insulation, Thermal Reflective (Aluminum Foil)"	Nov. 1, 1979	§ 456.810.
TT-S-001543 A	"Sealing Compound, Silicone Rubber Base, (for Caulking, Sealing, and Glazing in Buildings and Other Structures)".	Nov. 1, 1979	§ 456.812.
TT-S-00227 E	"Sealing Compound, Elastomeric Type, Multi-Component (for Caulking, Sealing, and Glazing in Buildings and Other Structures)".	Nov. 1, 1979	§ 456.812.
TT-S-001657	"Sealing Compound, Single Component Butyl Rubber Base, Solvent Release Type (for Buildings and Other Types of Construction)".	Nov. 1, 1979	§ 456.812.
TT-S-00230 C	"Sealing Compound, Elastomeric Type, Single-Component, (for Caulking, Sealing and Glazing in Buildings, and other Structures)".	Nov. 1, 1979	§ 456.812.
TT-C-00598 C	"Caulking Compound, Oil and Resin Type (for Building Construction)"	Nov. 1, 1979	§ 456.812.
TT-P-00791 B	"Putty Linseed-oil Type, (for Wood-Sash-Glazing)"	Nov. 1, 1979	§ 456.812.
FHDA: FHDA 6-77	"Industry Standard for Douglas Fir, Western Hemlock, and Sitka Spruce Doors and Blinds".	Nov. 1, 1979	§ 456.813.
HUD: HUD Intermediate MPS Supplement 4930.2.	"Solar Heating and Domestic Hot Water Systems"	Nov. 1, 1979	§ 456.702; § 456.703 and § 456.704.
NBS: NBS/PS 26-70	"Rigid Polyvinyl-chloride Profile Extrusions"	Nov. 1, 1979	§ 456.813.
NFPA: NFPA-31	"Standard for the Installation of Oil Burning Equipment"	Nov. 1, 1979	§ 456.905, § 456.906, § 456.907, § 456.909 and § 456.913.
NFPA-54	"National Fuel Gas Code"	Nov. 1, 1979	§ 456.905, § 456.906, § 456.907, § 456.909, and § 456.914.
*NFPA-70-1978	"National Electric Code"		§ 456.905 and § 456.914.
NFPA-211	"Standard for Chimneys, Fireplaces, and Vents"	Nov. 1, 1979	§ 456.905, § 456.906, § 456.907, § 456.909 and § 456.912.
*Sandia Laboratories Report SAND 77-1375	"Performance Evaluation of Wind Energy Conversion Systems Using the Method of Bins.".		§ 456.705.
UL: UL 599	"Standard for Heat Pumps"	Nov. 1, 1979	§ 456.814.

[FR Doc. 79-39113 Filed 12-20-79; 8:45 am]
BILLING CODE 6450-01-M

federal register

Friday
December 21, 1979

Part VII

Department of Health, Education, and Welfare

Food and Drug Administration

Department of Agriculture

Food Safety and Quality Service

Federal Trade Commission

Bureau of Consumer Protection

Food Labeling; Tentative Positions of Agencies

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Ch. I

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

7 CFR Ch. XXVIII; 9 CFR Ch. III

FEDERAL TRADE COMMISSION

Bureau of Consumer Protection

16 CFR CH. I

[Docket No. 78N-0158]

Food Labeling; Tentative Positions of Agencies

AGENCY: Food and Drug Administration, Food Safety and Quality Service, and FTC's Bureau of Consumer Protection.

ACTION: Advanced Notice of Proposed Rulemaking.

SUMMARY: The food and Drug Administration (FDA), the United States Department of Agriculture (USDA), and the staff of the Federal Trade Commission's Bureau of Consumer Protection (FTC) announce their tentative positions on a variety of food labeling issues. The positions are the result of the agencies' analysis and evaluation of written and oral comments received in response to a notice published in the **Federal Register** on June 9, 1978 (43 FR 25296), requesting the public's views on several food labeling issues. The FDA, USDA, and FTC held public hearings across the nation between August and October 1978 to elicit public comments on improving food labeling, and they accepted written submissions until November 10, 1978. These positions also grow out of (1) FDA's Consumer Food Labeling Survey, conducted in autumn 1978 to gather consumers' views on food labeling and (2) the agencies' consideration of these food labeling issues. This notice is intended to prompt further comment from the public about the agencies' tentative positions and other food labeling issues on which the agencies have not yet reached tentative positions. It serves further to announce a public hearing (to be conducted by representatives of FDA, USDA, and FTC) to hear oral testimony on these positions and issues. The hearing will be conducted in accordance with Title 21 of the Code of Federal Regulations, Part 15—Public Hearing Before the Commissioner.

DATES: Public hearing on March 4 and 5, 1980, beginning both days at 9:30 a.m. requests to appear at public hearing by February 22, 1980. Written comments by March 20, 1980.

ADDRESSES: The hearing will be held at the main auditorium of the Department of Commerce, Fourteenth Street and Constitution Avenue NW., Washington, DC.

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:
For Information Concerning the Public Hearing and Scheduling of Presentations: Gary Dykstra, Regulatory Operations Staff (HFC-22), Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3470.

For Information on the Technical Aspects of this Notice, :

Taylor Quinn, Bureau of Foods (HFF-300), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20240, 202-245-1057
or
Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, U.S. Department of Agriculture, Rm. 202, 300 12th St. SW., Washington, D.C. 20250, 202-447-6042.

For Copies of the Documents Described Below and Referred to in this Notice, :

Curtis Noah, Consumer Communications Management Staff (HFJ-10), Office of Policy Coordination, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3170
or
Annie Johnson, Executive Secretariat, Food Safety and Quality Service, U.S. Department of Agriculture, Rm. 3807, South Agriculture Building, Washington, D.C. 20250, 202-447-6735.

SUPPLEMENTARY INFORMATION: This document reports on the comprehensive review, a cooperative venture of the FDA, USDA, and the FTC's Bureau of Consumer Protection, of current food labeling laws and regulations. The proposals it contains result directly from the agencies' commitment to full public participation in the consideration and development of new or revised food labeling laws and regulations; they also result from the first joint effort of the three agencies with responsibility for food labeling and advertising to review the entirety of the food labeling laws and regulations. (Previous efforts, usually initiated by an agency on its own, have been largely ad hoc.)

This document states the agencies' tentative positions on a variety of food labeling issues. In the interest of full public participation, the agencies have decided not to make the positions final until there has been an additional opportunity for public comment. At the same time, however, the agencies will continue to consider (and in some cases to prepare) proposed changes in their food labeling regulations. Thus, the development of regulations to implement many of the tentative positions described here complements the comprehensive review of food labeling laws and regulations.

Unless public comment on this notice presents compelling arguments or substantial new evidence against these tentative proposals, USDA and FDA intend to begin the process of implementing certain of them as soon as possible after the close of the comment period on this notice. After 1½ years of study we find the issues break down into three categories. (Detailed information on the issues is given in the sections titled "Tentative Positions" and "Digest" that appear later in this notice.) The first category is where the issues seem clear, the agencies have authority to act, and there appears to be major need for action. Therefore, it is the intention of USDA and FDA to propose changes in a number of the food labeling regulations, including the following, according to the approximate schedule given below:

Regulation To Be proposed, Expected Publication After Close of Comment Period

USDA

1. To require mandatory percentage labeling for significant ingredients—60 days.
2. To require a statement that ingredients are listed in descending order of predominance—60 days.
3. To require that foods containing 10 percent or more total fat on a dry weight basis declare the specific source of the fat or oil—120 days.
4. To require nutrition labeling—including information on calories, fat, carbohydrate, protein, cholesterol, sugars, sodium and other nutrients of public health concern—on foods about which nutrition claims are made or to which nutrients are added—150 days.
5. To propose serving sizes for various foods—150 days.
6. To require open dating on perishable and semiperishable foods—60 days.

FDA

1. To amend the remaining standards of identity to require declaration of all optional ingredients—60 days.
2. To require a statement that ingredients are listed in descending order of predominance—60 days.
3. To require that foods containing 10 percent or more total fat on a dry weight basis

declare the specific source of the fat or oil—120 days.

4. To require quantitative declaration of total sugars as part of nutrition labeling when the food contains them above a specific level—150 days.
5. To require quantitative declaration of sodium and potassium as part of nutrition labeling—150 days.
6. To define the terms "low cholesterol," "reduced cholesterol," and "cholesterol free"—90 days.

The second category of changes in food labeling regulations that FDA and USDA favor will require changes in legislation. The agencies will propose, therefore, to seek additional legal authority:

1. To require the declaration of mandatory ingredients in standardized foods.
2. To require the declaration of specific spices and colors in all foods.
3. To provide explicit discretionary authority to require the declaration of the specific flavoring used in a product when this declaration is considered necessary for providing important health information (as in the case of a potential allergen).
4. To provide explicit discretionary authority to require quantitative ingredient labeling as part of the ingredient statement.
5. To require nutrition labeling on more foods.
6. To provide explicit discretionary authority to require open date labeling.
7. To provide explicit discretionary authority to control fortification of foods when this control is of public health significance. (FDA is issuing guidelines for fortification entitled "General Principles for the Addition of Nutrients to Foods.")

Finally, there is a category of issues upon which, even after a long period of study and discussion, the agencies have not yet reached tentative positions. In these cases, they are either asking for additional comments or they will act to ensure the adoption of reasonable and sensible positions. These issues include:

1. The labeling of imitation and substitute foods. Here, in the absence of a tenative position, the agencies want comments on a number of options.
2. The format for nutritional labeling. This document outlines the agencies' plan for resolving remaining issues.
3. The information to be required on a nutrition label. Should the present mandatory list of nutrients be retained, expanded, or made more flexible?

The "Food Labeling Tentative Positions" and "Digest" sections more fully discuss these and other food labeling issues.

The following documents, upon which this notice is based, are available upon request and are also on file with the FDA Hearing Clerk and the USDA Docket Room, Food Safety and Quality Service, U.S. Department of Agriculture, Rm. 3805, South Agriculture Building, Washington, DC 20250:

1. Food Labeling: Report on the Analysis of Comments. (The following subordinate material is on file with the FDA Hearing Clerk and the USDA Docket Room:

a. The June 9, 1978 **Federal Register** notice announcing the public hearing and requesting comments on various food labeling issues.

b. The coding booklet describing the categories used in the coding process.

c. The coding sheet.

d. A computer printout of total coded data.)

2. Report of the FDA 1978 Consumer Food Labeling Survey.
3. Food Labeling Background Papers.
4. A Review of Adverse Reactions from and Hypersensitivity to Peanut and Tree Nuts (prepared for FDA by the Life Sciences Research Office, Federation of American Societies for Experimental Biology).

Background

In early 1978, FDA, USDA, and FTC[1] agreed that it was time to consider whether the existing food labeling laws and implementing regulations needed to be updated. The Federal laws governing the labeling of food are enforced by the USDA (for meat, poultry, and egg products) and FDA (for all other foods). FTC's interest in food labeling rests upon its responsibility for regulating food advertising.

Congress enacted the Federal food laws in 1906, and although it has revised them occasionally since then, the basic concepts of food labeling have remained unchanged for many years. The last major revision of the food labeling provisions of the Federal Food, Drug, and Cosmetic Act, for example, occurred in 1938. FDA administers this act (hereafter called the FD&C Act) and USDA administers the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act (hereafter called the FMI Act, PPI Act, and EPI Act, respectively).

Since these food laws were enacted, significant changes have occurred in the food industry, in Americans' attitudes toward the food supply, and in their dietary habits. Widespread and rapid advances in food processing and distribution have made a greater variety of foods available to more people. This new technology has so increased the number of processed foods on the market that such products now account for more than half of the American diet; at the same time, a far greater number of Americans eat a substantial number of their meals in restaurants.

The Federal agencies have attempted to anticipate and respond to industry's technological advances and to consumers' demand for increased information about food products through amendments to their labeling regulations. This approach has produced a complex set of food labeling rules that, because of the different statutes FDA and USDA enforce and their different regulatory responsibilities, have sometimes been duplicative or inconsistent. FDA, USDA, and FTC realized the need to pause and assess existing food labeling laws and policies before implementing further regulatory changes. Therefore, the agencies set out to develop an overall labeling strategy that will provide consumers with the information they want and need about today's foods.

To achieve this goal, the agencies reviewed current regulations and solicited the views of the public on various food labeling issues by holding a series of public hearings and by asking for written comments. To supplement this information, FDA sponsored a survey of food shoppers to find out their views on certain aspects of food labeling. In this comprehensive review, the agencies have also attempted to determine how adequately existing food labeling laws and policies meet the needs of today's consumers and they have attempted to eliminate inconsistencies between FDA's and USDA's approaches.

On the basis of the information obtained and their review of current regulatory laws and policies, the agencies have developed tentative positions on various food labeling issues. These positions include proposals for legislation, new and revised regulations, and further research. This document also describes the agencies' food labeling rationale, summarizes the public comments and the results of the food labeling survey, and explains how the agencies reached their tentative conclusions.

Food Labeling Rationale

The purpose of food labeling is to enable consumers to select and use products that meet their individual

[1] All the references to the FTC in this notice refer to the Commission's Bureau of Consumer Protection, whose staff members participated in the public hearings, in the analysis of public comments, and in the preparation of this notice. Although the Commission itself supports this effort, it has not taken a position on the various issues involved, and the views expressed in this document do not necessarily represent the views of the Commission or any individual Commissioner.

needs and preferences. To achieve this purpose, labeling must provide sufficient information to enable the public to identify foods and their characteristics, including their ingredients and nutritional value. Effective labeling, moreover, must also present this information so that consumers can understand and use it in deciding what foods to buy. In their deliberations about recommending specific changes in food labeling requirements to make labels more informative and more easily understood, the agencies have followed the following principles:

1. *Public Health Importance*—Human health depends on good eating habits; effective food labeling can contribute to the nation's health by helping consumers choose foods with the appropriate caloric and nutrient values. Because advances in technology have created more processed and fabricated foods, and because the relationship of nutrition to certain diseases is becoming better understood, accurate and informative labeling about a product's nutrient content and its other characteristics has even greater public health significance now than in the past. Furthermore, disease or other abnormal physiological conditions such as allergies compel many Americans to follow special diets. These people especially need informative food labeling so they can make informed food choices.

In considering each proposal for changing the way foods are labeled, the agencies considered very seriously its public health implications. They are convinced that in those instances when food labeling is the most effective method for providing health protection (the labeling of a food's sodium content, for example) society will find the additional cost acceptable.

2. *The Consumer's Right-to-Know*—Innovations in food processing and packaging have made it increasingly difficult for consumers to judge a product's actual contents from its appearance, even for traditional foods. The agencies have therefore concluded that law or regulation must strengthen those policies that guard consumers' right-to-know about the foods they eat. Acknowledging that food labels play a crucial role in providing the information consumers need to make intelligent choices about foods, and that labels provide a significant educational tool, however, does not mean that food labeling should be either the sole vehicle for educating the public about basic nutrition or the government's only tool for influencing the eating habits of Americans. In short, labeling is only a part of the system that delivers information about food and educates the public about how to choose foods wisely. Responsibility for providing this kind of information and education does not rest with regulatory agencies alone, for many institutions—both public and private—must cooperate to provide the basis for informed choices about food.

3. *Economic protection*—The potential overall economic impact of any proposals to amend Federal food labeling requirements demands careful analysis. Any requirement intended to prevent economic deception or designed to offer savings to consumers, for example, would be counterproductive if the added labeling cost exceeded the projected savings. Determining exactly the relative costs and benefits of specific labeling provisions, however, is difficult—particularly on a national scale. The agencies have concluded, for example, that providing consumers with much of the information—such as declaration of ingredients, identity of the product, and the name of the manufacturer or distributor—essential to saving money on food has relatively little impact on the cost of the packaged product. Percentage ingredient labeling and nutrition labeling, however, may be difficult. Only quantitative labeling can provide the kind of information consumers need to get the most for their money when direct examination does not reveal the food's quality or content, but furnishing a large amount of such labeling information may be costly.

Even where requiring labeling information may, on balance, save consumers money, the requirement may encourage monopolistic practices or make it harder for small businesses to compete. (Requiring certain labeling information that only well-equipped laboratories of large firms could develop, for example, might adversely affect smaller companies.) Although the agencies will attempt to avoid such problems, as a general rule they are convinced that labeling requirements should not change with the size of the manufacturer: if labeling information is necessary for informed decisions about food, it should be provided regardless of the manufacturer's size. Moreover, enforcing a regulation based on the size of the regulated firm would be expensive for USDA and FDA.

The Public Hearings

In the Federal Register of June 9, 1978 (43 FR 25296), FDA, USDA, and FTC announced joint hearings and requested written comments by November 10, 1978, on a series of food labeling topics. The public hearings were held in Wichita, Kansas (August 22–23, 1978); Little Rock, Arkansas (September 18–19, 1978); Washington, D.C. (September 27–29, 1978); San Francisco, California (October 12–14, 1978); and Boston, Massachusetts (October 25–26, 1978). The hearings and the request for written comments were intended to elicit the views of individual consumers about what information they wanted or needed on food labels, and what additional costs, if any, they would be willing to pay for this information.

The agencies sought the public's views on the following topics:

1. Ingredient labeling.
2. Nutrition labeling and other dietary information.
3. Open date labeling.
4. Food fortification.
5. Imitation and other substitute foods.
6. Safe and suitable ingredients.
7. The total food label (as a communication device).

The three agencies made a substantial effort to encourage individual consumers to participate in the hearings or to submit written statements expressing their opinions on improving food labels. More than 2,800 people attended the hearings, and 452 individuals and group representatives testified. The agencies received more than 9,000 written comments.

A team of representatives from FDA, USDA, and FTC reviewed and analyzed the public comments. This group also developed a computerized system for analyzing the public's written comments and oral testimony. The following section summarizes that analysis; more information on the comments on particular issues appears below in the appropriate sections of the "Tentative Positions of Food Labeling." For a detailed analysis and tabulation of the comments, you may consult the final report, "Food Labeling: Report on the Analysis of Comments," on file with the FDA Hearing Clerk and the USDA (FSQS) Docket Room, and available from the FDA Consumer Communications Management Staff and the USDA (FSQS) Executive Secretariat at the addresses given above.

Summary of the Analysis of Oral and Written Comments

The agencies recognize that the testimony received at the hearings and the written comments do not represent a random sample of the American public's views. The testimony and comments came from those who knew of the government's request for consumers' opinions and who were able and motivated to testify or write either for a particular reason or set of reasons (a food-related medical problem, for example) or for an interest in

changing—or perhaps maintaining—existing food labeling policies. Moreover, these views were comparable to the results of FDA's 1978 Consumer Food Labeling Survey, a random survey of American food shoppers.

Nonetheless, the public hearings provided FDA, USDA, and FTC with the opportunity to reach consumers at the "grassroots" level and to hear their opinions on food labeling. It was one of the few times that the three regulatory agencies responsible for food labeling have cooperated to solicit the views of the public in the policy-making process. This process complemented other information-gathering methods such as studies and surveys that are useful in developing public policy.

Few commenters addressed all of the food labeling issues. Most discussed those topics of particular concern to them personally or to the groups they represented, or they addressed specific issues spelled out in the various media releases about the hearings. Thus, while each of the following summary statements represents the opinion of at least a plurality of those commenters who discussed a certain issue or question, that group is only a smaller percentage of the total number of commenters.

A. Ingredient Labeling

Eighty-five percent of all commenters discussed ingredient labeling, making it the most frequently mentioned labeling issue. Most of those who commented on which foods should bear ingredient labeling said that all foods should carry this labeling. the majority further urged that ingredient labeling be precise and easily understood by the average consumer. Nearly half of those who commented on ingredient labeling metioned quantitiative declaration of ingredients, with most favoring percentage listing.

Commenters also asked for more specific labeling information on sugars, salt, fats and oils, spices, and artificial colors and flavors. Those who wanted more ingredient information on food labels often cited a specific health problem as the basis for their request.

B. Nutrition Labeling

Of the 52 percent of all commenters who discussed nutrition information issues, the majority wanted food labels to include nutrition information, and they asked most often for a food's calorie content. Although only a few people commented on whether nutrition labeling should be mandatory as opposed to voluntary, the overwhelming majority of this group wanted a mandatory system. Here, too, commenters said that nutrition labels—and the terms they employ—should be understandable.

C. Open Date Labeling

The majority of the 45 percent of commenters who discussed it favored using an open dating system to some extent; most of those who addressed whether open date labeling should be voluntary or mandatory favored a mandatory system. Commenters emphasized the need to make open date labeling more effective, including an explanation of the date used, storage and handling instructions, and use of an alpha-numeric code (e.g., "Do not use after December 25, 1979").

D. Imitation/Substitute Foods

Almost 19 percent of all commenters expressed concern about imitation and other substitute foods. The majority of those who discussed this issue made general statements about naming or identifying imitation and substitute food products. Some commenters made specific suggestions on how to label substitute foods that are not nutritionally inferior to their traditional counterparts, and some offered their recommendations for labeling substitute foods that are nutritionally inferior to the traditional products they are designed to replace.

Of those commenters who specified what to call a substitute product resembling and intended to substitute for a traditional or standardized food, 75 percent said that such a food should be labeled "imitation." Definitions of the term "imitation" varied: Some thought the word meant nutritionally inferior, and some thought it indicated the food was inferior in some other way. Others said that "imitation" signifies that a substitute food differs in some way from its traditional counterpart or that it does not conform to a standard of identity.

E. Food Fortification

Approximately one commenter in six discussed issues related to food fortification, with most of them giving at least conditional support for the practice. Those who had some reservations about fortification often specified which foods should or should not be candidates for fortification. Other commenters cautioned against over-fortifying foods; some added that only appropriate foods should be fortified, and then only for valid reasons.

F. Quantity of Contents

Approximately 12 percent of the commenters discused the quantitative declaration of a product's contents; almost all supported some form of weight declaration, and many were concerned about possible deception resulting from the several current quantitative content formats. Of those who supported some form of weight declaration, most expressly requested that labels provide a product's drained weight, particularly for canned fruits and vegetables. Other suggestions included declaring net weight, liquid weight, or fill weight.

G. Costs

Although the majority of commenters asked for additional or improved food labeling information, relatively few (14 percent) considered the economic impact of such changes on food prices. Of those commenters who acknowledged the potential for increased costs, 46 percent said they were willing to pay more, but 31 percent said they were not.

H. Food Standards and Safe and Suitable Ingredients

Food standards and safe and suitable ingredients together attracted remarks from 4 percent of commenters. Of those discussing food standards, 41 percent wanted them eliminated; 28 percent favored continuing the current policy; 23 percent wanted standards applied to more foods; and 9 percent wanted standards applied to fewer foods.

Many of those who opposed the use of standards said they objected to manufacturers not being required to identify all ingredients used in standardized products. Some commenters who favored retaining food standards also said that a standardized product's label should provide more information. Several people specifically mentioned retaining standards for staple foods and developing stricter standards for some foods, such as ice cream.

The majority of commenters who expressed their views on the use of safe and suitable ingredients in standardized foods said FDA's existing safe and suitable policy should be less flexible. Some advocated stricter control over the use of certain ingredients—such as artificial flavors, colors, sweeteners, preservatives, flavor enhancers, and sodium compounds—in standardized foods.

1978 Consumer Food Labeling Survey

To supplement the joint public hearings, FDA sponsored a Consumer Food Labeling Survey, conducted in October and November 1978 by the Response Analysis Corporation, Princeton, New Jersey. The FDA's Bureau of Foods, Division of Consumer Services, later analyzed the responses. The survey included 1,374 personal

interviews with "primary food shoppers," the persons who do most of the food purchasing for a particular household.

To the extent possible, the survey avoided direct questions, such as, "Would you like X information?" because direct questions can lead to results that overestimate the extent of concern. Instead, nearly all survey questions were open ended, allowing consumers to provide their own answers rather than requiring them to select among predetermined alternatives. This type of questioning usually leads to minimum estimates, and in some cases to underestimates, since some individuals may not known about a given type of information or may not think of particular information at the moment of questioning.

A summary of the survey results is presented below. These results can be projected to the national population at an accuracy of plus or minus 3 percent (with a confidence level of 95 percent). The results are divided into four areas; scope of consumer concern with food and food labeling; usage of currently available information; sources of confusion and difficulties with food labels; and consumer desires for food label revision.

Scope of Consumer Concern With Food and Food Labeling

The first question in the survey asked, "Aside from prices, please tell me about any particular problems, difficulties, or concerns which you have with food these days." Forty-nine percent reported no problems other than price. Forty-seven percent, however, mentioned one or more specific problems.

Most of these consumers mentioned problems involving the food itself: 14 percent expressed general concerns about product quality (e.g., food is simply not as "good" as it could be); another 14 percent were concerned about possible adverse health consequences of some food ingredients, and 8 percent said that the food they purchase is not as fresh as it should be.

In addition to concerns about food itself, 8 percent of respondents mentioned specific food labeling problems, and 9 percent mentioned damaged containers, insufficient stock in the store, and similar concerns.

Of the 14 percent of respondents who expressed concern about the health consequences of food ingredients, 35 percent are worried about preservatives, 29 percent are concerned about "additives" or "chemicals" in general, 20 percent are apprehensive about the sugar content of their food, 8 percent expressed concern about artificial colors, 7 percent about salt content, and 4 percent about use of artificial flavors. Only 8 percent of those mentioning the health implications mentioned any problem with the nutritional value of their food.

The survey findings suggest that many American consumers have some degree of apprehension about the safety of their food supply. While relatively few people (about 1 percent of the total surveyed) appear concerned about the nutritional value of food, a large number are concerned about the apparent proliferation of substances that may pose a health risk.

Of the 8 percent who expressed concern about food labeling, 32 percent mentioned the ingredient list, 25 percent mentioned freshness information, 20 percent expressed concern about deceptive or inaccurate labeling, and 19 percent had some concern with the information on the nutrition label (most of these mentioned calorie information).

The second question in the survey was, "Are you satisfied with the kind or amount of information available on food packages and cans?" Consumers who gave negative answers were then asked to state why they were not satisfied.

Fifty-nine percent said they were completely satisfied. Thirty-three percent, however, saw a need for at least some improvement in food labeling.

Twenty percent of those surveyed said the ingredient list could be improved. They most frequently requested the following improvements: listing all ingredients; simplifying the language; providing ingredient information on all products; making the list more legible (e.g., larger print), and listing ingredients by percentages.

Eight percent said nutrition labeling should be improved, and 3 percent wanted open date labeling extended to more products. About 2 percent mentioned a need for drained or fill weight labeling on canned goods. Fewer than 1 percent expressed a desire for information about the specific sources of fats and oils.

Use of Currently Available Information

Consumers were asked what information they looked for on food packages other than product name, brand name, and price. Forty-one percent mentioned the ingredient list. Nutritional information was mentioned by 22 percent, size or quantity information by 18 percent, and open dates by 11 percent. Eleven percent reported not using any label information at all.

When asked directly whether they pay attention to the ingredient information, 77 percent of the consumers surveyed said that they do. This group was then asked whether they use this information to avoid certain ingredients. Seventy-one percent of them, or 54 percent of all those surveyed, responded affirmatively. The ingredients most frequently mentioned were sugars (mentioned most often), salt, fats and oils, and preservatives. Other substances often named were artificial colors, artificial flavors, artificial sweeteners, starches, seasonings, cholesterol, and monosodium glutamate.

When consumers were asked why they avoid these substances, twenty-nine percent of all consumers (53 percent of those who do avoid certain substances) cited a belief that the substances might be harmful or hazardous. Many consumers also mentioned dietary reasons (most often weight control) and personal preferences (tastes and religious reasons). A few people mentioned diabetes, the effects on child health and behavior, or allergy problems as reasons for avoiding the substances.

With regard to the nutrition labeling, 64 percent responded "Yes" to the question "Do you pay attention to the nutrition information?" Most of those who use the nutrition label said they use only part of it; only 6 percent claimed to use the entire nutrition label. According to the survey, consumers look most often for information on calories, followed by information on vitamins, protein, fats, carbohydrates, and minerals, in that order.

Those who reported using nutrition information were asked the direct question, "Assuming that there may not be enough room for all different kinds of nutrition information, would you rather have information about things that people often get too much of (like calories, cholesterol, fat) or things people often get too little of (like protein, vitamins, and minerals)?" By a two-to-one margin (68 percent versus 32 percent) respondents selected information about substances that people often get in excess. (This correlates with survey results showing consumer concerns about possible negative health effects of food.)

On the question of open date labeling, 74 percent reported using dates, when available, to help decide which specific food items to buy. The preferred type of dating (at least for perishable and semiperishable products) appears to be an expiration or "use by" date, which was selected by 40 percent of the respondents. The quality assurance date and the pull or sell-by date were each selected by under 25 percent of the

respondents, and only 15 percent chose pack date.

Sources of Confusion or Difficulty With Food Labels

Consumers were asked, "Do you find any of the information on food packages and cans confusing or difficult to understand?" Twenty-seven percent said they found one or more sources of confusion on labels. (Due to the tendency of survey respondents to be unwilling to admit they are unable to understand something, this response probably underestimates actual problems with current food labeling.)

The most frequently cited problem was the use of technical and chemical names in the ingredient list, noted by a third of those expressing problems with labels. Other sources of confusion were the lack of quantitative information in the ingredient list, the metric system, U.S. RDA's, percentages, other nutrition information, date codes, and the use of small print.

It is also worth noting that at least 23 percent of consumers reported they pay no attention to the list of ingredients, and at least 36 percent reported they do not use the information on the nutrition label. (These respondents were not asked why they do not use this information.)

Consumer Desires for Food Label Revision

Consumers were asked directly whether they would like to have more information, less information, or the same amount now available on food labels. Twenty-five percent said they wanted more information, and only 2 percent said labels already have too much information.

Respondents most often wanted quantified ingredient information. This was followed by requests for simplified ingredient statements and calorie information on all products. There was also interest in greater use of specific ingredient names as opposed to general terms such as "spices." Finally, consumers expressed interest in declarations of sugar content, more open date labeling, declarations of salt content, listing of all preservatives, extending vitamin/mineral information to all products, and listing the ingredients in all products. Interest in declarations of drained or fill weight was relatively low.

In summary, about 10 percent of those surveyed were seriously critical of the current food label and saw a need for significant changes. An additional 15 percent expressed a desire for some changes, but appear less concerned. The remaining 75 percent are divided among those who appear to be satisfied with the food label as it is, are not concerned, or simply find the food label to be confusing for one reason or another.

Based on the information obtained from the survey, the following food label revisions have the highest priority among food shoppers.

Calorie information on all products.
Simplified ingredient names.
Quantitative ingredient listing (preferably in percentages).
Complete listing of all ingredients.
More extensive open date labeling.
Quantitative declarations of sugar content.
Full ingredient labeling for all products.
A simplified nutrition labeling format.
Expiration-type open date labeling for perishables.

The full report of this survey is on file with the FDA Hearing Clerk and the USDA (FSQS) Docket Room. Copies can be obtained from the FDA Consumer Communications Management Staff or the USDA (FSQS) Executive Secretariat. The addresses of these units are provided at the beginning of this document.

Comparison of Public Hearing Comments With Data From the 1978 Consumer Food Labeling Survey

The tables that follow compare the consumer views from the public hearings and the written comments with the responses obtained in the Consumer Food Labeling Survey. The comparison reveals that the concerns expressed by the two groups were often similar. For example, Table A shows that both groups care more about ingredient labeling than ay other general area, and that nutrition labeling is the area of second greatest concern. The main difference between the two groups lies in the level of concern. Even though ingredient labeling is the top concern of both groups, it was mentioned in 85 percent of the hearing comments and in only 20 percent of the survey responses. This pattern is much the same for each table.

The following conclusion can be drawn from the comparison: although the hearing commenters and those who submitted written comments are not statistically representative of the general public, they do reflect the shopping public's concerns about the food label. The higher level of concern exhibited in the hearing and written comments may be due primarily to the fact that these commenters represent a self-selected group with sufficient interest in labeling to submit their views. In contrast, the Food Labeling Survey includes many consumers who do not appear to be concerned about food labeling.

Table A.—*Major Areas of Concern With Food Labels* [1]

	Hearings and comments (percent)	Food labeling survey (percent)	
		Open question [2]	Semidirect question [3]
Ingredient list	85	3	20
Nutrition label	52	2	8
Open dating information	45	2	3
Quantity of contents information	12	1	3

[1] Percentages are based on all respondents in the survey and the commenters in the hearings and written views.
[2] The question titled "open" asked respondents what problems, difficulties, or concerns they have with foods.
[3] The question titled "semi-direct" asked respondents what information on the food label needed improvement.

Table B.—*Label Changes Most Desired* [1]

	Hearings and comments (percent)	Food labeling survey (percent)	
		Open question [2]	Semidirect question [3]
Quantify the ingredient list	35	1	4
Give ingredients of all products	35	1	3
List all ingredients	32	1	5
Give amount of sugar	27	1	2
Give amount of salt	25	1	1
Give nutrition information on all products	10	1	1
Give source of fats and oils	9	1	1
Give drained or fill weights on cans	8	1	2
Use larger print on labels	6	1	2
Simplify the ingredient list	1	1	4

[1] Percentages based on all respondents in the survey and the commenters in the hearings and written views.
[2] The question titled "open" asked respondents what problems, difficulties, or concerns they have with foods.
[3] The question titled "semi-direct" asked respondents what changes or additions they would like on food labels.

Table C.—*Nutrition Information Mentioned as Important* [1]

	In percentage	
	Hearings and comments	Food labeling survey
Calories	62	55
Vitamins/minerals	39	48
Fats	28	32
Cholesterol	24	11
Carbohydrates	22	22
"All nutrition information"	21	9
Protein	20	36
Serving size	10	3
Number of servings	6	1

[1] Percentages are of those who named the types of nutrition information they consider important or valuable.

Table D.—*Substances That Respondents or Commenters Report Avoiding*[1]

	In percentage	
	Hearings and comments	Food labeling survey
Sugar	47	50
Salt	43	26
Artificial colors	33	10
Fats and oils	23	23
Artificial flavors	23	6
"Chemicals"	19	8
Preservatives	17	21
Seasonings	13	5
"Artificial things"	6	18
Starch	2	5
MSG	2	3
Artificial sweeteners	1	6

[1] Percentages are of those individuals who reported avoiding one or more substances.

Table E.—*Preferred Method of Quantifying the Ingredient List*[1]

	In percentage	
	Hearings and comments	Food labeling survey
By percent	85	78
By weight	15	22
Total	100	100

[1] Percentages are of those who specified a preference for percentage versus weight listing.

Table F.—*Preferred System of Open Dating*[1]

	In percentage	
	Hearings and comments	Food labeling survey
Pack date	25	15
Pull (sell-by) date	23	23
Quality assurance (best-if-used-by) date	14	22
Expiration (use-by) date	38	40
Total	100	100

[1] Percentages are of those who specified a preferred dating system. Food Labeling Survey respondents were discussing perishables and semiperishables.

Background Papers

Following the hearings and survey, the agencies developed background papers on each of the key food labeling issues. These papers describe in some detail the questions involved and the options considered by the agencies in arriving at the tentative positions discussed in this notice. While not intended to be an exhaustive review of the subject, the background papers do provide a general overview of the major considerations involved in each food labeling issue. They cover the following areas:

1. Mandatory Ingredients in Standardized Foods and Spices, Flavorings, and Colors.
2. Ingredient Labeling of Restaurant Foods.
3. Ingredient Labeling of Fresh Fruits and Vegetables.
4. Quantitative Ingredient Labeling.
5. Grouping Ingredients by Function and "and/or" Labeling.
6. Mandatory Information in Nutrition Labeling.
7. Nutrition Labeling Format.
8. Sodium and Potassium Labeling.
9. Sugars Labeling.
10. Fiber Labeling.
11. Cholesterol and Fatty Acid Labeling.
12. Composite Data Bases.
13. Serving Sizes.
14. Food Standards—Safe and Suitable.
15. Imitation and Substitute Food Labeling.
16. Open Date Labeling.
17. Country of Origin Labeling.
18. Name and Address of the Manufacturer, Packer, or Distributor Labeling.
19. Natural and Organic Labeling Claims.

These papers are on file with the FDA Hearing Clerk and the FSQS (USDA) Docket Room, and can be obtained from the FDA Consumer Communications Management Staff or the FSQS Executive Secretariat. Addresses are provided at the beginning of this document.

Criteria for Analysis

The agencies used the following criteria in developing the background papers and their tentative conclusions[2]

1. Health Implications:
- What are the risks—allergies, diabetes, high blood pressure, hyperkinesis, heart/circulatory, etc.?
- What is the severity of the risk (high, medium, low); what is the size of the affected population?
- Will improved food labeling assist consumers in eliminating or reducing any known or potential health-related problems associated with foods and food ingredients?

2. Consumer Acceptability:
- What is the public attitude towards the various aspects of the improved food labeling?
- Does it meet the consumer's right-to-know?
- Are consumers capable of using the information?
- Will consumers use the information?

3. Industry Acceptability:
- Will industry accept or oppose the change?
- For what reasons?
- Will the change to require disclosure of it violate "trade secrets"?
- Will the proposed action be feasible to implement?

4. Legal Aspects:
- Does it require a change in the law?
- Does it require a change in existing regulations or a new regulation?
- How does it correspond with our sister agencies? Are there jurisdictional problems? Differences?

5. Political Aspects:
- What will be the reaction from Congress?
- If legislation is required, is Congress in favor and willing to act? Now? In the future?
- How does any proposed action correlate with the Administration's initiative to reduce or eliminate any unnecessary regulations?
- What will be the reaction from the States?

6. Economic Implications:
- Will the information help to prevent economic deception?
- What are the costs to the government to develop, implement, and enforce?
- Will the information help to maximize consumer purchasing power?
- What are the costs to industry to implement? How much?
- Will the label modification cause increased costs to consumers? How much?

7. Efficacy:
- Will the labeling modification actually solve the specific problem it is introduced to address?
- What other methods can be used to meet the same wants or needs (e.g., more consumer education, food formulary, etc.), perhaps at less cost to all segments of society?

8. Timing:
- Is it something that can and should be done now? In the future?
- Is it something that will require a change in law, and thus need to be delayed pending passage of legislation?
- Is it something that can be done now (by regulation) but should be delayed pending further study?
- Is it something for which more specific legislative authority is needed although certain aspects can be implemented by regulations, guidelines, or policy statements?

Tentative Positions

As a result of the information gained from FDA's Consumer Food Labeling Survey, the oral and written comments, and the agencies' review of the issues, the agencies have reached tentative

[2] These criteria are general in nature and the discussion in the background papers does not necessarily completely correlate to every one of the criteria.

positions on a number of food labeling issues. In their deliberations, the agencies considered the views of the public; the feasibility and costs to consumers, government, and industry; and the potential public benefits. These tentative positions are presented in the sections that follow.

Many of the proposed changes will require future regulatory or legislative actions, which are also discussed below. Before any final regulatory actions are taken, the agencies will carefully consider the comments on this document, and each agency will proceed in accordance with the Administrative Procedure Act (5 U.S.C. 551 et seq.) and other legal requirements.

Ingredient Labeling

Ingredient labeling was the issue discussed most frequently by the public at the hearings, in written statements, and in response to FDA's Food Labeling Survey. For example, 85 percent of the commenters in the hearings and their written submissions addressed the topic of ingredient labeling. This is a large issue, with a number of different facets, each of which will be discussed in turn.

Labeling of Mandatory Ingredients in Standardized Foods

In their oral and written statements, the public made it clear they want to know what ingredients are used in foods. Most commenters stated that at least some standardized foods need full ingredient labeling. Many of them simply asked for "full ingredient" labeling on foods.

Several reasons were given for wanting to know all of the ingredients in foods. Some wanted to avoid certain ingredients. Others wanted to be able to identify the presence of specific ingredients for health or medical reasons. Still others said they have the right to know the ingredients in a food. The respondents to the Food Labeling Survey also indicated considerable desire to have ingredients listed for all foods.

Certain Federal regulations called standards of identity, which are established by FDA, define the composition of many foods. The standards identify the mandatory ingredients (which must be used) and the optional ingredients (which may be used). Under the FD&C Act, only optional ingredients in such foods can be required to be declared on the label. If an ingredient is mandatory (e.g., peanuts in peanut butter), it does not have to be listed on the label. FDA has issued about 275 standards of identity. They include standards for canned fruits and vegetables, milk, cheeses, ice cream, breads, and margarine. Standardized foods make up 45 percent of the wholesale value of food shipments regulated by FDA (excluding fresh fruits and vegetables). For a number of years FDA has sought authority to require label declaration of mandatory ingredients in standardized foods but no legislation has passed. (There are two bills now before Congress that would provide this authority: S. 1651 or the "Department of Agriculture Nutrition Labeling and Information Act of 1979" and S. 1652 or the "Nutrition Labeling and Information Amendments of 1979 to the Federal Food, Drug, and Cosmetic Act".)

Foods for which FDA has issued no standard of identity, such as cookies, cakes, and pizza, must have ingredient statements on the label. All ingredients in nonstandardized foods, except for colors, spices, and flavors, must be listed specifically by name in the order of predominance.

Under USDA regulations, the ingredients in meat, poultry, and egg products must be listed on the label in order of predominance. Colors, spices, and flavors may be generally identified, but all other ingredients must be specifically identified. This is true even if the food is subject to a USDA food standard.

In the absence of authority to require the listing of mandatory ingredients, FDA has been expanding the use of its authority with respect to optional ingredients. Most standards have been revised, or are presently being revised, to require declaration of all optional ingredients. Moreover, if two or more forms of a mandatory ingredient may be used, then the form is deemed to be optional and the ingredient must be declared on the label. For example, the flour that goes into bread may be enriched flour, bromated flour, phosphated flour, or a combination of these. Whatever form is used must be declared on the label. FDA has also encouraged industry to list mandatory ingredients voluntarily (21 CFR 101.6), and many manufacturers have complied.

Proposed Actions: FDA will seek or support legislation to amend the FD&C Act to require that mandatory ingredients in standardized foods be declared on product labels. (USDA regulations already require such declarations.)

Pending any such legislative change, FDA will expedite its revision of the remaining standards of identity to require declaration of all optional ingredients including the form of the mandatory ingredients where more than one form is available for use. FDA plans to publish a document within the next year which, when completed, would require declaration of approximately 97 to 98 percent of ingredients used in standardized foods.

Colors, Spices, and Flavors

According to the hearing record and written comments, many people would like to see colors, flavors, and spices listed on labels by their specific names (e.g., "FD&C Yellow No. 5" as opposed to "artificial color"). The desire for specific label information on artificial colors was mentioned most frequently (1,868 commenters), followed by flavors (1,315 commenters), and spices (654 commenters). In addition, 587 commenters discussed the provision in the law which exempts butter, cheese, and ice cream labels from declaring the presence of artificial colors; 91 percent of these commenters wanted this exemption eliminated. The respondents to the Food Labeling Survey also expressed an interest in color, flavor, and spice labeling.

The FD&C Act requires the presence of colors, flavors, and spices to be declared on the label. However, they may be listed simply by their general names ("colors," "spices," or "flavors"). In other words, FDA cannot require specific identification of such ingredients. In the case of cheese, butter, and ice cream, FDA cannot require declaration of even the presence of an artificial color.

USDA has much wider authority in this area. Under current statutes, the Secretary of Agriculture may require that colors, spices, and flavors be identified by their specific names (21 U.S.C. 453(h)(9) and (12); 21 U.S.C. 601(n)(9) and (12) and 21 U.S.C. 1036(a)).

The general position of the agencies is that most ingredients should be declared by specific names on food labels. This position appears to present no significant problems with respect to spices and colors. Most products that include spices contain no more than four or five. (Some meat and poultry products contain a greater number.) The same is true of colors: only a few are used in any one food, and listing them should present no practical problem. Under the provisions of the Fair Packaging and Labeling Act (administered by FDA), cosmetics are now required to list specific colors on their labels, and no serious practical problems have been encountered.

Label declaration of flavors does present a problem, however. There are about 1,700 flavors, and as many as 125 flavors can be used in a single processed food. The average number of flavors used in a processed food (excluding meat, poultry, and egg

products) is about 40. Not only are there numerous flavors, but there are also an overwhelming number of substances that can be combined to form a single flavor ingredient. Since one food may contain many flavors, it would be impractical to identify them fully on the label, and it would be difficult for the government to establish an all-inclusive labeling policy for these ingredients.

Nevertheless, the agencies support label declaration of those flavors that are known to cause health problems, such as allergic reactions in particular segments of the population. This principle was followed in FDA's action to require foods to declare the presence of FD&C Yellow No. 5, a known sensitizer. (See the Federal Register of June 26, 1979 (44 FR 37212).) Of course, a flavor (or spice or color) that is unsafe for the general population would be banned from the food supply under current law.

Industry has argued that mandatory disclosure of all colors, flavors, and spices would be an onerous burden because it would overload labels, making them incomprehensible to consumers. Manufacturers also have contended that label declaration of the specific colors, flavors, and spices used in a food will divulge trade secrets.

In the case of colors and spices, the agencies have concluded that labeling specific ingredients would not reveal trade secrets and that the benefits to consumers of knowing the identity of these ingredients would be substantial. Nevertheless, the agencies welcome further comments.

Proposed Actions: (1) Colors and spices. FDA will seek or support legislation to require that all colors and spices be declared on food labels by their specific names. USDA believes it has such authority, but will support legislation to provide more explicit authority for both agencies.

The agencies invite comments from the public on the feasibility of their proposal, particularly for labeling of spices.

FDA will seek or support legislation to eliminate the exemption under which the labels of butter, cheese, and ice cream are not required to declare the presence of an artificial color.

(2) Flavors. FDA will seek or support legislation to provide it with the discretionary authority to require label declaration of a flavor when such declaration is considered necessary to provide important health information, e.g., when a flavor ingredient may cause an allergic reaction. USDA believes it has such authority but will support legislation to provide more explicit authority for both agencies.

Quantitative Ingredient Labeling

The vast majority of the hearing and written comments mentioned ingredient labeling, and nearly half of these had suggestions on how to specify the quantities of ingredients. Of those with suggestions, over 75 percent favored percentage ingredient labeling, 19 percent favored listing ingredients indescending order of predominance, and 6 percent wanted to know percentages of characterizing ingredients (e.g., the shrimp in a shrimp cocktail). The Food Labeling Survey results were similar to the hearing and written comments, thus confirming the strong consumer interest in quantitative ingredient labeling and the preference for percentage listing.

At present, FDA generally does not require quantitative labeling, except for certain valuable and characterizing ingredients that are part of a product's name (e.g., shrimp in shrimp cocktail or orange juice in orange juice beverages). It has been argued that FDA may have across-the-board authority to require quantitative ingredient labeling. But if such authority exists, it is not explicitly stated in the present law.

A more serious limitation may be FDA's inability to monitor quantitative labeling under the present law. FDA could use two approaches to verify quantitative ingredient labeling. The first is by factory inspection. This approach is of limited value at present because manufacturers are not required by law to show FDA their records on what actually goes into a product. The second approach is laboratory analysis. FDA can determine some ingredients by analysis, such as shrimp in shrimp cocktail, but it cannot readily determine others, such as ingredients that may dissolve in a soup. Moreover, analysis can be expensive. Because factory inspection represents the more practical apporach to monitoring, FDA in the past has supported legislation to provide authority to review company records related to production.

Under its statutes, USDA already has some authority to require quantitative ingredient labeling in meat, poultry, and egg products. Moreover, USDA can review product formulas and related information through its mandatory label review and inspection programs. The meat, poultry, and egg product statutes require recordkeeping by processors, and provide access to records and inventory. These provisions make it easier to enforce quantitative ingredient labeling rules. USDA also has issued voluntary guidelines for quantitative ingredient labeling and requires percentage labeling of some products purchased for domestic food assistance programs (e.g., cooked turkey rolls and dried egg mix).

Proposed Actions: FDA and USDA will continue their efforts to encourage or require the use of quantitative ingredient labeling on more foods.

FDA will take the following specific actions:

Expand the use of percentage labeling for valuable and characterizing ingredients as part of the names for standardized foods and nonstandardized foods;

Publish guidelines for voluntary quantitative ingredient labeling as part of the ingredient statement;

Seek or support legislation explicitly giving FDA authority to require quantitative ingredient labeling as part of the ingredient statement;

Seek or support legislation giving FDA records and reports authority: access to a company's product formulas, quality control records, and related records in order to ensure that such expanded quantitative ingredient labeling is truthful and accurate.

While USDA already has limited authority to require quantitative ingredient labeling, it shares FDA's belief that legislation establishing the general authority of the two agencies to require such labeling is desirable. USDA will also propose regulations to provide for more quantitative ingredient labeling. The regulations will propose mandatory percentage labeling of certain important ingredients in meat, poultry, and egg products.

Listing Ingredients by Order of Predominance

The results of the Food Labeling Survey and the hearing and written comments suggest that many consumers may not be aware that ingredients must be listed on food labels in descending order of predominance. Although some labels carry an explanatory message stating that ingredients are listed in order of predominance, there is no requirement that they bear such a message. The agencies believe that an explanatory statement of this type would be helpful to consumers, and would neither prove costly to manufacturers nor overload labels.

Proposed action: FDA and USDA will amend their current regulations to require that food labels bear a statement to the effect that ingredients are listed in descending order of predominance.

Use of "And/Or" Labeling To Declare the Source of Fats and Oils

"And/or" labeling is designed to provide manufacturers with flexibility to modify food ingredients without revising

their labels. Under current regulations, this type of labeling is permitted for fats and oils when they are not the predominant ingredient. A label might bear the statement, "vegetable oil (may contain cottonseed oil, soybean oil and/or palm oil)." The manufacturer would then be free to use any one of the three specific oils, or a combination of them, without changing the labels. The choice would likely depend on availability and price.

The hearing and written comments on ingredient labeling flexibility focused mainly on the declaration of fats and oils. Of the 1,060 commenters who discussed flexible labeling of fats and oils, 86 percent said that the "and/or" type of labeling should not be permitted. Most people opposed this concept due to special diets, allergies, or for religious reasons. Some commenters also expressed dissatisfaction with general source designations such as "animal fat" or "vegetable oil."

About 14 percent of the commenters supported labeling flexibility for fats and oils. Some of these commenters qualified their approval by stating that only those fats with the same saturation should be allowed to be interchanged. Other commenters noted the cost savings to consumers that may result from current rules permitting flexibility.

Respondents in the Food Labeling Survey, on the other hand, showed relatively little concern with this issue; only a very few mentioned labeling flexibility.

FDA's present regulations were published in 1976. Previously, FDA permitted fat and oil ingredients to be declared in the ingredient list by the generic terms "vegetable oil," "animal fat," and "marine oil," or as "shortening," without naming the specific fat, oil, or type of shortening. In 1971 FDA proposed requiring the declaration of fat and/or oil ingredients by specific common or usual names instead of genric names (e.g., "coconut oil" instead of "vegetable oil" or "shortening"). This proposal was made in respense to repeated requests from consumers and consumer organizations, as well as from health professionals.

The 1971 proposal, as well as a revised proposal published in 1974, was opposed by a number of industry members. Opposition was based mainly on two contentions: (1) manufacturing techniques alter fats and oils so that the ingredients in finished form do not differ greatly regardless of source; and (2) requiring more specific ingredient listings would increase food costs because manufacturers would have to reprint labels whenever fat and oil ingredients were changed due to fluctuations in price or supply.

After considering the comments, FDA, in 1976, issued the regulations that are currently in effect (21 CFR 101.4(b)(14)). Under these rules, some flexibility in declaring fats and oils is permitted when these ingredients are not predominant, i.e., when they do not constitute the largest proportion by weight of any ingredient in a food. A manufacturer may declare the blend of fats and oils on the list of ingredients by use of a generic term, followed by a parenthetical listing of the common or usual name of each fat and oil ingredient that might be used in the blend. Therefore, any fat or oil that may be present in the product is specifically identified. Where fats or oils are the predominant ingredient, specific declaration of any fat or oil actually present is required.

USDA currently allows the use of general terms such as "animal fat" or "vegetable oil" on meat and poultry product labels without reference to the specific source of the fat or oil (e.g., cottonseed oil"). The egg product regulations contain no specific references to how fats and oils should be identified, but require that all ingredients be listed if two or more are used (7 CFR 2859.411(c)(1)). However, USDA's policy for egg products labeling allows the labeling of fats and oils on an "and/or" basis consistent with FDA's current requirements.

There appears to be at least one problem with the present system for declaring fats and oils: it may result in the listing of ingredients that are not actually present. As a result, it may narrow the choice of products available to people who wish to avoid certain substances. Thus, although "and/or" labeling does not cause health problems, it does not allow those people suffering from allergies or other medical conditions to deal most effectively with their problems.

The agencies recognize and sympathize with those individuals who may be allergic to the protein fractions in some fats and oils. Although the agencies know this medical problem occurs, they do not know the extent of the problem. The agencies also are aware of religious concerns and personal preferences centering on the use of certain fats and oils. However, even if the use of "and/or" labeling were eliminated, there still would be no guarantee that foods containing more desirable fats and oils would be available. Moreover, the requirement for more specific labeling could impose higher costs on all consumers by restricting manufacturers' ability to respond to marketplace factors (availability and price) without having to change their foods' labels. Finally, if there is a significant need for products containing only a specific fat or oil, the competitive marketplace is likely to make them available (usually at a premium price).

Recognizing public concerns and these economic factors, the agencies have weighed the potential benefits of requiring more specific labeling of fats and oils against the adverse impact such a change could have on industry and consumers.

Proposed Action: FDA and USDA will amend current regulations to require that foods containing 10 percent or more total fat on a dry weight basis declare on their labels the specific source of the fat or oil, e.g., "corn oil" or "palm oil." Foods containing less than 10 percent fat on a dry weight basis may use the "and/or" approach, e.g., "vegetable oil (may contain cottonseed oil, soybean oil and/or palm oil)."

The position adopted by the agencies is based in part on the current FDA regulation covering fatty acid and cholesterol labeling (21 CFR 101.25). This regulation provides that a food containing 10 percent or more fat on a dry weight basis and at least 2 grams fat in an average serving may bear labeling declaring the quantity of fatty acids. A food containing less than this level of fat is not considered to be important in regulating the intake of fatty acids because it is not a significant source of dietary fat.

Use of a 10 percent total fat cutoff level would result in the listing of specific fats and oils on the labels of a substantial number of foods that now bear "and/or" labeling. For example, most crackers, cookies, imitation meats and cheeses would no longer be able to use "and/or" labeling.

The agencies are not aware of any data suggesting that the demarcation line should be higher than 10 percent total fat on a dry weight basis. In fact, it is possible that a lower level (e.g., 2 percent or 5 percent) may be more appropriate. The agencies welcome comments on alternative percentage cutoff levels. Economic data on the effects of various levels on the marketplace will be particularly helpful. Comments are also invited on the question of whether "not less than 2 grams of fat in an average serving," the second part of the present standard for the fatty acid declaration, should be used in conjunction with the 10 percent level as the cutoff for listing fats and oils specifically, or whether some other serving quantity and percentage cutoff should be used.

Functions and Names of Ingredients

The hearing record and written comments suggest that many people find many ingredient names confusing and meaningless. Comments differed, however, on the type of labeling terminology considered most useful. Of the more than 1,000 commenters specifying the terminology that should be used, over half the suggestions favored individual, familiar names, while a third of them favored designation by function, e.g., emulsifier, preservative. Twenty-seven percent supported the use of an ingredient's chemical name on the label. The central point that emerges from the comments is this: as the number of processed foods and the number of unfamiliar ingredients in these foods has grown, the task of interpreting names of ingredients and their functions has become extremely difficult for many consumers.

The FD&C Act requires that optional ingredients in standardized foods, and all ingredients in nonstandardized foods, be declared on the label by their common or usual names ("nonfat dry milk," "celery," "enriched flour"). The exceptions are spices, flavors, and colors, which may be listed on labels by their general names (e.g., "spices"). A limited number of dairy, egg, and oil ingredients are exempt from the specific name requirement and may be designated collectively on labels (e.g., "whey" can be listed when it is reconstituted whey).

Much of the present confusion over ingredient listing may stem from lack of knowledge among consumers of the purposes served by many ingredients. The agencies have received suggestions that the government publish a list of all food ingredients and their functions. This publication might be made available to consumers through outlets such as supermarkets, libraries, etc. Consumers with questions about ingredients would be able to consult this "ingredient dictionary."

Proposed Action: The agencies will explore the feasibility of an "ingredient dictionary." They will determine how it should be compiled and distributed, and what it will cost.

An ingredient dictionary would satisfy the needs of consumers who want to know more about the function of different ingredients, and would not increase manufacturers' labeling costs or overload product labels with complex terminology and explanations.

Labeling of Fresh Fruits and Vegetables

Less than 2 percent of the hearing and written comments requested information on the growing, processing, and handling of fresh fruits and vegetables. Most of these comments concerned the use of fertilizers, pesticides, and other chemicals during growth, and the use of waxes, colors, and gasses.

Under the FD&C Act and FDA regulations, all ingredients added to raw agricultural products, except pesticides, must be declared in labeling (21 U.S.C. 343). If these commodities are shipped in a bulk container and the product is sold at retail from that container, the declaration must be visible to the purchaser. If the raw commodities are sold from a container other than the shipping box, then placards or signs must be used to convey information on colors, preservatives, and waxes (21 CFR 101.22(e) and (f)).

Although the Federal law requires labeling declarations at the retail level of substances added to fesh fruits and vegetables, as a practical matter FDA does not have the resources to enforce this requirement. The agency focuses its compliance attention on manufacturers, processors, and distributors. Retailers, nevertheless, have a responsibility to comply with the law.

If current law or regulations were amended to require the labeling of fertilizers and pesticides used on fresh produce, FDA's lack of compliance resoures would prevent the agency from enforcing such requirements. Even with adequate resources, enforcement would be difficult. For example, pesticides may be present in such small amounts that they cannot be readily detected. In fact, pesticide may be applied to a commodity and not be present at all when the product is marketed. Finally, the fact that fresh produce sold at retail usually consists of mixed lots makes accurate pesticide labeling virtually impossible.

Proposed Action: FDA will continue to encourage compliance with the requirements of Federal law that the presence of colors, preservatives, and waxes be declared on placards and leaflets at the point of sale of fresh fruits and vegetables. however, FDA will not seek the statutory authority to impose similar requirements for pesticides and fertilizers. The policy with regard to pesticides and fertilizers wil be reexamined in the future as necessary.

Ingredient Labeling for Restaurant-Served Foods

Very few commenters (76) discussed the issue of ingredient labeling for restaurant foods. All but one of these commenters said that restaurants should provide ingredient information on their foods.

Although the agencies can understand why some consumers want ingredient information about restaurant-served foods, enforcing such a requirement in the more than 350,000 restaurants in the United States would not be feasible. Not only is there a multitude of ingredients in each food on a menu, but many restaurants also vary menus frequently or change recipes according to the availability of raw commodities. Ingredient labeling would increase cost for restaurateurs, and be a particularly burdensome requirement for small restaurant operators. These costs ultimately would be passed on the restaurant customers.

State and local governments have primary authority over eating establishments. The Federal agencies considered preparing a model code for restaurant ingredient labeling, similar to the Food Service Model Code, for States to adopt. The agencies have concluded, however, that the costs involved in developing such a code outweigh the potential benefits to consumers.

The agencies, of course, support the efforts of many State and local authorities to provide accurate descriptions of restaurant-served foods.

Proposed Action: The agencies will not at this time initiate any action to require that ingredients in restaurant-served foods be declared. This policy will be reexamined in the future as necessary.

Incidental/Secondary Ingredients

A few (118) commenters said they wanted information on ingredients, such as adhesives, that may migrate from packaging materials (incidental or indirect additives) and ingredients, such as calcium silicate in salt used in making bread, that may be components of ingredients used in manufacturing a finished food (secondary ingredients).

Under the FD&C Act, FDA requires that optional ingredients in standardized foods and, with few exceptions, all ingredients in nonstandardized foods be declared on labels. Current FDA regulations (21 CFR 101.100(a)(3)), however, exempt incidental food additives from the statutory labeling requirements. "Incidental additives" are defined by this FDA rule as those substances that are present in a food at insignificant levels and that do not have any technical or functional effect in that food. USDA follows the same general policy.

FDA, USDA, and FTC have considered requiring that such potential additives be declared on food labels. However, the possible presence of incidental additives is not believed to be of any public health significance. Their

presence in food is not always predictable, and even so, their safety is fully assessed. The agencies have concluded, therefore, that such a requirement would not be necessary, and may not be practical or worthwhile. It would require analysis of food lots for potential incidental additives between harvest or manufacture and consumption. Conducting screening analyses for possible additives would be extremely difficult and costly for both government and industry, and the costs ultimately would be passed on to consumers, with little or no benefit obtained.

Proposed Action: The current policy of not requiring the declaration of incidental/secondary ingredients will be continued. This policy will be reexamined in the future as found necessary.

Nutrition Labeling

Nutrition labeling figured prominently in the White House Conference on Food, Nutrition, and Health held in late 1969; nutritionally labeled foods began appearing in grocery stores 4 years later, and they are now quite common.

Even though nutrition labeling is relatively new, the public response it generated was second only to that of ingredient labeling: 52 percent of the commenters discussed some aspect of nutrition labeling, and 3,288 commenters said they want nutrition information on food labels. Those favoring nutrition labeling said they wanted "all" nutrition information to appear on labels, and the rest discussed specific features of nutrition labeling that particularly concerned them. They most frequently mentioned processed or packaged foods as specific food category needing this labeling.

Three main questions characterize this issue: (1) Should nutrition labeling be required on foods? (2) If so, what information should it furnish? (3) Finally, what form should that information take?

Mandatory, Discretionary or Voluntary Nutrition Labeling

This issue concerns whether the government's current, primarily voluntary nutrition labeling policy should be changed either to make nutrition labeling mandatory or to provide FDA and USDA with the authority to require nutrition labeling at their discretion. Much food, of course, already carries nutrition labeling. An FDA survey based on 1976 sales showed that, on a dollar basis, approximately 40 percent of all packaged processed foods and 24 percent of all foods in supermarkets carried nutrition labeling, and that 60 percent of foods with nutrition declarations were labeled voluntarily.

Under FDA regulations (21 CFR 101.9), a food label is not required to bear nutrition information unless (1) a manufacturer makes a nutrition claim about that product on its label or in its advertising or (2) a producer adds nutrients to the food. These FDA regulations define how nutrient content must be disclosed when nutrition labeling is used on a food. USDA does not have nutrition labeling regulations for meat and poultry products, but it accepts and uses FDA's approach on a voluntary basis, and also allows the use of an abbreviated format. Egg product regulations, however, do require nutrition labeling when nutrients have been added to the product or when a nutritional claim is presented on the label, unless the product is specifically exempted. Otherwise, nutrition labeling for egg products is also voluntary (7 CFR 2859.411(e)).

Of the 855 comments on this issue, 88 percent favored a mandatory system. A few commenters suggested that mandatory nutrition labeling should apply only to specific products such as (1) foods that are fortified or for which nutrition claims are made, (2) processed foods, and (3) foods produced by companies with a business volume of more than $500,000 annually per product, but the public preference for mandatory nutrition labeling is clear.

It is less clear whether FDA and USDA have authority to go further to require nutrition labeling on all food products.

Proposed Actions: FDA and USDA will seek or support legislation to clarify their authority to require nutrition labeling on all foods.

USDA will propose regulations that would require nutrition labeling where nutrition claims are made for a product or where certain nutrients have been added to the product.

The three agencies also are forming a task group to develop criteria for determining which additional foods should bear nutrition labeling. The criteria will primarily reflect (a) the significance of the food in the diet; (b) the potential for misleading the public when a food does not have nutrition labeling; and (c) other matters of public health significance.

The agencies invite public comment on these criteria, or others, and their task group will consider these comments in developing the criteria—a task they expect will take 4 months from the close of the comment period.

Nutrition Labeling Format

FDA's regulations on nutrition information (21 CFR 101.9), in effect for over 5 years, provide that if a food's label bears nutrition information, then the data must be accurate and must follow FDA's presecribed format. However, the public has long been interested in improving the format for presenting nutrition information, and industry has considered experimenting with alternative formats.

The 416 commenters on this issue were divided on the type of nutrition label format that would be the most useful. The most popular format was some form of a pictorial/graphic system. Other suggestions included the present FDA system, a rating system, nutrition scores, nutrient density, and food group systems. One hundred seventy of the 195 commenters who expressed their views on the comprehensibility of current nutrition labeling said that some aspect of this labeling puzzles them, and they indentified the U.S. Recommended Daily Allowances (U.S. RDA) most often as the primary source of confusion.

Similar points were made in FDA's Consumer Food Labeling Survey. Twenty-three percent of those surveyed who use nutrition labeling information said they find some aspects of the label confusing, and they identified the confusing elements as terminology (79 percent), use of the metric system (27 percent), use of "big words" (16 percent), use of U.S. RDA's and percentages (15 percent), and not knowing how to use this information (8 percent).

The agencies have concluded that the current nutrition labeling system, a good first step, needs revising to make it more useful to consumers. However, there is a lack of consensus and research on what types of changes should be made.

Proposed Actions: The agencies, therefore, propose to retain the present nutrition labeling system pending the outcome of research to determine which format consumers find most useful and convenient and what changes, if any, are appropriate. The agencies will encourage and facilitate voluntary experimentation, by industry, with graphic and other formats that are consistent with the principles of the current quantitative system, or with new concepts that this research produces. Such studies are to be carried out under carefully controlled conditions and in collaboration with FDA and USDA. The agencies will establish an interagency task group to work with industry and consumers to develop proper experimental designs and the

appropriate criteria for evaluating these experiments.

FDA will participate in the research and experiments by studying various labeling formats, including those formats suggested during the hearings and in the written submissions, to determine which ones best convey nutrition information to consumers. USDA will cooperate fully in, and, if necessary, supplement this research, which the agencies expect to continue for 2 years. (The "Total Food Label" section below provides more information on this research program.)

The interagency task group will complement this research program. It will ensure close collaboration among the agencies, it will hold open meetings frequently, and it will invite full participation by both industry and consumers. The agencies hope that, as a result of the task group's efforts, industry will voluntarily undertake some pilot programs to test—under real market conditions—the proposed new label formats. The agencies will collect data from these pilot programs; the task group which will start working immediately after the next public hearings, will analyze and evaluate this research, and will invite comments and participation during this process before selecting no more than two or three alternative label formats for nationwide use. It will select label formats upon which some pilot programs could be based by November 1980 and will begin evaluating these pilot programs a year later. The agencies welcome comment on the role and functions of the task group.

Mandatory Information for Nutrition Labeling

This issue involves two questions: Should the government change the list of nutrients that must be declared on nutrition labels? Should nutrients present only in small quantities be declared on food labels?

Current rules require nutrition labeling of FDA-regulated products only when nutrients are added to a food or when nutrition claims are made in its labeling or advertising. 21 CFR 101.9, however, requires any FDA-regulated product that bears nutrition labeling to declare the serving size, number of servings in the container, and number of calories in a serving; the quantity of the macronutrients (protein, carbohydrates, and fat) expressed in grams in a serving; and eight nutrients (protein, vitamin A, vitamin C, thiamine, riboflavin, niacin, calcium, and iron) expressed as percentages of the U.S. RDA. Declaring quantities of any or all of 12 additional vitamins and minerals (vitamin D, vitamin E, vitamin B_6, vitamin B_{12}, folic acid, phosphorus, iodine, magnesium, zinc, copper, biotin, and pantothenic acid) and mentioning other nutritional characteristics are voluntary.

The only specific USDA regulations requiring nutrition labeling apply to certain egg products, but producers of meat, poultry, and egg products may voluntarily provide nutrition labeling. In the absence of regulations, USDA uses the same nutrition labeling format as FDA, and it further accepts, in the case of meat and poultry products, an abbreviated format consisting of the macronutrients (protein, fat, and carbohydrates) and calories. (Approximately 75 companies now use nutrition labeling for about 275 different meat and poultry products USDA regulates; luncheon meats, pizza, and canned foods most frequently bear this labeling.)

Evidence from the hearings, the written comments, and FDA's Food Labeling Survey suggests that the public is most interested in the information that appears at the top of nutrition labels: calories, fat, carbohydrates, and protein. The 3,450 commenters who specified what nutrition information they consider important identified calorie content most often, but they also said that cholesterol content, carbohydrate content, protein content, and vitamin/mineral content were important. Only 6 percent of those polled in the FDA Food Labeling Survey claimed using the entire nutrition label. These comments show that some consumers do not use much of the nutrition information currently available, and, when they do, generally find only one or two facts useful. These results suggest at least two possibilities: labels currently contain too much information, or consumers do not know how to use what is there. Accepting the second possibility would further suggest the need for providing more information about nutrition labeling and education on how to use it.

The response also raises a number of very important basic issues involving mandatory nutrition labeling. The public's extensive interest in caloric content undoubtedly reflects the weight consciousness of the American people. Accordingly, the agencies considered allowing a calorie declaration in the absence of full nutrition labeling. They concluded, however, that because it would fail to provide a balanced presentation of foods' nutrition characteristics, this would be inappropriate as a general rule. Industry is producing—and people are eating—more low-calorie foods, but this trend does not diminish the body's need for an adequate supply of vitamins, minerals, and other nutrients. Calorie information by itself generally does not provide adequate information for making sound dietary decisions: The agencies agree that nutrition labeling should usually provide a general nutrient profile of the food.

The views expressed on mandatory information also raise interesting questions about how much flexibility the government's policy should allow. Some have argued that declaring vitamin and mineral content on all nutrition labels is unnecessary because consumers use this information less often and consider it less important. Some said that because most nutrition labeling is voluntary, a requirement for an extensive list of food components on labels could actually discourage use of nutrition labeling. Others, however, emphasized the importance of a more complete nutrient profile to inform consumers of food characteristics having possible public health significance.

Part of this question involves the declaration of mandatory nutrients available in small quantities (less than 2 percent of the U.S. RDA per serving). Currently, nutrients present in such small amounts must be listed as providing "zero" percent of the U.S. RDA or identified by a statement that the product contains less than 2 percent of the U.S. RDA of the nutrient—a policy that reflects the principle that declaring what is not in the food can sometimes be as important as declaring what is in it. Moreover, increasing concern about the adequacy of the amounts of certain micronutrients such as zinc, folic acid, and copper in many diets gives greater urgency to the question of mandatory or voluntary declaration of these nutrients.

Proposed Actions: FDA will continue its current policies for declaring mandatory nutrients (protein, carbohydrates, fat, and certain vitamins, and minerals), calories, and other information pertaining to serving size and servings per container.

USDA will continue to permit use of both the format similar to FDA's and the abbreviated format consisting of macronutrients, calories, and other information deemed useful to consumers. USDA will also propose nutrition labeling regulations to provide information on calories, carbohydrates, protein, fat, sugars, cholesterol, sodium, and other nutrients of public health concern.

The data from the FDA survey, hearings, and written comments—as well as those from other sources—suggest that a review of the information in current nutrition labeling is appropriate. Accordingly, the agencies

invite aspecific comments from the public on the following questions:

(1) Should they retain the present mandatory listing, or should they expand it to include certain other micronutrients such as folic acid, copper, and zinc?

(2) Should they make it more flexible to allow for declaration of certain nutrients on an optional basis? (For example: Should they require only that a nutrition label list serving size, servings-per-container, calories, protein, fat, and carbohydrates? Should a listing of a food's vitamin/mineral content be optional when no nutrition claims are made and no vitamins or minerals are added?)

(3) Should nutrition labeling mention a nutrient when one serving of the food provides less than 2 percent of a U.S. RDA?

Composite Data Base for Use in Nutrition Labeling

The issue here is whether FDA and USDA should continue to require food manufacturers and producers to insure that their food labels accurately reflect the nutrient composition of their products, principally by analyzing individual lots of products, or whether they should allow manufacturers and producers to shift to the composite data base concept for deriving appropriate nutrient values for labeling.

Although FDA's Consumer Food Labeling Survey and the hearings and written comments showed that consumers want nutrition labeling on more foods, only 53 commenters discussed what degree of accuracy should be required in nutrition labeling. Most of those said they preferred the statement of nutrient content by an "exact value"; others said that "representative values" or a "range of values" would be acceptable degrees of accuracy.

The current policy of FDA and USDA assigns each manufacturer the responsibility for assuring the validity of a product's stated nutrient values. A number of firms have complained that the required nutrient analyses are expensive, and they argued for a data base to help them determine the nutrition values to be declared on their products' labels. Such a data base would be compiled for common use by food processors who would then not have to carry out nutrient analyses on their products as often as they now do. The net result of such an approach, the argument runs, would be an increase in the number foods bearing nutrition labeling. The agencies agree that nutrition labeling on more foods is the goal, but they also agree that having more information is scarcely helpful if that information is inaccurate.

Much attention has focused on the National Nutrient Data Bank maintained by USDA and on USDA Handbook 8, used for deriving appropriate nutrient values for nutrition labeling. Smaller segments of the food industry, producers of fresh or minimally processed foods, and (to a lesser extent) all food processors would presumably benefit from a change in current policy. Although the agencies agree that a current valid composite data base would be acceptable, the data available for some foods are inadequate for nutrition labeling.

Proposed Actions: FDA and USDA will maintain for now the current policy that products be labeled according to compositon, and that the manufacturer is responsible for insuring the validity of nutrient content expressed on the food label.

FDA and USDA agree, however, that as reliable data bases are developed, they will be suitable for helping determine the values to be declared on many foods. The agencies strongly support the development and use of modern data bases for nutrition labeling, and their inclusion in the National Nutrient Data Bank. USDA and industry are working to improve these data bases and to bring them up to date; FDA has also been assisting in the developing of data bases for nutrition labeling. This work is progressing: the dairy orange juice, fresh potato, and potato chip/snack food industries, to name a few, have already developed useful data bases.

To clarify their position and to encourage further work, USDA and FDA have prepared the following statement setting forth their policies on nutrient data bases:

Statement of Policy Concerning the Use of Nutrient Data Bases

FDA and USDA encourage industry to develop and maintain meaningful data bases that may be useful guides for determining the nutrient vlaues of indigenous nutrients.

FDA and USDA likewise encourage industry to submit such data bases to them so that they may judge their applicability for use in nutrition labeling. The sampling plans and statistical factors to be used in developing the accuracy of the nutrient profile appearing on the label will be determined, according to the food and the nutrient, for each data base. This evaluation will not constitute approval, but it will assist industry in developing and interpreting a data base for nutrition labeling.

FDA and USDA encourage the use of properly evaluated data bases for all appropriate segments of industry.

The use of a suitable nutrient data base does not exempt a manufacturer from assuring that a product meets its labeled nutrient content within established limits. The agencies consider this provision necessary to ensure proper handling of foods and their proper processing to prevent gross nutrient loss (loss of unstable nutrients, for example). The establishment of reasonable ranges of nutrients to accommodate natural variation is under consideration.

If products bearing nutrition labeling in accordance with properly evaluated nutrient data bases and manufactured in accordance with good manufacturing practices are found not to be in compliance with applicable nutrition labeling regulations, the agencies will work with the firms responsible for the product in question and with the appropriate authorities who are maintaining the applicable nutrient data base to correct the problem before initiating compliance provisions actions. The agencies will continue to reexamine compliance of the nutrition labeling regulations and will consider appropriate revisions as new knowledge, data, and methodology become available.

Industry should submit the data base information it develops to the National Nutrient Data Bank.

Serving Sizes

FDA regulations (21 CFR 101.9(b)(1)) define "serving size" as "that reasonable quantity of food suited for or practicable of consumption a part of a meal by an adult male engaged in light physical activity, or by an infant or child under 4 years of age when the article purports or is represented to be for consumption by an infant or child under 4 years of age." Serving size plays a crucial role in nutrition labeling, because the nutrient information is declared in relation to the average or usual serving or portion consumed. The question here is whether the agencies should standardize serving sizes.

In 1974, FDA proposed setting reasonable and uniform serving sizes for certain products, including fluid milk beverages, noncarbonated breakfast beverages, hot and ready-to-eat cereals, and formulated meal replacements. FDA also asked for information in order to set appropriate serving sizes for canned tuna and canned and frozen fruits and vegetables. FDA announced its intention to establish reasonable serving sizes for other foods if industry failed to petition to establish them. Since then, FDA has

proposed serving sizes for soft drinks, and some industry groups have submitted petitions to set serving sizes or portions for other foods. FDA has taken no final action on any of these petitions, and USDA has not yet established a serving size regulation.

FDA and USDA believe that some serving sizes currently used on labels are not reasonable or uniform within a product class, and consumers have expressed similar views. For example, some manufacturers use overly large serving sizes to inflate the nutritional value of their products; others keep serving sizes rather small, to avoid giving the appearance that the foods contain large quantities of undesirable components. different serving sizes within a product class, moreover, make product comparisons difficult.

Although serving size was not a major issue among the many discussed at the FDA/USDA/FTC food labeling hearings or in the written comments, those comments that did address this issue implied that the public would welcome standardization of serving sizes. Three hundred ninety-one commenters said that serving size is an important element of nutrition labeling, and some people noted that the current serving sizes on nutrition labels are misleading.

Because serving size information is important in meaningful nutrition lageling, because of their commitment to make uniform serving sizes for some foods, and because industry has failed to set useful serving sizes in many cases, the agencies have concluded that they should establish serving sizes for foods needing them.

Proposed Actions: FDA will publish final serving size regulations for some beverage products, cereal, and meal replacements. FDA and USDA will propose regulations to establish serving sizes for additional product classes and/or types of foods.

Labeling of Sugars

This issue concerns whether to increase information food labels give about sugars and how to express this information.

No Federal regulations specifically govern the quantitative labeling of a food's content of sugars. Segments of the food industry, notably the cereal industry, voluntarily include a breakdown of carbohydrates in their foods into complex carbohydrates and simple carbohydrates (sugars). They add this information to these foods' nutrition labeling.

Over the past few years, consumers have become increasingly concerned about the quantity of sugars they are consuming. This concern results from a desire to reduce caloric intake, from the acknowledged relationship of sugars to dental caries, and from the possible association of consumption of sugars with other diseases. Some also believe that consumption of sugars is responsible for deteriorating eating habits and a perceived decline in the health of Americans. The only demonstrated hazard that sugars pose to the public health, however, remains their contribution to dental decay.

The results of the food labeling initiative absolutely confirm this increased public interest. (The following discussion groups together all comments on sugars labeling, whether they were made in the context of ingredient labeling or nutrition labeling.) Of all those who commented orally and in writing in response to the agencies' request for comments on food labeling, 27 percent asked for information about sugars—making sugars the food component that generated the most public concern. Eighty-two percent of the 892 people specifying which foods should bear sugar labeling wanted this information on "all" foods. Nine hundred eleven commenters specifically requested that the content of total sugars (61 percent) or added sugars (23 percent) be declared on product labels. More than half of the 1,135 commenters who discussed how to declare the amount of sugars in a food wanted to know the percentage of sugars; 8 percent wanted the amount by weight; 3 percent wanted the amount for both percentage and weight. Approximately 34 percent of the commenters on this question asked generally for the "amount" of sugars in a food without specifying a method for listing. Relatively few commenters (444) expressed a preference for the location of this information about sugars on labels. Over 65 percent of those said they wanted this information on a product's ingredient label, while 28 percent wanted it on the nutrition label.

In the Food Labeling Survey, sugar was the food component of most concern to consumers. It was the most frequently avoided substance (by a reported 24 percent of all consumers), it was the ingredient whose presence in the ingredients list was noticed most often, and it was the substance about which the consumers most frequently wanted information.

Proposed Actions: FDA will propose to amend the nutrition labeling regulations (21 CFR 101.9) to require quantitative declaration of total sugars as part of nutrition labeling. USDA will propose regulations to require, as part of nutrition labeling, quantitative declaration of the total sugars a food contains.

Recognizing that some foods provide insignificant quantities of sugars, the agencies are seeking information on the amount of sugars (grams per serving or percentage by weight) that should trigger the label declaration. FDA, USDA, and FTC have established a task group to develop criteria for determining such a level of sugars. In developing its proposal on this issue, the task group will consider comments it receives in response to this request. The agencies estimate that this assignment will be completed in 4 months after the close of the comment period.

USDA and FDA will seek or support legislation to provide them with explicit discretionary authority to require quantitative labeling of sugars on the basis of public health significance.

To complement their actions on labeling of sugars, the agencies will conduct an educational program to increase consumers' understanding of how sugars are declared on food labels.

This rather involved issue deserves further explanation. FDA has jurisdiction over most sugar-sweetened products, but it does not have explicit authority to require across-the-board quantitative labeling of sugars on all foods. The current authority, among other things, does allow FDA to amend the nutrition labeling regulations to include quantitative declaration of sugars—and the first part of the agencies' proposal shows FDA intends to do so. Public preference on this issue is so clear, however, that a full response to it requires FDA and USDA to seek or to support legislation for discretionary authority to require quantitative labeling of sugars on the basis of public health significance—a second action they propose to take. The agencies have concluded that the declaration of sugars (triggered by a level to be specified) should be based on the total amount rather than the amount of added sugars because (1) a declaration on the basis of added sugars would not provide the complete picture of the total content of sugars in a product, (2) the body cannot differentiate between sugar molecules, whether they are added or not, and (3) analysis to distinguish added from total sugars is difficult, if not impossible, in most instances.

The agencies have further concluded that labeling information on the content of sugars belongs more properly with nutrition labeling because the total sugar content of the product is of foremost importance to the consumer. If the labeling of sugars appeared in the ingredient statement, only added sugars would be declared, even though

indigenous sugars contained in the other ingredients could constitute the bulk of sugars in the product. The agencies have not ruled out the possibility of requiring those foods containing a large amount of sugars to declare this information in the product name, e.g., "Cereal X, contains —— percent sugars."

The form of quantitative declaration (percentage by weight, grams per serving or other units) remains at issue because percentage labeling alone is potentially misleading. A food declaring a higher percentage of sugars than another may in fact provide a lesser amount of sugars per serving than a product with a lower percentage by weight of sugars. Researchers at FDA are now working on this problem.

Sodium and Potassium Labeling

Current FDA (21 CFR 105.69) and USDA (9 CFR 317.2(j)(2) and 381.124, and 7 CFR 2859.411(e)) regulations make the declaration of a food's sodium content voluntary, in the absence of a claim about the sodium content of a food. When a product does bear sodium labeling, its label must list the number of milligrams of sodium per 100 grams and per serving. The regulations do not require sodium declaration as a part of nutrition labeling, and under the present rules, labeling of sodium content does not make full nutrition labeling mandatory.

The sodium content of foods provoked a significant public response. This discussion groups together all of the comments on sodium and potassium labeling whether they were made in the context of ingredient or nutrition labeling. Nearly 25 percent of all commenters discussed this issue in their oral and written statements, making it second only to sugars as the food component whose label declaration most concerned the public.

Public concern about the levels of sodium in the American diet has increased in recent years. This interest arose after several reports concluded that current intake levels exceed physiological needs. The basic question involves the relationship of sodium, derived from salt or other sodium-containing compounds, to hypertension and other physiological disorders. Clinical conditions such as renal disease, requiring control of sodium intake, frequently require the simultaneous control of potassium, and control of potassium often requires sodium control as well. An estimated 20 to 30 million Americans have diseases or disorders for which controlling sodium intake, potassium intake, or both, is important. As a result, many consumers believe that product labels need to display more information about the sodium and potassium content of foods.

Six hundred thirteen commenters specifically addressed whether total or added sodium content should be declared on product labels; 60 percent wanted content declared for total sodium, 23 percent favored listing only added sodium, and 17 percent advocated the declaration of both.

Although 1,063 commenters discussed how to declare the amount of sodium in foods, their suggestions were divided. Forty-nine percent wanted to know the amount of sodium in a product but did not specify what form this information should take. Of those commenters expressing a preference, 24 percent wanted it listed as a percentage and 25 percent wanted it listed by weight. (A few wanted both.)

Finally, as with sugars, not many commenters offered opinions on the placement of quantitative sodium labeling on food labels. Four hundred fifty commenters discussed this question; 60 percent preferred that sodium content appear in the ingredient statement, nearly 35 percent wanted it on the nutrition label, and 5 percent wanted it as a distinct designation on the principal display panel.

The views expressed in FDA's Food Labeling Survey parallel the hearing and written comments. Sodium was second only to sugars as the food component of concern: 13 percent of the respondents reported attempting to avoid consuming sodium whenever possible.

Proposed Actions: FDA will propose to amend its nutrition labeling regulations to require the declaration of sodium and potassium content as part of nutrition labeling.

USDA intends to propose reguations that would require sodium labeling as a part of nutrition labeling, and it will consider including potassium labeling in this proposal.

FDA and USDA will propose regulations to define "low sodium." They will also consider defining "reduced sodium" foods and standardizing the claims appropriate for foods containing no added sodium.

FDA will seek or support legislation to provide it with explicit discretionary authority to require quantitative labeling of sodium and potassium on the basis of public health significance. USDA believes it has such authority but will support legislation to provide more explicit authority for both agencies.

In their deliberations, the agencies considered various options for increasing labeling information on sodium and potassium content. They have concluded that information on sodium and potassium would be better addressed as a part of nutrition labeling because knowing the total sodium and potassium content of the product is most important to consumers. Placement of the sodium and potassium content labeling in the ingredient statement, for example, would require only added sodium and potassium to appear, even if the indigenous sodium and potassium contained in the other ingredients represented the bulk of these elements in the product. In addition, issuing regulations defining "low sodium" and "reduced sodium" foods and standardizing the claims appropriate for foods containing no added sodium should also help consumers monitor their intake of sodium and encourage manufacturers to formulate foods with lower sodium content.

Fatty Acid and Cholesterol Labeling

Fatty acids are present in all fats, and their composition determines whether a fat is "saturated" or "unsaturated." Cholesterol is a fatty substance called a steroid. Consumers are interested in both because of the possible association between their consumption and coronary heart disease. At issue here is (1) whether food labels should present more information about fatty acid and cholesterol content and (2) if so, what such information should include.

FDA regulations (21 CFR 101.25) permit the voluntary inclusion of fatty acid and cholesterol content as part of nutrition information. They allow a food's label to include information on fatty acid content provided the food contains 10 percent or more fat on a dry weight basis and not less than 2 grams of fat in an average serving. If a food product makes any claims about fatty acids and/or cholesterol, the information required by this regulation then becomes mandatory. The label of a food bearing this information must also state the following: "Information on fat (and/or cholesterol, where appropriate) content is provided for individuals who, on the advice of a physician, are modifying their dietary intake of fat (and/or cholesterol, where appropriate)." It is now obvious, however, that many people want to modify their consumption of fat and cholesterol—and are doing so—without specific medical supervision. Such instructions may not, therefore, always be necessary. No specific USDA regulations cover fatty acid or cholesterol labeling, but the labeling of meat, poultry, and egg products follows FDA's guidelines. FTC's Division of Food and Drug Advertising has recommended that the Commission require certain fatty acid and cholesterol

information in advertising making claims in this area.

The public's concern about coronary heart disease, and the belief that this disease may be related to dietary factors—including the consumption of fatty acids and cholesterol—has aroused interest in the amount and kind of fat and cholesterol contained in foods.

Nearly 14 percent (1,346) of all commenters mentioned the labeling of fats and oils in foods. (As in the discussions of sugars and sodium, the comments on fatty acids and cholesterol—whether they were made in the context of ingredient or nutrition labeling—have been combined.) One thousand one hundred and forty-six wanted to know the quantity of fats and oils in food; 1,302 wanted to know the their source; and 458 wanted to know the amounts of unsaturated and saturated fats in foods. Relatively few specified where this information should appear on the food label; of those 321 commenters who specified location, 69 percent wanted this information in the ingredient statement, 28 percent favored locating it on the nutrition label, and 3 percent preferred the principal display panel.

The results of FDA's Consumer Food Labeling Survey confirm this public concern about cholesterol and fat content. Twelve percent of the respondents who claimed they read nutrition labels said that cholesterol is an important item. Given a list of 38 nutrients, 65 percent of the respondents listed cholesterol information as "very important," while 52 percent listed polyunsaturated fats as "very important" and 50 percent said the same for saturated fats. The mandate of consumers is clear, and the agencies agree that increased food labeling information about fatty acids and cholesterol is in order.

Proposed Actions: FDA will continue to require that the cholesterol or fatty acid content of a food be included on nutrition labeling when claims about these substances are made.

FDA will propose to amend the fatty acid/cholesterol regulation to require fatty acid labeling whenever cholesterol is declared and cholesterol labeling whenever fatty acids are declared.

FDA will propose to amend the present fatty acid/cholesterol regulation to eliminate the requirement for the statement "Information on fat (and/or cholesterol as appropriate) content is provided for individuals who, on the advice of a physician, are modifying their dietary intake of fat (and/or cholesterol as appropriate)."

FDA will propose a regulation to define the terms "low cholesterol," "reduced cholesterol," and "cholesterol free." FDA will also consider proposing regulations to govern claims about fatty acid content.

FDA will seek or support legislation to provide it with explicit discretionary authority to require cholesterol/fatty acid content labeling on the basis of significance to public health. USDA believes it has such authority but will support legislation to provide more explicit authority for both agencies.

USDA will propose regulations to require cholesterol labeling as part of nutrition labeling.

Fiber Labeling

Fiber is an essential dietary component for normal bowel function. Some advocates of high fiber diets have theorized that the incidence of bowel cancer and other intestinal diseases may be related to the decreased amount of fiber in Western diets, and these theories have gained a measure of public currency. Some segments of the food industry, especially cereal manufacturers, have increased the use of fiber declaration on product labels in response to the increased public interest. The question here is whether to increase information food labels provide about fiber content.

Until recently, scientists and consumers had only a limited interest in the fiber content of foods. The biomedical aspects of fiber in its various forms are unsettled and the subject still generates considerable controversy. There is no scientific consensus on a definition of "fiber". Both the government and industry are still conducting research to solve the methodological problems related to the several types of dietary fiber. The only official method of analysis currently available is for "crude fiber," which is just a fraction of total dietary fiber. Finally, the relationship of dietary fiber to health remains controversial. FDA regulations (21 CFR 105.3(d)) now require that any disclosure of fiber content must be expressed as "crude fiber" and declared as a percent by weight.

Two hundred seventy-eight commenters (or 8 percent of those commenters specifying what kinds of nutrition information is most important) thought that knowing a food's fiber content is important. Although some consumers have said they want food labels to provide more information about the fiber, many appear to have limited knowledge about fiber content of foods and scant understanding of the differences between crude and dietary fiber. As a result, many may be unable to evaluate information on fiber adequately.

This state of affairs is not surprising, given the scientific uncertainty and controversy involving various aspects of fiber. FDA, USDA, and others currently are conducting research on methodologies for measuring fiber and on the relationship of dietary fiber constituents to health.

Proposed Action: FDA and USDA will not require dietary fiber labeling as part of nutrition labeling until there is a clearer consensus on a definition of dietary fiber, until methods of analysis are developed, and until its significance in the diet is better understood.

Disease-Related Claims on Food Labels

Should FDA and USDA alter their general policy of not allowing medical claims on food labels? FDA regulations (21 CFR 101.9(i)(1)) specifically prohibit claims in labeling that a food is adequate or effective in the prevention, cure, mitigation, or treatment of a disease or a symptom. Similarly, the FTC has challenged such claims in food advertising, and the FTC staff has proposed that the Commission prohibit the use—in advertising—of claims that violate this FDA regulation.

Only 42 commenters expressed views on allowing food labeling or food advertising to make medical claims, and the majority opposed permitting claims such as "this low cholesterol food is beneficial in preventing heart disease" or "this low calorie food will help you lose weight."

Interest in specialized food products available for medical conditions, however, continues to increase. FDA is developing a proposal concerning the labeling of these specialized foods, sometimes called "medical foods." This proposal will cover special foods specifically marketed for use under medical supervision; it will permit those foods—such as products used to treat phenylketonuria—to bear therapeutic labeling.

Some consumers have also shown interest in dietary regimens and special food products for use in preventing colds, causing weight loss, and the like. The current state-of-the-art in nutrition and disease treatment remains insufficiently developed to allow manufacturers of less specialized dietary preparations or conventional foods to make medical claims without being misleading to the consumer. Furthermore, it is the total diet, not an individual food item, that establishes the role of nutrition in determining health and reduces the risk of diet-related diseases.

Proposed Actions: FDA and USDA therefore intend to maintain the present policy of not allowing disease-related claims to appear on the labeling of conventional food products, but they will reexamine this policy if the need arises.

FDA will proceed to develop proposed regulations covering "medical foods" (foods for use under medical supervision), permitting the use of appropriate therapeutic claims about such foods.

Open Date Labeling

The term "open date labeling" refers to readable, understandable dates on food packages that can be used by consumers to tell when a product's quality will change. Traditionally, most dates on food packages have been "closed," which means they are written in code and intended only for the use of manufacturers, distributors, or retailers.

There is widespread consumer interest in open date labeling. Approximately 45 percent of all commenters discussed the issue, putting it third in the hierarchy of public concern, behind ingredient and nutrition labeling. Almost all those who commented on open date labeling favored it for at least some foods. Forty-three percent of those in favor said that all foods should bear open date labels; about 12 percent, however, said that open date labeling should apply only to perishable foods.

In the food labeling notice, the public was also asked what form this date should take. Of the 3,352 commenters addressing this question, some of whom gave multiple answers, 49 percent of the commenters favored expiration dates; 33 percent preferred knowing the date the food was packed; 28 percent supported "pull" dates (the date a product should be removed from the shelf); 16 percent supported freshness/quality assurance dates; and 4 percent recommended that different dates be used for different foods. Of the relatively few (672) commenters who discussed whether open date labeling should be mandatory or voluntary, 94 percent wanted mandatory rules.

Respondents in FDA's Food Labeling Survey also reported widespread interest in open date labeling and a desire to see more foods labeled with such dates. Their responses also parallel the hearing and written comments by expressing a strong preference for an expiration date rather than a pack date or a quality assurance date.

Open date labeling is voluntary under present Federal law. The FD&C Act does not contain any specific provision that requries open date labeling, and FDA currently has no open date labeling regulations. Under the adulteration and misbranding provisions of the act, FDA may require an expiration date when a product would violate the act if it were not sold by a certain date and there is a substantial possibility the violation would occur before sale. This concern is particularly applicable to deterioration that would cause a food to become a health hazard. FDA believes that explicit authority is desirable before it establishes any general requirements in this area.

USDA regulations provide for voluntary open date labeling on meat and poultry products. When an open date is used, USDA requires that it be accompanied by the explanatory phrase, "packed on," "sell by," or "use before" (9 CFR 317.8(b)(32) and 381.129(c)). USDA allows processors to label meat and poultry products with additional statements such as "full freshness 10 days beyond date shown when stored at 40° F or below." USDA egg products regulations require only that the label be marked with the production code or lot number from which the pack date can be determined (7 CFR 2859.411(c)(3)).

Many State and local jurisdictions have taken the lead in requiring open date labeling on certain foods. These requirements, however, often differ from jurisdiction to jurisdiction, and the variation is costly for manufacturers and confusing for consumers. It should be pointed out that the meat, poultry products and egg products inspection acts specifically prohibit State and local governments from imposing labeling requrements on federally inspected products that are in addition to or different from those imposed on federally inspected establishments or plants that operate under the acts. Nevertheless, the agencies recognize the important role that the States and localities have played in requiring open date labeling.

The agencies have agreed that open date labeling is a sound idea, and that the Federal government should act to extend open date labeling to more foods. Further study and discussion is needed to determine which foods should have open date labels and what kinds of open dating ("packed on," "sell by," etc.) should be used. In addition, uniformity in approach is essential. The Federal agencies will work closely with State and local governments to develop a consistent approach that will minimize manufacturers' costs and eliminate consumer confusion.

Proposed Action: FDA will seek or support legislation to provide it with explicit discretionary authority to require open dating on classes of foods as is found necessary. USDA believes it now has such authority but will support legislation to provide more explicit authority for both agencies.

USDA will propose regulations to require open dating on perishable and semiperishable foods to the extent that authority under current law permits.

Imitation/Substitute Foods

This issue concerns the proper labeling of those foods that resemble and are intended to substitute for traditional or standardized products, but do not contain the same ingredients or the same proportion of ingredients. For example, "imitation mayonnaise," resembles the traditional food known simply as "mayonnaise," but the imitation product usually does not contain the same amount of fat, may omit eggs or other ingredients, and may contain ingredients not present in the standardized "mayonnaise."

Under the FD&C Act, an imitation food is considered misbranded if it does not bear the work "imitation" followed by the name of the food it copies. This provision is intended to prevent consumers from being misled into thinking that imitation foods are the same as traditional or standardized products.

Judging from the hearing and written comments, there is considerable public interest in the issue of imitation and substitute foods. Nearly one-fifth of all commenters discussed some aspect of imitation and substitute foods. Of the 1,350 commenters who addressed the issue of naming imitation and substitute foods, the overwhelming majority (75 percent) said that they should be labeld "imitation." Less than one-fifth of the commenters said that such products should be given a new, descriptive name. A few said either approach would be acceptable or that such foods should be given a new name plus the "imitation" label.

Although the comments clearly demonstrate the importance of imitation labeling to the public, they were too general to provide a definitive guide for policy. Imitation labeling is a rather complex issue, and some facets of the issue are very controversial.

Therefore, the agencies are taking no position on the issue at this time, but instead are presenting five possible options to stimulate further public comment. As background to the discussion of these options, both a summary of the main elements of controversy and a description of how the present Federal policy has evolved are in order.

The first element of this problem concerns the meaning of the word

"imitation." Because label space is limited, a single word such as "imitation" is valuable if it can be used in place of several descriptive words. The word "imitation," however, may not mean as much to consumers as its adherents believe, and may even be misleading. The Final Report of the 1969 White House Conference on Food, Nutrition and Health said that the "imitation" label was potentially misleading to consumers; the report noted that this term failed to inform the public about the actual characteristics and properties of a new food, and in some instances unfairly implied inferiority.

Another aspect of the problem concerns innovation. There is nothing in the FD&C Act, the FMI Act, or the PPI Act that explicitly mentions the government's proper role in food innovation. However, the mere presence of governmental regulation, and hence involvement in industry processes, makes the effect on innovation an important issue. Various groups in industry as well as consumers stand to gain or lose depending on governmental policies affecting food innovation. The producers of new and modified products obviously have an interest in governmental policies that make the introduction and marketing of these products as easy as possible, while producers of traditional foods may have their markets reduced by these kinds of policies. Some new and modified foods may have a significant health or price advantage over currently available products, while others may have health and cost disadvantages. Since consumers may stand to gain from one type of new food and lose from another, it is important that they have a basis for perceiving the difference.

A third point concerns the fairness of allowing new products to "co-opt" the names of traditional products. One side argues that new products should be required to establish a market based on their own qualities and intrinsic ability to attract customers, rather than by relying on the goodwill associated with the names of other products whose manufacturer may have spent years developing a market. The other side contends that the consumer is better served by facilitating comparisons among products that are similar and letting the marketplace decide whether the traditional products should have an advantage. Because there are strong arguments on both sides, it is difficult to decide the best government policy. Unfortunately, neutrality is impossible; even a decision to do nothing would be a policy decision that would have consequences in the marketplace.

The Federal policy on substitute foods has evolved over a number of years. As new food products developed, the agencies concluded that some new products were used for the same purposes as traditional foods, but were sufficiently different from their traditional counterparts to make the "imitation" label inappropriate. They also realized that the term "imitation" often connoted inferiority, and that consequently the imposition of "imitation" labeling was probably inhibiting new product development.

A 1973 FDA regulation (21 CFR 101.3) narrowed the use of the term "imitation." Before 1973, "imitation" had to appear on the label of all substitute foods except for a few that went through the process of obtaining a new standard of identity or common or usual name. This policy did not directly take into account nutrient content. Under the 1973 regulation, which is in effect today, however, only nutritionally inferior substitute foods have to be labeled "imitation." Nutritional inferiority is determined by protein content and the content of those 19 vitamins and minerals for which U.S. RDA's have been established. If a substitute food has essentially the same amounts of these nutrients as the traditional food, then it can be labeled with an accurate common or usual name (but still not the traditional name), instead of "imitation." This interpretation of section 403(c) of the FD&C Act has been upheld on judicial review.

It should be noted that the determination of nutritional inferiority under the 1973 regulation does not take into account such factors as carbohydrate, fatty acid, sodium, cholesterol, fiber, and trace element content.

Present Federal policy is based primarily on the 1973 regulation. FDA and USDA make decisions on names for substitute foods that have essentially the same amount of U.S. RDA nutrients on a case-by-case basis. These decisions are usually made in response to a petition for a standard of identity or a common or usual name, or after a manufacturer has gone ahead and given a name to a new food and there is no regulation prescribing a specific name. The FD&C Act does not provide for, and FDA does not require, preclearance of names. USDA, through its prior approval system for labels, does require preclearance. Under certain circumstances, the comon or usual name for a substitute food can include the name of a traditional food and, in some cases, must include the percentage of the characterizing ingredient.

The Federal policy on imitation labeling has attracted considerable interest as the public has become more concerned about the nutritional quality of substitute foods. Of particular interest is the standard for determining nutritional inferiority. Some are concerned that the standard does not take into account the quantities of fiber, all trace minerals, or other micronutrients that may be available in the traditional food. They contend that a person on a diet of substitute foods might develop dietary deficiencies due to the absence or insufficiency of these nutrients. They therefore would prefer use of the "imitation" designation on all substitute foods. In response to these concerns, it should be noted that although these deficiencies are theoretically possible, the data now available do not indicate there currently is a problem.

Some members of the public have also expressed the view that the term "imitation" should be applied to substitute foods that offer no perceived health advantages, but not to foods that do offer such an advantage, e.g., a substitute food containing less fat, sugar, salt, or cholesterol. Still others believe that any change in the proportions of the characterizing or valuable ingredients in a traditional food should render a food an imitation, regardless of its nutrient content. Finally, some people object to including the name of a traditional food as part of the identification of a substitute food, even if preceded by "imitation". They prefer using new names for all new and modified foods.

Just as there are differing views among consumers, industry members also disagree on the issue of substitute foods. Producers of traditional foods naturally tend to believe that totally new names should be used for nontraditional foods. On the other hand, producers of new substitute foods often would prefer to tie their product names as closely as possible to those of traditional foods.

The existing policy does permit manufacturers some flexibility in development and marketing new foods. If the new food meets certain nutritional standards, then it may use a name that affirmatively describes the product. The agencies believe the current policy represents one practical solution to a complex and a controversial issue. They recognize, however, that it has limitations and is not the only possible solution. After reviewing the recent public comments, the agencies also believe that the government has not

adequately explained the policy in the past. Therefore, the agencies want to obtain more comments from the public. They are soliciting comments on the following five options and welcome other suggestions as well:

1. *Maintain the existing policy.* Foods that are not nutritionally inferior to foods for which they substitute do not have to be labeled as imitations but can be given new names that are not misleading. ("Not nutritionally inferior" is defined to mean providing essentially the same amounts of protein and 19 vitamins and minerals for which U.S. RDA's have been established as the foods for which they substitute. It does not include constituents such as fats, fiber, sugars, etc.)

Under this definition, foods that are nutritionally inferior to the foods for which they substitute must be labeled as imitations.

Pro: Manufacturers are encouraged to maintain nutritional quality while affirmatively labeling the product; innovation in food technology is encouraged.

This policy has been upheld by the courts, thus ensuring stability and conserving resources that might have to be devoted to legal challenges if the policy were changed.

It would be the least expensive option because it is already in place.

Con: This policy does not necessarily provide as much information about the substitute food as some consumers may want; it may confuse consumers as to how the substitute food differs from the traditional or standardized food and therefore makes it difficult to shop. It also may be misleading about nutritional value.

It does not differentiate substitute foods that may offer a health advantage from other substitute foods.

It may result in the use of a traditional food's name as part of the common or usual name of the substitute food and, therefore, does not satisfy those who object to use of the name of the traditional food as part of the name of the substitute food.

2. *Expand use of imitation labeling.* (Pre-1973 policy.) Any food that resembles and is intended to replace a traditional or standardized food, regardless of its nutrient content or other characteristics, would be called "imitation" or alternatively, there must be established for this food a common or usual name or a standard of identity. This was the policy before the 1973 regulation.

Pro: It would alert consumers that such foods are not the "real thing" and are intended to replace traditional or standardized foods.

It would avoid the difficult task of determining the adequacy of the criteria used to judge nutritional inferiority.

Con: It would not satisfy those who do not want any use of the traditional name.

The term "imitation" does not tell consumers much about a food because its focus is on what the food is not rather than on what it is. Therefore, consumers will not be adequately informed as to the identity or intended use of the substitute food. It does not differentiate between substitute foods that have a lower nutrient content than the foods they are intended to replace and other substitute foods or between those that may offer a health advantage (e.g., foods that contain less fat or sugar) and those that do not.

The use of the term "imitation", because of its negative connotation, discourages new food innovation and removes the incentive to maintain U.S. RDA nutrient content.

If a common or usual name or standard of identity is sought for such a product, the laborious and expensive administrative process inherent in both approaches could also discourage new food innovation. (Both methods involve notice and comment rulemaking, and the standard of identity approach additionally allows an opportunity for a public hearing.)

3. *Expand use of imitation labeling as described in option 2 but add to the "imitation" designation a common or usual name that explains what the product is.*

Pro: It better informs the consumer about what the product is or is not.

Con: It would not satisfy those who do not want any use of the traditional name (which might be part of the common or usual name.)

It does not differentiate between substitute foods that have a lower nutrient content than the foods they are intended to replace and other substitute foods.

It would call for long labeling (e.g., "imitation cheese and sausage pizza made from 30 percent vegetable oil and soy flour and sausage-flavored isolated protein") that could cause space problems and make labeling less understandable.

4. *Expand use of imitation labeling as described in option 2 but add to the "imitation" designation an explanation (not necessarily as part of the product's name) of how the substitute product differs from the traditional food.*

Pro: It better informs the consumer about what the product is or is not.

Con: It would not satisfy those who do not want any use of the traditional name.

It does not differentiate between substitute foods that have a lower nutrient content than the foods they are intended to replace and other substitute foods.

It could call for even longer labeling than option 3. For example, the name of the product mentioned in option 3 could be "imitation cheese and sausage pizza—this product contains vegetable fat and soy flour instead of milk fat and milk protein normally found in cheese and contains isolated protein rather than sausage." This approach also could label space problems and make labeling less understandable.

5. *Establish a policy based on the proportion and type of characterizing or valuable ingredients.* This option has two components. First, if the proportion of characterizing or valuable ingredients in the food has been changed from that in the traditional or standardized food, the name of the product must consist of the word "imitation" folllowed by the name of the food copied. For example, a substitute for strawberry jam in which the percentage of strawberries has been decreased would be labeled "imitation strawberry jam."

Second, if characterizing or valuable ingredients are replaced, then an accurate common or usual name must be used. This name could include the traditional name only if it described how the substitute food differed from the traditional food. For example, a breakfast meat substitute might be lebeled "bacon-flavored soy protein breakfast strips."

In both cases, fanciful names would also be permitted. For example, the label of the soy protein breakfast product referred to in the preceding paragraph might also include the fanciful name, "Morning Openers." In neither case could the fanciful name include the name of the traditional product, e.g. "strawberry jam" or "bacon."

Pro: Substitute foods would be distinguished from traditional and standardized foods. Substitute foods with different characterizing ingredients would be distinguished from foods with reduced characterizing ingredients. Consumers would receive more information than they now do about substitute foods with different characterizing ingredients.

The policy would partially satisfy those who object to the use of traditional names as part of the name of a substitute food.

It would avoid the difficult task of determining the adequacy of criteria used to judge nutritional inferiority. Criteria based on valuable or characterizing ingredients might be

simpler to administer and communicate to consumers.

Con: Use of the term "imitation" would be retained for some substitute foods. The term "imitation" does not tell consumers much about a food because its focus is on what the food is not rather than what it is.

It would not differentiate between substitute foods on the basis of nutrient content. This would reduce the present incentive to maintain the U.S. RDA nutrient content of substitute foods.

It might not differentiate between those that may offer a health advantage and other substitute foods.

There might be disagreements as to which ingredients in a traditional or standardized food are characterizing or valuable.

It might require a legislative change in the current statute.

Food Fortification

Food fortification involves the enrichment of foods, the restoration of nutrients, and any other addition of essential nutrients to foods; the agencies sought the public's views on whether to increase labeling and quantitative control of fortification.

FDA amd USDA currently have limited control over food fortification, directly through food standards and special dietary food regulations, and indirectly through regulation of imitation and substitute foods and through exercising their authority to prevent misleading labeling. FDA lacks, however, express general authority to control the fortification of foods. USDA under current policy prohibits the addition of vitamins and minerals to meat and poultry products, unless specific regulation permits their addition (as in the case of adding vitamin A to margarine) because no need to fortify these products has been demonstrated. USDA's egg product regulations do allow the addition of vitamins and minerals to products in the way FDA's standards and regulations would allow—unless the purpose of this addition is to make the egg products appear to be better or of greater value than they are (21 U.S.C. 1033(a)(8), 7 CFR Part 2859). Industry has generally added nutrients to foods in a rational way, except in a limited number of special instances involving such products as certain beverages, snack foods, and certain cereals.

Approximately 15 percent of all commenters discussed some aspect of food fortification; 84 percent of the 1,103 commenters who discussed the advisability of fortifying foods gave their unqualified or conditional approval to permitting food fortification.

Of the 340 commenters who gave reasons for fortifying foods, 72 percent favored it to replace nutrients lost in processing, 30 percent to protect the public health, and 14 percent to enhance general nutritional value of the food. (Commenters could list more than one reason.) The most frequent argument against fortifying foods was overfortification, which could cause an imbalance of nutrients in the diet or their excessive intake. Commenters also registered fears that people would replace naturally nutritious foods with fortified foods, that fortification could lessen manufacturers' concern for nutrient retention, or that it could lead to overpromotion of a product. Ninety-four percent of the 401 people who discussed government regulation of forification supported it.

Public reservations thus stem largely from concern about overfortification and the potential for inappropriate fortification; some experts regard deficiency diseases as a concern of the past, and argue that nutrient excesses pose a more substantial problem. Analysis of American dietary practices suggests that this view has some validity, but the subject is complex. Some individuals doubtless consume excessive amounts of some nutrients, such as sodium and phosphorous; but many of these excesses involve personal eating habits and not fortification. And yet a change in the food industry's current restraint toward fortification would be a cause for serious concern, as would an increase in consumption of dietary supplements.

The consumption of fabricated foods intended to substitute for traditional foods does seem likely to increase, and with it the need to ensure that these substitute foods are properly fortified. Furthermore, as Americans reduce their caloric intake, assuring that their diet provides adequate nutrients becomes increasingly important.

Proposed Actions: FDA and USDA will therefore seek or support legislation giving them explicit discretionary authority to control the fortification of food when exercising this control is deemed of public health significance. In the interim, FDA will publish guidelines on food fortification and encourage manufactures to adhere to them.

The agencies agree that any useful food fortification policy must address a number of needs:

1. The need to add nutrients to staple foods to correct deficiencies in a clearly-defined population.

2. The need to avoid adding certain nutrients to foods that are not appropriate vehicles for added nutrients.

3. The need to maintain the total original nutrient profile of foods by restoring nutrients lost in processing.

4. The need to assure that substitute foods are not nutritionally inferior to the foods they replace.

5. The need to require that fabricated foods replacing large portions of the diet or the entire diet have a complete balance of nutrients relative to their calorie content.

6. The need to prevent misleading promotions of fortified foods that present no advantages over other foods.

FDA, USDA, and FTC agree that future food fortification requires appropriate guidance, and they are convinced that such guidance should derive from the legislative authority to control, when public health significance requires it, fortification of foods. The agencies intend to seek this authority, but in the meantime FDA will soon issue a separate **Federal Register** notice entitled "General Principles for the Addition of Nutrients to Foods." Besides providing general guidance on fortifying foods, this notice also explains which foods, such as meat and poultry products and snack foods (carbonated beverages, candies, etc.), FDA considers to be inappropriate for fortification.

Safe and Suitable Ingredients and Food Standards

Understanding this issue requires briefly sketching the history of food standards. Since the early 1940's, FDA has issued regulations called standards of identity which describe what ingredients may or must be used in making many traditional foods. These standards initially were almost strict recipes, although they allowed some minimal flexibility for the use of certain optional ingredients such as colors, flavors, and spices. In other words, they listed the specific mandatory and optional ingredients that the food could contain. These early standards, some of which covered breads, canned fruits, and vegetables, were designed to guarantee the uniform quality and compostion of traditional foods familiar to the American household, to control the use of food and color additives, and to control the basic nutritional quality of standardized foods.

This policy changed significantly in 1961, when FDA issued the breaded shrimp standard (21 CFR 161.175). This standard shifted regulatory focus from all ingredients to the characterizing (mandatory) ingredient(s), which in this case involved the amount and nature of the shrimp. Thus, while this standard specified that such a product must contain 50 percent shrimp, it permitted the use of any "safe and suitable" batter

ingredients. This move toward safe and suitable optional ingredients initiated a period of greater flexibility in FDA's food standards. Standards of identity now allow manufacturers to use any safe and suitable ingredient that performs the function specified in the standard. For example, instead of specifying a preservative by name (calcium propionate, sodium benzoate, etc.), a standard allows any safe and suitable preservative. (Of course a standardized food's label must declare the particular preservative used.) The shift in policy was made possible by enactment of the Food Additives Amendment of 1958 and the Color Additive amendments of 1960 to the FD&C Act, amendments requiring that FDA approve the safety of food and color additives before they could appear in foods. Therefore, FDA no longer had to rely on food standards for premarketing review of the safety of substances added to food. (Before these amendments, only ingredients in standardized foods were subject to premarket approval.)

The phrase "safe and suitable," as defined by regulation (21 CFR 130.3(d)), means that the ingredient it describes:

1. Performs an appropriate function in the food in which it is used;

2. Is used at a level no higher than necessary to achieve its intended purpose in that food; [and]

3. Is either (a) not a "food additive" or "color additive" as defined in section 201(s) or (t) of the FD&C Act as used in that food, or (b) if it is a food additive or a color additive as so defined in those sections, its use conforms with regulations established in accordance with section 409 or 706 of the act.

Thus, the "safe and suitable" policy is applicable only to optional, functional indgredients in standarized foods that are (1) approved food or color additives, or (2) prior sanctioned, or (3) generally recognized as safe—a category known by the acronym "GRAS." These ingredients are generally, but not always, used in small quantities. At the heart of this FDA policy is the principle that manufacturer choice among safe and suitable ingredients in a food with a stardard of identity is not appropriate if the use of the safe and suitable ingredients alters the basic characteristics of the food, whether by degrading its taste, smell, appearance, or nutritional characteristics. The food's label, further, must specifically identify any "safe and suitable" ingredient it contains—except for colors, spices, and flavors, which may be declared generally.

In marked contrast to other food labeling issues, food standards and the related matter of "safe and suitable" ingredients generated a response from only 4 percent of all commenters. They generally sought more information on the ingredients involved. Of 217 comments on the issue of food standards, 41 percent wanted standards eliminated, 23 percent wanted standards applied to more foods, and 9 percent wanted food standards applied to fewer foods. Only 213 comments focused on the flexible uses of safe and suitable ingredients in standardized foods: 62 percent favored making the present "safe and suitable" policy less flexible, 10 percent wanted it more flexible, and 29 percent thought it sufficiently flexible.

The limited amount of public reaction on this issue suggests either that the "safe and suitable" policy concerns consumers relatively little or that their understanding of it is insufficient to permit meaningful comment. Such confusion as exists, the agencies believe, may well be partly due to their failure to explain the concept adequately. They therefore believe it is necessary (1) to explain the policy more accurately and (2) to propose certain modifications to clarify it and to ensure it is applied where appropriate.

Essentially, a standard of identity, according to FDA's current "safe and suitable" policy, only generally identifies certain categories of functional ingredients a food may contain, and it leaves the selection of the specific functional ingredients to the manufacturer. The types of food ingredients in this category would be optional in a standardized food and serve only a functional purpose; the particular functional safe and suitable ingredient a manufacturer chooses must be specifically identified on the food's label (unless, once again, it is a color, spice, or flavor).

One of the major effects of FDA's "safe and suitable" policy, some have alleged , is to shift the burden for establishing the safety of an ingredient from the manufacturer to FDA. Some confusion may result from the name itself, for "safe and suitable" may suggest to some people that FDA exercises only limited control over ingredients in a standardized food. In reality such ingredients generally have undergone the same form of approval, before they reach the market, as ingredients used in nonstandarized foods—prior approval, GRAS, or food and color additive review. The name "safe and suitable" may also imply that FDA's review of a food standard includes an explicit safety review of each ingredient, when in fact questions of ingredients safety are resolved in accordance with other sections of the FD&C Act for ingredients in both standardized and nonstandardized foods. The food and color additive regulations, for example, specify the functions for which these substances may be used and limit the amounts that can be used. Because of the misunderstanding surrounding the name "safe and suitable" the agencies are considering alternative terminology, such as "permitted functional ingredient," which would more accurately describe the policy.

USDA regulations and standards identify acceptable food additives somewhat differently, according to (1) class of substance, (2) specific substance, (3) purpose, (4) product for intended use, and (5) quantity of use. USDA enforces a number of standards of identity or composition and through its label approval system requires minimum amounts of major ingredients in meat and poultry products. For egg products, USDA relies on the standards FDA regulations have established. USDA has, in addition, the authority to preclear labels for meat, poultry, and egg products and to review formulations to determine how food ingredients are used (21 U.S.C. 607, 21 U.S.C. 457, and 21 U.S.C. 1036). FDA does not have authority to preclear food labels (an authority some feel it should have), but assures the safety of food ingredients under other sections of the FD&C Act. Moreover, because FDA is responsible for more foods than USDA, and because of the large number of foods involved, FDA would have insufficient resources to review food labels before a food is marketed, even if it had this authority.

This approach to the approval of "safe and suitable" ingredients saves money—for FDA, for industry, and ultimately for the consumer—without any loss in the integrity of a food. It eliminates the need for lengthy and expensive administrative proceedings to amend a food standard each time a manufacturer wants to use a new or different ingredient in a standardized food. Amending a standard, for example, under the normal administrative procedures of the FD&C Act takes at least a year (and costs a minimum of $40,000); a more complex amendment may take 6 or 7 years. FDA completes the processing of about seven amendments annually. The costs to industry for petitioning to change a single standard also are high. The true cost of the amendment process becomes evident when one recognizes that FDA has issued about 275 stardards of

identity, each encompassing at least one food.

Allowing the use of optional functional ingredients permits a manufacturer of food processor to use different ingredients in response to seasonal changes, economic conditions, or the availibility of a new ingredient. The manufacturer must, of course, change the ingredient statement on the food label accordingly. The important point to remember is that this flexibility can translate into savings for consumers without reducting the quality of a food; furthermore, this policy is fairer because it allows the same flexiblity for certain functional ingredients in standardized foods that the FD&C Act permits for all ingredients in nonstandarized foods.

The agencies will *propose* the following modifications in the current policy, but before doing so, they would like to have the public's comments on the revised policy. The new policy would:

(1) Apply only to optional, functional ingredients used in quantities of less than 5 percent. For the purpose of this policy, the term "functional ingredients" would be defined as ingredients that do not alter the basic characteristics of the food.

(2) Require the declaration, on the product's label, of any ingredient that product contains (as now required for nonstandarized foods regulated by FDA and all USDA regulated foods except for colors, flavors, and spices.)

(3) Change the descriptive phrase "safe and suitable" to one, such as "permitted functional ingredient," that is less confusing and that more accurately describes this concept.

Miscellaneous Food Labeling Issues

Label Declaration of Country of Origin for Imported Foods

A small number of commenters (117) discussed whether the country of origin should be declared in the labels of imported foods. Most of them were concerned that the label on meat products does not have to list the country of origin if this product was made from imported meat combined with domestic meat, e.g., Argentine beef combined with American beef in ground beef.

Under the Tariff Act, administered by the U.S. Bureau of Customs, Department of the Treasury, an imported product entering the United States must bear the English name of the country of origin to inform the "ultimate purchasers" where the product was made. Generally, "ultimate purchaser" is defined as the last person in the country who will receive an article in the form in which it was imported. If the product is repackaged or porcessed further in the United States, the repackager or processor becomes the "ultimate purchaser," and the repackaged or converted product need not declare the country of origin. However, if the food is sold at retail in its imported form, then the product must bear the name of its country of origin.

The laws administered by USDA and FDA require that imported products meet the same standards as American-made products. FDA laws do not contain any provisions pertinent to country of origin labeling. USDA laws and regulations are consistent with the Tariff Act provision on country of origin labeling.

Problem would arise if the country of origin labeling requirement were extended to imported foods that are repackaged or further processed in the United States. Food producers generally purchase ingredients from several foreign sources and use them in a variety of products. For example, cacao beans are purchased from several countries in South America and Africa and are used in making cocoa and chocolate, which are in turn used in making a multitude of products. A country of origin requirement in such cases could be expensive, both in terms of industry's ability to comply and the agencies' ability to monitor. Furthermore, it could cause label space problems. The agencies do not believe that the costs to industry, which ultimately would be passed along to consumers, as well as the enforcement costs for the Federal government would result in any substantial consumer benefits.

Proposed Action: USDA and FDA will continue the present policy requiring that the country of origin be declared on the label for foods imported in packages and sold in such packages at retail. The policy will be reexamined in the future if necessary.

Label Declaration of Name and Address of Manufacturer, Packer, or Distributor

The current laws administered by FDA and USDA require that food labels bear the name of the manufacturer, packer, or distributor. In addition, USDA requires meat, poultry, and egg products to bear an inspection legend and a number identifying the establishment or plant that prepared the product. A few commenters (40) said they wanted labels to list the food's manufacturer or packer in those cases where the label bears only the distributor's name. Their reason for wanting this information was based primarily on their right to know, although a few wanted it so they could write directly to a manufacturer for further information.

The required listing of manufacturer or packer would have a major impact on firms such as chain supermarkets that buy a product from a manufacturer and then sell it under their own label. Many of these stores purchase from different sources at different times depending upon competitive bids. They would incur the additional costs of maintaining a large label stock, revising labels, and segregating products during labeling. The agencies have concluded that the potential costs of such a requirement to food labelers would outweigh the projected benefits to consumers.

Proposed Action: USDA and FDA will continue the present policy of requiring declaration of the name and address of the manufacturer, packer, or distributor. The policy will be reexamined in the future as found necessary.

Natural and Organic Labeling Claims

At the present time, FDA and USDA take differing approaches to the use of "natural" and "organic" claims on food labels. FDA does not attempt to restrict such claims because it believes that the development and enforcement of standards in this area would be difficult and might unjustifably imply to consumers that food labeled "organic" or "natural" are inherently superior to other foods in nutrient content and safety. USDA, on the other hand, does attempt to control the use of "natural" and "organic" claims on meat, poultry and egg products because it believes such claims are generally misleading. USDA enforces this approach through its prior lable review program.

In late 1974, FTC proposed a trade regulation rule to eliminate the possibly unfair and deceptive use of a number of different types of claims in food advertising, including claims that foods are "natural" or "organic." In proposing this rule, the Commission stated its concern about the ability of consumers to understand natural and organic claims which are used in a wide variety of confusing and conflicting contexts. The Commission called for public comment on ways to improve this situation, including comment of a staff proposal to prohibit the use of the terms "natural" and "organic" and on the possibility of setting standards to prevent the unfair and deceptive use of natural and organic advertising claims.

In late 1978, after extensive written comments and testimony by scientists, consumer and industry representatives, and others, the staff of the Division of Food and Drug Advertising recommended that the Commission promulgate a final rule. This rule would,

among other things, establish standards to prevent the unfair or deceptive use of natural and organic food claims (i.e., foods not meeting these standards could not be advertised as natural or organic) and prohibit claims that foods advertised as "natural" or "organic" are inherently superior to other foods in their nutrient content or safety.

The recommendations of the Division of Food and Drug Advertising are based on evidence that current uses of "natural" and "organic" claims are confusing and misleading to consumers and frequently violate the public's legitimate expectations about their meanings. The staff also concluded that these claims could provide useful information if unsupportable superiority claims were prohibited and if the claims met standards embodying the major elements of each concept. The basic elements in these standards are as follows:

A food may not be represented as natural or a natural food if (a) it has undergone more than minimal processing or (b) it contains any artificial or synthetic ingredient.

A food may not be represented as organic, an organic food, or as having been organically grown if (a) the soil in which it was grown was subjected to fertilizers other than organic materials or certain minerals or (b) any artificial or synthetic chemical (e.g., a pesticide or herbicide) has been directly applied in its production.

The Director of Bureau of Consumer Protection and the Commissioners have not yet decided whether or not to accept these recommendations. Final Commission deliberations are expected to take place in the near future.

Proposed action: USDA and FDA will continue their current policies for regulating "natural" and "organic" claims pending their evaluation of FTC's rulemaking efforts. They will then determine whether additional action on such labeling claims is necessary.

USDA and FDA agree with the FTC staff that because it is false and misleading to claim that foods described as natural or organic are inherently superior in nutrient content or safety, such claims should be prohibited.

Quantity of Contents Declaration

Approximately 12 percent of all the commenters addressed issues related to the declaration of quantity of contents on food labels. At least 71 percent of those focusing on how this declaration should be made favored some form of solid or liquid weight labeling. About half expressly requested the use of drained or solid weight content, particularly for canned fruits and vegetables. Almost 27 percent of the commenters wanted a product's net weight to appear on the label, either alone or in conjunction with the package's drained or fill weight. Approximately 11 percent wanted to know the amount of liquid in a product, while 6 percent wanted a product's fill weight declared on the label.

In FDA's Food Labeling Survey, 60 percent of the users of canned food products did indicate a desire for drained or fill weight labeling when asked directly if they would like to have this information. Only 3 percent mentioned wanting this information when asked what additional information they would like to have on canned food labels.

On November 7, 1975 (40 FR 52172), in response to a petition from Consumers Union, FDA published a proposal to require label declaration of the drained weight of canned fruit and vegetables. (Drained weight is the weight of the food in a can after thermal processing and does not include the weight of the packing medium.) FDA received more than 6,000 comments on this proposal, mostly from consumers who favored drained weight label declaration.

The National Food Processors Association later petitioned for an alternative to drained weight: declaration of fill weight. (Fill weight is the weight of the food in a can, exclusive of the packing medium, when placed in the can.) A study by one industry organization and a similar study conducted under contract for FDA showed that drained weight labeling would cost about 10 times more than fill weight labeling. The cost difference between drained weight and fill weight labeling is approximately $100 million versus $10 million.

On December 9, 1977 (42 FR 62282), FDA proposed that manufacturers be allowed to use fill weight or drained weight labeling under certain prescribed conditions. The comment period on FDA's proposal ended July 1, 1979. This lengthy comment period gave the canning industry two packing seasons to test its ability to comply with the proposed requirements, and gave consumers an opportunity to become familiar with the type of labeling proposed and to comment on its usefulness. FDA is now evaluating the comments, and will publish a final regulation shortly.

The USDA follows a policy that requires the net weight of canned products to reflect the solid weight only, unless the packing medium has nutritive value.

The Total Food Label

Labels have a limited amount of space on which to put a large quantity of information. Some of this information is required by law: common or usual name of the food; name and address of packer, manufacturer, or distributor; listing of ingredients for most foods; presence of artificial flavoring, coloring, or chemical preservative; and the amount of food contained in the package. Nutrition labeling is required by regulation if vitamins, minerals, or protein are added to the food or if nutrition claims are made. The nutrition label may contain up to 28 pieces of information, including the amount of vitamins, minerals, calories, protein, carbohydrate, and fat present in the food. In addition, the label may contain other information that the manufacturer wishes to put on it, such as a brand name, the price, vignettes or product photographs, serving directions, recipe suggestions, offers to send information, premium offers, product guarantees, product coupons, advertising/benefit claims, ethnic symbols, the universal product code, dating, patent numbers, and/or storage directions.

Comments

Although there were not a large number of comments on the total food label, the agencies have drawn some general impressions from the public's responses. Commenters emphasized the need to make food labels more intelligible to the average consumer. They generally recommended that labels be written clearly and concisely and that they use simplified, standardized, nontechnical language.

A number of commenters offered suggestions for improving the format of food labels: 352 commenters specifically stated that the type size on labels should be increased. In support of this request, commenters pointed out that much of the small print on labels is illegible, so individuals with sight problems, particularly the elderly, cannot read it. Commenters also said that better contrasting colors should be used to make information more readily distinguishable, that information should be placed in a uniform location on all labels, and that overcrowding or cluttering information should be eliminated. Some suggested that some information now appearing on labels could be eliminated to make room for more necessary information and to prevent "information overload" on food labels. They suggested that special recipes, cooking instructions, advertising or promotional information, special gift or coupon offers, and fanciful labeling in

general be eliminated. In fact, several commenters specifically expressed their support for the "no frills" labels or the "plain package" product, as long as the quality of the product remained unchanged.

In contrast, other commenters remarked that they would like to have much of the descriptive information remain on or be added to food labels. The items requested were product identification, cooking instructions, unit price, recipes, pictures, and religious identification.

A number of consumers also said they wanted symbols to indicate the presence of certain ingredients, e.g., foods high in sugar, foods high in salt/sodium, or foods containing artificial colors or flavors. The agencies will explore further the practicality and desirability of using symbols for various purposes.

Some commenters advised the agencies to proceed cautiously before substantively overhauling existing regulations. They pointed out that the food label could not reasonably be expected to provide all the information requested by consumers and that any changes should be implemented only after the agencies have carefully evaluated the potential benefits relative to possibly increased costs. Some stressed the need for stability in food labeling, emphasizing that consumers would learn to utilize the information only if there are relatively few changes so they can become familiar with them. Moreover, some commenters emphasized that label changes should fulfill clearly defined objectives and supported development of a total food labeling strategy rather than implementing a piecemeal series of changes.

Label Format Research

The public hearings, written comments, and consumer research have focused on "what" information should be communicated to consumers. The next question is "how" to communicate this information. To answer that question, FDA will conduct a research program, supported by USDA, to help decide what labeling format is the most comprehensible to consumers. This program will employ professional communications experts in the private sector to design alternative labeling formats that will be subjected to consumer testing. Designing alternative labeling formats has begun, and the actual consumer testing will begin this fall and extend into 1980. Nutrition labeling and ingredient labeling will be the primary focal point for this research.

Nutrition labeling research will center on developing a number of graphic or pictorial formats, including bar charts, pie charts, etc., that can be compared with the current systems. Ingredient labeling research will include the design and testing of formats for declaring ingredients by percentage and weight, as well as various organizational schemes aimed at communicating more intelligibly what the food ingredients are, e.g., listing names of the characterizing ingredients.

After the formats for the nutrition and ingredient labels are designed, alternative formats for the total food label will be designed. These will include all the information required by law, plus that information that currently is discretionary (e.g., vignettes, cooking directions, premium offers, etc.) in an effort to determine the best overall format.

Other areas of food labeling research probably will include possibilities for "flagging" ingredient changes on food labels and the use of symbols and summary statements to assist in identifying foods containing high or low quantities of sugars, sodium, cholesterol, or calories.

The various formats decribed above will be tested on different types of consumers, including those with limited education, the elderly, and the poor. This is an opportunity for industry to demonstrate its cooperation in improving food labels. The agencies invite industry to participate in the development of an improved nutrition labeling format. They also encourage and will consider their well-conceived studies by industry on other parts of the food label, such as quantitative ingredient labeling, type size, better contrasting colors, and labels that are simpler and easier to read. Like the agencies' suggestion for nutrition labeling format, a joint cooperative study program would be most effective and efficient and in the consumer's best interest.

Digest

Below are tables that summarize how the agencies propose to proceed in addressing the food labeling issues.

Issue	Legislation	New or revised regulations	Consumer education/ industry guidance	Action deferred pending research, study or future reexamination
I. Ingredient Labeling				
A. Labeling of Mandatory Ingredients in Standardized Foods.	FDA proposes to seek or support legislation to amend the FD&C Act to require declaration of mandatory ingredients in standardized foods. (The regulations issued under statutes administered by USDA already so provide.).	FDA intends to expedite amendment of the remaining food standards of identity to require declaration of all optional ingredients including the form of the mandatory ingredients where more than one form is available for use.	.....	
B. Label Declaration of Colors, Spices, and Flavors.	FDA proposes to seek or support legislation to require that all colors and spices be declared on food labels by their specific name.	.....	.....	
	USDA believes it has authority to require the declaration of spices and colors by their specific name but will support legislation to provide more explicit authority for both agencies.	.....	.....	
	FDA proposes to seek or support legislation to eliminate the exemption under which the labels of butter, cheese, and ice cream are not required to declare the presence of an artificial color.	.....	.....	
	FDA proposes to seek or support legislation to provide it with discretionary authority to require label declaration of a flavor when it is considered necessary for providing important health information, e.g., it has a potential for causing an allergic reaction.	.....	.....	

Issue	Legislation	New or revised regulations	Consumer education/ industry guidance	Action deferred pending research, study or future reexamination
	USDA believes it has authority to require declaration of flavors, but will support legislation to provide more explicit authority for both agencies.	.....	.....	
C. Quantitative Ingredient Labeling.	FDA proposes to seek or support legislation explicitly giving it authority to require quantitative ingredient labeling as part of the ingredient statement and to seek or support legislation giving FDA records and reports authority—access to a company's formulae, quality control records and related records in order to ensure that such expanded quantitative ingredient labeling is truthful and accurate.	FDA intends to expand the use of percentage of valuable and characterizing ingredients according to its regulations on common or usual names for nonstandardized foods. USDA intends to issue regulations that would provide for more quantitative ingredient labeling.	FDA intends to publish guidelines for voluntary quantitative ingredient labeling as part of the ingredient statement.	
	USDA currently has limited authority to require quantitative ingredient labeling in some cases, and it shares FDA's belief that legislation establishing the authority of the two agencies generally to require such labeling is desirable.	.....	.....	
D. Ingredient Order of Predominance Statement.	.....	FDA and USDA intend to amend the regulations to require that food labels bear a statement to the effect that the ingredients are listed in descending order of predominance.	.....	
E. Use of "and/or" Labeling to Declare the Source of Fats and Oils.	.....	FDA and USDA intend to amend the regulations to require that food containing 10 percent or more total fat on a dry weight basis declare the specific source of the fat or oil. Food containing less than 10 percent fat on a dry weight basis may use the "and/or" approach, e.g., vegetable oil (may contain cottonseed oil, soybean oil, and/or palm oil)".	.....	
F. Functionality and Names of Ingredients.	.....	.....	.....	The agencies intend to explore the concept of an "ingredient dictionary," a reference volume that would describe ingredient functions, and how such a publication should be compiled, distributed and funded.
G. Labeling of Fresh Fruits and Vegetables.	.....	.....	FDA will continue to encourage compliance with the Federal law which requires that the presence of colors, preservatives, and waxing be declared in labeling (e.g., placards and leaflets) at the point of sale of fresh fruits and vegetables.	The labeling of fresh fruits and vegetables as to pesticides and fertilizers will be reexamined in the future as necessary.
H. Ingredient Labeling for Restaurant-Served Foods.	.....	.....	.....	The agencies will not initiate any action at this time to require that ingredients in restaurant-served foods be declared. This issue will be reexamined in the future as necessary.
I. Incidental/Secondary Ingredients.	.....	.....	.....	The current policy of not requiring the declaration of incidental/secondary ingredients will be continued. This issue will be reexamined in the future as necessary.
II. Nutrition Labeling				
A. Mandatory, Discretionary, or Voluntary Nutrition Labeling.	FDA and USDA propose to seek or support legislation to clarify their authority to require nutrition labeling on all foods. (The agencies are establishing a task group to develop criteria for determining which foods should bear nutrition labeling).	USDA intends to propose regulations that would require nutrition labeling where claims are made for a product or where certain nutrients have been added to the product.	.....	
B. Nutrition Labeling Format ...	.....	.....	The agencies encourage industry to experiment voluntarily, under controlled conditions and in collaboration with FDA and USDA, with graphics and other formats that are consistent with the current quantitative system.	FDA will conduct research, with support from USDA, to determine which format is most useful and convenient for consumers: the present nutrition labeling system will be retained pending research results and conclusions about what (if any) changes in labeling format are appropriate. (An interagency task group will be established to coordinate the research efforts with industry experimentation.)
C. Mandatory Information for Nutrition Labeling.	.....	USDA intends to propose regulations that would require nutrition labeling providing information on calories, protein, carbohydrates, fat, sugars, cholesterol, sodium, and other nutrients of public health concern insofar as permitted by current authority.	.....	FDA and USDA will maintain their current policies on declaring nutrients. Comments are requested on aspects of the present policies.

Issue	Legislation	New or revised regulations	Consumer education/ industry guidance	Action deferred pending research, study or future reexamination
D. Composite Data Base for Use in Nutrition Labeling.			FDA and USDA are issuing a statement of current policy concerning use of suitable nutrient data bases in nutrition labeling.	The agencies propose to maintain the current policy that products be labeled according to composition and that it is the manufacturer's responsibility to assure the validity of nutrient content expressed on food labels. The agencies encourage industry to develop suitable data bases for use in nutrition labeling.
E. Serving Sizes		FDA intends to publish final regulations for some beverage products, cereals, and meal replacements.		
		FDA and USDA intend to propose regulations to establish serving sizes for additional product classes and/or types of foods.		
F. Sugars Labeling	FDA and USDA propose to seek or support legislation to provide them with explicit, discretionary authority to require quantitative labeling of sugars on the basis of public health significance.	FDA intends to amend the nutrition labeling regulations to require quantitative declaration of total sugars as part of nutrition labeling when contained above a specified level.	The agencies propose conducting an educational program to promote better understanding of declaration of sugars.	
		USDA intends to propose regulations to require the declaration of sugars content as part of nutrition labeling. (The agencies have established a task group to develop criteria for determining the threshold level for this declaration).		
G. Sodium and Potassium Labeling.	FDA proposes to seek or support legislation to provide it with explicit discretionary authority to require quantitative labeling of sodium and potassium on the basis of public health significance.	FDA intends to amend the nutrition labeling regulations to require sodium and potassium labeling.		
	USDA believes it has such authority, but will support legislation to provide more explicit authority for both agencies.	USDA intends to propose regulations to require sodium labeling as part of nutrition labeling. USDA will consider the inclusion of potassium labeling.		
		FDA and USDA intend to propose regulations to define "low sodium." Consideration will be given to defining "reduced sodium" foods and standardizing the claims appropriate for food containing no added sodium.		
H. Fatty Acid and Cholesterol Labeling.	FDA proposes to seek or support legislation to provide it with explicit discretionary authority to require cholesterol and fatty acid labeling on the basis of significance to public health.	FDA will continue to require cholesterol or fatty acid content to be included on nutrition labeling when cholesterol or fatty acid claims are made.		
	USDA believes it has such authortiy but will support legislation to provide more explicit authority for both agencies.	FDA intends to amend the fatty acid/cholesterol regulation to require fatty acid labeling whenever cholesterol is declared and vice versa.		
		FDA intends to amend the fatty acid/cholesterol regulation to eliminate the physician advice statement.		
		FDA intends to propose regulations to define the terms "low cholesterol," "reduced cholesterol," and "cholesterol free." FDA will consider proposing regulations to govern claims about fatty acid content.		
		USDA intends to propose regulations to require cholesterol labeling as part of nutrition labeling.		
I. Fiber Labeling				FDA and USDA will not require dietary fiber labeling as part of nutrition labeling until dietary fiber can be better defined, methods of analyses can be developed, and its significance in the diet determined.
J. Disease-Related Claims on Food Labels.		FDA intends to propose regulations covering "medical foods," that is, foods which are intended for use under medical supervision; the regulations will permit the use of appropriate medical claims about such foods.		FDA and USDA will maintain the present policy of not allowing disease-related claims to appear on the labeling of conventional food products. This policy will be reexamined in the future if found necessary.

Issue	Legislation	New or revised regulations	Consumer education/ industry guidance	Action deferred pending research, study or future reexamination
III. Open Date Labeling	FDA proposes to seek or support legislation to provide it with explicit discretionary authority to require open dating on classes of foods as is found necessary. USDA believes it now has such authority, but will support legislation to provide more explicit authority for both agencies.	USDA intends to propose regulations that would require open dating on perishable and semi-perishable foods to the extent that authority permits.		
IV. Imitation/Substitute Food Labeling.				The agencies have not taken a tentative position pending consideration of further comments on the policy direction they should follow.
V. Food Fortification	FDA and USDA propose to seek or support legislation aimed at providing explicit discretionary authority to control fortification of food when deemed of public health significance.		FDA will publish "General Principles for the Addition of Nutrients to Foods," and encourage manufacturers to adhere to these guidelines.	
VI. Safe and Suitable Ingredients and Food Standards.		FDA intends to revise its "safe and suitable" ingredients policy as follows in order to clarify the policy and ensure that it is only applied where appropriate: this policy is applicable only to optional, functional ingredients used in quantities of less than 5 percent; the descriptive phrase "safe and suitable" will be changed to one that is less confusing and more accurately describes the concept, e.g., "permitted functional ingredient".		
VII. Miscellaneous				
A. Label Declaration of Country of Origin for Imported Foods.				USDA and FDA propose to continue the present policy that the country of origin be declared on the label only for those foods imported and sold in consumer packages as such. This policy will be reexamined in the future as necessary.
B. Label Declaration of Name and Address of Manufacturer, Packer, and/or Distributor.				USDA and FDA propose to continue the present policy of requirig the declaration of the name and address of the manufacturer, packer, or distributor. This policy will be reexamined in the future as found necessary.
C. Natural and Organic Labeling Claims.				USDA and FDA propose to continue their respective policies for regulating "natural" and "organic," claims pending their evaluation of FTC's rulemaking efforts on advertising making such claims.
D. Quantity of Contents Declaration.		FDA will publish a final regulation.		

Request for Economic Information

Before taking specific action to change the current legal requirements for food labeling, the agencies want to allow further public comment on these tentative proposals. Although in some instances making these changes may require additional explicit legislation, FDA and USDA will act promptly, after fully reviewing the comments, to do what they can under their current legal authority and mandate to implement their proposals.

Detailed analysis of the economic impact of these initiatives is warranted before the agencies select specific proposals and courses of action. The agencies are therefore asking the public for information, data, or analyses to help them predict and quantify the economic impact of their proposals on industry and consumers. This information may relate to product categories, package types, characteristics of firms or establishments, manufacturing and distribution practices, etc. The agencies are particularly interested in the cost implications of the following initiatives:

Ingredient Labeling

1. Expanded label identification of ingredients in standardized foods.

2. Expanded quantitative label identification of valuable and characterizing ingredients of foods.

3. Restricted use of "and/or" labeling for fats and oils.

4. Compilation and distribution of a standard ingredient handbook or dictionary explaining the functions of ingredients used in food products.

Nutrition Labeling

1. Mandatory inclusion of sodium and potassium content as part of nutrition labeling.

2. Mandatory inclusion of sugars content as part of nutrition labeling.

3. Mandatory fatty acid labeling when cholesterol content is declared, and mandatory cholesterol declaration when fatty acid content is declared.

4. Other revisions in the mandatory list of nutrients.

5. Mandatory nutrition labeling, regardless of a food's specific content.

6. Optional use of composite data bases for nutrition labeling.

A number of the preceding initiatives may have common economic impacts. But some are alternative impacts, and in those cases the agencies will be interested in trade-off analyses. Specifically, they would like to know whether various actions might lead to:

a. More frequent label changes (possibly requiring multiple label inventories and switching, one-time or continuing cost increments for printing plates, or other costly responses);

b. Reduced flexibility in selection or substitution of ingredients;

c. Increased control of ingredient quantity and/or quality;

d. Increased control of nutrient quantity or stability; or

e. Increased testing for nutrient content.

Data on these (and any other) cost impacts will be most meaningful if they assess individual initiatives. In at least two areas, however, more general data will be useful if they are reliable and detailed:

1. Direct costs of a label change and how these may vary with type of packaging, extent of redesign, number of different sizes or types of package per product, in-house versus outside labeling, lead time available, and so on. Information on this point should specify the steps entailed in changing the label, and the cost of each.

2. Costs of testing for nutrient content and how these may vary with the number and identity of the nutrients to be tested, sample size and number of samples, nature of the product, frequency or regularity of testing, degree of precision or reliability required, and the like.

To aid the presentation of information and data about, an analyses of, each initiative's economic impact, the agencies have outlined their preliminary views on potential issues and questions of cost impact—and the public is invited to comment on these views as well:

1. *Identification of mandatory ingredients in standardized foods*—This initiative requires legislation to amend the FD&C Act to require that mandatory ingredients in standarized foods be declared on product labels. It also simply affirms FDA's intention to complete the continuing effort to amend food standards to require the identification of as many ingredients as possible (1) by making specific forms and varieties of mandatory ingredients "optional" (only "optional" ingredients in standardized foods must be declared) and (2) by requiring that all optional ingredients be declared. This effort will make certain standardized foods conform with the great majority of foods, whose labels already identify all ingredients. This initiative affects a limited number of products because it involves only standardized foods, because some standards have already been amended, and because some manufacturers now voluntarily declare mandatory ingredients. Moreover, because manufacturers already have the requisite information from their own recipes, the cost impact appears to be limited to a one-time label change.

2. *Quantitative ingredient labeling*—Expanded quantitative listing of valuable and characterizing ingredients would require food labels to declare percentage amounts of ingredients that have a material bearing on consumers' acceptance of the product or on its price. Actual quantities may exceed declared values. Although the direct cost will be that of a label change based on the receipe, other costs may be incurred, such as those involving (1) stricter adherence to good manufacturing practices (to maintain a product's uniformity) and (2) keeping the proportions of ingredients more constant.

3. *Restricted use of "and/or" labeling for fats and oils*—Limitation of "and/or" labeling to products in which fats constitute less than 10 percent of the dry weight appears to affect relatively few product categories in the jurisdiction of FDA and USDA; the most obvious are cookies and crackers, blended flour preparations such as cake mixes, canned seafoods, and soups. The agencies are seeking information that will identify the full range of products affected by a 10 percent cutoff level, a 5 percent level, and a 2 percent level—along with the nature of any cost impacts these levels produce. The agencies also are asking for any cost impact information on the effect of combining a labeling requirement for foods with 2 grams of fat per serving with any of these percentage cutoff levels. FDA and USDA will consider these economic data in conjunction with comments received on the nutritional and health considerations as they evaluate the possibility of setting an appropriate cutoff level.

The agencies are assuming that the economic advantage of "and/or" labeling is that it enables firms to switch fats and oils, or their proportions in the product, in response to their price or availability, without necessitating label changes. It would be instructive to have information on how frequently food producers actually make such substitutions and how frequently label changes would be required in the absence of the "and/or" option.

The agencies also need evidence about the kind and degree of cost impact that could result from industry's response to eliminating the "and/or" option. More frequent label changes and the maintenance of multiple label inventories would represent an incremental cost; reduce flexibility of substitution among fats and oils, possibly expressed in higher average costs, more variable and unpredictable costs for total fats and oils used; increased lot purchase sizes and storage costs; or in a combination of these.

4. *Functionality of ingredients*—An ingredient "dictionary" appears to be an efficient means of explaining to interested consumers the function of ingredients used in food products. This could be a voluntary enterprise of the food industry or a project of the government, using—as necessary—data supplied by industry. The resulting publication could be widely distributed (available at no or little cost at most food stores, for example) or somewhat less readily available by offering it for sale, or even free, as a government or private document. (Free distribution to all public libraries is also an option here.) The feasibility of such a project would seem to depend on industry's willingness to cooperate, the number of substances requiring coverage, the frequency of revision and updating, and the expense. The expense would in turn depend on the costs of compiling the data, printing the dictionary, and distributing it—and they would vary with the size of the publication and the scale of its distribution. Because compiling an ingredient dictionary provides an alternative to listing on food labels the functions of ingredients, appraisal of the comparative merits and costs of the two approaches particularly interests the agencies.

5. *Increasing information on sodium, potassium, sugars, fatty acids, and cholesterol content*—The agencies are proposing to require mandatory declaration of sodium and potassium content, and the amount of sugars a food contains, as part of nutrition labeling. In addition, FDA will amend its regulations to require fatty acid labeling whenever cholesterol is declared, and to require labeling of cholesterol content when the food label declares fatty acids. USDA intends to propose nutrition labeling that would include information on the sodium, sugars, and cholesterol foods contain. Because this labeling will require declaring the total content of these substances, the initial establishment of reliable values would probably entail incremental costs. In products to which the manufacturer adds all or most of the substances directly, such testing costs might be nil

or virtually so. In products with food ingredients containing significant and variable amounts of these substances, more frequent testing could be necessary to obtain accurate information. The agencies therefore request evidence on the identities of food products that will require frequent testing; they are particularly interested in products that are believed to present unusual testing requirements because of wide natural variation in the substances these foods contain.

The agencies are seeking comments on the allowable range of variation in a food label's declaration of these substances. Selecting a reasonable tolerance level can reduce costs of testing to ensure compliance; frequency of reformulation could also affect cost, because it might require multiple testing and different labels. Therefore, manufacturers could be faced with a trade-off between the cost of reformulating foods (and keeping multiple label inventories) and the cost of reduced flexibility in altering ingredients that change the nutrient composition of the food.

The agencies also need (a) data on the incremental unit costs of preparing and testing samples for each of these additional substances, both individually and as part of a comprehensive nutrient assay, and (b) estimates of absolute and percentage increases in total testing expenses, for various products, that might be generated by adding these substances to the list of nutrients. They welcome information about any related costs, such as increased requirements for quality control or stabilization of content.

6. *Other revisions in mandatory list of nutrients*—As they assess possibilities for a specific proposal to revise the mandatory list of nutrients, the agencies wish to consider cost implications, as well as the utility to consumers, of alternative requirements. They request three kinds of cost data. First, assuming that any additions to the list would most likely be certain micronutrients such as folic acid, cooper, and zinc, evidence is needed on the extent of additional testing that might be required in various products or product groups, the incremental costs of such testing, or any unusual problems that might arise. A second possibility is reducing the mandatory list to serving size, servings per container, calories, protein, fat, carbohydrates, sugars, sodium, potassium and cholesterol/fatty acids. Added vitamins or minerals, or those about which claims are made, would also require a statement of content, but declaring all others would be optional. The agencies seek comments and estimates on how, and to what extent, such a change might reduce costs and on any problems that might arise from reducing the uniformity of information. A third possibility might exempt mandatory nutrients present at less than 2 percent of the U.S. RDA per serving from disclosure on the label. The agencies also want information on the nature and size of any cost savings this exemption offers.

7. *Composite data bases*—Giving formal recognition to adequately supported data bases providing the nutrient content of various foods may reduce the cost, and thereby increase the attractiveness, of nutrition labeling for firms that do not now consider it economcially feasible. Ample reasons suggest why a manufacturer using such data bases to support label statements could not be relieved of any further responsibility for the reliability of those statements; they include greater than expected degradation of labile nutrients due to inadequate attention to good handling, storage, and manufacturing practices. Nevertheless, for many foods a well-researched data base could be used with high reliability in conjunction with good manufacturing practices. FDA and USDA would like to encourage the development and use of such data bases where they offer significant cost savings. They are therefore seeking evidence and estimates on the costs of developing scientifically and statistically sound data bases, the identity of the foods and food products that lend themselves to this approach, and the economic advantages such data bases might (or might not) offer over existing approaches to the statement of nutrient content—preferably using specific product examples. The degree of interest food companies, trade associations, and other industry organizations express in such opportunities is, of course, highly relevant to the ultimate decision about their use.

Costs of establishing data bases depend on the amount and reliability of available information, the variability of nutrients naturally occurring in agricultural produce, and the stability of nutrients during processing and storage. The cost of developing data bases could be reduced, for example, by pooling resources within a segment of the food industry to centralize the research and data collection. The sizes of firms and the resources they have will also affect the development of data bases. The agencies are therefore asking that comments address the costs and feasibility of developing industry data bases.

Request for Comments/Notice of Public Hearing

The agencies are providing a 90-day comment period and will hold a public hearing to gather views on their tentative positions and the issues discussed here. Last year's five public hearings and written submissions produce information on what the public wants in the way of improved food labeling; the additional opportunity for comment will give the public a chance to provide views on how the agencies should proceed on the basis of this information. Additional information submitted at this stage is very important, because the decisions it will help shape will establish food labeling policy for the foreseeable future. The agencies therefore welcome comments on their tentative proposals to revise food labels, including their feasibility, their cost and their necessity.

The 1978 food labeling hearings were designed primarily to gather the views of unassociated individuals. At that time, the agencies encouraged others to submit their comments in writing. Having had the opportunity to review and analyze the information thus gathered, the agencies have agreed that an additional public hearing will provide organized consumer groups, state associations, industry, and trade associations—as well as individuals—with an opportunity to testify.

The public hearing will be held before representatives of FDA, USDA, and FTC on March 4 and 5, 1980, beginning both days at 9:30 a.m., in the main auditorium, Department of Commerce, Fourteenth St. and Constitution Ave. NW., Washington, D.C. It will be conducted in accordance with Title 21 of the Code of Federal Regulations, Part 15—Public Hearings Before the Commissioner. For scheduling purposes, we ask those who want to give a presentation to let us know, no later than February 22, 1980, by writing to:

Mr. Gary Dykstra, Regulatory Operations Staff (HFC–22), Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3470.

Written comments should be submitted to the Hearing Clerk, Food and Drug Administration (HFA–305), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857 by March 20, 1980.

Written submissions will also be accepted at the hearing from participants who want additional information included in the record. The submissions should be identified with

the docket number found in the brackets in the heading of this document. These submissions may be seen in the office of the Hearing Clerk, Food and Drug Administration, from 9 a.m. to 4 p.m., Monday through Friday.

Following evaluation of these comments, FDA and USDA will begin to implement food labeling revisions in accordance with their respective authorities and procedures. Those issues that can be resolved through new or revised regulations will be handled by the notice and comment rulemaking process: publication in the **Federal Register** of a proposal for comment, review of comments, and issuance of a final regulation. Any requests for legislation will be handled through each agency's normal channels; the agencies will coordinate all actions to ensure consistency.

Dated: December 8, 1979.

Jere E. Goyan,

Commissioner of Food and Drugs.

Dated: December 10, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Service, USDA.

Dated: December 17, 1979.

Albert H. Kramer,

Director, Bureau of Consumer Protection, FTC.

[FR Doc. 79-39185 Filed 12-19-79; 10:00 am]

BILLING CODE 4110-03-M

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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.

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Conservation and Solar Energy Office—

66780 11–21–79 / First annual State applications for financial assistance; change in submission date

INTERIOR DEPARTMENT

Surface Mining and Reclamation Enforcement Office—

67057 11–21–79 / Abandoned mine reclamation funds; amendment to regulations

INTERSTATE COMMERCE COMMISSION

66831 11–21–79 / Procedures governing processing, investigation and disposition of overcharge, duplicate payment, or overcollection claims

SECURITIES AND EXCHANGE COMMISSION

67107 12–12–79 / Filing of information required in solicitation of proxies other than by issuer

[Corrected at 44 FR 71821, 12–12–79]

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AGRICULTURE DEPARTMENT

Food Safety and Quality Service—

67087 11–23–79 / Marking of meat food products with official inspection legend and ingredient statement

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

36378 6–22–79 / Drugs for human use; over-the-counter (OTC) daytime sedatives

LABOR DEPARTMENT

Occupation Safety and Health Administration—

60980 10–23–79 / Appendices to Standards on occupational exposure to lead

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

61323 10–25–79 / Updating of certain airworthiness, equipment and operations provisions

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57037 10–3–79 / Oil and gas producers; postponement of audit requirement for reserve information

57030 10–3–79 / Oil and gas producers; supplemental disclosures on the basis of reserve recognition accounting

40688 9–12–78 / Oil and gas producing activities; financial accounting and reporting practices

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76202 **Part XI—USDA/ASCS:**
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Part VIII

Department of Housing and Urban Development

Office of the Assistant Secretary—Federal Housing Commissioner

Section 8 and Section 23 Housing Assistance Payments Program—Fair Market Rents for Existing Housing

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 803 and 888

[Docket No. R-79-749]

Fair Market Rents for Existing Housing; All Market Areas Sections 8 and 23 Existing Housing Assistance Payments Programs

AGENCY: Office of Assistant Secretary for Housing-FHA Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Proposed Rule.

SUMMARY: This Proposed Rule would amend the Fair Market Rents for all market areas under the Section 8 and Section 23 Housing Assistance Payments Programs for Existing Housing and for Mobile Home Spaces.

COMMENT DUE: January 21, 1980.

ADDRESSES: All comments from interested persons should be sent to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. A copy of each comment will be available for public inspection at this address during regular business hours. Copies of comments by Public Housing Agencies (PHAs) should be concurrently submitted to the Economic and Market Analysis Division in the appropriate HUD Field Office.

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:

1. Fair Market Rents for Sections 8 and 23 Existing Housing (Schedule B)

A. *Background.* The last nationwide revision of Fair Market Rents (FMRs) for the Section 23 and Section 8 Existing Housing programs, required at least annually by law, was published in the **Federal Register** (44 FR 43902) on July 26, 1979, effective October 1, 1979, retroactive to March 29, 1979 (the anniversary date for publication of Existing Housing Fair Market Rents) for the calculation of annual rent adjustments and Public Housing Agency (PHA) administrative fees. That revision was based on the use of a new methodology utilizing the median rents derived from the most recent Annual Housing Survey (AHS) data of units meeting Section 8 program standards and rented by recent movers. The new methodology for determining those Fair Market Rents was explained in detail in the **Federal Register** publication of June 22, 1979, which set forth proposed rent schedules and suggested guidelines for public comments. Based on the Department's evaluation of public comments and Departmental field office recommendations, the Fair Market Rent schedules published on July 26 were modified for a total of 575 Market Areas, including 87 Standard Metropolitan Statistical Areas (SMSAs) and 488 nonmetropolitan counties. These revisions were published in the **Federal Register** (44 FR 59112) on October 12, 1979, and were made effective November 1, 1979, retroactive to March 29, 1979.

In evaluating public comments and establishing final Fair Market Rent revisions based on the new methodology, the Department was especially responsive to 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, did 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 was only available for 4 Census Regions and 24 metropolitan areas, did not fuly account for specific local increases in rents, taxes, and utiltiy costs.

B. *Procedures for Calculating Revised Rent Schedules.* At this time, the Department is proposing to amend the schedules that set forth the Fair Market Rents for the Section 8 and Section 23 Existing Housing Program to reflect changes in median rent levels for an additional period of one year projected forwarded to October 1, 1980. Our goal is to make the revised rents become effective on March 29, 1980. The procedure for calculating the revised Fair Market Rents is based on the use of two separate inflation factors, one for shelter rent and one for fuel and utilities, which are developed from the Consumer Price Index (CPI). Factors now have been developed for 34 SMSAs and for the four Census regions, the only areas for which CPI data is available. In addition to anticipating the changes in rents and utilities for the year ending October 1, 1980, in all areas of the country, based on review of CPI data, the FMRs for some areas in the Northeast Census Region have been adjusted upward in amounts ranging up to $8.00 for four-bedroom units.These adjustments were made to compensate for increases in utilities in the year ending October 1, 1979, which were underestimated for the FMRs in the July 26, 1979 **Federal Register** publication and not covered in the October 12, 1979 publication.

C. *FMR Hold Harmless.* There are approximately 100 areas where previously approved FMRs are equal to or higher than the AHS-based rents, updated to October 1, 1980. The previously approved FMRs will be retained at their existing levels until the calculation of updated AHS-based rents results in rent determinations which are higher than the previously established rents, or until higher rent levels are warranted based on the receipt of appropriate local market data. These hold "harmless areas" are identified in the proposed rent schedules by the inclusion of the dollar difference between the proposed FMR and the updated AHS-based rent which is printed on the line immediately under the proposed rent where applicable.

D. *Submission of Comments in Regard to Amendment of Schedule B.* Since there was extensive consideration of local comments during the 1979 rent publication process and appropriate rent modifications were made, new information submitted in comments should take into consideration the procedures by which the AHS-based median rents were derived, and the date and nature of any revisions previously approved based on local housing market data. Comments which document the types and degree of changes which have occurred in the rental market, citing surveys, studies or other data which show what the current median rent for standard quality units is in the area or the rate of change in the rents during the period in question, will be particularly helpful. Data reflecting on rental market conditions and inflation trends during the past year will be especially usefully for evaluation of the proposed FMRs. Comments proposing additional revisions in the FMR schedules should include specific recommendations in regard to the appropriate dollar amounts by unit size as documented by the rental market surveys, studies or other data submitted.

2. Fair Market Rents for Mobile Home Spaces (Schedule D)

A. *Background.* An initial Schedule of Fair Market Rents for Mobile Home

Spaces was published for comment in the Federal Register (44 FR 62200) on October 29, 1979, to become effective December 4, 1979, subject to consideration of comments and possible deferral of the effective date if warranted by the nature and volume of comments received. This initial FMR Schedule was developed on median site rents for Mobile Homes in each Standard Metropolitan Statistical Area (SMSA) and in the nonmetropolitan portions of each state. These median site costs were derived from market surveys conducted by the Economic and Market Analysis Division in each HUD Field Office. The published FMRs reflected the average rents currently being charged for single-wide and double-wide Mobile Home Spaces, excluding utilities.

Based on the Department's evaluation of public comments, it was determined that deferral of the effective data of the initial Schedule of FMRs for Mobile Home Spaces was not necessary. Comments pertaining to a number of FMR areas did indicate that some revisions in the initially published FMR schedule were warranted. It is the Department's intent to publish these revisions for effect as soon as possible.

B. *Procedures for Calculating Revised Fair Market Rents for Mobile Home Spaces.* The Department is proposing to amend the schedule that sets forth the FMRs for Mobile Home Spaces to reflect changes in the average rents for an additional period of approximately one year projected forward to October 1, 1980. Our goal is to make the revised rents effective on March 29, 1980. The procedure for calculating the revised FMRs is based on the use of an inflation factor developed from the Consumer Price Index (CPI). Factors have been developed for 34 SMSAs and for the 4 Census Regions, for which CPI data currently is available. Because of time constraints, the attached schedule does not include modifications responding to comments received as a result of the October 29, 1979, Federal Register publication. Any necessary revisions will be updated through October 1, 1980, and incorporated in the final publication of these Fair Market Rents for effect as of March 29, 1980.

C. *Submission of Comments in Regard to Amendment of Schedule D, Fair Market Rents for Mobile Home Space.* Proposals for revision of Schedule D should be specific as to geographic area (county or SMSA) and dollar amounts, and should be supported by appropriate cost data.

3. 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 as to Environmental Impact has been prepared and is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, at the addressed specified above.

It is therefore proposed that Title 24, Part 803, Schedule B, and Part 888, Schedule B and Schedule D, be revised as set forth below.

This notice of proposed 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., December 17, 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					
STATE:ME	181	205	244	280	310
SMSA: PORTLAND, ME					
SMSA PART:CUMBERLAND					
STATE:ME	196	239	283	332	391
SMSA PART:YORK					
STATE:ME	196	239	283	332	391
NON SMSA					
NONSMSA PART:ANDROSCOGGIN					
STATE:ME	181	205	244	280	310
COUNTY:AROOSTOOK					
STATE:ME	180	214	253	280	308
NONSMSA PART:CUMBERLAND					
STATE:ME	181	205	244	280	310
COUNTY:FRANKLIN					
STATE:ME	172	195	231	257	281
COUNTY:HANCOCK					
STATE:ME	172	195	231	257	281
COUNTY:KENNEBEC					
STATE:ME	181	205	244	280	310
COUNTY:KNOX					
STATE:ME	187	213	252	280	307
COUNTY:LINCOLN					
STATE:ME	187	213	252	280	307
COUNTY:OXFORD					
STATE:ME	172	195	231	257	281
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
COUNTY:PENOBSCOT					
STATE:ME	181	205	244	280	310
COUNTY:PISCATAQUIS					
STATE:ME	172	195	231	257	281
COUNTY:SAGADAHOC					
STATE:ME	181	205	244	280	310
COUNTY:SOMERSET					
STATE:ME	187	213	252	280	307
COUNTY:WALDO					
STATE:ME	172	195	231	257	281
COUNTY:WASHINGTON					
STATE:ME	172	195	231	257	281
NONSMSA PART:YORK					
STATE:ME	181	205	244	280	310
SMSA: BOSTON, MA					
SMSA PART:ESSEX	235	267	317	368	418
STATE:MA	17				
SMSA PART:MIDDLESEX	235	267	317	368	418
STATE:MA	17				
SMSA PART:NORFOLK	235	267	317	368	418
STATE:MA	17				
SMSA PART:PLYMOUTH	235	267	317	368	418
STATE:MA	17				
COUNTY:SUFFOLK	235	267	317	368	418
STATE:MA	17				

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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: BROCKTON, MA					
SMSA PART:BRISTOL STATE:MA	197	241	285	331	374
SMSA PART:NORFOLK STATE:MA	197	241	285	331	374
SMSA PART:PLYMOUTH STATE:MA	197	241	285	331	374
SMSA: FALL RIVER, MA-RI					
SMSA PART:BRISTOL STATE:MA	203	234	277	321	352
SMSA: FITCHBURG-LEOMINSTER, MA					
SMSA PART:MIDDLESEX STATE:MA	174	213	252	293	332
SMSA PART:WORCESTER STATE:MA	174	213	252	293	332
SMSA: LAWRENCE-HAVERHILL, MA-NH					
SMSA PART:ESSEX STATE:MA	226	262	307	373	421
SMSA: LOWELL, MA NH					
SMSA PART:MIDDLESEX STATE:MA	216 42	246 33	289 37	334 41	365 33
SMSA: NEW BEDFORD, MA					
SMSA PART:BRISTOL STATE:MA	174	213	252	293	332
SMSA PART:PLYMOUTH STATE:MA	174	213	252	293	332
SMSA: PITTSFIELD, MA					
SMSA PART:BERKSHIRE STATE:MA	164 30	188 23	221 26	255 27	278 19
BOSTON, MASSACHUSETTS AREA OFFICE					
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA					
SMSA PART:BRISTOL STATE:MA	203	234	277	321	352
SMSA PART:NORFOLK STATE:MA	203	234	277	321	352
SMSA PART:WORCESTER STATE:MA	203	234	277	321	352
SMSA: SPRINGFIELD-CHICOPEE-HOLYOKE, MA-CT					
SMSA PART:HAMPDEN STATE:MA	194	237	282	327	370
SMSA PART:HAMPSHIRE STATE:MA	194	237	282	327	370
SMSA PART:WORCESTER STATE:MA	194	237	282	327	370
SMSA: WORCESTER, MA					
SMSA PART:WORCESTER STATE:MA	228	262	307	355	390
NON SMSA					
COUNTY:BARNSTABLE STATE:MA	247	281	335	391	436
NONSMSA PART:BERKSHIRE STATE:MA	174	213	252	293	332
NONSMSA PART:BRISTOL STATE:MA	200	230	271	314	343
COUNTY:DUKES STATE:MA	247	281	335	391	436

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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:ESSEX STATE:MA	217	252	306	354	410
COUNTY:FRANKLIN STATE:MA	212	250	295	329	362
NONSMSA PART:HAMPDEN STATE:MA	196	226	268	310	340
NONSMSA PART:HAMPSHIRE STATE:MA	196	226	268	310	340
NONSMSA PART:MIDDLESEX STATE:MA	174	213	252	293	332
COUNTY:NANTUCKET STATE:MA	232	260	314	344	395
NONSMSA PART:NORFOLK STATE:MA	174	213	252	293	332
NONSMSA PART:PLYMOUTH STATE:MA	206	238	285	333	379
NONSMSA PART:WORCESTER STATE:MA	174	213	252	293	332
COUNTY:ADDISON STATE:VT	195	223	267	323	351
COUNTY:BENNINGTON STATE:VT	195	223	267	323	351
COUNTY:CALEDONIA STATE:VT	179	213	253	305	336
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
COUNTY:CHITTENDEN STATE:VT	195	223	267	323	351
COUNTY:ESSEX STATE:VT	174	199	235	261	288
COUNTY:FRANKLIN STATE:VT	179	213	253	305	336
COUNTY:GRAND ISLE STATE:VT	179	213	253	305	336
COUNTY:LAMOILLE STATE:VT	174	199	235	261	288
COUNTY:ORANGE STATE:VT	179	213	253	305	336
COUNTY:ORLEANS STATE:VT	179	213	253	305	336
COUNTY:RUTLAND STATE:VT	195	223	267	323	351
COUNTY:WASHINGTON STATE:VT	179	213	253	305	336
COUNTY:WINDHAM STATE:VT	195	223	267	323	351
COUNTY:WINDSOR STATE:VT	195	223	267	323	351
SMSA: LAWRENCE-HAVERHILL, MA-NH					
SMSA PART:ROCKINGHAM STATE:NH	226	262	307	373	421

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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: LOWELL, MA NH					
SMSA PART:HILLSBOROUGH STATE:NH	216 42	246 33	289 37	334 41	365 33
SMSA: MANCHESTER, NH					
SMSA PART:HILLSBOROUGH STATE:NH	217	262	313	361	409
SMSA PART:MERRIMACK STATE:NH	217	262	313	361	409
SMSA PART:ROCKINGHAM STATE:NH	217	262	313	361	409
SMSA: NASHUA, NH					
SMSA PART:HILLSBOROUGH STATE:NH	217	262	313	361	409
NON SMSA					
COUNTY:BELKNAP STATE:NH	194	223	266	297	326
COUNTY:CARROLL STATE:NH	180	208	246	275	303
COUNTY:CHESHIRE STATE:NH	202	234	278	313	346
COUNTY:COOS STATE:NH	180	208	246	275	303
COUNTY:GRAFTON STATE:NH	183	216	254	289	322
NONSMSA PART:HILLSBOROUGH STATE:NH	194	222	266	307	338
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
NONSMSA PART:MERRIMACK STATE:NH	194	222	266	307	338
NONSMSA PART:ROCKINGHAM STATE:NH	201	231	275	318	349
COUNTY:STRAFFORD STATE:NH	194	223	266	297	326
COUNTY:SULLIVAN STATE:NH	194	223	266	297	326
SMSA: FALL RIVER, MA-RI					
SMSA PART:NEWPORT STATE:RI	203	234	277	321	352
SMSA: NEW LONDON-NORWICH, CT-RI					
SMSA PART:WASHINGTON STATE:RI	189	230	271	313	354
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA					
SMSA PART:BRISTOL STATE:RI	203	234	277	321	352
SMSA PART:KENT STATE:RI	203	234	277	321	352
SMSA PART:NEWPORT STATE:RI	203	234	277	321	352
SMSA PART:PROVIDENCE STATE:RI	203	234	277	321	352
SMSA PART:WASHINGTON STATE:RI	203	234	277	321	352

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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	199	230	272	316	346
NONSMSA PART:NEWPORT STATE:RI	215	242	290	321	356
NONSMSA PART:PROVIDENCE STATE:RI	199	230	272	316	346
NONSMSA PART:WASHINGTON STATE:RI	199	230	272	316	346
HARTFORD, CONNECTICUT AREA OFFICE					
SMSA: BRIDGEPORT, CT					
SMSA PART:FAIRFIELD STATE:CT	197	242	287	332	376
SMSA PART:NEW HAVEN STATE:CT	197	242	287	332	376
SMSA: BRISTOL, CT					
SMSA PART:HARTFORD STATE:CT	188	230	273	317	359
SMSA PART:LITCHFIELD STATE:CT	188	230	273	317	359
SMSA: DANBURY, CT					
SMSA PART:FAIRFIELD STATE:CT	199	242	286	330	373
SMSA PART:LITCHFIELD STATE:CT	199	242	286	330	373
SMSA: HARTFORD, CT					
SMSA PART:HARTFORD STATE:CT	221	270	319	370	419
SMSA PART:LITCHFIELD STATE:CT	221	270	319	370	419
SMSA PART:MIDDLESEX STATE:CT	221	270	319	370	419
SMSA PART:NEW LONDON STATE:CT	221	270	319	370	419
SMSA PART:TOLLAND STATE:CT	221	270	319	370	419

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
HARTFORD, CONNECTICUT AREA OFFICE					
SMSA: MERIDEN, CT					
SMSA PART:NEW HAVEN					
STATE:CT	178	218	260	302	341
SMSA: NEW BRITAIN, CT					
SMSA PART:HARTFORD					
STATE:CT	188	230	273	319	359
SMSA: NEW HAVEN-WEST HAVEN, CT					
SMSA PART:MIDDLESEX					
STATE:CT	219	265	314	362	410
SMSA PART:NEW HAVEN					
STATE:CT	219	265	314	362	410
SMSA: NEW LONDON-NORWICH, CT-RI					
SMSA PART:MIDDLESEX					
STATE:CT	189	230	271	313	354
SMSA PART:NEW LONDON					
STATE:CT	189	230	271	313	354
SMSA: NORWALK, CT					
SMSA PART:FAIRFIELD					
STATE:CT	246	300	354	408	462
SMSA: SPRINGFIELD-CHICOPEE-HOLYOKE, MA-CT					
SMSA PART:TOLLAND					
STATE:CT	194	237	282	327	370
SMSA: STAMFORD, CT					
SMSA PART:FAIRFIELD					
STATE:CT	260	316	373	430	486
SMSA: WATERBURY, CT					
SMSA PART:LITCHFIELD					
STATE:CT	178	218	260	302	341
HARTFORD, CONNECTICUT AREA OFFICE					
SMSA: WATERBURY, CT					
SMSA PART:NEW HAVEN					
STATE:CT	178	218	260	302	341
NON SMSA					
NONSMSA PART:FAIRFIELD					
STATE:CT	179	218	260	302	341
NONSMSA PART:HARTFORD					
STATE:CT	188	230	273	319	359
NONSMSA PART:LITCHFIELD					
STATE:CT	168	205	243	283	320
NONSMSA PART:MIDDLESEX					
STATE:CT	189	230	271	313	354
NONSMSA PART:NEW HAVEN					
STATE:CT	178	218	260	302	341
NONSMSA PART:NEW LONDON					
STATE:CT	172	211	250	290	329
NONSMSA PART:TOLLAND					
STATE:CT	219	266	314	362	410
COUNTY:WINDHAM					
STATE:CT	172	211	250	290	329

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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					
SMSA: ALBANY-SCHENECTADY-TROY, NY					
COUNTY:ALBANY					
STATE:NY	183	223	264	304	344
COUNTY:MONTGOMERY					
STATE:NY	183	223	264	304	344
COUNTY:RENSSELAER					
STATE:NY	183	223	264	304	344
COUNTY:SARATOGA					
STATE:NY	183	223	264	304	344
COUNTY:SCHENECTADY					
STATE:NY	183	223	264	304	344
SMSA: BINGHAMTON, NY-PA					
COUNTY:BROOME	150	173	205	247	285
STATE:NY	12	4	5	16	24
COUNTY:TIOGA	150	173	205	247	285
STATE:NY	12	4	5	16	24
SMSA: SYRACUSE, NY					
COUNTY:MADISON					
STATE:NY	166	203	241	278	315
COUNTY:ONONDAGA					
STATE:NY	166	203	241	278	315
COUNTY:OSWEGO					
STATE:NY	166	203	241	278	315
SMSA: UTICA-ROME, NY					
COUNTY:HERKIMER	151	172	204	243	280
STATE:NY	18	10	12	21	29
BUFFALO, NEW YORK AREA OFFICE					
SMSA: UTICA-ROME, NY					
COUNTY:ONEIDA	151	172	204	243	280
STATE:NY	18	10	12	21	29
NON SMSA					
COUNTY:CAYUGA					
STATE:NY	161	197	232	269	305
COUNTY:CHENANGO					
STATE:NY	174	192	239	268	296
COUNTY:CLINTON					
STATE:NY	164	190	225	251	277
COUNTY:COLUMBIA					
STATE:NY	132	161	190	220	250
COUNTY:CORTLAND					
STATE:NY	161	197	232	269	305
COUNTY:DELAWARE					
STATE:NY	137	166	197	228	258
COUNTY:ESSEX					
STATE:NY	162	187	217	250	276
COUNTY:FRANKLIN					
STATE:NY	143	170	195	218	240
COUNTY:FULTON					
STATE:NY	129	157	186	216	245
COUNTY:GREENE	147	168	200	222	250
STATE:NY	15	7	10	2	
COUNTY:HAMILTON					
STATE:NY	129	157	186	216	245

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:JEFFERSON STATE:NY	151	175	209	228	252
COUNTY:LEWIS STATE:NY	143	170	195	218	240
COUNTY:OTSEGO STATE:NY	137	166	197	228	258
COUNTY:ST LAWRENCE STATE:NY	153	179	214	239	266
COUNTY:SCHOHARIE STATE:NY	161	185	222	248	273
COUNTY:TOMPKINS STATE:NY	161	197	232	269	305
COUNTY:WARREN STATE:NY	129	162 5	189 3	216	245
COUNTY:WASHINGTON STATE:NY	132 3	157	186	216	245
SMSA: BUFFALO, NY					
COUNTY:ERIE STATE:NY	166	223	248	269	318
COUNTY:NIAGARA STATE:NY	166	223	248	269	318
SMSA: ELMIRA, NY					
COUNTY:CHEMUNG STATE:NY	171	197	246	283	320
SMSA: ROCHESTER, NY					
COUNTY:LIVINGSTON STATE:NY	210	256	303	348	395
BUFFALO, NEW YORK AREA OFFICE					
SMSA: ROCHESTER, NY					
COUNTY:MONROE STATE:NY	210	256	303	348	395
COUNTY:ONTARIO STATE:NY	210	256	303	348	395
COUNTY:ORLEANS STATE:NY	210	256	303	348	395
COUNTY:WAYNE STATE:NY	210	256	303	348	395
NON SMSA					
COUNTY:ALLEGANY STATE:NY	120	148	174	201	229
COUNTY:CATTARAUGUS STATE:NY	120	148	174	201	229
COUNTY:CHAUTAUQUA STATE:NY	139 19	174 26	206 32	233 32	258 29
COUNTY:GENESEE STATE:NY	149 29	171 23	204 30	226 25	250 21
COUNTY:SCHUYLER STATE:NY	158	189	228	242	287
COUNTY:SENECA STATE:NY	190	221	260	291	322
COUNTY:STEUBEN STATE:NY	158	182	219	253	286
COUNTY:WYOMING STATE:NY	120	148	174	201	229

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:YATES STATE:NY	161	197	232	269	305
NEW YORK, NEW YORK AREA OFFICE					
SMSA: NASSAU-SUFFOLK, NY					
COUNTY:NASSAU STATE:NY	282	348	406	467	530
COUNTY:SUFFOLK STATE:NY	282	348	406	467	530
SMSA: NEW YORK CITY, NY-NJ					
COUNTY:BRONX STATE:NY	255	309	366	422	478
COUNTY:KINGS STATE:NY	255	309	366	422	478
COUNTY:NEW YORK STATE:NY	255	309	366	422	478
COUNTY:PUTNAM STATE:NY	255	309	366	422	478
COUNTY:QUEENS STATE:NY	255	309	366	422	478
COUNTY:RICHMOND STATE:NY	255	309	366	422	478
COUNTY:ROCKLAND STATE:NY	255	309	366	422	478
COUNTY:WESTCHESTER STATE:NY	255	309	366	422	478
SMSA: POUGHKEEPSIE, NY					
COUNTY:DUTCHESS STATE:NY	202	233	265	306	347
NON SMSA					
COUNTY:ORANGE STATE:NY	193	233	277	309	340
NEW YORK, NEW YORK AREA OFFICE					
NON SMSA					
COUNTY:SULLIVAN STATE:NY	176	214	253	292	331
COUNTY:ULSTER STATE:NY	176	214	253	292	331

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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 STATE:NJ	170	206	244	281	318
SMSA: PHILADELPHIA, PA-NJ					
COUNTY:BURLINGTON STATE:NJ	219	266	314	363	410
COUNTY:CAMDEN STATE:NJ	219	266	314	363	410
COUNTY:GLOUCESTER STATE:NJ	219	266	314	363	410
SMSA: TRENTON, NJ					
COUNTY:MERCER STATE:NJ	190	231	272	314	356
SMSA: VINELAND-MILLVILLE-BRIDGETON, NJ					
COUNTY:CUMBERLAND STATE:NJ	190	232	273	315	357
SMSA: WILMINGTON, DE-NJ-MD					
COUNTY:SALEM STATE:NJ	221	268	315	363	410
NON SMSA					
COUNTY:CAPE MAY STATE:NJ	184 13	210 2	250 4	284	321
COUNTY:OCEAN STATE:NJ	234	284	335	386	438
SMSA: ALLENTOWN-BETHLEHEM-EASTON, PA-NJ					
COUNTY:WARREN STATE:NJ	207	246	286	320	353
NEWARK, NEW JERSEY AREA OFFICE					
SMSA: JERSEY CITY, NJ					
COUNTY:HUDSON STATE:NJ	186	227	269	311	352
SMSA: LONG BRANCH-ASBURY PARK, NJ					
COUNTY:MONMOUTH STATE:NJ	223	273	321	371	420
SMSA: NEW BRUNSWICK-PERTH AMBOY-SAYREVILLE, NJ					
COUNTY:MIDDLESEX STATE:NJ	228	277	328	377	428
SMSA: NEW YORK CITY, NY-NJ					
COUNTY:BERGEN STATE:NJ	255	309	366	422	478
SMSA: NEWARK, NJ					
COUNTY:ESSEX STATE:NJ	246	276	329	364	401
COUNTY:MORRIS STATE:NJ	246	276	329	364	401
COUNTY:SOMERSET STATE:NJ	246	276	329	364	401
COUNTY:UNION STATE:NJ	246	276	329	364	401
SMSA: PATERSON-CLIFTON-PASSAIC, NJ					
COUNTY:PASSAIC STATE:NJ	239	291	344	397	449
NON SMSA					
COUNTY:HUNTERDON STATE:NJ	234	284	335	386	438

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:SUSSEX STATE:NJ	241	293	346	399	452
CARIBBEAN AREA OFFICE					
SMSA: CAGUAS MUNICIPIO:ALL STATE:PR	157	190	224	257	290
SMSA: MAYAGUEZ MUNICIPIO:ALL STATE:PR	194	236	277	319	360
SMSA: PONCE MUNICIPIO:ALL STATE:PR	239	290	342	393	443
SMSA: SAN JUAN MUNICIPIO:ALL STATE:PR	236	287	338	389	440
NON SMSA MUNICIPIO:ALL OTHER STATE:PR	149	181	213	245	277
:-CHAR.AMALIE STATE:VI	265	321	379	436	492
:ST. CROIX STATE:VI	216	262	309	356	402
:ST. THOMAS STATE:VI	246	299	352	405	457
REGION 3					
BALTIMORE, MARYLAND AREA OFFICE					
SMSA: BALTIMORE, MD COUNTY:ANNE ARUNDEL STATE:MD	212	263	302	377	416
COUNTY:BALTIMORE STATE:MD	212	263	302	377	416
COUNTY:CARROLL STATE:MD	212	263	302	377	416
COUNTY:HARFORD STATE:MD	212	263	302	377	416
COUNTY:HOWARD STATE:MD	212	263	302	377	416
:-COLUMBIA(U) STATE:MD	252	314	359	430	466
INDEP. CITY:BALTIMORE STATE:MD	212	263	302	377	416
SMSA: WASHINGTON, DC-MD-VA COUNTY:CHARLES STATE:MD	228	276	325	374	422
SMSA: WILMINGTON, DE-NJ-MD COUNTY:CECIL STATE:MD	221	268	315	363	410
NON SMSA COUNTY:ALLEGANY STATE:MD	140	169	199	229	259
COUNTY:CALVERT STATE:MD	211	257	302	348	393

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:CAROLINE STATE:MD	189	229	270	311	351
COUNTY:DORCHESTER STATE:MD	189	229	270	311	351
COUNTY:FREDERICK STATE:MD	196	239	281	322	365
COUNTY:GARRETT STATE:MD	140	169	199	229	259
COUNTY:KENT STATE:MD	189	229	270	311	351
COUNTY:QUEEN ANNES STATE:MD	189	229	270	311	351
COUNTY:ST MARYS STATE:MD	183	223	262	302	342
COUNTY:SOMERSET STATE:MD	189	229	270	311	351
COUNTY:TALBOT STATE:MD	189	229	270	311	351
COUNTY:WASHINGTON STATE:MD	183	223	262	302	342
COUNTY:WICOMICO STATE:MD	189	229	270	311	351
COUNTY:WORCESTER STATE:MD	189	229	270	311	351
PHILADELPHIA, PENNSYLVANIA AREA OFFICE					
SMSA: ALLENTOWN-BETHLEHEM-EASTON, PA-NJ					
COUNTY:CARBON STATE:PA	207	246	286	320	353
COUNTY:LEHIGH STATE:PA	207	246	286	320	353
COUNTY:NORTHAMPTON STATE:PA	207	246	286	320	353
SMSA: BINGHAMTON, NY-PA					
COUNTY:SUSQUEHANNA	150	173	205	247	285
STATE:PA	12	4	5	16	24
SMSA: HARRISBURG, PA					
COUNTY:CUMBERLAND STATE:PA	205	237	284	330	362
COUNTY:DAUPHIN STATE:PA	205	237	284	330	362
COUNTY:PERRY STATE:PA	205	237	284	330	362
SMSA: LANCASTER, PA					
COUNTY:LANCASTER STATE:PA	170	207	254	304	332
SMSA: NORTHEAST, PA					
COUNTY:LACKAWANNA	139	161	192	214	234
STATE:PA	19	13	18	13	5
COUNTY:LUZERNE	139	161	192	214	234
STATE:PA	19	13	18	13	5
COUNTY:MONROE	139	161	192	214	234
STATE:PA	19	13	18	13	5

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
SMSA: PHILADELPHIA, PA-NJ					
COUNTY:BUCKS STATE:PA	219	266	314	363	410
COUNTY:CHESTER STATE:PA	219	266	314	363	410
COUNTY:DELAWARE STATE:PA	219	266	314	363	410
COUNTY:MONTGOMERY STATE:PA	219	266	314	363	410
COUNTY:PHILADELPHIA STATE:PA	219	266	314	363	410
SMSA: READING, PA					
COUNTY:BERKS STATE:PA	151 10	173	205 1	239 3	267
SMSA: WILLIAMSPORT, PA					
COUNTY:LYCOMING STATE:PA	128	156	185	214	242
SMSA: YORK, PA					
COUNTY:ADAMS STATE:PA	176	213	252	315	357
COUNTY:YORK STATE:PA	176	213	252	315	357
NON SMSA					
COUNTY:BRADFORD STATE:PA	165	193	224	269	299
COUNTY:CENTRE STATE:PA	154	185	221	247	275
PHILADELPHIA, PENNSYLVANIA AREA OFFICE					
NON SMSA					
COUNTY:CLINTON STATE:PA	154	185	221	247	275
COUNTY:COLUMBIA STATE:PA	171	199	238	264	295
COUNTY:FRANKLIN STATE:PA	154	185	221	247	275
COUNTY:JUNIATA STATE:PA	134	170	202	225	253
COUNTY:LEBANON STATE:PA	157	181	215	251	278
COUNTY:MIFFLIN STATE:PA	134	170	202	225	253
COUNTY:MONTOUR STATE:PA	103	126	150	174	196
COUNTY:NORTHUMBRLND STATE:PA	154	179	213	238	266
COUNTY:PIKE STATE:PA	178	206	248	274	306
COUNTY:SCHUYLKILL STATE:PA	172	202	246	274	305
COUNTY:SNYDER STATE:PA	134	170	202	225	253
COUNTY:SULLIVAN STATE:PA	137	170	212	239	258

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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:TIOGA STATE:PA	165	193	224	269	299
COUNTY:UNION STATE:PA	134	170	202	225	253
COUNTY:WAYNE STATE:PA	168 48	194 46	232 58	255 54	284 55
COUNTY:WYOMING STATE:PA	150	175	209	270	299
SMSA: WILMINGTON, DE-NJ-MD					
COUNTY:NEW CASTLE STATE:DE	221	268	315	363	410
NON SMSA					
COUNTY:KENT STATE:DE	189	229	270	311	351
COUNTY:SUSSEX STATE:DE	189	229	270	311	351
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
SMSA: CHARLESTON, WV					
COUNTY:KANAWHA STATE:WV	166	203	239	274	311
COUNTY:PUTNAM STATE:WV	166	203	239	274	311
SMSA: HUNTINGTON-ASHLAND, WV-KY-OH					
COUNTY:CABELL STATE:WV	156	190	223	256	290
COUNTY:WAYNE STATE:WV	156	190	223	256	290
SMSA: PARKERSBURG-MARIETTA, WV-OH					
COUNTY:WIRT STATE:WV	171	208	244	282	318
COUNTY:WOOD STATE:WV	171	208	244	282	318
SMSA: STEUBENVILLE-WEIRTON, OH-WV					
COUNTY:BROOKE STATE:WV	151	183	217	250	282
COUNTY:HANCOCK STATE:WV	151	183	217	250	282
SMSA: WHEELING, WV-OH					
COUNTY:MARSHALL STATE:WV	161	184	224	264	289
COUNTY:OHIO STATE:WV	161	184	224	264	289
NON SMSA					
COUNTY:BARBOUR STATE:WV	160	194	228	264	298

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:BERKELEY STATE:WV	160	194	228	264	298
COUNTY:BOONE STATE:WV	127	155	181	209	237
COUNTY:BRAXTON STATE:WV	127	155	181	209	237
COUNTY:CALHOUN STATE:WV	127	155	181	209	237
COUNTY:CLAY STATE:WV	127	155	181	209	237
COUNTY:DODDRIDGE STATE:WV	160	194	228	264	298
COUNTY:FAYETTE STATE:WV	127	155	181	209	237
COUNTY:GILMER STATE:WV	127	155	181	209	237
COUNTY:GRANT STATE:WV	160	194	228	264	298
COUNTY:GREENBRIER STATE:WV	127	155	181	209	237
COUNTY:HAMPSHIRE STATE:WV	160	194	228	264	298
COUNTY:HARDY STATE:WV	160	194	228	264	298
COUNTY:HARRISON STATE:WV	160	194	228	264	298
COUNTY:JACKSON STATE:WV	127	155	181	209	237
COUNTY:JEFFERSON STATE:WV	160	194	228	264	298
COUNTY:LEWIS STATE:WV	160	194	228	264	298
COUNTY:LINCOLN STATE:WV	127	155	181	209	237
COUNTY:LOGAN STATE:WV	127	155	181	209	237
COUNTY:MCDOWELL STATE:WV	132	161	190	218	247
COUNTY:MARION STATE:WV	160	194	228	264	298
COUNTY:MASON STATE:WV	127	155	181	209	237
COUNTY:MERCER STATE:WV	132	161	190	218	247
COUNTY:MINERAL STATE:WV	140	169	199	229	259
COUNTY:MINGO STATE:WV	127	155	181	209	237

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:MONONGALIA STATE:WV	160	194	228	264	298
COUNTY:MONROE STATE:WV	127	155	181	209	237
COUNTY:MORGAN STATE:WV	160	194	228	264	298
COUNTY:NICHOLAS STATE:WV	127	155	181	209	237
COUNTY:PENDLETON STATE:WV	160	194	228	264	298
COUNTY:PLEASANTS STATE:WV	171	208	244	282	318
COUNTY:POCAHONTAS STATE:WV	127	155	181	209	237
COUNTY:PRESTON STATE:WV	160	194	228	264	298
COUNTY:RALEIGH STATE:WV	127	155	181	209	237
COUNTY:RANDOLPH STATE:WV	160	194	228	264	298
COUNTY:RITCHIE STATE:WV	171	208	244	282	318
COUNTY:ROANE STATE:WV	127	155	181	209	237
COUNTY:SUMMERS STATE:WV	127	155	181	209	237
COUNTY:TAYLOR STATE:WV	160	194	228	264	298
COUNTY:TUCKER STATE:WV	160	194	228	264	298
COUNTY:TYLER STATE:WV	140	169	199	229	259
COUNTY:UPSHUR STATE:WV	160	194	228	264	298
COUNTY:WEBSTER STATE:WV	127	155	181	209	237
COUNTY:WETZEL STATE:WV	140	169	199	229	259
COUNTY:WYOMING STATE:WV	127	155	181	209	237
SMSA: ALTOONA, PA					
COUNTY:BLAIR	134	151	193	221	245
STATE:PA	20	12	28	30	29
SMSA: ERIE, PA					
COUNTY:ERIE	130	155	184	213	240
STATE:PA	3				
SMSA: JOHNSTOWN, PA					
COUNTY:CAMBRIA	140	165	200	225	250
STATE:PA	37	39	50	51	54

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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: JOHNSTOWN, PA					
COUNTY:SOMERSET	140	165	200	225	250
STATE:PA	37	39	50	51	54
SMSA: PITTSBURGH, PA					
COUNTY:ALLEGHANY	198	241	283	325	367
STATE:PA					
COUNTY:BEAVER	198	241	283	325	367
STATE:PA					
COUNTY:WASHINGTON	198	241	283	325	367
STATE:PA					
COUNTY:WESTMORELAND	198	241	283	325	367
STATE:PA					
NON SMSA					
COUNTY:ARMSTRONG	117	143	170	197	224
STATE:PA					
COUNTY:BEDFORD	114	139	165	191	216
STATE:PA					
COUNTY:BUTLER	132	154	182	203	224
STATE:PA	15	11	12	6	
COUNTY:CAMERON	128	156	185	214	242
STATE:PA					
COUNTY:CLARION	117	143	170	197	224
STATE:PA					
COUNTY:CLEARFIELD	128	156	185	214	242
STATE:PA					
COUNTY:CRAWFORD	122	150	176	204	232
STATE:PA					
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
NON SMSA					
COUNTY:ELK	128	156	185	214	242
STATE:PA					
COUNTY:FAYETTE	149	176	214	242	270
STATE:PA					
COUNTY:FOREST	122	150	176	204	232
STATE:PA					
COUNTY:FULTON	114	139	165	191	216
STATE:PA					
COUNTY:GREENE	104	128	151	175	198
STATE:PA					
COUNTY:HUNTINGDON	114	139	165	191	216
STATE:PA					
COUNTY:INDIANA	117	143	170	197	224
STATE:PA					
COUNTY:JEFFERSON	128	156	185	214	242
STATE:PA					
COUNTY:LAWRENCE	122	150	176	204	232
STATE:PA					
COUNTY:MCKEAN	120	148	174	201	229
STATE:PA					
COUNTY:MERCER	122	150	176	204	232
STATE:PA					
COUNTY:POTTER	120	148	174	201	229
STATE:PA					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:VENANGO STATE:PA	122	150	176	204	232
COUNTY:WARREN STATE:PA	122	150	176	204	232
RICHMOND, VIRGINIA AREA OFFICE					
SMSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA					
COUNTY:SCOTT STATE:VA	164	199	235	270	305
COUNTY:WASHINGTON STATE:VA	164	199	235	270	305
INDEP. CITY:BRISTOL STATE:VA	164	199	235	270	305
SMSA: LYNCHBURG, VA					
COUNTY:AMHERST STATE:VA	201	244	288	331	375
COUNTY:APPOMATTOX STATE:VA	201	244	288	331	375
COUNTY:CAMPBELL STATE:VA	201	244	288	331	375
INDEP. CITY:LYNCHBURG STATE:VA	201	244	288	331	375
SMSA: NEWPORT NEWS-HAMPTON, VA					
COUNTY:GLOUCESTER STATE:VA	194	236	277	319	361
COUNTY:JAMES CITY STATE:VA	194	236	277	319	361
COUNTY:YORK STATE:VA	194	236	277	319	361
INDEP. CITY:HAMPTON STATE:VA	194	236	277	319	361
INDEP. CITY:NEWPORT NEWS STATE:VA	194	236	277	319	361
SMSA: NEWPORT NEWS-HAMPTON, VA					
INDEP. CITY:POQUOSON STATE:VA	194	236	277	319	361
INDEP. CITY:WILLIAMSBURG STATE:VA	194	236	277	319	361
SMSA: NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC					
INDEP. CITY:CHESAPEAKE STATE:VA	204	247	291	335	379
INDEP. CITY:NORFOLK STATE:VA	204	247	291	335	379
INDEP. CITY:PORTSMOUTH STATE:VA	204	247	291	335	379
INDEP. CITY:SUFFOLK STATE:VA	204	247	291	335	379
INDEP. CITY:VIRGINIA BEA STATE:VA	204	247	291	335	379
SMSA: PETERSBURG-COLONIAL HEIGHTS-HOPEWELL, VA					
COUNTY:DINWIDDIE STATE:VA	214	261	307	353	400
COUNTY:PRINCEGEORGE STATE:VA	214	261	307	353	400
INDEP. CITY:COLONIAL HEI STATE:VA	214	261	307	353	400

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
RICHMOND, VIRGINIA AREA OFFICE					
INDEP. CITY:HOPEWELL STATE:VA	214	261	307	353	400
INDEP. CITY:PETERSBURG STATE:VA	214	261	307	353	400
SMSA: RICHMOND, VA COUNTY:CHARLES CITY STATE:VA	207	251	296	341	384
COUNTY:CHESTERFIELD STATE:VA	207	251	296	341	384
COUNTY:GOOCHLAND STATE:VA	207	251	296	341	384
COUNTY:HANOVER STATE:VA	207	251	296	341	384
COUNTY:HENRICO STATE:VA	207	251	296	341	384
COUNTY:NEW KENT STATE:VA	207	251	296	341	384
COUNTY:POWHATAN STATE:VA	207	251	296	341	384
INDEP. CITY:RICHMOND STATE:VA	207	251	296	341	384
SMSA: ROANOKE, VA COUNTY:BOTETOURT STATE:VA	183	223	262	302	342
COUNTY:CRAIG STATE:VA	183	223	262	302	342
COUNTY:ROANOKE STATE:VA	183	223	262	302	342
INDEP. CITY:ROANOKE STATE:VA	183	223	262	302	342
SMSA: ROANOKE, VA INDEP. CITY:SALEM STATE:VA	183	223	262	302	342
NON SMSA COUNTY:ACCOMACK STATE:VA	189	229	270	311	351
COUNTY:ALBEMARLE STATE:VA	214	261	307	353	400
COUNTY:ALLEGHANY STATE:VA	183	223	262	302	342
COUNTY:AMELIA STATE:VA	214	261	307	353	400
COUNTY:AUGUSTA STATE:VA	160	194	228	264	298
COUNTY:BATH STATE:VA	160	194	228	264	298
COUNTY:BEDFORD STATE:VA	201	244	288	331	375
COUNTY:BLAND STATE:VA	132	161	190	218	247
COUNTY:BRUNSWICK STATE:VA	214	261	307	353	400
COUNTY:BUCHANAN STATE:VA	132	161	190	218	247
COUNTY:BUCKINGHAM STATE:VA	214	261	307	353	400

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
RICHMOND, VIRGINIA AREA OFFICE					
NON SMSA					
COUNTY:CAROLINE STATE:VA	214	261	307	353	400
COUNTY:CARROLL STATE:VA	147	179	211	243	274
COUNTY:CHARLOTTE STATE:VA	201	244	288	331	375
COUNTY:CLARKE STATE:VA	160	194	228	264	298
COUNTY:CULPEPER STATE:VA	183	225	272	306	343
COUNTY:CUMBERLAND STATE:VA	214	261	307	353	400
COUNTY:DICKENSON STATE:VA	162	176	210	233	294
COUNTY:ESSEX STATE:VA	214	261	307	353	400
COUNTY:FAUQUIER STATE:VA	183	223	267	315	368
COUNTY:FLOYD STATE:VA	183	223	262	302	342
COUNTY:FLUVANNA STATE:VA	214	261	307	353	400
COUNTY:FRANKLIN STATE:VA	145	176	207	239	270
COUNTY:FREDERICK STATE:VA	160	194	228	264	298
COUNTY:GILES STATE:VA	183	223	262	302	342
COUNTY:GRAYSON STATE:VA	147	179	211	243	274
COUNTY:GREENE STATE:VA	214	261	307	353	400
COUNTY:GREENSVILLE STATE:VA	214	261	307	353	400
COUNTY:HALIFAX STATE:VA	201	244	288	331	375
COUNTY:HENRY STATE:VA	183	223	262	302	342
COUNTY:HIGHLAND STATE:VA	160	194	228	264	298
COUNTY:ISLE OFWIGHT STATE:VA	145	176	207	239	270
COUNTY:KING + QUEEN STATE:VA	214	261	307	353	400
COUNTY:KING GEORGE STATE:VA	183	223	262	302	342
COUNTY:KING WILLIAM STATE:VA	214	261	307	353	400

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
RICHMOND, VIRGINIA AREA OFFICE					
NON SMSA					
COUNTY:LANCASTER STATE:VA	214	261	307	353	400
COUNTY:LEE STATE:VA	149 17	166 5	210 20	228 10	271 24
COUNTY:LOUISA STATE:VA	214	261	307	353	400
COUNTY:LUNENBURG STATE:VA	214	261	307	353	400
COUNTY:MADISON STATE:VA	214	261	307	353	400
COUNTY:MATHEWS STATE:VA	145	176	207	239	270
COUNTY:MECKLENBURG STATE:VA	214	261	307	353	400
COUNTY:MIDDLESEX STATE:VA	145	176	207	239	270
COUNTY:MONTGOMERY STATE:VA	183	223	262	302	342
COUNTY:NELSON STATE:VA	201	244	288	331	375
COUNTY:NORTHAMPTON STATE:VA	189	229	270	311	351
COUNTY:NORTHUMBERLD STATE:VA	214	261	307	353	400
COUNTY:NOTTOWAY STATE:VA	214	261	307	353	400
COUNTY:ORANGE STATE:VA	214	261	307	353	400
COUNTY:PAGE STATE:VA	160	194	228	264	298
COUNTY:PATRICK STATE:VA	183	223	262	302	342
COUNTY:PITTSYLVANIA STATE:VA	201	244	288	331	375
COUNTY:PRINCEEDWARD STATE:VA	214	261	307	353	400
COUNTY:PULASKI STATE:VA	183	223	262	302	342
COUNTY:RAPPAHANNOCK STATE:VA	183	223	262	302	342
COUNTY:RICHMOND STATE:VA	207	251	296	341	384
COUNTY:ROCKBRIDGE STATE:VA	160	194	228	264	298
COUNTY:ROCKINGHAM STATE:VA	160	194	228	264	298
COUNTY:RUSSELL STATE:VA	175	195	246	268	318

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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
RICHMOND, VIRGINIA AREA OFFICE					
NON SMSA					
COUNTY:SHENANDOAH STATE:VA	160	194	228	264	298
COUNTY:SMYTH STATE:VA	149 17	166 5	210 20	228 10	271 24
COUNTY:SOUTHAMPTON STATE:VA	145	176	207	239	270
COUNTY:SPOTSLYVANIA STATE:VA	183	223	262	302	342
COUNTY:STAFFORD STATE:VA	183	223	262	302	342
COUNTY:SURRY STATE:VA	145	176	207	239	270
COUNTY:SUSSEX STATE:VA	214	261	307	353	400
COUNTY:TAZEWELL STATE:VA	175	195	246	268	318
COUNTY:WARREN STATE:VA	160	194	228	264	298
COUNTY:WESTMORELAND STATE:VA	214	261	307	353	400
COUNTY:WISE STATE:VA	175	195	246	268	318
COUNTY:WYTHE STATE:VA	183	223	262	302	342
INDEP. CITY:BEDFORD STATE:VA	201	244	288	331	375
INDEP. CITY:BUENA VISTA STATE:VA	160	194	228	264	298
INDEP. CITY:CHARLOTTESVI STATE:VA	214	261	307	353	400
INDEP. CITY:CLIFTON FORG STATE:VA	183	223	262	302	342
INDEP. CITY:COVINGTON STATE:VA	183	223	262	302	342
INDEP. CITY:DANVILLE STATE:VA	201	244	288	331	375
INDEP. CITY:EMPORIA STATE:VA	214	261	307	353	400
INDEP. CITY:FRANKLIN STATE:VA	183	223	262	302	342
INDEP. CITY:FREDERICKBUR STATE:VA	183	223	262	302	342
INDEP. CITY:GALAX STATE:VA	147	179	211	243	274
INDEP. CITY:HARRISONBURG STATE:VA	160	194	228	264	298
INDEP. CITY:LEXINGTON STATE:VA	160	194	228	264	298

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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
RICHMOND, VIRGINIA AREA OFFICE					
NON SMSA					
INDEP. CITY:MARTINSVILLE STATE:VA	183	223	262	302	342
INDEP. CITY:NORTON STATE:VA	149 17	166 5	210 20	228 10	271 24
INDEP. CITY:RADFORD STATE:VA	183	223	262	302	342
INDEP. CITY:SOUTH BOSTON STATE:VA	201	244	288	331	375
INDEP. CITY:STAUNTON STATE:VA	160	194	228	264	298
INDEP. CITY:WAYNESBORO STATE:VA	160	194	228	264	298
INDEP. CITY:WINCHESTER STATE:VA	160	194	228	264	298
WASHINGTON, D.C. AREA OFFICE					
SMSA: WASHINGTON, DC-MD-VA					
COUNTY:MONTGOMERY STATE:MD	228	276	325	374	422
COUNTY:PRINCE GEORG STATE:MD	228	276	325	374	422
COUNTY:WASHINGTON STATE:DC	228	276	325	374	422
COUNTY:ARLINGTON STATE:VA	228	276	325	374	422
COUNTY:FAIRFAX STATE:VA	228	276	325	374	422
COUNTY:LOUDOUN STATE:VA	228	276	325	374	422
COUNTY:PRINCEWILLIA STATE:VA	228	276	325	374	422
INDEP. CITY:ALEXANDRIA STATE:VA	228	276	325	374	422
INDEP. CITY:FAIRFAX STATE:VA	228	276	325	374	422
INDEP. CITY:FALLS CHURCH STATE:VA	228	276	325	374	422
INDEP. CITY:MANASSAS STATE:VA	228	276	325	374	422
INDEP. CITY:MANASSAS PRK STATE:VA	228	276	325	374	422

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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: ALBANY, GA					
COUNTY:DOUGHERTY STATE:GA	145	176	207	239	270
COUNTY:LEE STATE:GA	145	176	207	239	270
SMSA: ATLANTA, GA					
COUNTY:BUTTS STATE:GA	206	252	295	339	384
COUNTY:CHEROKEE STATE:GA	206	252	295	339	384
COUNTY:CLAYTON STATE:GA	206	252	295	339	384
COUNTY:COBB STATE:GA	206	252	295	339	384
COUNTY:DE KALB STATE:GA	206	252	295	339	384
COUNTY:DOUGLAS STATE:GA	206	252	295	339	384
COUNTY:FAYETTE STATE:GA	206	252	295	339	384
COUNTY:FORSYTH STATE:GA	206	252	295	339	384
COUNTY:FULTON STATE:GA	206	252	295	339	384
COUNTY:GWINNETT STATE:GA	206	252	295	339	384
SMSA: ATLANTA, GA					
COUNTY:HENRY STATE:GA	206	252	295	339	384
COUNTY:NEWTON STATE:GA	206	252	295	339	384
COUNTY:PAULDING STATE:GA	206	252	295	339	384
COUNTY:ROCKDALE STATE:GA	206	252	295	339	384
COUNTY:WALTON STATE:GA	206	252	295	339	384
SMSA: AUGUSTA, GA-SC					
COUNTY:COLUMBIA STATE:GA	189	229	270	311	351
COUNTY:RICHMOND STATE:GA	189	229	270	311	351
SMSA: CHATTANOOGA, TN-GA					
COUNTY:CATOOSA STATE:GA	166	203	239	274	311
COUNTY:DADE STATE:GA	166	203	239	274	311
COUNTY:WALKER STATE:GA	166	203	239	274	311
SMSA: COLUMBUS, GA-AL					
COUNTY:CHATTAHOOCHE STATE:GA	161	196	230	266	300

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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: COLUMBUS, GA-AL					
COUNTY:COLUMBUS					
STATE:GA	161	196	230	266	300
SMSA: MACON, GA					
COUNTY:BIBB					
STATE:GA	145	176	207	239	270
COUNTY:HOUSTON					
STATE:GA	145	176	207	239	270
COUNTY:JONES					
STATE:GA	145	176	207	239	270
COUNTY:TWIGGS					
STATE:GA	145	176	207	239	270
SMSA: SAVANNAH, GA					
COUNTY BRYAN					
STATE:GA	209	223	254	292	329
COUNTY:CHATHAM					
STATE:GA	209	223	254	292	329
COUNTY:EFFINGHAM					
STATE:GA	209	223	254	292	329
NON SMSA					
COUNTY:APPLING					
STATE:GA	147	179	211	243	274
COUNTY:ATKINSON					
STATE:GA	147	179	211	243	274
COUNTY:BACON					
STATE:GA	147	179	211	243	274
NON SMSA					
COUNTY:BAKER					
STATE:GA	145	176	207	239	270
COUNTY:BALDWIN					
STATE:GA	145	176	207	239	270
COUNTY BANKS					
STATE GA	165	200	237	272	309
COUNTY BARROW					
STATE:GA	165	200	237	272	309
COUNTY:BARTON					
STATE:GA	136	166	195	225	254
COUNTY BEN HILL					
STATE GA	145	176	207	239	270
COUNTY:BERRIEN					
STATE:GA	145	176	207	239	270
COUNTY:BLECKLEY					
STATE:GA	145	176	207	239	270
COUNTY:BRANTLEY					
STATE:GA	159	193	227	262	296
COUNTY:BROOKS					
STATE GA	145	176	207	239	270
COUNTY BULLOCH					
STATE:GA	147	179	211	243	274
COUNTY:BURKE					
STATE:GA	166	203	239	274	311

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5 BR = 115 PERCENT OF 4 BR FMR; 6 BR = 130 PERCENT OF 4 BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:CALHOUN STATE:GA	145	176	207	239	270
COUNTY:CAMDEN STATE:GA	159	193	227	262	296
COUNTY:CANDLER STATE:GA	147	179	211	243	274
COUNTY:CARROLL STATE:GA	156	190	223	256	290
COUNTY:CHARLTON STATE:GA	159	193	227	262	296
COUNTY:CHATTOOGA STATE:GA	142	173	204	234	265
COUNTY:CLARKE STATE:GA	165	200	237	272	309
COUNTY:CLAY STATE:GA	145	176	207	239	270
COUNTY:CLINCH STATE:GA	145	176	207	239	270
COUNTY:COFFEE STATE:GA	147	179	211	243	274
COUNTY:COLQUITT STATE:GA	145	176	207	239	270
COUNTY:COOK STATE:GA	145	176	207	239	270
COUNTY:COWETA STATE:GA	156	190	223	256	290
COUNTY:CRAWFORD STATE:GA	145	176	207	239	276 6
COUNTY:CRISP STATE:GA	145	176	207	239	270
COUNTY:DAWSON STATE:GA	136	166	195	225	254
COUNTY:DECATUR STATE:GA	145	176	207	239	270
COUNTY:DODGE STATE:GA	145	176	207	239	270
COUNTY:DOOLY STATE:GA	145	176	207	239	270
COUNTY:EARLY STATE:GA	145	176	207	239	270
COUNTY:ECHOLS STATE:GA	145	176	207	239	270
COUNTY:ELBERT STATE:GA	165	200	237	272	309
COUNTY:EMANUEL STATE:GA	166	203	239	274	311
COUNTY:EVANS STATE:GA	147	179	211	243	274

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6 BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:FANNIN STATE:GA	136	166	195	225	254
COUNTY:FLOYD STATE:GA	136	166	195	225	254
COUNTY:FRANKLIN STATE:GA	165	200	237	272	309
COUNTY:GILMER STATE:GA	136	166	195	225	254
COUNTY:GLASCOCK STATE:GA	166	203	239	274	311
COUNTY:GLYNN STATE:GA	175	212	250	288	326
COUNTY:GORDON STATE:GA	142	173	204	234	265
COUNTY:GRADY STATE:GA	145	176	207	239	270
COUNTY:GREENE STATE:GA	165	200	237	272	309
COUNTY:HABERSHAM STATE:GA	136	166	195	225	254
COUNTY:HALL STATE:GA	165	200	237	272	309
COUNTY:HANCOCK STATE:GA	145	176	207	239	270
COUNTY HARALSON STATE GA	136	166	195	225	254
COUNTY HARRIS STATE GA	161	196	230	266	300
COUNTY:HART STATE:GA	165	200	237	272	309
COUNTY HEARD STATE GA	161	196	230	266	300
COUNTY IRWIN STATE GA	145	176	207	239	270
COUNTY JACKSON STATE GA	165	200	237	272	309
COUNTY JASPER STATE GA	145	176	207	239	270
COUNTY JEFF DAVIS STATE GA	147	179	211	243	274
COUNTY JEFFERSON STATE GA	166	203	239	274	311
COUNTY JENKINS STATE GA	166	203	239	274	311
COUNTY JOHNSON STATE GA	145	176	207	239	270
COUNTY LAMAR STATE GA	156	190	223	256	290

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT

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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					
NON SMSA					
COUNTY LANIER STATE GA	145	176	207	239	270
COUNTY LAURENS STATE GA	145	176	207	239	270
COUNTY LIBERTY STATE GA	160 13	189 10	225 14	259 16	298 24
COUNTY LINCOLN STATE GA	166	203	239	274	311
COUNTY LONG STATE GA	147	179	211	243	274
COUNTY LOWNDES STATE GA	145	176	207	239	270
COUNTY LUMPKIN STATE GA	136	166	195	225	254
COUNTY MCDUFFIE STATE GA	166	203	239	274	311
COUNTY MCINTOSH STATE GA	159	193	227	262	296
COUNTY MACON STATE GA	145	176	207	239	270
COUNTY MADISON STATE GA	165	200	237	272	309
COUNTY MARION STATE GA	161	196	230	266	300
COUNTY MERIWETHER STATE GA	161	196	230	266	300
COUNTY MILLER STATE GA	145	176	207	239	270
COUNTY MITCHELL STATE GA	145	176	207	239	270
COUNTY MONROE STATE GA	145	176	207	239	270
COUNTY MONTGOMERY STATE GA	147	179	211	243	274
COUNTY MORGAN STATE GA	165	200	237	272	309
COUNTY MURRAY STATE GA	142	173	204	234	265
COUNTY OCONEE STATE GA	165	200	237	272	309
COUNTY OGLETHORPE STATE GA	165	200	237	272	309
COUNTY PEACH STATE GA	145	176	207	239	270
COUNTY PICKENS STATE GA	136	166	195	225	254
COUNTY PIERCE STATE GA	159	193	227	262	296

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5 BR = 115 PERCENT OF 4 BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE					
NON SMSA					
COUNTY:PIKE STATE:GA	156	190	223	256	290
COUNTY:POLK STATE:GA	136	166	195	225	254
COUNTY:PULASKI STATE:GA	145	176	207	239	270
COUNTY:PUTNAM STATE:GA	145	176	207	239	270
COUNTY:QUITMAN STATE:GA	161	196	230	266	300
COUNTY:RABUN STATE:GA	136	166	195	225	254
COUNTY:RANDOLPH STATE:GA	145	176	207	239	270
COUNTY:SCHLEY STATE:GA	161	196	230	266	300
COUNTY:SCREVEN STATE:GA	147	179	211	243	274
COUNTY:SEMINOLE STATE:GA	145	176	207	239	270
COUNTY:SPALDING STATE:GA	156	190	223	256	290
COUNTY:STEPHENS STATE:GA	165	200	237	272	309
COUNTY:STEWART STATE:GA	161	196	230	266	300
COUNTY:SUMTER STATE:GA	177	215	254	292	330
COUNTY:TALBOT STATE:GA	161	196	230	266	300
COUNTY:TALIAFERRO STATE:GA	166	203	239	274	311
COUNTY:TATTNALL STATE:GA	147	179	211	243	274
COUNTY:TAYLOR STATE:GA	145	176	207	239	270
COUNTY:TELFAIR STATE:GA	145	176	207	239	270
COUNTY:TERRELL STATE:GA	145	176	207	239	270
COUNTY:THOMAS STATE:GA	145	176	207	239	270
COUNTY:TIFT STATE:GA	145	176	207	239	270
COUNTY:TOOMBS STATE:GA	147	179	211	243	274
COUNTY:TOWNS STATE:GA	136	166	195	225	254

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:TREUTLEN STATE:GA	145	176	207	239	270
COUNTY:TROUP STATE:GA	161	196	230	266	300
COUNTY:TURNER STATE:GA	145	176	207	239	270
COUNTY:UNION STATE:GA	136	166	195	225	254
COUNTY:UPSON STATE:GA	156	190	223	256	290
COUNTY:WARE STATE:GA	159	193	227	262	296
COUNTY:WARREN STATE:GA	166	203	239	274	311
COUNTY:WASHINGTON STATE:GA	145	176	207	239	270
COUNTY:WAYNE STATE:GA	147	179	211	243	274
COUNTY:WEBSTER STATE:GA	161	196	230	266	300
COUNTY:WHEELER STATE:GA	145	176	207	239	270
COUNTY:WHITE STATE:GA	136	166	195	225	254
COUNTY:WHITFIELD STATE:GA	142	173	204	234	265
COUNTY:WILCOX STATE:GA	145	176	207	239	270
COUNTY:WILKES STATE:GA	166	203	239	274	311
COUNTY:WILKINSON STATE:GA	145	176	207	239	270
COUNTY:WORTH STATE:GA	145	176	207	239	270

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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: ANNISTON, AL					
COUNTY:CALHOUN					
STATE:AL	127	155	181	209	237
SMSA: BIRMINGHAM, AL					
COUNTY:JEFFERSON					
STATE:AL	176	214	252	289	328
COUNTY:ST CLAIR					
STATE:AL	176	214	252	289	328
COUNTY:SHELBY					
STATE:AL	176	214	252	289	328
COUNTY:WALKER					
STATE:AL	176	214	252	289	328
SMSA: COLUMBUS, GA-AL					
COUNTY:RUSSELL					
STATE:AL	161	196	230	266	300
SMSA: FLORENCE, AL					
COUNTY:COLBERT					
STATE:AL	167	205	243	278	314
COUNTY:LAUDERDALE					
STATE:AL	167	205	243	278	314
SMSA: GADSDEN, AL					
COUNTY:ETOWAH					
STATE:AL	127	155	181	209	237
SMSA: HUNTSVILLE, AL					
COUNTY:LIMESTONE					
STATE:AL	175	212	251	288	326
COUNTY:MADISON					
STATE:AL	175	212	251	288	326
COUNTY:MARSHALL					
STATE:AL	175	212	251	288	326
SMSA: MOBILE, AL					
COUNTY:BALDWIN					
STATE:AL	141	171	202	232	263
COUNTY:MOBILE					
STATE:AL	141	171	202	232	263
SMSA: MONTGOMERY, AL					
COUNTY:AUTAUGA					
STATE:AL	140	169	199	229	259
COUNTY:ELMORE					
STATE:AL	140	169	199	229	259
COUNTY:MONTGOMERY					
STATE:AL	140	169	199	229	259
SMSA: TUSCALOOSA, AL					
COUNTY:TUSCALOOSA					
STATE:AL	165	200	237	272	309
NON SMSA					
COUNTY:BARBOUR					
STATE:AL	159	193	227	262	296
COUNTY:BIBB					
STATE:AL	165	200	237	272	309
COUNTY:BLOUNT					
STATE:AL	127	155	181	209	237
COUNTY:BULLOCK					
STATE:AL	140	169	199	229	259

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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					
NON SMSA					
COUNTY:BUTLER STATE:AL	159	193	227	262	296
COUNTY:CHAMBERS STATE:AL	161	196	230	266	300
COUNTY:CHEROKEE STATE:AL	127	155	181	209	237
COUNTY:CHILTON STATE:AL	165	200	237	272	309
COUNTY:CHOCTAN STATE:AL	161	196	230	266	300
COUNTY:CLARKE STATE:AL	151	184	217	250	283
COUNTY:CLAY STATE:AL	127	155	181	209	237
COUNTY:CLEBURNE STATE:AL	136	166	195	225	254
COUNTY:COFFEE STATE:AL	159	193	227	262	296
COUNTY:CONECUH STATE:AL	151	184	217	250	283
COUNTY:COOSA STATE:AL	140	169	199	229	259
COUNTY:COVINGTON STATE:AL	159	193	227	262	296
COUNTY:CRENSHAW STATE:AL	159	193	227	262	296
COUNTY:CULLMAN STATE:AL	127	155	181	209	237
COUNTY:DALE STATE:AL	159	193	227	262	296
COUNTY:DALLAS STATE:AL	140	169	199	229	259
COUNTY:DE KALB STATE:AL	142	173	204	234	265
COUNTY:ESCAMBIA STATE:AL	184	224	265	304	344
COUNTY:FAYETTE STATE:AL	165	200	237	272	309
COUNTY:FRANKLIN STATE:AL	137	167	197	227	257
COUNTY:GENEVA STATE:AL	159	193	227	262	296
COUNTY:GREENE STATE:AL	165	200	237	272	309
COUNTY:HALE STATE:AL	165	200	237	272	309
COUNTY:HENRY STATE:AL	159	193	227	262	296

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BIRMINGHAM, ALABAMA AREA OFFICE					
NON SMSA					
COUNTY:HOUSTON STATE:AL	159	193	227	262	296
COUNTY:JACKSON STATE:AL	142	173	204	234	265
COUNTY:LAMAR STATE:AL	165	200	237	272	309
COUNTY:LAWRENCE STATE:AL	137	167	197	227	257
COUNTY:LEE STATE:AL	161	196	230	266	300
COUNTY:LOWNDES STATE:AL	140	169	199	229	259
COUNTY:MACON STATE:AL	140	169	199	229	259
COUNTY:MARENGO STATE:AL	161	196	230	266	300
COUNTY:MARION STATE:AL	165	200	237	272	309
COUNTY:MONROE STATE:AL	151	184	217	250	283
COUNTY:MORGAN STATE:AL	175	212	251	288	326
COUNTY:PERRY STATE:AL	140	169	199	229	259
COUNTY:PICKENS STATE:AL	165	200	237	272	309
COUNTY:PIKE STATE:AL	159	193	227	262	296
COUNTY:RANDOLPH STATE:AL	161	196	230	266	300
COUNTY:SUMTER STATE:AL	161	196	230	266	300
COUNTY:TALLADEGA STATE:AL	147	179	210	242	275
COUNTY:TALLAPOOSA STATE:AL	140	169	199	229	259
COUNTY:WASHINGTON STATE:AL	151	184	217	250	283
COUNTY:WILCOX STATE:AL	151	184	217	250	283
COUNTY:WINSTON STATE:AL	165	200	237	272	309

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
COLUMBIA, SOUTH CAROLINA AREA AFFICE					
SMSA: AUGUSTA, GA-SC					
COUNTY:AIKEN STATE:SC	189	229	270	311	351
SMSA: CHARLESTON, SC					
COUNTY:BERKELEY STATE:SC	195	238	280	322	364
COUNTY:CHARLESTON STATE:SC	195	238	280	322	364
COUNTY:DORCHESTER STATE:SC	195	238	280	322	364
SMSA: COLUMBIA, SC					
COUNTY:LEXINGTON STATE:SC	189	229	270	311	351
COUNTY:RICHLAND STATE:SC	189	229	270	311	351
SMSA: GREENVILLE-SPARTANBURG, SC					
COUNTY:GREENVILLE STATE:SC	160	194	228	264	298
COUNTY:PICKENS STATE:SC	160	194	228	264	298
COUNTY:SPARTANBURG STATE:SC	160	194	228	264	298
NON SMSA					
COUNTY:ABBEVILLE STATE:SC	140	169	199	229	259
COUNTY:ALLENDALE STATE:SC	166	203	239	274	311
COUNTY:ANDERSON STATE:SC	140	169	199	229	259
COUNTY:BAMBERG STATE:SC	166	203	239	274	311
COUNTY:BARNWELL STATE:SC	166	203	239	274	311
COUNTY:BEAUFORT STATE:SC	166	203	239	274	311
COUNTY:CALHOUN STATE:SC	150	182	215	248	280
COUNTY:CHEROKEE STATE:SC	140	169	199	229	259
COUNTY:CHESTER STATE:SC	151	184	217	250	283
COUNTY:CHESTERFIELD STATE:SC	149	181	213	245	278
COUNTY:CLARENDON STATE:SC	150	182	215	248	280
COUNTY:COLLETON STATE:SC	166	203	239	274	311
COUNTY:DARLINGTON STATE:SC	149	181	213	245	278
COUNTY:DILLON STATE:SC	149	181	213	245	278

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
COLUMBIA, SOUTH CAROLINA AREA AFFICE					
NON SMSA					
COUNTY:EDGEFIELD STATE:SC	166	203	239	274	311
COUNTY:FAIRFIELD STATE:SC	150	182	215	248	280
COUNTY:FLORENCE STATE:SC	149	181	213	245	290 12
COUNTY:GEORGETOWN STATE:SC	149	181	213	245	278
COUNTY:GREENWOOD STATE:SC	140	169	199	229	259
COUNTY:HAMPTON STATE:SC	166	203	239	274	311
COUNTY:HORRY STATE:SC	149	181	213	245	278
COUNTY:JASPER STATE:SC	147	179	211	243	274
COUNTY:KERSHAW STATE:SC	150	182	215	248	280
COUNTY:LANCASTER STATE:SC	151	184	217	250	283
COUNTY:LAURENS STATE:SC	140	169	199	229	259
COUNTY:LEE STATE:SC	150	182	215	248	280
COUNTY:MCCORMICK STATE:SC	166	203	239	274	311
COUNTY MARION STATE:SC	149	181	213	245	278
COUNTY:MARLBORO STATE:SC	149	181	213	245	278
COUNTY:NEWBERRY STATE SC	150	182	215	248	280
COUNTY:OCONEE STATE:SC	140	169	199	229	259
COUNTY:ORANGEBURG STATE:SC	150	182	215	248	280
COUNTY:SALUDA STATE:SC	166	203	239	274	311
COUNTY:SUMTER STATE:SC	150	182	215	248	280
COUNTY:UNION STATE:SC	140	169	199	229	259
COUNTY:WILLIAMSBURG STATE:SC	149	181	213	245	278
COUNTY:YORK STATE:SC	151	184	217	250	283

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE					
SMSA: ASHEVILLE, NC					
COUNTY:BUNCOMBE STATE:NC	150	182	215	248	280
COUNTY:MADISON STATE:NC	150	182	215	248	280
SMSA: BURLINGTON, NC					
COUNTY:ALAMANCE STATE:NC	174	211	249	286	324
SMSA: CHARLOTTE-GASTONIA, NC					
COUNTY:GASTON STATE:NC	211	256	301	347	392
COUNTY:MECKLENBURG STATE:NC	211	256	301	347	392
COUNTY:UNION STATE:NC	211	256	301	347	392
SMSA: FAYETTEVILLE, NC					
COUNTY:CUMBERLAND STATE:NC	193	235	276	317	359
SMSA: GREENSBORO--WINSTON-SALEM--HIGH POINT, NC					
COUNTY:DAVIDSON STATE:NC	174	211	249	286	324
COUNTY:FORSYTH STATE:NC	174	211	249	286	324
COUNTY:GUILFORD STATE:NC	174	211	249	286	324
COUNTY:RANDOLPH STATE:NC	174	211	249	286	324
COUNTY:STOKES STATE:NC	174	211	249	286	324
COUNTY:YADKIN STATE:NC	174	211	249	286	324
SMSA: NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC					
COUNTY:CURRITUCK STATE:NC	204	247	291	335	379
SMSA: RALEIGH-DURHAM, NC					
COUNTY:DURHAM STATE:NC	185	226	266	305	346
COUNTY:ORANGE STATE:NC	185	226	266	305	346
COUNTY:WAKE STATE:NC	185	226	266	305	346
SMSA: WILMINGTON, NC					
COUNTY:BRUNSWICK STATE:NC	161	196	230	266	300
COUNTY:NEW HANOVER STATE:NC	161	196	230	266	300
NON SMSA					
COUNTY:ALEXANDER STATE:NC	157	191	225	259	293
COUNTY:ALLEGHANY STATE:NC	157	191	225	259	293
COUNTY:ANSON STATE:NC	174	211	249	286	324

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:ASHE STATE:NC	157	191	225	259	293
COUNTY:AVERY STATE:NC	157	191	225	259	293
COUNTY:BEAUFORT STATE:NC	185	226	266	306	346
COUNTY:BERTIE STATE:NC	145	176	207	239	270
COUNTY:BLADEN STATE:NC	193	235	276	317	359
COUNTY:BURKE STATE:NC	157	191	225	259	293
COUNTY:CABARRUS STATE:NC	141	171	202	232	263
COUNTY:CALDWELL STATE:NC	157	191	225	259	293
COUNTY:CAMDEN STATE:NC	185	226	266	306	346
COUNTY:CARTERET STATE:NC	161	196	230	266	300
COUNTY:CASWELL STATE:NC	201	244	288	331	375
COUNTY:CATAWBA STATE:NC	157	191	225	259	293
COUNTY:CHATHAM STATE:NC	193	235	276	317	359
COUNTY:CHEROKEE STATE:NC	150	182	215	248	280
COUNTY:CHOWAN STATE:NC	185	226	266	306	346
COUNTY:CLAY STATE:NC	150	182	215	248	280
COUNTY:CLEVELAND STATE:NC	157	191	225	259	293
COUNTY:COLUMBUS STATE:NC	161	196	230	266	300
COUNTY:CRAVEN STATE:NC	161	196	230	266	300
COUNTY:DARE STATE:NC	185	226	266	306	346
COUNTY:DAVIE STATE:NC	174	211	249	286	324
COUNTY:DUPLIN STATE:NC	161	196	230	266	300
COUNTY:EDGECOMBE STATE:NC	145	176	207	239	270
COUNTY:FRANKLIN STATE:NC	145	176	207	239	270

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE					
NON SMSA					
COUNTY:GATES STATE:NC	185	226	266	306	346
COUNTY:GRAHAM STATE:NC	150	182	215	248	280
COUNTY:GRANVILLE STATE:NC	145	176	207	239	270
COUNTY:GREENE STATE:NC	185	226	266	306	346
COUNTY:HALIFAX STATE:NC	145	176	207	239	270
COUNTY:HARNETT STATE:NC	193	235	276	317	359
COUNTY:HAYWOOD STATE:NC	150	182	215	248	280
COUNTY:HENDERSON STATE:NC	150	182	215	248	280
COUNTY:HERTFORD STATE:NC	145	176	207	239	270
COUNTY:HOKE STATE:NC	193	235	276	317	359
COUNTY:HYDE STATE:NC	185	226	266	306	346
COUNTY:IREDELL STATE:NC	141	171	202	232	263
COUNTY:JACKSON STATE:NC	150	182	215	248	280
COUNTY:JOHNSTON STATE:NC	185	226	266	306	346
COUNTY:JONES STATE:NC	161	196	230	266	300
COUNTY:LEE STATE:NC	193	235	276	317	359
COUNTY:LENOIR STATE:NC	161	196	230	266	300
COUNTY:LINCOLN STATE:NC	151	184	217	250	283
COUNTY:MCDOWELL STATE:NC	150	182	215	248	280
COUNTY:MACON STATE:NC	150	182	215	248	280
COUNTY:MARTIN STATE:NC	185	226	266	306	346
COUNTY:MITCHELL STATE:NC	157	191	225	259	293
COUNTY:MONTGOMERY STATE:NC	174	211	249	286	324
COUNTY:MOORE STATE:NC	174	211	249	286	324

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE					
NON SMSA					
COUNTY:NASH STATE:NC	145	176	207	239	270
COUNTY:NORTHAMPTON STATE:NC	145	176	207	239	270
COUNTY:ONSLOW STATE:NC	161	196	230	266	300
COUNTY:PAMLICO STATE:NC	161	196	230	266	300
COUNTY:PASQUOTANK STATE:NC	185	226	266	306	346
COUNTY:PENDER STATE:NC	161	196	230	266	300
COUNTY:PERQUIMANS STATE:NC	185	226	266	306	346
COUNTY:PERSON STATE:NC	193	235	276	317	359
COUNTY:PITT STATE:NC	185	226	266	306	346
COUNTY:POLK STATE:NC	157	191	225	259	293
COUNTY:RICHMOND STATE:NC	174	211	249	286	324
COUNTY:ROBESON STATE:NC	193	235	276	317	359
COUNTY:ROCKINGHAM STATE:NC	147	179	211	243	274
COUNTY:ROWAN STATE:NC	141	171	202	232	263
COUNTY:RUTHERFORD STATE:NC	157	191	225	259	293
COUNTY:SAMPSON STATE:NC	193	235	276	317	359
COUNTY:SCOTLAND STATE:NC	141	171	202	232	263
COUNTY:STANLY STATE:NC	141	171	202	232	263
COUNTY:SURRY STATE:NC	174	211	249	286	324
COUNTY:SWAIN STATE:NC	150	182	215	248	280
COUNTY:TRANSYLVANIA STATE:NC	150	182	215	248	280
COUNTY:TYRRELL STATE:NC	185	226	266	306	346
COUNTY:VANCE STATE:NC	145	176	207	239	270
COUNTY:WARREN STATE:NC	193	235	276	317	359

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:WASHINGTON STATE:NC	185	226	266	306	346
COUNTY:WATAUGA STATE:NC	157	191	225	259	293
COUNTY:WAYNE STATE:NC	185	226	266	306	346
COUNTY:WILKES STATE:NC	157	191	225	259	293
COUNTY:WILSON STATE:NC	145	176	207	239	270
COUNTY:YANCEY STATE:NC	157	191	225	259	293
JACKSON, MISSISSIPPI AREA OFFICE					
SMSA: BILOXI-GULFPORT, MS					
COUNTY:HANCOCK STATE:MS	165	202	237	288	338
COUNTY:HARRISON STATE:MS	165	202	237	288	338
COUNTY:STONE STATE:MS	165	202	237	288	338
SMSA: JACKSON, MS					
COUNTY:HINDS STATE:MS	184	224	264	303	343
COUNTY:RANKIN STATE:MS	184	224	264	303	343
SMSA: MEMPHIS, TN-AR-MS					
COUNTY:DE SOTO STATE:MS	171	208	244	281	318
SMSA: PASCAGOULA-MOSS POINT, MS					
COUNTY:JACKSON STATE:MS	165	202	237	288	338
NON SMSA					
COUNTY:ADAMS STATE:MS	147	172	202	250	275
COUNTY:ALCORN STATE:MS	159	181	214	247	279
COUNTY:AMITE STATE:MS	147	172	202	250	275
COUNTY:ATTALA STATE:MS	160	177	211	256	281

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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:BENTON STATE:MS	160	192	224	256	290
COUNTY:BOLIVAR STATE:MS	161	174	212	251	278
COUNTY:CALHOUN STATE:MS	161	196	229	264	318
COUNTY:CARROLL STATE:MS	160	177	211	256	281
COUNTY:CHICKASAW STATE:MS	159	181	214	247	279
COUNTY:CHOCTAW STATE:MS	140	169	199	229	259
COUNTY:CLAIBORNE STATE:MS	160	177	211	256	281
COUNTY:CLARKE STATE:MS	161	196	230	266	300
COUNTY:CLAY STATE:MS	151	184	217	249	282
COUNTY:COAHOMA STATE:MS	163	198	234	269	303
COUNTY:COPIAH STATE:MS	160	177	211	256	281
COUNTY:COVINGTON STATE:MS	161	196	230	266	300
COUNTY:FORREST STATE:MS	161	196	230	266	300
COUNTY:FRANKLIN STATE:MS	147	172	202	250	275
COUNTY:GEORGE STATE:MS	158	192	224	258	295
COUNTY:GREENE STATE:MS	158	192	224	258	295
COUNTY:GRENADA STATE:MS	160	177	211	256	281
COUNTY:HOLMES STATE:MS	160	177	211	256	281
COUNTY:HUMPHREYS STATE:MS	161	174	212	251	278
COUNTY:ISSAQUENA STATE:MS	161	174	212	251	278
COUNTY:ITAWAMBA STATE:MS	159	181	214	247	279
COUNTY:JASPER STATE:MS	161	196	230	266	300
COUNTY:JEFFERSON STATE:MS	147	172	202	250	275
COUNTY:JEFFERSON DA STATE:MS	147	172	202	250	275

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:JONES STATE:MS	161	196	230	266	300
COUNTY:KEMPER STATE:MS	161	196	230	266	300
COUNTY:LAFAYETTE STATE:MS	160	192	224	256	290
COUNTY:LAMAR STATE:MS	161	196	230	266	300
COUNTY:LAUDERDALE STATE:MS	161	196	230	266	300
COUNTY:LAWRENCE STATE:MS	147	172	202	250	275
COUNTY:LEAKE STATE:MS	138	168	199	229	259
COUNTY:LEE STATE:MS	151	184	217	249	282
COUNTY:LEFLORE STATE:MS	160	177	211	256	281
COUNTY:LINCOLN STATE:MS	147	172	202	250	275
COUNTY:LOWNDES STATE:MS	160	183	218	249	282
COUNTY:MADISON STATE:MS	160	177	211	256	281
COUNTY:MARION STATE:MS	138	167	197	227	258
COUNTY:MARSHALL STATE:MS	160	192	224	256	290
COUNTY:MONROE STATE:MS	161	196	229	264	318
COUNTY:MONTGOMERY STATE:MS	138	168	199	229	259
COUNTY:NESHOBA STATE:MS	161	196	230	266	300
COUNTY:NEWTON STATE:MS	161	196	230	266	300
COUNTY:NOXUBEE STATE:MS	151	184	217	249	282
COUNTY:OKTIBBEHA STATE:MS	174	212	250	287	325
COUNTY:PANOLA STATE:MS	160	192	224	256	290
COUNTY:PEARL RIVER STATE:MS	142	171	206	264	311
COUNTY:PERRY STATE:MS	161	196	230	266	300
COUNTY:PIKE STATE:MS	147	172	202	250	275

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:PONTOTOC STATE:MS	159	181	214	247	279
COUNTY:PRENTISS STATE:MS	159	181	214	247	279
COUNTY:QUITMAN STATE:MS	160	192	224	256	290
COUNTY:SCOTT STATE:MS	138	168	199	229	259
COUNTY:SHARKEY STATE:MS	161	174	212	251	278
COUNTY:SIMPSON STATE:MS	160	177	211	256	281
COUNTY:SMITH STATE:MS	138	168	199	229	259
COUNTY:SUNFLOWER STATE:MS	161	174	212	251	278
COUNTY:TALLAHATCHIE STATE:MS	138	168	199	229	259
COUNTY:TATE STATE:MS	160	192	224	256	290
COUNTY:TIPPAH STATE:MS	163	198	234	269	303
COUNTY:TISHOMIGO STATE:MS	159	181	214	247	279
COUNTY:TUNICA STATE:MS	160	192	224	256	290
COUNTY:UNION STATE:MS	161	196	229	264	318
COUNTY:WALTHALL STATE:MS	147	172	202	250	275
COUNTY:WARREN STATE:MS	160	177	211	256	281
COUNTY:WASHINGTON STATE:MS	161	174	212	251	278
COUNTY:WAYNE STATE:MS	161	196	230	266	300
COUNTY:WEBSTER STATE:MS	151	184	217	249	282
COUNTY:WILKINSON STATE:MS	141	172	202	232	262
COUNTY:WINSTON STATE:MS	161	196	230	266	300
COUNTY:YALOBUSHA STATE:MS	138	168	199	229	259
COUNTY:YAZOO STATE:MS	160	177	211	256	281

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
JACKSONVILLE, FLORIDA AREA OFFICE					
SMSA: FORT LAUDERDALE-HOLLYWOOD, FL					
COUNTY:BROWARD					
STATE:FL	298	361	425	489	553
SMSA: FORT MYERS-CAPE CORAL, FL					
COUNTY:LEE					
STATE:FL	223	271	319	367	415
SMSA: MIAMI, FL					
COUNTY:DADE					
STATE:FL	271	328	387	445	503
SMSA: WEST PALM BEACH-BOCA RATON, FL					
COUNTY:PALM BEACH					
STATE:FL	250	303	356	410	463
NON SMSA					
COUNTY:CHARLOTTE					
STATE:FL	223	271	319	367	415
COUNTY:COLLIER					
STATE:FL	210	256	301	346	392
COUNTY:GLADES					
STATE:FL	176	214	253	290	329
COUNTY:HENDRY					
STATE:FL	176	214	253	290	329
COUNTY:MARTIN					
STATE:FL	176	214	253	290	329
COUNTY:MONROE					
STATE:FL	176	214	253	290	329
SMSA: GAINESVILLE, FL					
COUNTY:ALACHUA					
STATE:FL	176	214	253	290	329
SMSA: JACKSONVILLE, FL					
COUNTY:BAKER					
STATE:FL	185	226	266	306	346
COUNTY:CLAY					
STATE:FL	185	226	266	306	346
COUNTY:DUVAL					
STATE:FL	185	226	266	306	346
COUNTY:NASSAU					
STATE:FL	185	226	266	306	346
COUNTY:ST JOHNS					
STATE:FL	185	226	266	306	346
SMSA: PANAMA CITY, FL					
COUNTY:BAY					
STATE:FL	176	214	253	290	329
SMSA: PENSACOLA, FL					
COUNTY ESCAMBIA					
STATE:FL	184	224	265	304	344
COUNTY:SANTA ROSA					
STATE:FL	184	224	265	304	344
SMSA: TALLAHASSEE, FL					
COUNTY:LEON					
STATE:FL	176	214	253	290	329
COUNTY:WAKULLA					
STATE:FL	176	214	253	290	329
NON SMSA					
COUNTY:BRADFORD					
STATE:FL	159	193	227	262	296

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
JACKSONVILLE, FLORIDA AREA OFFICE					
NON SMSA					
COUNTY:CALHOUN STATE:FL	176	214	253	290	329
COUNTY:COLUMBIA STATE:FL	159	193	227	262	296
COUNTY:DIXIE STATE:FL	176	214	253	290	329
COUNTY:FLAGLER STATE:FL	168	205	241	276	313
COUNTY:FRANKLIN STATE:FL	176	214	253	290	329
COUNTY:GADSDEN STATE:FL	176	214	253	290	329
COUNTY:GILCHRIST STATE:FL	176	214	253	290	329
COUNTY:GULF STATE:FL	176	214	253	290	329
COUNTY:HAMILTON STATE:FL	159	193	227	262	296
COUNTY:HOLMES STATE:FL	176	214	253	290	329
COUNTY:JACKSON STATE:FL	176	214	253	290	329
COUNTY:JEFFERSON STATE:FL	176	214	253	290	329
COUNTY:LAFAYETTE STATE:FL	159	193	227	262	296
COUNTY:LEVY STATE:FL	176	214	253	290	329
COUNTY:LIBERTY STATE:FL	176	214	253	290	329
COUNTY:MADISON STATE:FL	176	214	253	290	329
COUNTY:MARION STATE:FL	176	214	253	290	329
COUNTY:OKALOOSA STATE:FL	184	224	265	304	344
COUNTY:PUTNAM STATE:FL	176	214	253	290	329
COUNTY:SUWANNEE STATE:FL	159	193	227	262	296
COUNTY:TAYLOR STATE:FL	176	214	253	290	329
COUNTY:UNION STATE:FL	159	193	227	262	296
COUNTY:WALTON STATE:FL	184	224	265	304	344
COUNTY:WASHINGTON STATE:FL	176	214	253	290	329

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
JACKSONVILLE, FLORIDA AREA OFFICE					
SMSA: DAYTONA BEACH, FL					
COUNTY:VOLUSIA STATE:FL	168	205	241	276	313
SMSA: MELBOURN-TITUSVILLE-COCOA, FL					
COUNTY:BREVARD STATE:FL	221	268	315	363	410
SMSA: ORLANDO, FL					
COUNTY:ORANGE STATE:FL	215	261	307	353	399
COUNTY:OSCEOLA STATE:FL	215	261	307	353	399
COUNTY:SEMINOLE STATE:FL	215	261	307	353	399
NON SMSA					
COUNTY:INDIAN RIVER STATE:FL	176	214	253	290	329
COUNTY:LAKE STATE:FL	168	205	241	276	313
COUNTY:OKEECHOBEE STATE:FL	176	214	253	290	329
COUNTY.ST LUCIE STATE:FL	176	214	253	290	329
SMSA: BRADENTON, FL					
COUNTY:MANATEE STATE:FL	223	271	319	367	415
SMSA: LAKELAND-WINTER HAVEN, FL					
COUNTY:POLK STATE:FL	183	223	262	302	342
SMSA: SARASOTA, FL					
COUNTY:SARASOTA STATE:FL	223	271	319	367	415
SMSA: TAMPA-ST PETERSBURG, FL					
COUNTY:HILLSBOROUGH STATE:FL	183	224	279	348	388
COUNTY:PASCO STATE:FL	183	224	279	348	388
COUNTY:PINELLAS STATE:FL	183	224	279	348	388
NON SMSA					
COUNTY:CITRUS STATE:FL	183	223	262	302	342
COUNTY:DE SOTO STATE:FL	223	271	319	367	415
COUNTY:HARDEE STATE:FL	223	271	319	367	415
COUNTY:HERNANDO STATE:FL	183	223	262	302	342
COUNTY:HIGHLANDS STATE:FL	176	214	253	290	329
COUNTY:SUMTER STATE:FL	168	205	241	276	313

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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: CINCINNATI, OH-KY-IN					
COUNTY:BOONE STATE:KY	185	224	262	301	340
COUNTY:CAMPBELL STATE:KY	185	224	262	301	340
COUNTY:KENTON STATE:KY	185	224	262	301	340
SMSA: CLARKSVILLE-HOPKINSVILLE, TN-KY					
COUNTY:CHRISTIAN STATE:KY	166	203	239	274	311
SMSA: EVANSVILLE, IN-KY					
COUNTY:HENDERSON STATE:KY	193	215	258	285	317
SMSA: HUNTINGTON-ASHLAND, WV-KY-OH					
COUNTY:BOYD STATE:KY	156	190	223	256	290
COUNTY:GREENUP STATE:KY	156	190	223	256	290
SMSA: LEXINGTON-FAYETTE , KY					
COUNTY:BOURBON STATE:KY	178	216	266	314	364
COUNTY:CLARK STATE:KY	178	216	266	314	364
COUNTY:FAYETTE STATE:KY	178	216	266	314	364
COUNTY:JESSAMINE STATE:KY	178	216	266	314	364
COUNTY:SCOTT STATE:KY	178	216	266	314	364
COUNTY:WOODFORD STATE:KY	178	216	266	314	364
SMSA LOUISVILLE, KY-IN					
COUNTY:BULLITT STATE:KY	166 1	200	236	271	306
COUNTY:JEFFERSON STATE:KY	166 1	200	236	271	306
COUNTY:OLDHAM STATE:KY	166 1	200	236	271	306
SMSA OWENSBORO, KY					
COUNTY:DAVIESS STATE:KY	188	227	268	309	349
NON SMSA					
COUNTY:ADAIR STATE:KY	149	181	210	239	265
COUNTY:ALLEN STATE:KY	149	181	210	239	265
COUNTY:ANDERSON STATE:KY	178	216	254	292	331
COUNTY:BALLARD STATE:KY	141	171	202	232	263
COUNTY:BARREN STATE:KY	149	181	210	239	265

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
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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:BATH STATE:KY	178	216	254	292	331
COUNTY:BELL STATE:KY	149	181	210	239	265
COUNTY:BOYLE STATE:KY	171	192	233	278	285
COUNTY:BRACKEN STATE:KY	188	227	268	309	349
COUNTY:BREATHITT STATE:KY	149	181	210	239	265
COUNTY:BRECKINRIDGE STATE:KY	182	221	260	300	338
COUNTY:BUTLER STATE:KY	149	181	210	239	265
COUNTY:CALDWELL STATE:KY	153	187	220	253	286
COUNTY:CALLOWAY STATE:KY	141	171	202	232	263
COUNTY:CARLISLE STATE:KY	141	171	202	232	263
COUNTY:CARROLL STATE:KY	188	227	268	309	349
COUNTY:CARTER STATE:KY	171	192	233	278	285
COUNTY:CASEY STATE:KY	133 20	160 23	187 25	217 30	238 27
COUNTY:CLAY STATE:KY	149	181	210	239	265
COUNTY:CLINTON STATE:KY	149	181	210	239	265
COUNTY:CRITTENDON STATE:KY	153	187	220	253	286
COUNTY:CUMBERLAND STATE:KY	149	181	210	239	265
COUNTY:EDMONSON STATE:KY	149	181	210	239	265
COUNTY:ELLIOTT STATE:KY	142	171	205	278	299
COUNTY:ESTILL STATE:KY	178	216	254	292	331
COUNTY:FLEMING STATE:KY	188	227	268	309	349
COUNTY:FLOYD STATE:KY	133 6	160 5	187 6	217 8	238 1
COUNTY:FRANKLIN STATE:KY	178	216	254	292	331
COUNTY:FULTON STATE:KY	141	171	202	232	263

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:GALLATIN STATE:KY	188	227	268	309	349
COUNTY:GARRARD STATE:KY	133 20	160 23	187 25	217 30	238 27
COUNTY:GRANT STATE:KY	188	227	268	309	349
COUNTY:GRAVES STATE:KY	141	171	202	232	263
COUNTY:GRAYSON STATE:KY	182	221	260	300	338
COUNTY:GREEN STATE:KY	149	181	210	239	265
COUNTY:HANCOCK STATE:KY	146	178	220	253	286
COUNTY:HARDIN STATE:KY	182	221	260	300	338
COUNTY:HARLAN STATE:KY	149	181	210	239	265
COUNTY:HARRISON STATE:KY	178	216	267	307	347
COUNTY:HART STATE:KY	182	221	260	300	338
COUNTY:HENRY STATE:KY	182	221	260	300	338
COUNTY:HICKMAN STATE:KY	141	171	202	232	263
COUNTY:HOPKINS STATE:KY	146	178	220	253	286
COUNTY:JACKSON STATE:KY	149	181	210	239	265
COUNTY:JOHNSON STATE:KY	133 6	160 5	187 6	217 8	238 1
COUNTY:KNOTT STATE:KY	149	181	210	239	265
COUNTY:KNOX STATE:KY	149	181	210	239	265
COUNTY:LARUE STATE:KY	182	221	260	300	338
COUNTY:LAUREL STATE:KY	149	181	210	239	265
COUNTY:LAWRENCE STATE:KY	142	171	205	278	299
COUNTY:LEE STATE:KY	149	181	210	239	265
COUNTY:LESLIE STATE:KY	149	181	210	239	265
COUNTY:LETCHER STATE:KY	149	181	210	239	265

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
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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:LEWIS STATE:KY	188	227	268	309	349
COUNTY:LINCOLN STATE:KY	133 20	160 23	187 25	217 30	238 27
COUNTY:LIVINGSTON STATE:KY	141	171	202	232	263
COUNTY:LOGAN STATE:KY	153	187	220	253	286
COUNTY:LYON STATE:KY	153	187	220	253	286
COUNTY:MCCRACKEN STATE:KY	159	188	221	254	288
COUNTY:MCCREARY STATE:KY	149	181	210	239	265
COUNTY:MCLEAN STATE:KY	146	178	220	253	286
COUNTY:MADISON STATE:KY	178	216	267	307	347
COUNTY:MAGOFFIN STATE:KY	149	181	210	239	265
COUNTY:MARION STATE:KY	182	221	260	300	338
COUNTY:MARSHALL STATE:KY	159	188	221	254	288
COUNTY:MARTIN STATE:KY	133 6	160 5	187 6	217 8	238 1
COUNTY:MASON STATE:KY	188	227	268	309	349
COUNTY:MEADE STATE:KY	182	221	260	300	338
COUNTY:MENIFEE STATE:KY	149	181	210	239	265
COUNTY:MERCER STATE:KY	178	216	254	292	331
COUNTY:METCALFE STATE:KY	149	181	210	239	265
COUNTY:MONROE STATE:KY	149	181	210	239	265
COUNTY:MONTGOMERY STATE:KY	178	216	267	307	347
COUNTY:MORGAN STATE:KY	149	181	210	239	265
COUNTY:MUHLENBERG STATE:KY	146	178	220	253	286
COUNTY:NELSON STATE:KY	182	221	260	300	338
COUNTY:NICHOLAS STATE:KY	178	216	254	292	331

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:OHIO STATE:KY	146	178	209	241	272
COUNTY:OWEN STATE:KY	188	227	268	309	349
COUNTY:OWSLEY STATE:KY	149	181	210	239	265
COUNTY:PENDLETON STATE:KY	188	227	268	309	349
COUNTY:PERRY STATE:KY	149	181	210	239	265
COUNTY:PIKE STATE:KY	149	181	210	239	265
COUNTY:POWELL STATE:KY	149	181	210	250	265
COUNTY:PULASKI STATE:KY	149	181	210	239	265
COUNTY:ROBERTSON STATE:KY	188	227	268	309	349
COUNTY:ROCKCASTLE STATE:KY	149	181	210	239	265
COUNTY:ROWAN	133	160	187	217	238
STATE:KY	6	5	6	8	1
COUNTY:RUSSELL	133	160	187	217	238
STATE:KY	20	23	25	30	27
COUNTY:SHELBY STATE:KY	182	221	260	300	338
COUNTY:SIMPSON STATE:KY	149	181	210	239	265
COUNTY:SPENCER STATE:KY	182	221	260	300	338
COUNTY:TAYLOR STATE:KY	149	181	210	239	265
COUNTY:TODD STATE:KY	166	203	239	274	311
COUNTY:TRIGG STATE:KY	166	203	239	274	311
COUNTY:TRIMBLE STATE:KY	182	221	260	300	338
COUNTY:UNION STATE:KY	146	178	220	253	286
COUNTY:WARREN STATE:KY	149	181	210	239	265
COUNTY:WASHINGTON STATE:KY	182	221	260	300	338
COUNTY:WAYNE STATE:KY	149	181	210	239	265
COUNTY:WEBSTER STATE:KY	146	178	220	253	286

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:WHITLEY					
STATE:KY	149	181	210	250	265
COUNTY:WOLFE					
STATE:KY	133	160	187	217	238
	20	23	25	30	27
KNOXVILLE, TENNESSEE AREA OFFICE					
SMSA: CHATTANOOGA, TN-GA					
COUNTY:HAMILTON					
STATE:TN	166	203	239	274	311
COUNTY:MARION					
STATE:TN	166	203	239	274	311
COUNTY:SEQUATCHIE					
STATE:TN	166	203	239	274	311
SMSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA					
COUNTY:CARTER					
STATE:TN	164	199	235	270	305
COUNTY:HAWKINS					
STATE:TN	164	199	235	270	305
COUNTY:SULLIVAN					
STATE:TN	164	199	235	270	305
COUNTY:UNICOI					
STATE:TN	164	199	235	270	305
COUNTY:WASHINGTON					
STATE:TN	164	199	235	270	305
SMSA: KNOXVILLE, TN					
COUNTY:ANDERSON					
STATE:TN	166	203	239	313	342
COUNTY:BLOUNT					
STATE:TN	166	203	239	313	342
COUNTY:KNOX					
STATE:TN	166	203	239	313	342
COUNTY:UNION					
STATE:TN	166	203	239	313	342

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:BLEDSOE STATE:TN	142	173	204	234	265
COUNTY:BRADLEY STATE:TN	142	173	204	234	265
COUNTY:CAMPBELL STATE:TN	132	161	190	218	247
COUNTY:CLAIBORNE STATE:TN	132	161	190	218	247
COUNTY:COCKE STATE:TN	132	161	190	218	247
COUNTY:CUMBERLAND STATE:TN	132	161	190	218	247
COUNTY:FENTRESS STATE:TN	132	161	190	218	247
COUNTY:GRAINGER STATE:TN	132	161	190	218	247
COUNTY:GREENE STATE:TN	164	199	235	270	305
COUNTY:GRUNDY STATE:TN	142	173	204	234	265
COUNTY:HAMBLEN STATE:TN	132	161	190	218	247
COUNTY:HANCOCK STATE:TN	164	199	235	270	305
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY:JEFFERSON STATE:TN	132	161	190	218	247
COUNTY:JOHNSON STATE:TN	164	199	235	270	305
COUNTY:LOUDON STATE:TN	132	161	190	218	247
COUNTY:MCMINN STATE:TN	142	173	204	234	265
COUNTY:MEIGS STATE:TN	142	173	204	234	265
COUNTY:MONROE STATE:TN	132	161	190	218	247
COUNTY:MORGAN STATE:TN	132	161	190	218	247
COUNTY:PICKETT STATE:TN	126	152	180	207	234
COUNTY:POLK STATE:TN	142	173	204	234	265
COUNTY:RHEA STATE:TN	142	173	204	234	265
COUNTY:ROANE STATE:TN	132	161	190	218	247
COUNTY:SCOTT STATE:TN	132	161	190	218	247

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:SEVIER STATE:TN	132	161	190	218	247
SMSA: MEMPHIS, TN-AR-MS					
COUNTY:SHELBY STATE:TN	171	208	244	281	318
COUNTY:TIPTON STATE:TN	171	208	244	281	318
NON SMSA					
COUNTY:BENTON STATE:TN	166	203	239	274	311
COUNTY:CARROLL STATE:TN	136	166	195	225	254
COUNTY:CHESTER STATE:TN	136	166	195	225	254
COUNTY:CROCKETT STATE:TN	136	166	195	225	254
COUNTY:DECATUR STATE:TN	136	166	195	225	254
COUNTY:DYER STATE:TN	136	166	195	225	254
COUNTY:FAYETTE STATE:TN	150	182	215	248	280
COUNTY:GIBSON STATE:TN	136	166	195	225	254
COUNTY:HARDEMAN STATE:TN	150	182	215	248	280
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY:HARDIN STATE:TN	137	167	197	227	257
COUNTY:HAYWOOD STATE:TN	136	166	195	225	254
COUNTY:HENDERSON STATE:TN	136	166	195	225	254
COUNTY:HENRY STATE:TN	136	166	195	225	254
COUNTY:LAKE STATE:TN	141	171	202	232	263
COUNTY:LAUDERDALE STATE:TN	136	166	195	225	254
COUNTY:MCNAIRY STATE:TN	138 1	167	197	227	257
COUNTY:MADISON STATE:TN	149	182	214	248	279
COUNTY:OBION STATE:TN	141	171	202	232	263
COUNTY:WEAKLEY STATE:TN	136	166	195	225	254
SMSA: CLARKSVILLE-HOPKINSVILLE, TN-KY					
COUNTY:MONTGOMERY STATE:TN	166	203	239	274	311
SMSA: NASHVILLE-DAVIDSON, TN					
COUNTY:CHEATHAM STATE:TN	201	244	288	331	375

NOTE. FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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: NASHVILLE-DAVIDSON, TN					
COUNTY:DAVIDSON STATE:TN	201	244	288	331	375
COUNTY:DICKSON STATE:TN	201	244	288	331	375
COUNTY:ROBERTSON STATE:TN	201	244	288	331	375
COUNTY:RUTHERFORD STATE:TN	201	244	288	331	375
COUNTY:SUMNER STATE:TN	201	244	288	331	375
COUNTY:WILLIAMSON STATE:TN	201	244	288	331	375
COUNTY:WILSON STATE:TN	201	244	288	331	375
NON SMSA					
COUNTY:BEDFORD STATE:TN	142	173	204	234	265
COUNTY:CANNON STATE:TN	126	152	180	207	234
COUNTY:CLAY STATE:TN	126	152	180	207	234
COUNTY:COFFEE STATE:TN	142	173	204	234	265
COUNTY:DE KALB STATE:TN	126	152	180	207	234
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY:FRANKLIN STATE:TN	175	212	251	288	326
COUNTY:GILES STATE:TN	142	173	204	234	265
COUNTY:HICKMAN STATE:TN	142	173	204	234	265
COUNTY:HOUSTON STATE:TN	166	203	239	274	311
COUNTY:HUMPHREYS STATE:TN	166	203	239	274	311
COUNTY:JACKSON STATE:TN	126	152	180	207	234
COUNTY:LAWRENCE STATE:TN	142	173	204	234	265
COUNTY:LEWIS STATE:TN	142	173	204	234	265
COUNTY:LINCOLN STATE:TN	175	212	251	288	326
COUNTY:MACON STATE:TN	126	152	180	207	234
COUNTY:MARSHALL STATE:TN	142	173	204	234	265
COUNTY:MAURY STATE:TN	142	173	204	234	265

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:MOORE STATE:TN	142	173	204	234	265
COUNTY:OVERTON STATE:TN	126	152	180	207	234
COUNTY:PERRY STATE:TN	126	152	180	207	234
COUNTY:PUTNAM STATE:TN	126	152	180	207	234
COUNTY:SMITH STATE:TN	126	152	180	207	234
COUNTY:STEWART STATE:TN	166	203	239	274	311
COUNTY:TROUSDALE STATE:TN	126	152	180	207	234
COUNTY:VAN BUREN STATE:TN	126	152	180	207	234
COUNTY:WARREN STATE:TN	126	152	180	207	234
COUNTY:WAYNE STATE:TN	137	167	197	227	257
COUNTY:WHITE STATE:TN	126	152	180	207	234
REGION 5					
CHICAGO, ILLINOIS AREA OFFICE					
SMSA: CHICAGO, IL					
COUNTY:COOK STATE:IL	256	291	344	400	451
COUNTY:DU PAGE STATE:IL	256	291	344	400	451
COUNTY:KANE STATE:IL	256	291	344	400	451
COUNTY:LAKE STATE:IL	256	291	344	400	451
COUNTY:MCHENRY STATE:IL	256	291	344	400	451
COUNTY:WILL STATE:IL	256	291	344	400	451
SMSA. DAVENPORT-ROCK ISLAND-MOLINE, IA-IL					
COUNTY:ROCK ISLAND STATE:IL	196	239	281	325	367
SMSA: KANKAKEE, ILLINOIS					
COUNTY:KANKAKEE STATE:IL	167 2	201	237	273	309
SMSA: ROCKFORD, IL					
COUNTY:BOONE STATE:IL	188	236	288	322	374
COUNTY:WINNEBAGO STATE:IL	188	236	288	322	374
NON SMSA					
COUNTY:CARROLL STATE:IL	165	201	237	273	309

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
CHICAGO, ILLINOIS AREA OFFICE					
NON SMSA					
COUNTY:DE KALB STATE:IL	188	227	268	310	349
COUNTY:GRUNDY STATE:IL	188	227	268	310	349
COUNTY:JO DAVIESS STATE:IL	149	181	214	246	279
COUNTY:KENDALL STATE:IL	188	227	268	310	349
COUNTY:LEE STATE:IL	171	208	245	283	319
COUNTY:OGLE STATE:IL	171	208	245	283	319
COUNTY:STEPHENSON STATE:IL	171	208	245	283	319
COUNTY:WHITESIDE STATE:IL	165	201	237	273	309
SMSA: BLOOMINGTON-NORMAL, IL					
COUNTY:MCLEAN STATE:IL	171	208	245	283	319
SMSA: CHAMPAIGN-URBANA-RANTOUL, IL					
COUNTY:CHAMPAIGN STATE:IL	190	231	272	313	354
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL					
COUNTY:HENRY STATE:IL	196	239	281	325	367
CHICAGO, ILLINOIS AREA OFFICE					
SMSA: DECATUR, IL					
COUNTY:MACON STATE:IL	179	218	257	296	334
SMSA: PEORIA, IL					
COUNTY:PEORIA STATE:IL	196	239	281	325	367
COUNTY:TAZEWELL STATE:IL	196	239	281	325	367
COUNTY:WOODFORD STATE:IL	196	239	281	325	367
SMSA: ST LOUIS, MO-IL					
COUNTY:CLINTON STATE:IL	187	227	266	306	345
COUNTY:MADISON STATE:IL	187	227	266	306	345
COUNTY:MONROE STATE:IL	187	227	266	306	345
COUNTY:ST CLAIR STATE:IL	187	227	266	306	345
SMSA: SPRINGFIELD, IL					
COUNTY:MENARD STATE:IL	179	218	257	296	334
COUNTY:SANGAMON STATE:IL	179	218	257	296	334
NON SMSA					
COUNTY:ADAMS STATE:IL	150	182	215	248	281

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
CHICAGO, ILLINOIS AREA OFFICE					
NON SMSA					
COUNTY:ALEXANDER STATE:IL	122	149	175	202	229
COUNTY:BOND STATE:IL	136	166	196	225	255
COUNTY:BROWN STATE:IL	150	182	215	248	281
COUNTY:BUREAU STATE:IL	165	201	237	273	309
COUNTY:CALHOUN STATE:IL	136	166	196	225	255
COUNTY:CASS STATE:IL	179	218	257	296	334
COUNTY:CHRISTIAN STATE:IL	179	218	257	296	334
COUNTY:CLARK STATE:IL	171	208	245	283	319
COUNTY:CLAY STATE:IL	136	166	196	225	255
COUNTY:COLES STATE:IL	190	231	272	313	354
COUNTY:CRANFORD STATE:IL	171	208	245	283	319
COUNTY:CUMBERLAND STATE:IL	190	231	272	313	354
CHICAGO, ILLINOIS AREA OFFICE					
NON SMSA					
COUNTY:DE WITT STATE:IL	179	218	257	296	334
COUNTY:DOUGLAS STATE:IL	190	231	272	313	354
COUNTY:EDGAR STATE:IL	190	231	272	313	354
COUNTY:EDWARDS STATE:IL	125	153	181	208	236
COUNTY:EFFINGHAM STATE:IL	136	166	196	225	255
COUNTY:FAYETTE STATE:IL	136	166	196	225	255
COUNTY:FORD STATE:IL	190	231	272	313	354
COUNTY:FRANKLIN STATE:IL	143	173	204	234	266
COUNTY:FULTON STATE:IL	171	208	245	283	319
COUNTY:GALLATIN STATE:IL	125	153	181	208	236
COUNTY:GREENE STATE:IL	136	166	196	225	255
COUNTY:HAMILTON STATE:IL	125	153	181	208	236

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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
CHICAGO, ILLINOIS AREA OFFICE					
NON SMSA					
COUNTY:HANCOCK STATE:IL	150	182	215	248	281
COUNTY:HARDIN STATE:IL	122	149	175	202	229
COUNTY:HENDERSON STATE:IL	150	182	215	248	281
COUNTY:IROQUOIS STATE:IL	165	201	237	273	309
COUNTY:JACKSON STATE:IL	166	215	273	312	376
COUNTY:JASPER STATE:IL	136	166	196	225	255
COUNTY:JEFFERSON STATE:IL	143	173	204	234	266
COUNTY:JERSEY STATE:IL	136	166	196	225	255
COUNTY:JOHNSON STATE:IL	122	149	175	202	229
COUNTY:KNOX STATE:IL	171	208	245	283	319
COUNTY:LA SALLE STATE:IL	188	227	268	310	349
COUNTY:LAWRENCE STATE:IL	125	153	181	208	236
CHICAGO, ILLINOIS AREA OFFICE					
NON SMSA					
COUNTY:LIVINGSTON STATE:IL	188	227	268	310	349
COUNTY:LOGAN STATE:IL	179	218	257	296	334
COUNTY:MCDONOUGH STATE:IL	171	208	245	283	319
COUNTY:MACOUPIN STATE:IL	136	166	196	225	255
COUNTY:MARION STATE:IL	136	166	196	225	255
COUNTY:MARSHALL STATE:IL	171	208	245	283	319
COUNTY:MASON STATE:IL	179	218	257	296	334
COUNTY:MASSAC STATE:IL	122	149	175	202	229
COUNTY:MERCER STATE:IL	165	201	237	273	309
COUNTY:MONTGOMERY STATE:IL	136	166	196	225	255
COUNTY:MORGAN STATE:IL	179	218	257	296	334
COUNTY:MOULTRIE STATE:IL	179	218	257	296	334

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
CHICAGO, ILLINOIS AREA OFFICE					
NON SMSA					
COUNTY:PERRY STATE:IL	143	173	204	234	266
COUNTY:PIATT STATE:IL	190	231	272	313	354
COUNTY:PIKE STATE.IL	150	182	215	248	281
COUNTY:POPE STATE:IL	122	149	175	202	229
COUNTY:PULASKI STATE:IL	122	149	175	202	229
COUNTY:PUTNAM STATE:IL	188	227	268	310	349
COUNTY:RANDOLPH STATE:IL	143	173	204	234	266
COUNTY:RICHLAND STATE:IL	136	166	196	225	255
COUNTY:SALINE STATE:IL	125	153	181	208	236
COUNTY:SCHUYLER STATE:IL	150	182	215	248	281
COUNTY:SCOTT STATE:IL	179	218	257	296	334
COUNTY:SHELBY STATE:IL	179	218	257	296	334
CHICAGO, ILLINOIS AREA OFFICE					
NON SMSA					
COUNTY:STARK STATE:IL	171	208	245	283	319
COUNTY:UNION STATE.IL	122	149	175	202	229
COUNTY:VERMILION STATE:IL	190	231	272	313	354
COUNTY:WABASH STATE:IL	125	153	181	208	236
COUNTY:WARREN STATE:IL	171	208	245	283	319
COUNTY:WASHINGTON STATE:IL	143	173	204	234	266
COUNTY:WAYNE STATE:IL	136	166	196	225	255
COUNTY:WHITE STATE:IL	125	153	181	208	236
COUNTY:WILLIAMSON STATE:IL	143	173	204	234	266

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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: CINCINNATI, OH-KY-IN					
COUNTY:CLERMONT STATE.OH	185	224	262	301	340
COUNTY:HAMILTON STATE:OH	185	224	262	301	340
COUNTY:WARREN STATE:OH	185	224	262	301	340
SMSA: DAYTON, OH					
COUNTY:GREENE STATE:OH	188	227	268	310	349
COUNTY:MONTGOMERY STATE:OH	188	227	268	310	349
COUNTY:PREBLE STATE:OH	188	227	268	310	349
SMSA: HAMILTON-MIDDLETOWN, OH					
COUNTY:BUTLER STATE:OH	163	198	233	269	304
NON SMSA					
COUNTY:ADAMS STATE:OH	163	198	233	269	304
COUNTY:BROWN STATE:OH	163	198	233	269	304
COUNTY:CLINTON STATE:OH	163	198	233	269	304
COUNTY:HIGHLAND STATE:OH	163	198	233	269	304
COLUMBUS, OHIO AREA OFFICE					
SMSA: AKRON, OH					
COUNTY:PORTAGE STATE:OH	194	236	278	320	362
COUNTY:SUMMIT STATE:OH	194	236	278	320	362
SMSA: CANTON, OH					
COUNTY:CARROLL STATE:OH	154 3	185	217	250	283
COUNTY:STARK STATE:OH	154 3	185	217	250	283
SMSA: CLEVELAND, OH					
COUNTY:CUYAHOGA STATE:OH	183	222	262	302	341
COUNTY:GEAUGA STATE:OH	183	222	262	302	341
COUNTY:LAKE STATE:OH	183	222	262	302	341
COUNTY:MEDINA STATE:OH	183	222	262	302	341
SMSA: LIMA, OH					
COUNTY:PUTNAM STATE:OH	179	207	249	287	317
SMSA: LORAIN-ELYRIA, OH					
COUNTY:LORAIN STATE:OH	189	230	271	311	352
SMSA: MANSFIELD, OH					
COUNTY:RICHLAND STATE:OH	159	193	227	261	296

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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: STEUBENVILLE-WEIRTON, OH-WV					
COUNTY: JEFFERSON STATE: OH	151	183	217	250	282
SMSA: TOLEDO, OH-MI					
COUNTY: FULTON STATE: OH	173	209	247	284	322
COUNTY: LUCAS STATE: OH	173	209	247	284	322
COUNTY: OTTAWA STATE: OH	173	209	247	284	322
COUNTY: WOOD STATE: OH	173	209	247	284	322
SMSA: YOUNGSTOWN-WARREN, OH					
COUNTY: MAHONING STATE: OH	165	201	237	273	309
COUNTY: TRUMBULL STATE: OH	165	201	237	273	309
NON SMSA					
COUNTY: ASHLAND STATE: OH	156	190	223	258	292
COUNTY: ASHTABULA STATE: OH	156	190	223	258	292
COUNTY: COLUMBIANA STATE: OH	137	167	197	227	257
COUNTY: CRAWFORD STATE: OH	159	193	227	261	296
COLUMBUS, OHIO AREA OFFICE					
NON SMSA					
COUNTY: DEFIANCE STATE: OH	149	181	214	246	279
COUNTY: ERIE STATE: OH	156	190	223	258	292
COUNTY: HANCOCK STATE: OH	156	190	223	258	292
COUNTY: HARRISON STATE: OH	121	147	174	200	227
COUNTY: HENRY STATE: OH	156	190	223	258	292
COUNTY: HOLMES STATE: OH	137	167	197	227	257
COUNTY: HURON STATE: OH	156	190	223	258	292
COUNTY: PAULDING STATE: OH	149	181	214	246	279
COUNTY: SANDUSKY STATE: OH	156	190	223	258	292
COUNTY: SENECA STATE: OH	156	190	223	258	292
COUNTY: TUSCARAWAS STATE: OH	137	167	197	227	257
COUNTY: WAYNE STATE: OH	156	190	223	258	292

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:WILLIAMS STATE:OH	149	181	214	246	279
COUNTY:WYANDOT STATE:OH	159	193	227	261	296
SMSA: COLUMBUS, OH					
COUNTY:DELAWARE STATE:OH	184	223	263	303	342
COUNTY:FAIRFIELD STATE:OH	184	223	263	303	342
COUNTY:FRANKLIN STATE:OH	184	223	263	303	342
COUNTY:MADISON STATE:OH	184	223	263	303	342
COUNTY:PICKAWAY STATE:OH	184	223	263	303	342
SMSA: DAYTON, OH					
COUNTY:MIAMI STATE:OH	188	227	268	310	349
SMSA: HUNTINGTON-ASHLAND, WV-KY-OH					
COUNTY:LAWRENCE STATE:OH	156	190	223	256	290
SMSA: LIMA, OH					
COUNTY:ALLEN STATE:OH	179	207	249	287	317
COUNTY:AUGLAIZE STATE:OH	179	207	249	287	317
COLUMBUS, OHIO AREA OFFICE					
SMSA: LIMA, OH					
COUNTY:VAN WERT STATE:OH	179	207	249	287	317
SMSA: PARKERSBURG-MARIETTA, WV-OH					
COUNTY:WASHINGTON STATE:OH	171	208	244	282	318
SMSA: SPRINGFIELD, OH					
COUNTY:CHAMPAIGN STATE:OH	146	177	208	241	272
COUNTY:CLARK STATE:OH	146	177	208	241	272
SMSA: WHEELING, WV-OH					
COUNTY:BELMONT STATE:OH	161	184	224	261	289
NON SMSA					
COUNTY:ATHENS STATE:OH	158	204	258	290	328
COUNTY:COSHOCTON STATE:OH	137	167	197	227	257
COUNTY:DARKE STATE:OH	146	177	208	241	272
COUNTY:FAYETTE STATE:OH	132	160	189	217	247
COUNTY:GALLIA STATE:OH	117 8	135 2	166 9	184 3	205
COUNTY:GUENSEY STATE:OH	145	176	207	239	270

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:HARDIN STATE:OH	149	181	214	246	279
COUNTY:HOCKING STATE:OH	149	181	214	246	279
COUNTY:JACKSON STATE:OH	132	160	189	217	247
COUNTY:KNOX STATE:OH	159	193	227	261	296
COUNTY:LICKING STATE:OH	156	190	223	258	292
COUNTY:LOGAN STATE:OH	146	177	208	241	272
COUNTY:MARION STATE:OH	132	160	189	217	247
COUNTY:MEIGS STATE:OH	109	133	157	181	205
COUNTY:MERCER STATE:OH	149	181	214	246	279
COUNTY:MONROE STATE:OH	121	147	174	200	227
COUNTY:MORGAN STATE:OH	149	181	214	246	279
COUNTY:MORRON STATE:OH	159	193	227	261	296
COLUMBUS, OHIO AREA OFFICE					
NON SMSA					
COUNTY:MUSKINGUM STATE:OH	145	176	207	239	270
COUNTY:NOBLE STATE:OH	149	181	214	246	279
COUNTY:PERRY STATE:OH	145	176	207	239	270
COUNTY:PIKE STATE:OH	152	177	215	239	265
COUNTY:ROSS STATE:OH	132	160	189	217	247
COUNTY:SCIOTO STATE:OH	127 18	145 12	174 17	194 13	212 7
COUNTY:SHELBY STATE:OH	156	182	220	258	282
COUNTY:UNION STATE:OH	132	160	189	217	247
COUNTY:VINTON STATE:OH	132	160	189	217	247

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT

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REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DETROIT, MICHIGAN AREA OFFICE					
SMSA: ANN ARBOR, MI COUNTY:WASHTENAW STATE:MI	242	294	347	399	451
SMSA: DETROIT, MI COUNTY:LIVINGSTON STATE:MI	222	270	317	364	411
COUNTY:MACOMB STATE:MI	222	270	317	364	411
COUNTY:OAKLAND STATE:MI	222	270	317	364	411
COUNTY:ST CLAIR STATE:MI	222	270	317	364	411
COUNTY:WAYNE STATE:MI	222	270	317	364	411
SMSA: TOLEDO, OH-MI COUNTY:MONROE STATE:MI	173	209	247	284	322
NON SMSA COUNTY:LENAWEE STATE:MI	173	209	247	284	322
SMSA: BAY CITY, MI COUNTY:BAY STATE:MI	190	231	272	313	354
SMSA: DETROIT, MI COUNTY:LAPEER STATE:MI	222	270	317	364	411
SMSA: FLINT, MI COUNTY:GENESEE STATE:MI	199	242	285	328	371
DETROIT, MICHIGAN AREA OFFICE					
SMSA: FLINT, MI COUNTY:SHIAWASSEE STATE:MI	199	242	285	328	371
SMSA: SAGINAW, MI COUNTY:SAGINAW STATE:MI	190	231	272	313	354
NON SMSA COUNTY:ALCONA STATE:MI	171	208	245	283	319
COUNTY:ALPENA STATE:MI	171	208	245	283	319
COUNTY:ARENAC STATE:MI	171	208	245	283	319
COUNTY:GLADWIN STATE:MI	171	208	245	283	319
COUNTY:HURON STATE:MI	171	208	245	283	319
COUNTY:IOSCO STATE:MI	171	208	245	283	319
COUNTY:MIDLAND STATE:MI	190	231	272	313	354
COUNTY:MONTMORENCY STATE:MI	171	208	245	283	319
COUNTY:OGEMAW STATE:MI	171	208	261	283	319
COUNTY:OSCODA STATE:MI	171	208	245	283	319

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:PRESQUE ISLE STATE:MI	171	208	245	283	319
COUNTY:SANILAC STATE:MI	171	208	245	283	319
COUNTY:TUSCOLA STATE:MI	171	208	245	283	319
SMSA: BATTLE CREEK, MI					
COUNTY:BARRY STATE:MI	170	207	244	281	317
COUNTY:CALHOUN STATE:MI	170	207	244	281	317
SMSA: GRAND RAPIDS, MI					
COUNTY:KENT STATE:MI	167	204	240	275	312
COUNTY:OTTAWA STATE:MI	167	204	240	275	312
SMSA: JACKSON, MI					
COUNTY:JACKSON STATE:MI	170	207	244	281	317
SMSA: KALAMAZOO-PORTAGE , MI					
COUNTY:KALAMAZOO STATE:MI	204	248	292	335	380
COUNTY:VAN BUREN STATE:MI	204	248	292	335	380
SMSA: LANSING-EAST LANSING , MI					
COUNTY:CLINTON STATE:MI	217	263	310	357	403
DETROIT, MICHIGAN AREA OFFICE					
SMSA: LANSING-EAST LANSING , MI					
COUNTY:EATON STATE:MI	217	263	310	357	403
COUNTY:INGHAM STATE:MI	217	263	310	357	403
COUNTY:IONIA STATE:MI	217	263	310	357	403
SMSA: MUSKEGON-NORTON SHORES-MUSKEGON HEIGHTS, MI					
COUNTY:MUSKEGON STATE:MI	151	185	217	250	283
COUNTY:OCEANA STATE:MI	151	185	217	250	283
NON SMSA					
COUNTY:ALGER STATE:MI	151	185	217	250	283
COUNTY:ALLEGAN STATE:MI	151	185	217	250	283
COUNTY:ANTRIM STATE:MI	151	185	217	250	283
COUNTY:BARAGA STATE:MI	151	185	217	250	283
COUNTY:BENZIE STATE:MI	151	185	217	250	283
COUNTY:BERRIEN STATE:MI	174	211	248	286	324
COUNTY:BRANCH STATE:MI	170	207	244	281	317

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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:CASS STATE:MI	174	211	248	286	324
COUNTY:CHARLEVOIX STATE:MI	151	185	217	250	283
COUNTY:CHEBOYGAN STATE MI	171	208	245	283	319
COUNTY:CHIPPEWA STATE:MI	171	208	261	283	319
COUNTY CLARE STATE:MI	171	208	261	283	319
COUNTY:CRAWFORD STATE:MI	171	208	261	283	319
COUNTY:DELTA STATE:MI	166	195	251	275	311
COUNTY:DICKINSON STATE:MI	166	195	251	275	311
COUNTY:EMMET STATE:MI	151	185	217	250	283
COUNTY:GOGEBIC STATE MI	171	210	233	261	295
COUNTY GRD TRAVERSE STATE MI	208	239	271	314	388
COUNTY GRATIOT STATE MI	171	208	245	283	319
DETROIT, MICHIGAN AREA OFFICE					
NON SMSA					
COUNTY HILLSDALE STATE MI	170	207	244	281	317
COUNTY HOUGHTON STATE MI	166	195	251	275	311
COUNTY IRON STATE MI	166	195	251	275	311
COUNTY ISABELLA STATE MI	171	208	245	283	319
COUNTY KALKASKA STATE MI	151	185	217	250	283
COUNTY KEWEENAW STATE MI	151	185	217	250	283
COUNTY LAKE STATE MI	166	195	251	275	311
COUNTY LEELANAU STATE MI	151	185	217	250	283
COUNTY LUCE STATE MI	171	208	245	283	319
COUNTY MACKINAC STATE MI	171	208	261	283	319
COUNTY MANISTEE STATE MI	166	195	251	275	311
COUNTY MARQUETTE STATE MI	166	195	251	275	311

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:MASON STATE:MI	166	195	251	275	311
COUNTY:MECOSTA STATE:MI	151	185	217	250	283
COUNTY:MENOMINEE STATE:MI	151	185	217	250	283
COUNTY:MISSAUKEE STATE:MI	166	195	251	275	311
COUNTY:MONTCALM STATE:MI	151	185	217	250	283
COUNTY:NEWAYGO STATE:MI	151	185	217	250	283
COUNTY:ONTONAGON STATE:MI	171	210	233	261	295
COUNTY:OSCEOLA STATE:MI	166	195	251	275	311
COUNTY:OTSEWO STATE:MI	171	208	261	283	319
COUNTY:ROSCOMMON STATE:MI	171	208	261	283	319
COUNTY:ST JOSEPH STATE:MI	174	211	248	286	324
COUNTY:SCHOOLCRAFT STATE:MI	151	185	217	250	283
DETROIT, MICHIGAN AREA OFFICE					
NON SMSA					
COUNTY:WEXFORD STATE:MI	166	195	251	275	311
INDIANAPOLIS, INDIANA AREA OFFICE					
SMSA: ANDERSON, IN					
COUNTY:MADISON STATE:IN	164	200	235	271	307
SMSA: BLOOMINGTON, IN					
COUNTY:MONROE STATE:IN	178	217	256	293	332
SMSA: CINCINNATI, OH-KY-IN					
COUNTY:DEARBORN STATE:IN	185	224	262	301	340
SMSA: EVANSVILLE, IN-KY					
COUNTY:GIBSON STATE:IN	193	215	258	285	317
COUNTY:POSEY STATE:IN	193	215	258	285	317
COUNTY:VANDERBURGH STATE:IN	193	215	258	285	317
COUNTY:WARRICK STATE:IN	193	215	258	285	317
SMSA: FORT WAYNE, IN					
COUNTY:ADAMS STATE:IN	192	234	275	317	358
COUNTY:ALLEN STATE:IN	192	234	275	317	358
COUNTY:DE KALB STATE:IN	192	234	275	317	358
COUNTY:WELLS STATE:IN	192	234	275	317	358

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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: GARY-HAMMOND-EAST CHICAGO, IN					
COUNTY:LAKE STATE:IN	178	217	256	296	335
COUNTY:PORTER STATE:IN	178	217	256	296	335
SMSA: INDIANAPOLIS, IN					
COUNTY:BOONE STATE:IN	183	222	262	302	341
COUNTY:HAMILTON STATE:IN	183	222	262	302	341
COUNTY:HANCOCK STATE:IN	183	222	262	302	341
COUNTY:HENDRICKS STATE:IN	183	222	262	302	341
COUNTY:JOHNSON STATE:IN	183	222	262	302	341
COUNTY:MARION STATE:IN	183	222	262	302	341
COUNTY:MORGAN STATE:IN	183	222	262	302	341
COUNTY:SHELBY STATE:IN	183	222	262	302	341
SMSA: KOKOMO, IN					
COUNTY:HOWARD STATE:IN	178	217	256	293	332
COUNTY:TIPTON STATE:IN	178	217	256	293	332
INDIANAPOLIS, INDIANA AREA OFFICE					
SMSA: LAFAYETTE-WEST LAFAYETTE, IN					
COUNTY:TIPPECANOE STATE:IN	188	227	268	310	349
SMSA: LOUISVILLE, KY-IN					
COUNTY:CLARK STATE:IN	166	200	236	271	306
COUNTY:FLOYD STATE:IN	166	200	236	271	306
SMSA: MUNCIE, IN					
COUNTY:DELAWARE STATE:IN	164	200	235	271	307
SMSA: SOUTH BEND, IN					
COUNTY:MARSHALL STATE:IN	188	227	268	310	349
COUNTY:ST JOSEPH STATE:IN	188	227	268	310	349
SMSA: TERRE HAUTE, IN					
COUNTY:CLAY STATE:IN	171	208	245	283	319
COUNTY:SULLIVAN STATE:IN	171	208	245	283	319
COUNTY:VERMILLION STATE:IN	171	208	245	283	319
COUNTY:VIGO STATE:IN	171	208	245	283	319
NON SMSA					
COUNTY:BARTHOLOMEW STATE:IN	178	217	256	293	332

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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					
NON SMSA					
COUNTY:BENTON STATE:IN	188	227	268	310	349
COUNTY:BLACKFORD STATE:IN	164	200	235	271	307
COUNTY:BROWN STATE:IN	178	217	256	293	332
COUNTY:CARROLL STATE:IN	188	227	268	310	349
COUNTY:CASS STATE:IN	178	217	256	293	332
COUNTY:CLINTON STATE:IN	188	227	268	310	349
COUNTY:CRAWFORD STATE:IN	158	191	226	259	294
COUNTY:DAVIESS STATE:IN	193	215	258	285	317
COUNTY:DECATUR STATE:IN	178	217	256	293	332
COUNTY:DUBOIS STATE:IN	193	215	258	285	317
COUNTY:ELKHART STATE:IN	174	211	248	286	324
COUNTY:FAYETTE STATE:IN	163	198	233	269	304
INDIANAPOLIS, INDIANA AREA OFFICE					
NON SMSA					
COUNTY:FOUNTAIN STATE:IN	188	227	268	310	349
COUNTY:FRANKLIN STATE:IN	163	198	233	269	304
COUNTY:FULTON STATE:IN	174	211	248	286	324
COUNTY:GRANT STATE:IN	164	200	235	271	307
COUNTY:GREENE STATE:IN	171	208	245	283	319
COUNTY:HARRISON STATE:IN	158	191	226	259	294
COUNTY:HENRY STATE:IN	164	200	235	271	307
COUNTY:HUNTINGTON STATE:IN	149	181	214	246	279
COUNTY:JACKSON STATE:IN	178	217	256	293	332
COUNTY:JASPER STATE:IN	165	201	237	273	309
COUNTY:JAY STATE:IN	164	200	235	271	307
COUNTY:JEFFERSON STATE:IN	158	191	226	259	294

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:JENNINGS STATE:IN	178	217	256	293	332
COUNTY:KNOX STATE:IN	143 18	160 7	192 11	208	236
COUNTY:KOSCIUSKO STATE:IN	174	211	248	286	324
COUNTY:LAGRANGE STATE:IN	174	211	248	286	324
COUNTY:LA PORTE STATE:IN	165	201	237	273	309
COUNTY:LAWRENCE STATE:IN	178	217	256	293	332
COUNTY:MARTIN STATE:IN	193	215	258	285	317
COUNTY:MIAMI STATE:IN	178	217	256	293	332
COUNTY:MONTGOMERY STATE:IN	188	227	268	310	349
COUNTY:NEWTON STATE:IN	165	201	237	273	309
COUNTY:NOBLE STATE:IN	149	181	214	246	279
COUNTY:OHIO STATE:IN	163	198	233	269	304
INDIANAPOLIS, INDIANA AREA OFFICE					
NON SMSA					
COUNTY:ORANGE STATE:IN	158	191	226	259	294
COUNTY:OWEN STATE:IN	178	217	256	293	332
COUNTY:PARKE STATE:IN	171	208	245	283	319
COUNTY:PERRY STATE:IN	193	215	258	285	317
COUNTY:PIKE STATE:IN	193	215	258	285	317
COUNTY:PULASKI STATE:IN	165	201	237	273	309
COUNTY:PUTNAM STATE:IN	178	217	256	293	332
COUNTY:RANDOLPH STATE:IN	164	200	235	271	307
COUNTY:RIPLEY STATE:IN	163	198	233	269	304
COUNTY:RUSH STATE:IN	178	217	256	293	332
COUNTY:SCOTT STATE:IN	158	191	226	259	294
COUNTY:SPENCER STATE:IN	193	215	258	285	317

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:STARKE STATE:IN	165	201	237	273	309
COUNTY:STEUBEN STATE:IN	149	181	214	246	279
COUNTY:SWITZERLAND STATE:IN	163	198	233	269	304
COUNTY:UNION STATE:IN	163	198	233	269	304
COUNTY:WABASH STATE:IN	149	181	214	246	279
COUNTY:WARREN STATE:IN	188	227	268	310	349
COUNTY:WASHINGTON STATE:IN	158	191	226	259	294
COUNTY:WAYNE STATE:IN	164	200	235	271	307
COUNTY:WHITE STATE:IN	188	227	268	310	349
COUNTY:WHITLEY STATE:IN	149	181	214	246	279
MILWAUKEE, WISCONSIN AREA OFFICE					
SMSA: APPLETON-OSHKOSH, WI					
COUNTY:CALUMET STATE:WI	180	220	259	298	337
COUNTY:OUTAGAMIE STATE:WI	180	220	259	298	337
COUNTY:WINNEBAGO STATE:WI	180	220	259	298	337
SMSA: DULUTH-SUPERIOR, MN-WI					
COUNTY:DOUGLAS STATE:WI	199	228	277	306	339
SMSA: EAU CLAIRE, WI					
COUNTY:CHIPPEWA STATE:WI	137	167	197	227	257
COUNTY:EAU CLAIRE STATE:WI	137	167	197	227	257
SMSA: GREEN BAY, WI					
COUNTY:BROWN STATE:WI	164	200	235	271	307
SMSA: JANESVILLE-BELOIT,WI					
COUNTY:ROCK STATE:WI	171	208	245	283	319
SMSA: KENOSHA, WI					
COUNTY:KENOSHA STATE:WI	189	230	271	311	352
SMSA: LA CROSSE, WI					
COUNTY:LA CROSSE STATE:WI	150	182	215	248	281

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
MILWAUKEE, WISCONSIN AREA OFFICE					
SMSA: MADISON, WI					
COUNTY:DANE	196	238	280	322	364
STATE:WI					
SMSA: MILWAUKEE, WI					
COUNTY.MILWAUKEE	204	246	291	337	382
STATE:WI					
COUNTY:OZAUKEE	204	246	291	337	382
STATE:WI					
COUNTY:WASHINGTON	204	246	291	337	382
STATE:WI					
COUNTY:WAUKESHA	204	246	291	337	382
STATE:WI					
SMSA: MINNEAPOLIS-ST PAUL, MN-WI					
COUNTY:ST CROIX	232	280	329	378	426
STATE:WI					
SMSA: RACINE, WI					
COUNTY:RACINE	189	230	271	311	352
STATE:WI					
NON SMSA					
COUNTY:ADAMS	159	193	227	261	296
STATE:WI					
COUNTY:ASHLAND	137	167	197	227	257
STATE:WI					
COUNTY:BARRON	137	167	197	227	257
STATE:WI					
COUNTY:BAYFIELD	137	167	197	227	257
STATE:WI					
MILWAUKEE, WISCONSIN AREA OFFICE					
NON SMSA					
COUNTY:BUFFALO	150	182	215	248	281
STATE:WI					
COUNTY:BURNETT	160	194	229	263	298
STATE:WI					
COUNTY:CLARK	167	204	241	276	313
STATE:WI					
COUNTY:COLUMBIA	159	193	227	261	296
STATE:WI					
COUNTY:CRAWFORD	149	181	214	246	279
STATE:WI					
COUNTY:DODGE	159	193	227	261	296
STATE:WI					
COUNTY:DOOR	164	200	235	271	307
STATE:WI					
COUNTY:DUNN	137	167	197	227	257
STATE:WI					
COUNTY:FLORENCE	151	185	217	250	283
STATE:WI					
COUNTY:FOND DU LAC	159	193	227	261	296
STATE:WI					
COUNTY:FOREST	151	185	217	250	283
STATE:WI					
COUNTY:GRANT	149	181	214	246	279
STATE:WI					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
MILWAUKEE, WISCONSIN AREA OFFICE					
NON SMSA					
COUNTY:GREEN STATE:WI	171	208	245	283	319
COUNTY:GREEN LAKE STATE:WI	159	193	227	261	296
COUNTY:IOWA STATE:WI	159	193	227	261	296
COUNTY:IRON STATE:WI	137	167	197	227	257
COUNTY:JACKSON STATE:WI	150	182	215	248	281
COUNTY:JEFFERSON STATE:WI	159	193	227	261	296
COUNTY:JUNEAU STATE:WI	150	182	215	248	281
COUNTY:KEWAUNEE STATE:WI	164	200	235	271	307
COUNTY:LAFAYETTE STATE:WI	149	181	214	246	279
COUNTY:LANGLADE STATE:WI	167	204	241	276	313
COUNTY:LINCOLN STATE:WI	167	204	241	276	313
COUNTY:MANITOWOC STATE:WI	164	200	235	271	307
MILWAUKEE, WISCONSIN AREA OFFICE					
NON SMSA					
COUNTY:MARATHON STATE:WI	167	204	241	276	313
COUNTY:MARINETTE STATE:WI	151	185	217	250	283
COUNTY:MARQUETTE STATE:WI	159	193	227	261	296
COUNTY:MENOMINEE STATE:WI	151	185	217	250	283
COUNTY:MONROE STATE:WI	150	182	215	248	281
COUNTY:OCONTO STATE:WI	151	185	217	250	283
COUNTY:ONEIDA STATE:WI	167	204	241	276	313
COUNTY:PEPIN STATE:WI	137	167	197	227	257
COUNTY:PIERCE STATE:WI	160	194	229	263	298
COUNTY:POLK STATE:WI	160	194	229	263	298
COUNTY:PORTAGE STATE:WI	167	204	241	276	313
COUNTY:PRICE STATE:WI	167	204	241	276	313

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
MILWAUKEE, WISCONSIN AREA OFFICE					
NON SMSA					
COUNTY:RICHLAND STATE:WI	159	193	227	261	296
COUNTY:RUSK STATE:WI	137	167	197	227	257
COUNTY:SAUK STATE:WI	159	193	227	261	296
COUNTY:SAWYER STATE:WI	137	167	197	227	257
COUNTY:SHAWANO STATE:WI	151	185	217	250	283
COUNTY:SHEBOYGAN STATE:WI	159	193	227	261	296
COUNTY:TAYLOR STATE:WI	167	204	241	276	313
COUNTY:TREMPEALEAU STATE:WI	150	182	215	248	281
COUNTY:VERNON STATE:WI	150	182	215	248	281
COUNTY:VILAS STATE:WI	167	204	241	276	313
COUNTY:WALWORTH STATE:WI	159	193	227	261	296
COUNTY:WASHBURN STATE:WI	137	167	197	227	257
MILWAUKEE, WISCONSIN AREA OFFICE					
NON SMSA					
COUNTY:WAUPACA STATE:WI	151	185	217	250	283
COUNTY:WAUSHARA STATE:WI	159	193	227	261	296
COUNTY:WOOD STATE:WI	167	204	241	276	313

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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	199	228	277	306	339
SMSA: FARGO-MOORHEAD, ND-MN					
COUNTY.CLAY STATE:MN	188	215	279	322	344
SMSA GRAND FORKS, N.D.-MN					
COUNTY:POLK STATE:MN	188	225	268	312	339
SMSA: MINNEAPOLIS-ST PAUL, MN-WI					
COUNTY:ANOKA STATE:MN	232	280	329	378	426
COUNTY CARVER STATE:MN	232	280	329	378	426
COUNTY:CHISAGO STATE:MN	232	280	329	378	426
COUNTY.DAKOTA STATE:MN	232	280	329	378	426
COUNTY:HENNEPIN STATE:MN	232	280	329	378	426
COUNTY:RAMSEY STATE:MN	232	280	329	378	426
COUNTY SCOTT STATE:MN	232	280	329	378	426
COUNTY:WASHINGTON STATE:MN	232	280	329	378	426
COUNTY:WRIGHT STATE:MN	232	280	329	378	426
SMSA: ROCHESTER, MN					
COUNTY:OLMSTED STATE:MN	200	244	287	330	373
SMSA: ST. CLOUD, MN					
COUNTY:BENTON STATE:MN	200	244	287	330	373
COUNTY SHERBURNE STATE:MN	200	244	287	330	373
COUNTY:STEARNS STATE:MN	200	244	287	330	373
NON SMSA					
COUNTY:AITKIN STATE:MN	141	171	202	232	264
COUNTY:BECKER STATE:MN	160	194	229	263	298
COUNTY:BELTRAMI STATE:MN	141	171	202	232	264
COUNTY:BIG STONE STATE:MN	141	171	202	232	264
COUNTY:BLUE EARTH STATE:MN	200	244	287	330	373
COUNTY:BROWN STATE:MN	181	221	260	299	339

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:CARLTON STATE:MN	181	221	260	299	339
COUNTY:CASS STATE:MN	141	171	202	232	264
COUNTY:CHIPPEWA STATE:MN	141	171	202	232	264
COUNTY:CLEARWATER STATE:MN	160	194	229	263	298
COUNTY:COOK STATE:MN	137	167	197	227	257
COUNTY:COTTONWOOD STATE:MN	141	171	202	232	264
COUNTY:CROW WING STATE:MN	181	221	260	299	339
COUNTY:DODGE STATE:MN	181	221	260	299	339
COUNTY:DOUGLAS STATE:MN	141	171	202	232	264
COUNTY:FARIBAULT STATE:MN	181	221	260	299	339
COUNTY:FILLMORE STATE:MN	181	221	260	299	339
COUNTY:FREEBORN STATE:MN	181	221	260	299	339
COUNTY:GOODHUE STATE:MN	160	194	229	263	298
COUNTY:GRANT STATE:MN	141	171	202	232	264
COUNTY:HOUSTON STATE:MN	150	182	215	248	281
COUNTY:HUBBARD STATE:MN	141	171	202	232	264
COUNTY:ISANTI STATE:MN	160	194	229	263	298
COUNTY:ITASCA STATE:MN	181	221	260	299	339
COUNTY:JACKSON STATE:MN	163	198	233	269	304
COUNTY:KANABEC STATE:MN	160	194	229	263	298
COUNTY:KANDIYOHI STATE:MN	181	221	260	299	339
COUNTY:KITTSON STATE:MN	160	194	229	263	298
COUNTY:KOOCHICHING STATE:MN	137	167	197	227	257
COUNTY:LAC QUI PARL STATE:MN	141	171	202	232	264

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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: LAKE STATE: MN	137	167	197	227	257
COUNTY: LAKE OF WOOD STATE: MN	141	171	202	232	264
COUNTY: LE SUEUR STATE: MN	181	221	260	299	339
COUNTY: LINCOLN STATE: MN	163	198	233	269	304
COUNTY: LYON STATE: MN	163	198	233	269	304
COUNTY: MCLEOD STATE: MN	181	221	260	299	339
COUNTY: MAHNOMEN STATE: MN	160	194	229	263	298
COUNTY: MARSHALL STATE: MN	160	194	229	263	298
COUNTY: MARTIN STATE: MN	181	221	260	299	339
COUNTY: MEEKER STATE: MN	181	221	260	299	339
COUNTY: MILLE LACS STATE: MN	160	194	229	263	298
COUNTY: MORRISON STATE: MN	181	221	260	299	339
COUNTY: MOWER STATE: MN	181	221	260	299	339
COUNTY: MURRAY STATE: MN	163	198	233	269	304
COUNTY: NICOLLET STATE: MN	181	221	260	299	339
COUNTY: NOBLES STATE: MN	163	198	233	269	304
COUNTY: NORMAN STATE: MN	160	194	229	263	298
COUNTY: OTTER TAIL STATE: MN	160	194	229	263	298
COUNTY: PENNINGTON STATE: MN	160	194	229	263	298
COUNTY: PINE STATE: MN	160	194	229	263	298
COUNTY: PIPESTONE STATE: MN	163	198	233	269	304
COUNTY: POPE STATE: MN	141	171	202	232	264
COUNTY: RED LAKE STATE: MN	160	194	229	263	298
COUNTY: REDWOOD STATE: MN	141	171	202	232	264

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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 RENVILLE STATE MN	141	171	202	232	264
COUNTY RICE STATE MN	160	194	229	263	298
COUNTY ROCK STATE MN	163	198	233	269	304
COUNTY ROSEAU STATE MN	160	194	229	263	298
COUNTY SIBLEY STATE MN	181	221	260	299	339
COUNTY STEELE STATE MN	181	221	260	299	339
COUNTY STEVENS STATE MN	141	171	202	232	264
COUNTY SWIFT STATE MN	141	171	202	232	264
COUNTY TODD STATE MN	141	171	202	232	264
COUNTY TRAVERSE STATE MN	141	171	202	232	264
COUNTY WABASHA STATE MN	181	221	260	299	339
COUNTY WADENA STATE MN	141	171	202	232	264
COUNTY WASECA STATE MN	181	221	260	299	339
COUNTY WATONWAN STATE MN	181	221	260	299	339
COUNTY WILKIN STATE MN	160	194	229	263	298
COUNTY WINONA STATE MN	165	201	236	273	309
COUNTY YELLOW MEDIC STATE MN	141	171	202	232	264

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT

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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					
SMSA ALBUQUERQUE, NM					
COUNTY BERNALILLO STATE NM	163	199	234	269	304
COUNTY SANDOVAL STATE NM	163	199	234	269	304
SMSA LAS CRUCES, NM.					
COUNTY DONA ANA STATE NM	137	166	196	225	255
NON SMSA					
COUNTY CATRON STATE NM	137	166	196	225	255
COUNTY CHAVES STATE NM	137	166	196	225	255
COUNTY COLFAX STATE NM	163	199	234	269	304
COUNTY CURRY STATE NM	131	159	187	215	243
COUNTY DE BACA STATE NM	131	159	187	215	243
COUNTY EDDY STATE NM	137	166	196	225	255
COUNTY GRANT STATE NM	137	166	196	225	255
COUNTY GUADALUPE STATE NM	131	159	187	215	243
COUNTY HARDING STATE NM	131	159	187	215	243
COUNTY HIDALGO STATE NM	137	166	196	225	255
COUNTY LEA STATE NM	137	166	196	225	255
COUNTY LINCOLN STATE NM	137	166	196	225	255
COUNTY LOS ALAMOS STATE NM	163	199	234	269	304
COUNTY LUNA STATE NM	163	199	234	269	304
COUNTY MCKINLEY STATE NM	163	199	234	269	304
COUNTY MORA STATE NM	163	199	234	269	304
COUNTY OTERO STATE NM	137	166	196	225	255
COUNTY QUAY STATE NM	131	159	187	215	243
COUNTY RIO ARRIBA STATE NM	163	199	234	269	304
COUNTY ROOSEVELT STATE NM	131	159	187	215	243
COUNTY SAN JUAN STATE NM	163	199	234	269	304

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS. 5 BR = 115 PERCENT OF 4 BR FMR; 6 BR = 130 PERCENT OF 4 BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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 MIGUEL STATE NM	163	199	234	269	304
COUNTY SANTE FE STATE NM	163	199	234	269	304
COUNTY SIERRA STATE NM	137	166	196	225	255
COUNTY SOCORRO STATE NM	137	166	196	225	255
COUNTY TAOS STATE NM	163	199	234	269	304
COUNTY TORRANCE STATE NM	163	199	234	269	304
COUNTY UNION STATE NM	131	159	187	215	243
COUNTY VALENCIA STATE NM	163	199	234	269	304
SMSA DALLAS-FORT WORTH , TX					
COUNTY COLLIN STATE TX	206	248	292	336	378
COUNTY DALLAS STATE TX	206	248	292	336	378
COUNTY DENTON STATE TX	206	248	292	336	378
COUNTY ELLIS STATE TX	206	248	292	336	378
SMSA DALLAS-FORT WORTH , TX					
COUNTY KAUFMAN STATE TX	206	248	292	336	378
COUNTY ROCKWALL STATE TX	206	248	292	336	378
SMSA KILLEEN-TEMPLE, TX					
COUNTY BELL STATE TX	169	206	242	280	316
COUNTY CORYELL STATE TX	169	206	242	280	316
SMSA LONGVIEW-MARSHALL, TX					
COUNTY GREGG STATE TX	137	167	197	227	257
SMSA SHERMAN-DENISON, TX					
COUNTY GRAYSON STATE TX	146	178	209	241	272
SMSA TEXARKANA, TX-AR					
COUNTY BOWIE STATE TX	137	167	197	227	257
SMSA TYLER, TX					
COUNTY SMITH STATE TX	137	167	197	227	257
SMSA WACO, TX					
COUNTY MCLENNAN STATE TX	169	206	242	280	316
NON SMSA					
COUNTY ANDERSON STATE TX	137	167	197	227	257

NOTE - FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6 BR = 130 PERCENT OF 4 BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY CAMP STATE TX	120	146	172	197	224
COUNTY CHEROKEE STATE TX	137	167	197	227	257
COUNTY COOKE STATE TX	146	178	209	241	272
COUNTY DELTA STATE TX	120	146	172	197	224
COUNTY FALLS STATE TX	169	206	242	280	316
COUNTY FANNIN STATE TX	146	178	209	241	272
COUNTY FRANKLIN STATE TX	120	146	172	197	224
COUNTY FREESTONE STATE TX	169	206	242	280	316
COUNTY HENDERSON STATE TX	137	167	197	227	257
COUNTY HILL STATE TX	169	206	242	280	316
COUNTY HOPKINS STATE TX	146	178	209	241	272
COUNTY HUNT STATE TX	146	178	209	241	272
COUNTY LAMAR STATE TX	137	167	197	227	257
COUNTY LIMESTONE STATE TX	169	206	242	280	316
COUNTY MILAM STATE TX	157	191	225	259	293
COUNTY NAVARRO STATE TX	146	178	209	241	272
COUNTY RAINS STATE TX	146	178	209	241	272
COUNTY RED RIVER STATE TX	120	146	172	197	224
COUNTY RUSK STATE TX	137	167	197	227	257
COUNTY TITUS STATE TX	127	155	181	209	236
COUNTY UPSHUR STATE TX	137	167	197	227	257
COUNTY VAN ZANDT STATE TX	146	178	209	241	272
COUNTY WOOD STATE TX	137	167	197	227	257
SMSA ABILENE, TX					
COUNTY CALLAHAN STATE TX	151	184	217	250	283

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS. 5-BR = 115 PERCENT OF 4-BR FMR. 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS TEXAS AREA OFFICE					
SMSA ABILENE TX					
COUNTY JONES STATE TX	151	184	217	250	283
OUNTY TAYLOR STATE TX	151	184	217	250	283
SMSA DALLAS FORT WORTH , TX					
COUNTY HOOD STATE TX	206	248	292	336	378
COUNTY JOHNSON STATE TX	206	248	292	336	378
COUNTY PARKER STATE TX	206	248	292	336	378
COUNTY TARRANT STATE TX	206	248	292	336	378
COUNTY WISE STATE TX	206	248	292	336	378
SMSA SAN ANGELO, TX					
COUNTY TOM GREEN STATE TX	151	184	217	250	283
SMSA WICHITA FALLS, TX					
COUNTY CLAY STATE TX	166	203	239	274	311
COUNTY WICHITA STATE TX	166	203	239	274	311
NON SMSA					
COUNTY ARCHER STATE TX	166	203	239	274	311
NON SMSA					
COUNTY BAYLOR STATE TX	166	203	239	274	311
COUNTY BOSQUE STATE TX	169	206	242	280	316
COUNTY BROWN STATE TX	151	184	217	250	283
COUNTY COKE STATE TX	151	184	217	250	283
COUNTY COLEMAN STATE TX	151	184	217	250	283
COUNTY COMANCHE STATE TX	151	184	217	250	283
COUNTY CONCHO STATE TX	151	184	217	250	283
COUNTY CROCKETT STATE TX	160	194	228	264	298
COUNTY EASTLAND STATE TX	151	184	217	250	283
COUNTY ERATH STATE TX	146	178	209	241	272
COUNTY FOARD STATE TX	166	203	239	274	311
COUNTY HAMILTON STATE TX	169	206	242	280	316

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY HARDEMAN STATE TX	166	203	239	274	311
COUNTY HASKELL STATE TX	151	184	217	250	283
COUNTY IRION STATE TX	151	184	217	250	283
COUNTY JACK STATE TX	166	203	239	274	311
COUNTY KIMBLE STATE TX	151	184	217	250	283
COUNTY KNOX STATE TX	151	184	217	250	283
COUNTY LAMPASAS STATE TX	169	206	242	280	316
COUNTY MCCULLOCH STATE TX	151	184	217	250	283
COUNTY MASON STATE TX	151	184	217	250	283
COUNTY MENARD STATE TX	151	184	217	250	283
COUNTY MILLS STATE TX	151	184	217	250	283
COUNTY MONTAGUE STATE TX	146	178	209	241	272
COUNTY PALO PINTO STATE TX	146	178	209	241	272
COUNTY REAGAN STATE TX	160	194	228	264	298
COUNTY RUNNELS STATE TX	151	184	217	250	283
COUNTY SAN SABA STATE TX	151	184	217	250	283
COUNTY SCHLEICHER STATE TX	151	184	217	250	283
COUNTY SHACKLEFORD STATE TX	151	184	217	250	283
COUNTY SOMERVELL STATE TX	146	178	209	241	272
COUNTY STEPHENS STATE TX	151	184	217	250	283
COUNTY STERLING STATE TX	151	184	217	250	283
COUNTY SUTTON STATE TX	151	184	217	250	283
COUNTY THROCKMORTON STATE TX	166	203	239	274	311
COUNTY WILBARGER STATE TX	166	203	239	274	311

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:YOUNG STATE:TX	166	203	239	274	311
SMSA: BEAUMONT-PORT ARTHUR-ORANGE, TX					
COUNTY:HARDIN STATE:TX	169 10	193	227	262	296
COUNTY:JEFFERSON STATE:TX	169 10	193	227	262	296
COUNTY:ORANGE STATE:TX	169 10	193	227	262	296
SMSA: BRYAN-COLLEGE STATION, TX					
COUNTY:BRAZOS STATE:TX	169 12	191	225	259	293
SMSA: GALVESTON-TEXAS CITY, TX					
COUNTY:GALVESTON STATE:TX	187	226	267	307	347
SMSA: HOUSTON, TX					
COUNTY:BRAZORIA STATE:TX	201	245	290	335	380
COUNTY:FORT BEND STATE:TX	201	245	290	335	380
COUNTY:HARRIS STATE:TX	201	245	290	335	380
COUNTY:LIBERTY STATE:TX	201	245	290	335	380
COUNTY:MONTGOMERY STATE:TX	201	245	290	335	380
SMSA: HOUSTON, TX					
COUNTY:WALLER STATE:TX	201	245	290	335	380
NON SMSA					
COUNTY:ANGELINA STATE:TX	144 7	167	197	227	257
COUNTY:AUSTIN STATE:TX	156	190	223	256	290
COUNTY:BURLESON STATE:TX	157	191	225	259	293
COUNTY:CHAMBERS STATE:TX	156	190	223	256	290
COUNTY:COLORADO STATE:TX	156	190	223	256	290
COUNTY:GRIMES STATE:TX	157	191	225	259	293
COUNTY:HOUSTON STATE:TX	144 7	167	197	227	257
COUNTY:JASPER STATE:TX	156	190	223	256	290
COUNTY:LEON STATE:TX	157	191	225	259	293
COUNTY:MADISON STATE:TX	157	191	225	259	293
COUNTY:MATAGORDA STATE:TX	156	190	223	256	290

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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:NACOGDOCHES	144	167	197	227	257
STATE:TX	7				
COUNTY:NEWTON	156	190	223	256	290
STATE:TX					
COUNTY:POLK	156	190	223	256	290
STATE:TX					
COUNTY:ROBERTSON	157	191	225	259	293
STATE:TX					
COUNTY:SABINE	144	156	183	211	239
STATE:TX	16				
COUNTY:SAN AUGUSTIN	144	156	183	211	239
STATE:TX	16				
COUNTY:SAN JACINTO	156	190	223	256	290
STATE:TX					
COUNTY:SHELBY	144	156	183	211	239
STATE:TX	16				
COUNTY:TRINITY	144	167	197	227	257
STATE:TX	7				
COUNTY:TYLER	156	190	223	256	290
STATE:TX					
COUNTY:WALKER	156	190	223	256	290
STATE:TX					
COUNTY:WASHINGTON	156	190	223	256	290
STATE:TX					
COUNTY:WHARTON	156	190	223	256	290
STATE:TX					
SMSA: AMARILLO, TX					
COUNTY:POTTER	145	176	207	239	270
STATE:TX					
COUNTY:RANDALL	145	176	207	239	270
STATE:TX					
SMSA: EL PASO, TX					
COUNTY:EL PASO	195	238	280	322	364
STATE:TX					
SMSA: LUBBOCK, TX					
COUNTY:LUBBOCK	151	184	217	250	283
STATE:TX					
SMSA: MIDLAND, TX					
COUNTY:MIDLAND	160	194	228	264	298
STATE:TX					
SMSA: ODESSA, TX					
COUNTY:ECTOR	160	194	228	264	298
STATE:TX					
NON SMSA					
COUNTY:ANDREWS	160	194	228	264	298
STATE:TX					
COUNTY:ARMSTRONG	145	176	207	239	270
STATE:TX					
COUNTY:BAILEY	151	184	217	250	283
STATE:TX					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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:BORDEN STATE:TX	160	194	228	264	298
COUNTY:BREWSTER STATE:TX	160	194	228	264	298
COUNTY:BRISCOE STATE:TX	145	176	207	239	270
COUNTY:CARSON STATE:TX	145	176	207	239	270
COUNTY:CASTRO STATE:TX	145	176	207	239	270
COUNTY:CHILDRESS STATE:TX	166	203	239	274	311
COUNTY:COCHRAN STATE:TX	151	184	217	250	283
COUNTY:COLLINGSWORT STATE:TX	145	176	207	239	270
COUNTY:COTTLE STATE:TX	166	203	239	274	311
COUNTY:CRANE STATE:TX	160	194	228	264	298
COUNTY:CROSBY STATE:TX	151	184	217	250	283
COUNTY:CULBERSON STATE:TX	150	182	215	248	280
COUNTY:DALLAM STATE:TX	145	176	207	239	270
COUNTY:DAWSON STATE:TX	160	194	228	264	298
COUNTY:DEAF SMITH STATE:TX	145	176	207	239	270
COUNTY:DICKENS STATE:TX	151	184	217	250	283
COUNTY:DONLEY STATE:TX	145	176	207	239	270
COUNTY:FISHER STATE:TX	151	184	217	250	283
COUNTY:FLOYD STATE:TX	151	184	217	250	283
COUNTY:GAINES STATE:TX	160	194	228	264	298
COUNTY:GARZA STATE:TX	151	184	217	250	283
COUNTY:GLASSCOCK STATE:TX	160	194	228	264	298
COUNTY:GRAY STATE:TX	145	176	207	239	270
COUNTY:HALE STATE:TX	151	184	217	250	283

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:HALL STATE:TX	145	176	207	239	270
COUNTY:HANSFORD STATE:TX	145	176	207	239	270
COUNTY:HARTLEY STATE:TX	145	176	207	239	270
COUNTY:HEMPHILL STATE:TX	145	176	207	239	270
COUNTY:HOCKLEY STATE:TX	137	167	197	227	257
COUNTY:HOWARD STATE:TX	160	194	228	264	298
COUNTY:HUDSPETH STATE:TX	150	182	215	248	280
COUNTY:HUTCHINSON STATE:TX	145	176	207	239	270
COUNTY:JEFF DAVIS STATE:TX	150	182	215	248	280
COUNTY:KENT STATE:TX	151	184	217	250	283
COUNTY:KING STATE:TX	151	184	217	250	283
COUNTY:LAMB STATE:TX	151	184	217	250	283
COUNTY:LIPSCOMB STATE:TX	145	176	207	239	270
COUNTY:LOVING STATE:TX	160	194	228	264	298
COUNTY:LYNN STATE:TX	151	184	217	250	283
COUNTY:MARTIN STATE:TX	160	194	228	264	298
COUNTY:MITCHELL STATE:TX	141	171	202	232	263
COUNTY:MOORE STATE:TX	145	176	207	239	270
COUNTY:MOTLEY STATE:TX	151	184	217	250	283
COUNTY:NOLAN STATE:TX	151	184	217	250	283
COUNTY:OCHILTREE STATE:TX	145	176	207	239	270
COUNTY:OLDHAM STATE:TX	145	176	207	239	270
COUNTY:PARMER STATE:TX	145	176	207	239	270
COUNTY:PECOS STATE:TX	160	194	228	264	298

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:PRESIDIO STATE:TX	150	182	215	248	280
COUNTY:REEVES STATE:TX	160	194	228	264	298
COUNTY:ROBERTS STATE:TX	145	176	207	239	270
COUNTY:SCURRY STATE:TX	151	184	217	250	283
COUNTY:SHERMAN STATE:TX	145	176	207	239	270
COUNTY:STONEWALL STATE:TX	151	184	217	250	283
COUNTY:SWISHER STATE:TX	145	176	207	239	270
COUNTY:TERRELL STATE:TX	160	194	228	264	298
COUNTY:TERRY STATE:TX	151	184	217	250	283
COUNTY:UPTON STATE:TX	160	194	228	264	298
COUNTY:WARD STATE:TX	160	194	228	264	298
COUNTY:WHEELER STATE:TX	145	176	207	239	270
COUNTY:WINKLER STATE:TX	160	194	228	264	298
COUNTY:YOAKUM STATE:TX	151	184	217	250	283
SMSA: LONGVIEW-MARSHALL, TX					
COUNTY:HARRISON STATE:TX	137	167	197	227	257
NON SMSA					
COUNTY:CASS STATE:TX	120	146	172	197	224
COUNTY:MARION STATE:TX	128	156	183	211	239
COUNTY:MORRIS STATE:TX	120	146	172	197	224
COUNTY:PANOLA STATE:TX	128	156	183	211	239

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK, ARKANSAS AREA OFFICE					
SMSA: FAYETTEVILLE-SPRINGDALE, AR					
COUNTY:BENTON STATE:AR	146	178	209	241	272
COUNTY:WASHINGTON STATE:AR	146	178	209	241	272
SMSA: FORT SMITH, AR-OK					
COUNTY:CRAWFORD STATE:AR	140	169	199	229	259
COUNTY:SEBASTIAN STATE:AR	140	169	199	229	259
SMSA LITTLE ROCK-NORTH LITTLE ROCK, AR					
COUNTY:PULASKI STATE:AR	175	212	251	288	326
COUNTY:SALINE STATE:AR	175	212	251	288	326
SMSA: MEMPHIS, TN-AR-MS					
COUNTY:CRITTENDEN STATE:AR	171	208	244	281	318
SMSA: PINE BLUFF, AR					
COUNTY:JEFFERSON STATE:AR	142	173	204	234	265
SMSA: TEXARKANA, TX-AR					
COUNTY:LITTLE RIVER STATE:AR	137	167	197	227	257
COUNTY:MILLER STATE:AR	137	167	197	227	257
NON SMSA					
COUNTY:ARKANSAS STATE:AR	142	173	204	234	265
COUNTY:ASHLEY STATE:AR	128	156	183	211	239
COUNTY:BAXTER STATE:AR	150	182	215	248	280
COUNTY:BOONE STATE:AR	150	182	215	248	280
COUNTY:BRADLEY STATE:AR	128	156	183	211	239
COUNTY:CALHOUN STATE:AR	128	156	183	211	239
COUNTY:CARROLL STATE:AR	150	182	215	248	280
COUNTY:CHICOT STATE:AR	128	156	183	211	239
COUNTY:CLARK STATE:AR	126	152	180	207	234
COUNTY:CLAY STATE:AR	141	171	202	232	263
COUNTY:CLEBURNE STATE:AR	126	152	180	207	234
COUNTY:CLEVELAND STATE:AR	142	173	204	234	265
COUNTY:COLUMBIA STATE:AR	128	156	183	211	239

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
LITTLE ROCK, ARKANSAS AREA OFFICE					
NON SMSA					
COUNTY:CONWAY STATE:AR	126	152	180	207	234
COUNTY:CRAIGHEAD STATE:AR	141	171	202	232	263
COUNTY:CROSS STATE:AR	141	171	202	232	263
COUNTY:DALLAS STATE:AR	128	156	183	211	239
COUNTY:DESHA STATE:AR	128	156	183	211	239
COUNTY:DREW STATE:AR	128	156	183	211	239
COUNTY:FAULKNER STATE:AR	126	152	180	207	234
COUNTY:FRANKLIN STATE:AR	127	155	181	209	237
COUNTY:FULTON STATE:AR	126	152	180	207	234
COUNTY:GARLAND STATE:AR	126	152	180	207	234
COUNTY:GRANT STATE:AR	142	173	204	234	265
COUNTY:GREENE STATE:AR	141	171	202	232	263
COUNTY:HEMPSTEAD STATE:AR	120	146	172	197	224
COUNTY:HOTSPRING STATE:AR	126	152	180	207	234
COUNTY:HOWARD STATE:AR	120	146	172	197	224
COUNTY:INDEPENDENCE STATE:AR	126	152	180	207	234
COUNTY:IZARD STATE:AR	126	152	180	207	234
COUNTY:JACKSON STATE:AR	142	173	204	234	265
COUNTY:JOHNSON STATE:AR	126	152	180	207	234
COUNTY:LAFAYETTE STATE:AR	120	146	172	197	224
COUNTY:LAWRENCE STATE:AR	141	171	202	232	263
COUNTY:LEE STATE:AR	141	171	202	232	263
COUNTY:LINCOLN STATE:AR	142	173	204	234	265
COUNTY:LOGAN STATE:AR	127	155	181	209	237

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK, ARKANSAS AREA OFFICE					
NON SMSA					
COUNTY LONOKE STATE AR	142	173	204	234	265
COUNTY MADISON STATE AR	146	178	209	241	272
COUNTY MARION STATE AR	150	182	215	248	280
COUNTY MISSISSIPPI STATE AR	141	171	202	232	263
COUNTY MONROE STATE AR	142	173	204	234	265
COUNTY MONTGOMERY STATE AR	126	152	180	207	234
COUNTY NEVADA STATE AR	120	146	172	197	224
COUNTY NEWTON STATE AR	150	182	215	248	280
COUNTY OUACHITA STATE AR	128	156	183	211	239
COUNTY PERRY STATE AR	126	152	180	207	234
COUNTY PHILLIPS STATE AR	141	171	202	232	263
COUNTY PIKE STATE AR	126	152	180	207	234
COUNTY POINSETT STATE AR	141	171	202	232	263
COUNTY POLK STATE AR	127	155	181	209	237
COUNTY POPE STATE AR	126	152	180	207	234
COUNTY PRAIRIE STATE AR	142	173	204	234	265
COUNTY RANDOLPH STATE AR	141	171	202	232	263
COUNTY ST FRANCIS STATE AR	141	171	202	232	263
COUNTY SCOTT STATE AR	127	155	181	209	237
COUNTY SEARCY STATE AR	150	182	215	248	280
COUNTY SEVIER STATE AR	120	146	172	197	224
COUNTY SHARP STATE AR	126	152	180	207	234
COUNTY STONE STATE AR	126	152	180	207	234
COUNTY UNION STATE AR	128	156	183	211	239

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR. 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
LITTLE ROCK, ARKANSAS AREA OFFICE					
NON SMSA					
COUNTY VAN BUREN STATE AR	126	152	180	207	234
COUNTY WHITE STATE AR	142	173	204	234	265
COUNTY WOODRUFF STATE AR	142	173	204	234	265
COUNTY YELL STATE AR	127	155	181	209	237
NEW ORLEANS, LOUISIANA AREA OFFICE					
SMSA BATON ROUGE, LA					
PARISH ASCENSION STATE LA	216	262	309	356	403
PARISH E BATON ROUG STATE LA	216	262	309	356	403
PARISH LIVINGSTON STATE LA	216	262	309	356	403
PARISH W BATON ROUG STATE LA	216	262	309	356	403
SMSA LAFAYETTE, LA					
PARISH LAFAYETTE STATE LA	164	199	235	270	305
SMSA LAKE CHARLES, LA					
PARISH CALCASIEU STATE LA	164	199	235	270	305
SMSA NEW ORLEANS, LA					
PARISH JEFFERSON STATE LA	184	224	264	303	343
PARISH ORLEANS STATE LA	184	224	264	303	343
PARISH ST BERNARD STATE LA	184	224	264	303	343
PARISH ST TAMMANY STATE LA	184	224	264	303	343
NON SMSA					
PARISH ACADIA STATE LA	130	158	186	213	241

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW ORLEANS, LOUISIANA AREA OFFICE					
NON SMSA					
PARISH ALLEN STATE·LA	164	199	235	270	305
PARISH:ASSUMPTION STATE:LA	145	176	207	239	270
PARISH:BEAUREGARD STATE:LA	164	199	235	270	305
PARISH:CAMERON STATE:LA	164	199	235	270	305
PARISH:E FELICIANA STATE:LA	130	158	186	213	241
PARISH:EVANGELINE STATE·LA	130	158	186	213	241
PARISH·IBERIA STATE·LA.	130	158	186	213	241
PARISH:IBERVILLE STATE:LA	130	158	186	213	241
PARISH:JEFFERSON DA STATE:LA	164	199	235	270	305
PARISH:LAFOURCHE STATE:LA	145	176	207	239	270
PARISH:PLAQUEMINES STATE.LA	145	176	207	239	270
PARISH:POINTE COUPE STATE:LA	130	158	186	213	241
PARISH:ST CHARLES STATE:LA	145	176	207	239	270
PARISH:ST HELENA STATE:LA	130	158	186	213	241
PARISH:ST JAMES STATE·LA	145	176	207	239	270
PARISH:ST JOHN THE STATE:LA	145	176	207	239	270
PARISH:ST LANDRY STATE:LA	130	158	186	213	241
PARISH:ST MARTIN STATE:LA	130	158	186	213	241
PARISH:ST MARY STATE:LA	130	158	186	213	241
PARISH:TANGIPAHOA STATE:LA	145	176	207	239	270
PARISH:TERREBONNE STATE:LA	145	176	207	239	270
PARISH:VERMILION STATE:LA	130	158	186	213	241
PARISH:WASHINGTON STATE:LA	145	176	207	239	270
PARISH:W FELICIANA STATE:LA	130	158	186	213	241

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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 ALEXANDRIA, LA					
PARISH GRANT					
STATE LA	137	167	197	227	257
PARISH RAPIDES					
STATE LA	137	167	197	227	257
SMSA MONROE, LA					
PARISH OUACHITA					
STATE LA	137	167	197	227	257
SMSA SHREVEPORT, LA					
PARISH BOSSIER					
STATE LA	169	206	242	280	316
PARISH CADDO					
STATE LA	169	206	242	280	316
PARISH WEBSTER					
STATE LA	169	206	242	280	316
NON SMSA					
PARISH AVOYELLES					
STATE LA	137	167	197	227	257
PARISH BIENVILLE					
STATE LA	128	156	183	211	239
PARISH CALDWELL					
STATE LA	137	167	197	227	257
PARISH CATAHOULA					
STATE LA	137	167	197	227	257
PARISH CLAIBORNE					
STATE LA	128	156	183	211	239
PARISH CONCORDIA					
STATE LA	130	158	186	213	241
PARISH DE SOTO					
STATE LA	128	156	183	211	239
PARISH EAST CARROLL					
STATE LA	137	167	197	227	257
PARISH FRANKLIN					
STATE LA	137	167	197	227	257
PARISH JACKSON					
STATE LA	137	167	197	227	257
PARISH LA SALLE					
STATE LA	137	167	197	227	257
PARISH LINCOLN					
STATE LA	137	167	197	227	257
PARISH MADISON					
STATE LA	137	167	197	227	257
PARISH MOREHOUSE					
STATE LA	137	167	197	227	257
PARISH NATCHITOCHES					
STATE LA	128	156	183	211	239
PARISH RED RIVER					
STATE LA	137	167	197	227	257
PARISH RICHLAND					
STATE LA					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
PARISH:SABINE STATE:LA	128	156	183	211	239
PARISH:TENSAS STATE:LA	137	167	197	227	257
PARISH:UNION STATE:LA	137	167	197	227	257
PARISH:VERNON STATE:LA	164	199	235	270	305
PARISH:WEST CARROLL STATE:LA	137	167	197	227	257
PARISH:WINN STATE:LA	137	167	197	227	257
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
SMSA: ENID, OK.					
COUNTY:GARFIELD STATE:OK	146	178	209	241	272
SMSA: LAWTON, OK					
COUNTY:COMANCHE STATE:OK	166	203	239	274	311
SMSA: OKLAHOMA CITY, OK					
COUNTY:CANADIAN STATE:OK	171	207	243	280	316
COUNTY:CLEVELAND STATE:OK	171	207	243	280	316
COUNTY:MCCLAIN STATE:OK	171	207	243	280	316
COUNTY:OKLAHOMA STATE:OK	171	207	243	280	316
COUNTY:POTTAWATOMIE STATE:OK	171	207	243	280	316
NON SMSA					
COUNTY:ALFALFA STATE:OK	140	169	199	229	259
COUNTY:BEAVER STATE:OK	146	178	209	241	272
COUNTY:BECKHAM STATE:OK	146	178	209	241	272
COUNTY:BLAINE STATE:OK	140	169	199	229	259

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:CADDO STATE:OK	166	203	239	274	311
COUNTY:CARTER STATE:OK	131	159	188	216	244
COUNTY:CIMARRON STATE:OK	146	178	209	241	272
COUNTY:COTTON STATE:OK	166	203	239	274	311
COUNTY:CUSTER STATE:OK	146	178	209	241	272
COUNTY:DEWEY STATE:OK	140	169	199	229	259
COUNTY:ELLIS STATE:OK	140	169	199	229	259
COUNTY:GARVIN STATE:OK	131	159	188	216	244
COUNTY:GRADY STATE:OK	131	159	188	216	244
COUNTY:GRANT STATE:OK	140	169	199	229	259
COUNTY:GREER STATE:OK	166	203	239	274	311
COUNTY:HARMON STATE:OK	166	203	239	274	311
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
NON SMSA					
COUNTY:HARPER STATE:OK	140	169	199	229	259
COUNTY:JACKSON STATE:OK	166	203	239	274	311
COUNTY:JEFFERSON STATE:OK	166	203	239	274	311
COUNTY:JOHNSTON STATE:OK	120	146	172	197	224
COUNTY:KAY STATE:OK	140	169	199	229	259
COUNTY:KINGFISHER STATE:OK	140	169	199	229	259
COUNTY:KIOWA STATE:OK	166	203	239	274	311
COUNTY:LINCOLN STATE:OK	140	169	199	229	259
COUNTY:LOGAN STATE:OK	140	169	199	229	259
COUNTY:LOVE STATE:OK	120	146	172	197	224
COUNTY:MAJOR STATE:OK	140	169	199	229	259
COUNTY:MARSHALL STATE:OK	146	178	209	241	272

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:MURRAY STATE:OK	120	146	172	197	224
COUNTY:NOBLE STATE:OK	140	169	199	229	259
COUNTY:PAYNE STATE:OK	166	203	239	274	311
COUNTY:PONTOTOC STATE:OK	131	159	188	216	244
COUNTY:ROGER MILLS STATE:OK	140	169	199	229	259
COUNTY:SEMINOLE STATE:OK	131	159	188	216	244
COUNTY:STEPHENS STATE:OK	166	203	239	274	311
COUNTY:TEXAS STATE:OK	146	178	209	241	272
COUNTY:TILLMAN STATE:OK	166	203	239	274	311
COUNTY:WASHITA STATE:OK	140	169	199	229	259
COUNTY:WOODS STATE:OK	140	169	199	229	259
COUNTY:WOODWARD STATE:OK	146	178	209	241	272
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
SMSA: FORT SMITH, AR-OK					
COUNTY:LE FLORE STATE:OK	140	169	199	229	259
COUNTY:SEQUOYAH STATE:OK	140	169	199	229	259
SMSA: TULSA, OK					
COUNTY:CREEK STATE:OK	179	218	256	295	333
COUNTY:MAYES STATE:OK	179	218	256	295	333
COUNTY:OSAGE STATE:OK	179	218	256	295	333
COUNTY:ROGERS STATE:OK	179	218	256	295	333
COUNTY:TULSA STATE:OK	179	218	256	295	333
COUNTY:WAGONER STATE:OK	179	218	256	295	333
NON SMSA					
COUNTY:ADAIR STATE:OK	146	178	209	241	272
COUNTY:ATOKA STATE:OK	120	146	172	197	224
COUNTY:BRYAN STATE:OK	146	178	209	241	272
COUNTY:CHEROKEE STATE:OK	146	178	209	241	272

NOTE. FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:CHOCTAW STATE:OK	120	146	172	197	224
COUNTY:COAL STATE OK	120	146	172	197	224
COUNTY.CRAIG STATE:OK	131	159	188	216	244
COUNTY:DELAWARE STATE OK	146	178	209	241	272
COUNTY.HASKELL STATE:OK	131	159	188	216	244
COUNTY:HUGHES STATE:OK	120	146	172	197	224
COUNTY:LATIMER STATE:OK	131	159	188	216	244
COUNTY:MCCURTAIN STATE:OK	131	159	188	216	244
COUNTY:MCINTOSH STATE:OK	140	169	199	229	259
COUNTY:MUSKOGEE STATE:OK	146	178	209	241	272
COUNTY:NOWATA STATE:OK	140	169	199	229	259
COUNTY:OKFUSKEE STATE:OK	140	169	199	229	259
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
NON SMSA					
COUNTY:OKMULGEE STATE:OK	140	169	199	229	259
COUNTY:OTTAWA STATE:OK	131	159	188	216	244
COUNTY:PAWNEE STATE:OK	140	169	199	229	259
COUNTY:PITTSBURG STATE:OK	131	159	188	216	244
COUNTY:PUSHMATAHA STATE:OK	131	159	188	216	244
COUNTY:WASHINGTON STATE:OK	146	178	209	241	272

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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 AUSTIN, TX					
COUNTY:HAYS STATE:TX	240	291	343	394	446
COUNTY:TRAVIS STATE:TX	240	291	343	394	446
COUNTY:WILLIAMSON STATE TX	240	291	343	394	446
SMSA BROWNSVILLE-HARLINGEN-SAN BENITO, TX					
COUNTY CAMERON STATE:TX	179	218	256	295	333
SMSA CORPUS CHRISTI, TX					
COUNTY:NUECES STATE:TX	175	212	251	288	326
COUNTY:SAN PATRICIO STATE:TX	175	212	251	288	326
SMSA LAREDO, TX					
COUNTY:WEBB STATE:TX	184	224	265	304	344
SMSA: MC ALLEN-PHARR-EDINBURG, TX					
COUNTY:HIDALGO STATE:TX	179	218	256	295	333
SMSA: SAN ANTONIO, TX					
COUNTY:BEXAR STATE TX	198	241	284	327	369
COUNTY:COMAL STATE:TX	198	241	284	327	369
COUNTY:GUADALUPE STATE:TX	198	241	284	327	369
SAN ANTONIO, TEXAS AREA OFFICE					
NON SMSA					
COUNTY:ARANSAS STATE:TX	184	224	265	304	344
COUNTY:ATASCOSA STATE:TX	147	179	211	243	274
COUNTY:BANDERA STATE:TX	168	205	241	276	313
COUNTY:BASTROP STATE:TX	157	191	225	259	293
COUNTY:BEE STATE:TX	184	224	265	304	344
COUNTY:BLANCO STATE:TX	157	191	225	259	293
COUNTY:BROOKS STATE:TX	184	224	265	304	344
COUNTY:BURNET STATE:TX	157	191	225	259	293
COUNTY:CALDWELL STATE:TX	157	191	225	259	293
COUNTY:CALHOUN STATE:TX	147	179	211	243	274
COUNTY:DE WITT STATE:TX	147	179	211	243	274
COUNTY:DIMMIT STATE.TX	184	224	265	304	344

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:DUVAL STATE:TX	184	224	265	304	344
COUNTY:EDWARDS STATE:TX	147	179	211	243	274
COUNTY:FAYETTE STATE:TX	156	190	223	256	290
COUNTY:FRIO STATE:TX	147	179	211	243	274
COUNTY:GILLESPIE STATE:TX	147	179	211	243	274
COUNTY:GOLIAD STATE:TX	147	179	211	243	274
COUNTY:GONZALES STATE:TX	147	179	211	243	274
COUNTY:JACKSON STATE:TX	147	179	211	243	274
COUNTY:JIM HOGG STATE:TX	184	224	265	304	344
COUNTY:JIM WELLS STATE:TX	184	224	265	304	344
COUNTY:KARNES STATE:TX	147	179	211	243	274
COUNTY:KENDALL STATE:TX	147	179	211	243	274
SAN ANTONIO, TEXAS AREA OFFICE					
NON SMSA					
COUNTY:KENEDY STATE:TX	184	224	265	304	344
COUNTY:KERR STATE:TX	147	179	211	243	274
COUNTY:KINNEY STATE:TX	147	179	211	243	274
COUNTY:KLEBERG STATE:TX	184	224	265	304	344
COUNTY:LA SALLE STATE:TX	184	224	265	304	344
COUNTY:LAUACA STATE:TX	147	179	211	243	274
COUNTY:LEE STATE:TX	157	191	225	259	293
COUNTY:LIVE OAK STATE:TX	184	224	265	304	344
COUNTY:LLANO STATE:TX	157	191	225	259	293
COUNTY:MCMULLEN STATE:TX	184	224	265	304	344
COUNTY:MAVERICK STATE:TX	147	179	211	243	274
COUNTY:MEDINA STATE:TX	147	179	211	243	274

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN ANTONIO, TEXAS AREA OFFICE					
NON SMSA					
COUNTY:REAL STATE:TX	147	179	211	243	274
COUNTY:REFUGIO STATE:TX	184	224	265	304	344
COUNTY:STARR STATE:TX	184	224	265	304	344
COUNTY:UVALDE STATE:TX	147	179	211	243	274
COUNTY:VAL VERDE STATE:TX	147	179	211	243	274
COUNTY:VICTORIA STATE:TX	187	226	267	306	347
COUNTY:WILLACY STATE:TX	184	224	265	304	344
COUNTY:WILSON STATE:TX	147	179	211	243	274
COUNTY:ZAPATA STATE:TX	184	224	265	304	344
COUNTY:ZAVALA STATE:TX	147	179	211	243	274
REGION 7					
KANSAS CITY, MISSOURI AREA OFFICE					
SMSA: KANSAS CITY, MO-KS					
COUNTY:CASS STATE:MO	185	225	266	307	347
COUNTY:CLAY STATE:MO	185	225	266	307	347
COUNTY:JACKSON STATE:MO	185	225	266	307	347
COUNTY:PLATTE STATE:MO	185	225	266	307	347
COUNTY:RAY STATE:MO	185	225	266	307	347
COUNTY:JOHNSON STATE:KS	185	225	266	307	347
COUNTY:WYANDOTTE STATE:KS	185	225	266	307	347
SMSA: ST JOSEPH, MO					
COUNTY:ANDREW STATE:MO	133	162	190	219	249
COUNTY:BUCHANEN STATE:MO	133	162	190	219	249
SMSA: SPRINGFIELD, MO					
COUNTY:CHRISTIAN STATE:MO	145	172	204	237	269
COUNTY:GREENE STATE:MO	145	172	204	237	269
NON SMSA					
COUNTY:ATCHISON STATE:MO	133	162	190	219	249

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:BARRY STATE:MO	131	159	187	215	244
COUNTY:BARTON STATE:MO	115	139	164	189	213
COUNTY:BATES STATE:MO	133	162	190	219	249
COUNTY:BENTON STATE:MO	133	162	190	219	249
COUNTY:CALDWELL STATE:MO	143	174	204	236	268
COUNTY:CAMDEN STATE:MO	161	195	230	266	300
COUNTY:CARROLL STATE:MO	133	162	190	219	249
COUNTY:CEDAR STATE:MO	115	139	164	189	213
COUNTY:CHARITON STATE:MO	161	195	230	266	300
COUNTY:CLINTON STATE:MO	133	162	190	219	249
COUNTY:DADE STATE:MO	131	159	187	215	244
COUNTY:DALLAS STATE:MO	131	159	187	215	244
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:DAVIESS STATE:MO	143	174	204	236	268
COUNTY:DE KALB STATE:MO	133	162	190	219	249
COUNTY:GENTRY STATE:MO	133	162	190	219	249
COUNTY:GRUNDY STATE:MO	143	174	204	236	268
COUNTY:HARRISON STATE:MO	143	174	204	236	268
COUNTY:HENRY STATE:MO	133	162	190	219	249
COUNTY:HICKORY STATE:MO	131	159	187	215	244
COUNTY:HOLT STATE:MO	133	162	190	219	249
COUNTY:JASPER STATE:MO	129	147	177	199	221
COUNTY:JOHNSON STATE:MO	149	173	213	232	258
COUNTY:LACLEDE STATE:MO	143	173	204	234	266
COUNTY:LAFAYETTE STATE:MO	133	162	190	219	249

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:LAWRENCE STATE:MO	131	159	187	215	244
COUNTY:LINN STATE:MO	143	174	204	236	268
COUNTY:LIVINGSTON STATE:MO	143	174	204	236	268
COUNTY:MCDONALD STATE:MO	115	139	164	189	213
COUNTY:MERCER STATE:MO	143	174	204	236	268
COUNTY:MILLER STATE:MO	161	195	230	266	300
COUNTY:MORGAN STATE:MO	161	195	230	266	300
COUNTY:NEWTON STATE:MO	129	147	177	199	221
COUNTY:NODAWAY STATE:MO	149	173	213	232	258
COUNTY:PETTIS STATE:MO	133	162	190	219	249
COUNTY:POLK STATE:MO	131	159	187	215	244
COUNTY:PULASKI STATE:MO	143	173	204	234	266
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:PUTNAM STATE:MO	143	174	204	236	268
COUNTY:ST CLAIR STATE:MO	115	139	164	189	213
COUNTY:SALINE STATE:MO	133	162	190	219	249
COUNTY:STONE STATE:MO	131	159	187	215	244
COUNTY:SULLIVAN STATE:MO	143	174	204	236	268
COUNTY:TANEY STATE:MO	131	159	187	215	244
COUNTY:VERNON STATE:MO	115	139	164	189	213
COUNTY:WEBSTER STATE:MO	131	159	187	215	244
COUNTY:WORTH STATE:MO	133	162	190	219	249
SMSA. LAWRENCE, KS					
COUNTY:DOUGLAS STATE:KS	196	230	275	320	348
SMSA. TOPEKA, KS					
COUNTY:JEFFERSON STATE:KS	173	209	247	284	322
COUNTY:OSAGE STATE:KS	173	209	247	284	322

NOTE. FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
KANSAS CITY, MISSOURI AREA OFFICE					
SMSA: TOPEKA, KS					
COUNTY:SHAWNEE STATE:KS	173	209	247	284	322
SMSA: WICHITA, KS					
COUNTY:BUTLER STATE:KS	182	213	248	292	323
COUNTY:SEDGWICK STATE:KS	182	213	248	292	323
NON SMSA					
COUNTY:ALLEN STATE:KS	115	139	164	189	213
COUNTY:ANDERSON STATE:KS	138	168	199	229	259
COUNTY:ATCHISON STATE:KS	138	168	199	229	259
COUNTY:BARBER STATE:KS	122	149	175	202	229
COUNTY:BARTON STATE:KS	132	160	189	217	247
COUNTY:BOURBON STATE:KS	115	139	164	189	213
COUNTY:BROWN STATE:KS	138	168	199	229	259
COUNTY:CHASE STATE:KS	122	149	175	202	229
COUNTY:CHAUTAUQUA STATE:KS	122	149	175	202	229
NON SMSA					
COUNTY:CHEROKEE STATE:KS	115	139	164	189	213
COUNTY:CHEYENNE STATE:KS	132	160	189	217	247
COUNTY:CLARK STATE:KS	122	149	175	202	229
COUNTY:CLAY STATE:KS	132	160	189	217	247
COUNTY:CLOUD STATE:KS	132	160	189	217	247
COUNTY:COFFEY STATE:KS	138	168	199	229	259
COUNTY:COMANCHE STATE:KS	122	149	175	202	229
COUNTY:COWLEY STATE:KS	122	149	175	202	229
COUNTY:CRAWFORD STATE:KS	115	139	164	189	213
COUNTY:DECATUR STATE:KS	132	160	189	217	247
COUNTY:DICKINSON STATE:KS	132	160	189	217	247
COUNTY:DONIPHAN STATE:KS	138	168	199	229	259

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:EDWARDS STATE:KS	122	149	175	202	229
COUNTY:ELK STATE:KS	122	149	175	202	229
COUNTY:ELLIS STATE:KS	132	160	189	217	247
COUNTY:ELLSWORTH STATE:KS	132	160	189	217	247
COUNTY:FINNEY STATE:KS	122	149	175	202	229
COUNTY:FORD STATE:KS	122	149	175	202	229
COUNTY:FRANKLIN STATE:KS	138	168	199	229	259
COUNTY:GEARY STATE:KS	138	168	199	229	259
COUNTY:GOVE STATE:KS	132	160	189	217	247
COUNTY:GRAHAM STATE:KS	132	160	189	217	247
COUNTY:GRANT STATE:KS	122	149	175	202	229
COUNTY:GRAY STATE:KS	122	149	175	202	229
COUNTY:GREELEY STATE:KS	132	160	189	217	247
COUNTY:GREENWOOD STATE:KS	122	149	175	202	229
COUNTY:HAMILTON STATE:KS	122	149	175	202	229
COUNTY:HARPER STATE:KS	122	149	175	202	229
COUNTY:HARVEY STATE:KS	134	161	188	226	237
COUNTY:HASKELL STATE:KS	122	149	175	202	229
COUNTY:HODGEMAN STATE:KS	122	149	175	202	229
COUNTY:JACKSON STATE:KS	138	168	199	229	259
COUNTY:JEWELL STATE:KS	132	160	189	217	247
COUNTY:KEARNY STATE:KS	122	149	175	202	229
COUNTY:KINGMAN STATE:KS	122	149	175	202	229
COUNTY:KIOWA STATE:KS	122	149	175	202	229

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:LABETTE STATE:KS	115	139	164	189	213
COUNTY:LANE STATE:KS	132	160	189	217	247
COUNTY:LEAVENWORTH STATE:KS	173	209	247	284	322
COUNTY:LINCOLN STATE:KS	132	160	189	217	247
COUNTY:LINN STATE:KS	138	168	199	229	259
COUNTY:LOGAN STATE:KS	132	160	189	217	247
COUNTY:LYON STATE:KS	138	168	199	229	259
COUNTY:MCPHERSON STATE:KS	132	160	189	217	247
COUNTY:MARION STATE:KS	122	149	175	202	229
COUNTY:MARSHALL STATE:KS	138	168	199	229	259
COUNTY:MEADE STATE:KS	122	149	175	202	229
COUNTY:MIAMI STATE:KS	138	168	199	229	259
COUNTY:MITCHELL STATE:KS	132	160	189	217	247
COUNTY:MONTGOMERY STATE:KS	115	139	164	189	213
COUNTY:MORRIS STATE:KS	132	160	189	217	247
COUNTY:MORTON STATE:KS	122	149	175	202	229
COUNTY:NEMAHA STATE:KS	138	168	199	229	259
COUNTY:NEOSHO STATE:KS	115	139	164	189	213
COUNTY:NESS STATE:KS	132	160	189	217	247
COUNTY:NORTON STATE:KS	132	160	189	217	247
COUNTY:OSBORNE STATE:KS	132	160	189	217	247
COUNTY:OTTAWA STATE:KS	132	160	189	217	247
COUNTY:PAWNEE STATE:KS	122	149	175	202	229
COUNTY:PHILLIPS STATE:KS	132	160	189	217	247

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:POTTAWATOMIE STATE:KS	138	168	199	229	259
COUNTY:PRATT STATE:KS	122	149	175	202	229
COUNTY:RAWLINS STATE:KS	132	160	189	217	247
COUNTY:RENO STATE:KS	122	149	175	202	229
COUNTY:REPUBLIC STATE:KS	132	160	189	217	247
COUNTY:RICE STATE:KS	132	160	189	217	247
COUNTY:RILEY STATE:KS	161	198	231	269	301
COUNTY:ROOKS STATE:KS	132	160	189	217	247
COUNTY:RUSH STATE:KS	132	160	189	217	247
COUNTY:RUSSELL STATE:KS	132	160	189	217	247
COUNTY:SALINE STATE:KS	132	160	189	217	247
COUNTY:SCOTT STATE:KS	132	160	189	217	247
COUNTY:SEWARD STATE:KS	122	149	175	202	229
COUNTY:SHERIDAN STATE:KS	132	160	189	217	247
COUNTY:SHERMAN STATE:KS	132	160	189	217	247
COUNTY:SMITH STATE:KS	132	160	189	217	247
COUNTY:STAFFORD STATE:KS	122	149	175	202	229
COUNTY:STANTON STATE:KS	122	149	175	202	229
COUNTY:STEVENS STATE:KS	122	149	175	202	229
COUNTY:SUMNER STATE:KS	122	149	175	202	229
COUNTY:THOMAS STATE:KS	132	160	189	217	247
COUNTY:TREGO STATE:KS	132	160	189	217	247
COUNTY:WABAUNSEE STATE:KS	138	168	199	229	259
COUNTY:WALLACE STATE:KS	132	160	189	217	247

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY:WASHINGTON STATE:KS	138	168	199	229	259
COUNTY:WICHITA STATE:KS	132	160	189	217	247
COUNTY:WILSON STATE:KS	115	139	164	189	213
COUNTY:WOODSON STATE:KS	115	139	164	189	213
OMAHA, NEBRASKA AREA OFFICE					
SMSA: CEDAR RAPIDS, IA COUNTY:LINN STATE:IA	195	238	280	322	364
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL COUNTY:SCOTT STATE:IA	196	239	281	325	367
SMSA: DES MOINES, IA COUNTY:POLK STATE:IA	207	252	296	342	386
COUNTY:WARREN STATE:IA	207	252	296	342	386
SMSA: DUBUQUE, IA COUNTY:DUBUQUE STATE:IA	164	215	280	334	366
SMSA: IOWA CITY, IA. COUNTY:JOHNSON STATE:IA	195	238	280	322	364
SMSA: OMAHA, NE-IA COUNTY:POTTAWATTAMI STATE:IA	189	228	270	311	351
SMSA: SIOUX CITY, IA-NE COUNTY:WOODBURY STATE:IA	171	221	274	318	353
SMSA: WATERLOO-CEDAR FALLS, IA COUNTY:BLACK HAWK STATE:IA	163	198	233	272 3	328 24
NON SMSA COUNTY:ADAIR STATE:IA	152	186	219	252	285

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:ADAMS STATE:IA	152	186	219	252	285
COUNTY:ALLAMAKEE STATE:IA	149	181	214	246	279
COUNTY:APPANOOSE STATE:IA	152	186	219	252	285
COUNTY:AUDUBON STATE:IA	147	178	211	242	274
COUNTY:BENTON STATE:IA	195	238	280	322	364
COUNTY:BOONE STATE:IA	152	186	219	252	285
COUNTY:BREMER STATE:IA	163	198	233	269	304
COUNTY:BUCHANAN STATE:IA	163	198	233	269	304
COUNTY:BUENA VISTA STATE:IA	146	177	208	241	272
COUNTY:BUTLER STATE:IA	163	198	233	269	304
COUNTY:CALHOUN STATE:IA	146	177	208	241	272
COUNTY:CARROLL STATE:IA	147	178	211	242	274
COUNTY:CASS STATE:IA	146	177	208	241	272
COUNTY:CEDAR STATE:IA	195	238	280	322	364
COUNTY:CERRO GORDO STATE:IA	163	198	233	269	304
COUNTY:CHEROKEE STATE:IA	147	178	211	242	274
COUNTY:CHICKASAW STATE:IA	163	198	233	269	304
COUNTY:CLARKE STATE:IA	152	186	219	252	285
COUNTY:CLAY STATE:IA	146	177	208	241	272
COUNTY:CLAYTON STATE:IA	149	181	214	246	279
COUNTY:CLINTON STATE:IA	165	201	237	273	309
COUNTY:CRAWFORD STATE:IA	147	178	211	242	274
COUNTY:DALLAS STATE:IA	152	186	219	252	285
COUNTY:DAVIS STATE:IA	152	186	219	252	285

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:DECATUR STATE:IA	152	186	219	252	285
COUNTY:DELAWARE STATE:IA	149	181	214	246	279
COUNTY:DES MOINES STATE:IA	150	182	215	248	281
COUNTY:DICKINSON STATE:IA	149 3	177	208	241	272
COUNTY:EMMET STATE:IA	146	177	208	241	272
COUNTY:FAYETTE STATE:IA	163	198	233	269	304
COUNTY:FLOYD STATE:IA	163	198	233	269	304
COUNTY:FRANKLIN STATE:IA	163	198	233	269	304
COUNTY:FREMONT STATE:IA	146	177	208	241	272
COUNTY:GREENE STATE:IA	147	178	211	242	274
COUNTY:GRUNDY STATE:IA	163	198	233	269	304
COUNTY:GUTHRIE STATE:IA	147	178	211	242	274
COUNTY:HAMILTON STATE:IA	146	177	208	241	272
COUNTY:HANCOCK STATE:IA	163	198	233	269	304
COUNTY:HARDIN STATE:IA	163	198	233	269	304
COUNTY:HARRISON STATE:IA	146	177	208	241	272
COUNTY:HENRY STATE:IA	150	182	215	248	281
COUNTY:HOWARD STATE:IA	149	181	214	246	279
COUNTY:HUMBOLDT STATE:IA	146	177	208	241	272
COUNTY:IDA STATE:IA	147	178	211	242	274
COUNTY:IOWA STATE:IA	195	238	280	322	364
COUNTY:JACKSON STATE:IA	149	181	214	246	279
COUNTY:JASPER STATE:IA	152	186	219	252	285
COUNTY:JEFFERSON STATE:IA	152	186	219	252	285

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:JONES STATE:IA	195	238	280	322	364
COUNTY:KEOKUK STATE:IA	152	186	219	252	285
COUNTY:KOSSUTH STATE:IA	163	198	233	269	304
COUNTY:LEE STATE:IA	150	182	215	248	281
COUNTY:LOUISA STATE:IA	165	201	237	273	309
COUNTY:LUCAS STATE:IA	152	186	219	252	285
COUNTY:LYON STATE:IA	163	198	233	269	304
COUNTY:MADISON STATE:IA	152	186	219	252	285
COUNTY:MAHASKA STATE:IA	152	186	219	252	285
COUNTY:MARION STATE:IA	152	186	219	252	285
COUNTY:MARSHALL STATE:IA	152	186	219	252	285
COUNTY:MILLS STATE:IA	146	177	208	241	272
COUNTY:MITCHELL STATE:IA	163	198	233	269	304
COUNTY:MONONA STATE:IA	147	178	211	242	274
COUNTY:MONROE STATE:IA	152	186	219	252	285
COUNTY:MONTGOMERY STATE:IA	146	177	208	241	272
COUNTY:MUSCATINE STATE:IA	165	201	237	273	309
COUNTY:O BRIEN STATE:IA	147	178	211	242	274
COUNTY:OSCEOLA STATE:IA	163	198	233	269	304
COUNTY:PAGE STATE:IA	146	177	208	241	272
COUNTY:PALO ALTO STATE:IA	146	177	208	241	272
COUNTY:PLYMOUTH STATE:IA	147	178	211	242	274
COUNTY:POCAHONTAS STATE:IA	146	177	208	241	272
COUNTY:POWESHIEK STATE:IA	152	186	219	252	285

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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					
NON SMSA					
COUNTY:RINGGOLD STATE:IA	152	186	219	252	285
COUNTY:SAC STATE:IA	147	178	211	242	274
COUNTY:SHELBY STATE:IA	146	177	208	241	272
COUNTY:SIOUX STATE:IA	147	178	211	242	274
COUNTY:STORY STATE:IA	166	192	232	260	285
COUNTY:TAMA STATE:IA	152	186	219	252	285
COUNTY:TAYLOR STATE:IA	152	186	219	252	285
COUNTY:UNION STATE:IA	152	186	219	252	285
COUNTY:VAN BUREN STATE:IA	152	186	219	252	285
COUNTY:WAPELLO STATE:IA	152	186	219	252	285
COUNTY:WASHINGTON STATE:IA	165	201	237	273	309
COUNTY:WAYNE STATE:IA	152	186	219	252	285
COUNTY:WEBSTER STATE:IA	150 4	177	223 15	241	272
COUNTY:WINNEBAGO STATE:IA	163	198	233	269	304
COUNTY:WINNESHIEK STATE:IA	149	181	214	246	279
COUNTY:WORTH STATE:IA	163	198	233	269	304
COUNTY:WRIGHT STATE:IA	146	177	208	241	272
SMSA: LINCOLN, NE					
COUNTY:LANCASTER STATE:NE	195	237	279	321	363
SMSA: OMAHA, NE-IA					
COUNTY:DOUGLAS STATE:NE	189	228	270	311	351
COUNTY:SARPY STATE:NE	189	228	270	311	351
SMSA: SIOUX CITY, IA-NE					
COUNTY:DAKOTA STATE:NE	171	221	274	318	353
NON SMSA					
COUNTY:ADAMS STATE:NE	139	188	244	307	339
COUNTY:ANTELOPE STATE:NE	139	171	201	231	262

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:ARTHUR STATE:NE	139	171	201	231	262
COUNTY:BANNER STATE:NE	137	167	197	227	257
COUNTY:BLAINE STATE:NE	139	171	201	231	262
COUNTY:BOONE STATE:NE	139	171	201	231	262
COUNTY:BOX BUTTE STATE:NE	167	203	238	275	311
COUNTY:BOYD STATE:NE	139	171	201	231	262
COUNTY:BROWN STATE:NE	139	171	201	231	262
COUNTY:BUFFALO STATE:NE	139	171	201	234 3	262
COUNTY:BURT STATE:NE	146	177	208	241	272
COUNTY:BUTLER STATE:NE	146	177	208	241	272
COUNTY:CASS STATE:NE	146	177	208	241	272
COUNTY:CEDAR STATE:NE	147	178	211	242	274
COUNTY:CHASE STATE:NE	160	194	229	263	298
COUNTY:CHERRY STATE:NE	139	171	201	231	262
COUNTY:CHEYENNE STATE:NE	137	167	197	227	257
COUNTY:CLAY STATE:NE	139	171	201	231	262
COUNTY:COLFAX STATE:NE	146	177	208	241	272
COUNTY:CUMING STATE:NE	147	178	211	242	274
COUNTY:CUSTER STATE:NE	139	171	201	231	262
COUNTY:DAWES STATE:NE	137	167	197	227	257
COUNTY:DAWSON STATE:NE	139	171	201	231	262
COUNTY:DEUEL STATE:NE	137	167	197	227	257
COUNTY:DIXON STATE:NE	147	178	211	242	274
COUNTY:DODGE STATE:NE	146	177	208	241	272

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:DUNDY STATE:NE	160	194	229	263	298
COUNTY:FILLMORE STATE:NE	146	177	208	241	272
COUNTY:FRANKLIN STATE:NE	139	171	201	231	262
COUNTY:FRONTIER STATE:NE	139	171	201	231	262
COUNTY:FURNAS STATE:NE	139	171	201	231	262
COUNTY:GAGE STATE:NE	171	208	245	282	318
COUNTY:GARDEN STATE:NE	137	167	197	227	257
COUNTY:GARFIELD STATE:NE	139	171	201	231	262
COUNTY:GOSPER STATE:NE	139	171	201	231	262
COUNTY:GRANT STATE:NE	139	171	201	231	262
COUNTY:GREELEY STATE:NE	139	171	201	231	262
COUNTY:HALL STATE:NE	139	171	201	269 38	297 35
COUNTY:HAMILTON STATE:NE	139	171	201	231	262
COUNTY:HARLAN STATE:NE	139	171	201	231	262
COUNTY:HAYES STATE:NE	139	171	201	231	262
COUNTY:HITCHCOCK STATE:NE	139	171	201	231	262
COUNTY:HOLT STATE:NE	147	178	211	242	274
COUNTY:HOOKER STATE:NE	139	171	201	231	262
COUNTY:HOWARD STATE:NE	139	171	201	231	262
COUNTY:JEFFERSON STATE:NE	146	177	208	241	272
COUNTY:JOHNSON STATE:NE	146	177	208	241	272
COUNTY:KEARNEY STATE:NE	139	171	201	231	262
COUNTY:KEITH STATE:NE	139	171	201	231	262
COUNTY:KEYA PAHA STATE:NE	147	178	211	242	274

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:KIMBALL STATE:NE	137	167	197	227	257
COUNTY:KNOX STATE:NE	147	178	211	242	274
COUNTY:LINCOLN STATE:NE	139	171	201	231	262
COUNTY:LOGAN STATE:NE	139	171	201	231	262
COUNTY:LOUP STATE:NE	139	171	201	231	262
COUNTY:MCPHERSON STATE:NE	139	171	201	231	262
COUNTY:MADISON STATE:NE	147	178	211	242	274
COUNTY:MERRICK STATE:NE	139	171	201	231	262
COUNTY:MORRILL STATE:NE	137	167	197	227	257
COUNTY:NANCE STATE:NE	139	171	201	231	262
COUNTY:NEMAHA STATE:NE	146	177	208	241	272
COUNTY:NUCKOLLS STATE:NE	139	171	201	231	262
COUNTY:OTOE STATE:NE	146	177	208	241	272
COUNTY:PAWNEE STATE:NE	146	177	208	241	272
COUNTY:PERKINS STATE:NE	160	194	229	263	298
COUNTY:PHELPS STATE:NE	139	171	201	231	262
COUNTY:PIERCE STATE:NE	147	178	211	242	274
COUNTY:PLATTE STATE:NE	146	177	208	241	272
COUNTY:POLK STATE:NE	146	177	208	241	272
COUNTY:RED WILLOW STATE:NE	139	171	201	231	262
COUNTY:RICHARDSON STATE:NE	146	177	208	241	272
COUNTY:ROCK STATE:NE	147	178	211	242	274
COUNTY:SALINE STATE:NE	146	177	208	241	272
COUNTY:SAUNDERS STATE:NE	146	177	208	241	272

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
NON SMSA					
COUNTY:SCOTTS BLUFF STATE:NE	137	167	197	227	257
COUNTY:SEWARD STATE:NE	146	177	208	241	272
COUNTY:SHERIDAN STATE:NE	137	167	197	227	257
COUNTY:SHERMAN STATE:NE	139	171	201	231	262
COUNTY:SIOUX STATE:NE	137	167	197	227	257
COUNTY:STANTON STATE:NE	147	178	211	242	274
COUNTY:THAYER STATE:NE	146	177	208	241	272
COUNTY:THOMAS STATE:NE	139	171	201	231	262
COUNTY:THURSTON STATE:NE	147	178	211	242	274
COUNTY:VALLEY STATE:NE	139	171	201	231	262
COUNTY:WASHINGTON STATE:NE	146	177	208	241	272
COUNTY:WAYNE STATE:NE	147	178	211	242	274
COUNTY:WEBSTER STATE:NE	139	171	201	231	262
COUNTY:WHEELER STATE:NE	139	171	201	231	262
COUNTY:YORK STATE:NE	146	177	208	241	272

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
SMSA: COLUMBIA, MO					
COUNTY:BOONE STATE:MO	171	208	245	282	318
SMSA: ST LOUIS, MO-IL					
COUNTY:FRANKLIN STATE:MO	187	227	266	306	345
COUNTY:JEFFERSON STATE:MO	187	227	266	306	345
COUNTY:ST CHARLES STATE:MO	187	227	266	306	345
COUNTY:ST LOUIS STATE:MO	187	227	266	306	345
INDEP. CITY:ST. LOUIS STATE:MO	187	227	266	306	345
NON SMSA					
COUNTY:ADAIR STATE:MO	161	195	230	266	300
COUNTY:AUDRAIN STATE:MO	161	195	230	266	300
COUNTY:BOLLINGER STATE:MO	125	153	181	208	236
COUNTY:BUTLER STATE:MO	125	153	181	208	236
COUNTY:CALLAWAY STATE:MO	161	195	230	266	300
COUNTY:CAPE GIRARDE STATE:MO	150	182	215	247	280
COUNTY:CARTER STATE:MO	125	153	181	208	236
COUNTY:CLARK STATE:MO	150	182	215	248	281
COUNTY:COLE STATE:MO	161	195	230	266	300
COUNTY:COOPER STATE:MO	161	195	230	266	300
COUNTY:CRAWFORD STATE:MO	143	173	204	234	266
COUNTY:DENT STATE:MO	143	173	204	234	266
COUNTY:DOUGLAS STATE:MO	131	159	187	215	244
COUNTY:DUNKLIN STATE:MO	125	153	181	208	236
COUNTY:GASCONADE STATE:MO	143	173	204	234	266
COUNTY:HOWARD STATE:MO	161	195	230	266	300
COUNTY:HOWELL STATE:MO	131	159	187	215	244
COUNTY:IRON STATE:MO	143	173	204	234	266

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:KNOX STATE:MO	161	195	230	266	300
COUNTY:LEWIS STATE:MO	150	182	215	248	281
COUNTY:LINCOLN STATE:MO	143	173	204	234	266
COUNTY:MACON STATE:MO	161	195	230	266	300
COUNTY:MADISON STATE:MO	143	173	204	234	266
COUNTY:MARIES STATE:MO	143	173	204	234	266
COUNTY:MARION STATE:MO	150	182	215	248	281
COUNTY:MISSISSIPPI STATE:MO	125	153	181	208	236
COUNTY:MONITEAU STATE:MO	161	195	230	266	300
COUNTY:MONROE STATE:MO	161	195	230	266	300
COUNTY:MONTGOMERY STATE:MO	143	173	204	234	266
COUNTY:NEW MADRID STATE:MO	125	153	181	208	236
COUNTY:OREGON STATE:MO	131	159	187	215	244
COUNTY:OSAGE STATE:MO	161	195	230	266	300
COUNTY:OZARK STATE:MO	131	159	187	215	244
COUNTY:PEMISCOT STATE:MO	125	153	181	208	236
COUNTY:PERRY STATE:MO	143	173	204	234	266
COUNTY:PHELPS STATE:MO	143	173	204	234	266
COUNTY:PIKE STATE:MO	143	173	204	234	266
COUNTY:RALLS STATE:MO	150	182	215	248	281
COUNTY:RANDOLPH STATE:MO	161	195	230	266	300
COUNTY:REYNOLDS STATE:MO	143	173	204	234	266
COUNTY:RIPLEY STATE:MO	125	153	181	208	236
COUNTY:ST FRANCOIS STATE:MO	143	173	204	234	266

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:STE GENEVIEV STATE:MO	143	173	204	234	266
COUNTY:SCHUYLER STATE:MO	161	195	230	266	300
COUNTY:SCOTLAND STATE:MO	161	195	230	266	300
COUNTY:SCOTT STATE:MO	150	182	215	247	280
COUNTY:SHANNON STATE:MO	131	159	187	215	244
COUNTY:SHELBY STATE:MO	161	195	230	266	300
COUNTY:STODDARD STATE:MO	125	153	181	208	236
COUNTY:TEXAS STATE:MO	143	173	204	234	266
COUNTY:WARREN STATE:MO	143	173	204	234	266
COUNTY:WASHINGTON STATE:MO	143	173	204	234	266
COUNTY:WAYNE STATE:MO	125	153	181	208	236
COUNTY:WRIGHT STATE:MO	131	159	187	215	244
COUNTY:ALBANY STATE:WY	144	175	206	237	268
COUNTY:BIG HORN STATE:WY	150	183	215	247	279
COUNTY:CAMPBELL STATE:WY	144	175	206	237	268
COUNTY:CARBON STATE:WY	144	175	206	237	268
COUNTY:CONVERSE STATE:WY	144	175	206	237	268
COUNTY:CROOK STATE:WY	150	183	215	247	279
COUNTY:FREMONT STATE:WY	144	175	206	237	268
COUNTY:GOSHEN STATE:WY	144	175	206	237	268
COUNTY:HOT SPRINGS STATE:WY	150	183	215	247	279
COUNTY:JOHNSON STATE:WY	144	175	206	237	268
COUNTY:LARAMIE STATE:WY	200	236	277	318	360
COUNTY:LINCOLN STATE:WY	144	175	206	237	268

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:NATRONA STATE:WY	211	255	301	346	391
COUNTY:NIOBRARA STATE:WY	144	175	206	237	268
COUNTY:PARK STATE:WY	150	183	215	247	279
COUNTY:PLATTE STATE:WY	144	175	206	237	268
COUNTY:SHERIDAN STATE:WY	144	175	206	237	268
COUNTY SUBLETTE STATE WY	144	175	206	237	268
COUNTY SWEETWATER STATE:WY	144	175	206	237	268
COUNTY TETON STATE:WY	197	239	281	323	366
COUNTY UINTA STATE WY	144	175	206	237	268
COUNTY:WASHAKIE STATE WY	150	183	215	247	279
COUNTY WESTON STATE:WY	150	183	215	247	279
SMSA COLORADO SPRINGS, CO					
COUNTY:EL PASO STATE:CO	172	209	245	282	319
COUNTY:TELLER STATE:CO	172	209	245	282	319
SMSA: DENVER-BOULDER , CO					
COUNTY:ADAMS STATE:CO	230	278	328	378	427
COUNTY:ARAPAHOE STATE:CO	230	278	328	378	427
COUNTY:BOULDER STATE:CO	230	278	328	378	427
COUNTY:DENVER STATE:CO	230	278	328	378	427
COUNTY:DOUGLAS STATE:CO	230	278	328	378	427
COUNTY:GILPIN STATE:CO	230	278	328	378	427
COUNTY:JEFFERSON STATE:CO	230	278	328	378	427
SMSA: FORT COLLINS, CO					
COUNTY:LARIMER STATE:CO	182	221	260	299	337
SMSA GREELEY, CO					
COUNTY:WELD STATE:CO	169	204	241	277	314
SMSA: PUEBLO, CO					
COUNTY:PUEBLO STATE:CO	177	215	253	291	329

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:ALAMOSA STATE:CO	177	215	253	291	329
COUNTY:ARCHULETA STATE:CO	144	175	206	237	268
COUNTY:BACA STATE:CO	177	215	253	291	329
COUNTY:BENT STATE:CO	177	215	253	291	329
COUNTY:CHAFFEE STATE:CO	177	215	253	291	329
COUNTY:CHEYENNE STATE:CO	169	204	241	277	314
COUNTY:CLEAR CREEK STATE:CO	169	204	241	277	314
COUNTY:CONEJOS STATE:CO	177	215	253	291	329
COUNTY:COSTILLA STATE:CO	177	215	253	291	329
COUNTY:CROWLEY STATE:CO	177	215	253	291	329
COUNTY:CUSTER STATE:CO	177	215	253	291	329
COUNTY:DELTA STATE:CO	144	175	206	237	268
COUNTY:DELORES STATE:CO	144	175	206	237	268
COUNTY:EAGLE STATE:CO	144	175	206	237	268
COUNTY:ELBERT STATE:CO	169	204	241	277	314
COUNTY:FREMONT STATE:CO	177	215	253	291	329
COUNTY:GARFIELD STATE:CO	144	175	206	237	268
COUNTY:GRAND STATE:CO	169	204	241	277	314
COUNTY:GUNNISON STATE:CO	144	175	206	237	268
COUNTY:HINSDALE STATE:CO	144	175	206	237	268
COUNTY:HUERFANO STATE:CO	177	215	253	291	329
COUNTY:JACKSON STATE:CO	144	175	206	237	268
COUNTY:KIOWA STATE:CO	177	215	253	291	329
COUNTY:KIT CARSON STATE:CO	169	204	241	277	314

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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:LAKE STATE:CO	169	204	241	277	314
COUNTY:LA PLATA STATE:CO	144	175	206	237	268
COUNTY:LAS ANIMAS STATE:CO	177	215	253	291	329
COUNTY:LINCOLN STATE:CO	177	215	253	291	329
COUNTY:LOGAN STATE:CO	169	204	241	277	314
COUNTY:MESA STATE:CO	213	260	305	351	397
SMSA: BISMARCK, N.D.					
COUNTY:BURLEIGH STATE:ND	193	225	268	312	339
COUNTY:MORTON STATE:ND	193	225	268	312	339
NON SMSA					
COUNTY:MINERAL STATE:CO	177	215	253	291	329
COUNTY:MOFFAT STATE:CO	144	175	206	237	268
COUNTY:MONTEZUMA STATE:CO	144	175	206	237	268
COUNTY:MONTROSE STATE:CO	144	175	206	237	268
COUNTY:MORGAN STATE:CO	169	204	241	277	314
COUNTY:OTERO STATE:CO	177	215	253	291	329
COUNTY:OURAY STATE:CO	144	175	206	237	268
COUNTY:PARK STATE:CO	169	204	241	277	314
COUNTY:PHILLIPS STATE:CO	169	204	241	277	314
COUNTY:PITKIN STATE:CO	144	175	206	237	268
COUNTY:PROWERS STATE:CO	177	215	253	291	329
COUNTY:RIO BLANCO STATE:CO	144	175	206	237	268
COUNTY:RIO GRANDE STATE:CO	177	215	253	291	329
COUNTY:ROUTT STATE:CO	144	175	206	237	268
COUNTY:SAGUACHE STATE:CO	177	215	253	291	329
COUNTY:SAN JUAN STATE:CO	144	175	206	237	268

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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 SAN MIGUEL STATE CO	144	175	206	237	268
COUNTY SEDGWICK STATE CO	169	204	241	277	314
COUNTY SUMMIT STATE CO	169	204	241	277	314
COUNTY WASHINGTON STATE CO	169	204	241	277	314
COUNTY YUMA STATE CO	169	204	241	277	314
SMSA FARGO-MOORHEAD, ND-MN					
COUNTY CASS STATE ND	188	215	279	322	344
SMSA: GRAND FORKS, N.D.-MN					
COUNTY GRAND FORKS STATE ND	188	225	268	312	339
NON SMSA					
COUNTY:ADAMS STATE:ND	150	177	226	253	274
COUNTY:BARNES STATE:ND	150	177	226	253	274
COUNTY:BENSON STATE:ND	150	177	226	253	274
COUNTY:BILLINGS STATE:ND	150	177	226	253	274
COUNTY:BOTTINEAU STATE:ND	150	177	226	253	274
COUNTY:BOWMAN STATE:ND	150	177	226	253	274
COUNTY:BURKE STATE:ND	150	177	226	253	274
COUNTY:CAVALIER STATE:ND	150	177	226	253	274
COUNTY:DICKEY STATE:ND	150	177	226	253	274
COUNTY:DIVIDE STATE:ND	150	177	226	253	274
COUNTY:DUNN STATE:ND	150	177	226	253	274
COUNTY:EDDY STATE:ND	150	177	226	253	274
COUNTY:EMMONS STATE:ND	150	177	226	253	274
COUNTY:FOSTER STATE:ND	150	177	226	253	274
COUNTY:GOLDEN VALLY STATE:ND	150	177	226	253	274
COUNTY:GRANT STATE:ND	150	177	226	253	274

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:GRIGGS STATE:ND	150	177	226	253	274
COUNTY:HETTINGER STATE:ND	150	177	226	253	274
COUNTY:KIDDER STATE:ND	150	177	226	253	274
COUNTY:LA MOORE STATE:ND	150	177	226	253	274
COUNTY:LOGAN STATE:ND	150	177	226	253	274
COUNTY:MCHENRY STATE:ND	150	177	226	253	274
COUNTY:MCINTOSH STATE:ND	150	177	226	253	274
COUNTY:MCKENZIE STATE:ND	150	177	226	253	274
COUNTY:MCLEAN STATE:ND	166	188	242	263	290
COUNTY:MERCER STATE:ND	166	188	242	263	290
COUNTY:MOUNTRAIL STATE:ND	150	177	226	253	274
COUNTY:NELSON STATE:ND	150	177	226	253	274
COUNTY:OLIVER STATE:ND	166	188	242	263	290
COUNTY:PEMBINA STATE:ND	150	177	226	253	274
COUNTY:PIERCE STATE:ND	150	177	226	253	274
COUNTY:RAMSEY STATE:ND	150	177	226	253	274
COUNTY:RANSOM STATE:ND	150	177	226	253	274
COUNTY:RENVILLE STATE:ND	150	177	226	253	274
COUNTY:RICHLAND STATE:ND	150	177	226	253	274
COUNTY:ROLETTE STATE:ND	150	177	226	253	274
COUNTY:SARGENT STATE:ND	150	177	226	253	274
COUNTY:SHERIDAN STATE:ND	150	177	226	253	274
COUNTY:SIOUX STATE:ND	150	177	226	253	274
COUNTY:SLOPE STATE:ND	150	177	226	253	274

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:STARK STATE:ND	166	188	242	263	290
COUNTY:STEELE STATE:ND	150	177	226	253	274
COUNTY:STUTSMAN STATE:ND	150	177	226	253	274
COUNTY:TOWNER STATE:ND	150	177	226	253	274
COUNTY:TRAILL STATE:ND	150	177	226	253	274
COUNTY:WALSH STATE:ND	150	177	226	253	274
COUNTY:WARD STATE:ND	161	188	242	306	339
COUNTY:WELLS STATE:ND	150	177	226	253	274
COUNTY:WILLIAMS STATE:ND	150	177	226	253	274
SMSA BILLINGS, MT					
COUNTY:YELLOWSTONE STATE:MT	203	248	291	334	379
SMSA: GREAT FALLS, MT					
COUNTY:CASCADE STATE:MT	199	242	285	340	370
NON SMSA					
COUNTY:BEAVERHEAD STATE:MT	159	192	227	262	295
COUNTY:BIG HORN STATE:MT	150	183	215	247	279
COUNTY:BLAINE STATE:MT	150	183	215	247	279
COUNTY:BROADWATER STATE:MT	150	183	215	247	279
COUNTY:CARBON STATE:MT	150	183	215	247	279
COUNTY:CARTER STATE:MT	150	183	215	247	279
COUNTY:CHOUTEAU STATE:MT	150	183	215	247	279
COUNTY:CUSTER STATE:MT	150	183	215	247	279
COUNTY:DANIELS STATE:MT	160	195	229	263	297
COUNTY:DAWSON STATE:MT	150	183	215	247	279
COUNTY:DEER LODGE STATE:MT	159	192	227	262	295
COUNTY:FALLON STATE:MT	150	183	215	247	279
COUNTY:FERGUS STATE:MT	150	183	215	247	279

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:FLATHEAD STATE:MT	175	212	250	288	324
COUNTY:GALLATIN STATE:MT	207	251	295	340	384
COUNTY:GARFIELD STATE:MT	150	183	215	247	279
COUNTY:GLACIER STATE:MT	150	183	215	247	279
COUNTY:GOLDEN VALLE STATE:MT	150	183	215	247	279
COUNTY:GRANITE STATE:MT	159	192	227	262	295
COUNTY:HILL STATE:MT	150	183	215	247	279
COUNTY:JEFFERSON STATE:MT	150	183	215	247	279
COUNTY:JUDITH BASIN STATE:MT	150	183	215	247	279
COUNTY:LAKE STATE:MT	159	192	227	262	295
COUNTY:LEWIS+ CLARK STATE:MT	225	273	321	370	418
COUNTY:LIBERTY STATE:MT	150	183	215	247	279
COUNTY:LINCOLN STATE:MT	159	192	227	262	295
COUNTY:MCCONE STATE:MT	150	183	215	247	279
COUNTY:MADISON STATE:MT	159	192	227	262	295
COUNTY:MEAGHER STATE:MT	150	183	215	247	279
COUNTY:MINERAL STATE:MT	159	192	227	262	295
COUNTY:MISSOULA STATE:MT	184	224	263	302	342
COUNTY:MUSSELSHELL STATE:MT	150	183	215	247	279
COUNTY:PARK STATE:MT	199	242	285	327	370
COUNTY:PETROLEUM STATE:MT	150	183	215	247	279
COUNTY:PHILLIPS STATE:MT	150	183	215	247	279
COUNTY:PONDERA STATE:MT	150	183	215	247	279
COUNTY:POWDER RIVER STATE:MT	150	183	215	247	279

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:POWELL STATE:MT	159	192	227	262	295
COUNTY:PRAIRIE STATE:MT	150	183	215	247	279
COUNTY:RAVALLI STATE:MT	159	192	227	262	295
COUNTY:RICHLAND STATE:MT	178	216	255	293	331
COUNTY:ROOSEVELT STATE:MT	160	195	229	263	297
COUNTY:ROSEBUD STATE:MT	150	183	215	247	279
COUNTY:SANDERS STATE:MT	159	192	227	262	295
COUNTY:SHERIDAN STATE:MT	160	195	229	263	297
COUNTY:SILVER BOW STATE:MT	159	192	227	262	295
COUNTY:STILLWATER STATE:MT	150	183	215	247	279
COUNTY:SWEET GRASS STATE:MT	150	183	215	247	279
COUNTY:TETON STATE:MT	150	183	215	247	279
COUNTY:TOOLE STATE:MT	150	183	215	247	279
COUNTY:TREASURE STATE:MT	150	183	215	247	279
COUNTY:VALLEY STATE:MT	150	183	215	247	279
COUNTY:WHEATLAND STATE:MT	150	183	215	247	279
COUNTY:WIBAUX STATE:MT	160	195	229	263	297
COUNTY:YL-ST-NT-PK STATE:MT	150	183	215	247	279
SMSA: PROVO-OREM, UT					
COUNTY:UTAH STATE:UT	169	204	241	277	314
SMSA: SALT LAKE CITY-OGDEN, UT					
COUNTY:DAVIS STATE:UT	182	221	260	299	337
COUNTY:SALT LAKE STATE:UT	182	221	260	299	337
COUNTY:TOOELE STATE:UT	182	221	260	299	337
COUNTY:WEBER STATE:UT	182	221	260	299	337
NON SMSA					
COUNTY:BEAVER STATE:UT	226	275	323	371	420

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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:BOX ELDER STATE:UT	144	175	206	237	268
COUNTY:CACHE STATE:UT	144	175	206	237	268
COUNTY:CARBON STATE:UT	197	239	281	323	366
COUNTY:DAGGETT STATE:UT	144	175	206	237	268
COUNTY:DUCHESNE STATE:UT	144	175	206	237	268
COUNTY:EMERY STATE:UT	182	221	260	299	337
COUNTY:GARFIELD STATE:UT	226	275	323	371	420
COUNTY:GRAND STATE:UT	144	175	206	237	268
COUNTY:IRON STATE:UT	226	275	323	371	420
COUNTY:JUAB STATE:UT	144	175	206	237	268
COUNTY:KANE STATE:UT	226	275	323	371	420
COUNTY:MILLARD STATE:UT	144	175	206	237	268
COUNTY:MORGAN STATE:UT	144	175	206	237	268
COUNTY:PIUTE STATE:UT	144	175	206	237	268
COUNTY:RICH STATE:UT	144	175	206	237	268
COUNTY:SAN JUAN STATE:UT	144	175	206	237	268
COUNTY:SANPETE STATE:UT	144	175	206	237	268
COUNTY:SEVIER STATE:UT	144	175	206	237	268
COUNTY:SUMMIT STATE:UT	144	175	206	237	268
COUNTY:UINTAH STATE:UT	144	175	206	237	268
COUNTY:WASATCH STATE:UT	144	175	206	237	268
COUNTY:WASHINGTON STATE:UT	226	275	323	371	420
COUNTY:WAYNE STATE:UT	144	175	206	237	268
SMSA: RAPID CITY,S.D.					
COUNTY:MEADE STATE:SD	182	222	261	300	340

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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					
SMSA. RAPID CITY,S.D.					
COUNTY:PENNINGTON STATE:SD	182	222	261	300	340
SMSA. SIOUX FALLS, SD					
COUNTY:MINNEHAHA STATE SD	192	233	275	316	357
NON SMSA					
COUNTY:AURORA STATE:SD	163	198	233	269	304
COUNTY:BEADLE STATE:SD	163	198	233	269	304
COUNTY:BENNETT STATE:SD	144	174	205	237	268
COUNTY:BON HOMME STATE:SD	147	178	211	242	274
COUNTY:BROOKINGS STATE:SD	163	198	233	269	304
COUNTY:BROWN STATE:SD	164	200	235	271	307
COUNTY:BRULE STATE:SD	144	174	205	237	268
COUNTY:BUFFALO STATE:SD	144	174	205	237	268
COUNTY:BUTTE STATE:SD	162	197	232	267	302
COUNTY:CAMPBELL STATE:SD	144	174	205	237	268
COUNTY:CHARLES MIX STATE:SD	147	178	211	242	274
COUNTY:CLARK STATE:SD	144	174	205	237	268
COUNTY:CLAY STATE:SD	171	208	245	282	319
COUNTY:CODINGTON STATE:SD	144	174	205	237	268
COUNTY:CORSON STATE:SD	144	174	205	237	268
COUNTY:CUSTER STATE:SD	174	210	248	286	323
COUNTY:DAVISON STATE:SD	163	198	233	269	304
COUNTY:DAY STATE:SD	144	174	205	237	268
COUNTY:DEUEL STATE:SD	144	174	205	237	268
COUNTY:DEWEY STATE:SD	144	174	205	237	268
COUNTY:DOUGLAS STATE:SD	147	178	211	242	274
COUNTY:EDMUNDS STATE:SD	144	174	205	237	268

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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 FALL RIVER STATE:SD	174	210	248	286	323
COUNTY:FAULK STATE:SD	144	174	205	237	268
COUNTY:GRANT STATE:SD	170	208	245	282	318
COUNTY:GREGORY STATE:SD	144	174	205	237	268
COUNTY HAAKON STATE:SD	144	174	205	237	268
COUNTY:HAMLIN STATE:SD	144	174	205	237	268
COUNTY:HAND STATE:SD	163	198	233	269	304
COUNTY:HANSON STATE:SD	163	198	233	269	304
COUNTY:HARDING STATE:SD	144	174	205	237	268
COUNTY:HUGHES STATE:SD	194	236	278	320	362
COUNTY HUTCHINSON STATE:SD	147	178	211	242	274
COUNTY:HYDE STATE:SD	144	174	205	237	268
COUNTY:JACKSON STATE:SD	144	174	205	237	268
COUNTY:JERAULD STATE.SD	163	198	233	269	304
COUNTY:JONES STATE:SD	144	174	205	237	268
COUNTY KINGSBURY STATE:SD	163	198	233	269	304
COUNTY:LAKE STATE:SD	163	198	233	269	304
COUNTY:LAWRENCE STATE:SD	150	182	215	247	280
COUNTY:LINCOLN STATE:SD	163	198	233	269	304
COUNTY:LYMAN STATE:SD	144	174	205	237	268
COUNTY:MCCOOK STATE:SD	163	198	233	269	304
COUNTY:MCPHERSON STATE:SD	144	174	205	237	268
COUNTY:MARSHALL STATE:SD	144	174	205	237	268
COUNTY:MEADE STATE:SD	182	222	261	300	340

NOTE. FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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: MELLETTE STATE: SD	144	174	205	237	268
COUNTY: MINER STATE: SD	163	198	233	269	304
COUNTY: MOODY STATE: SD	163	198	233	269	304
COUNTY: PENNINGTON STATE: SD	182	222	261	300	340
COUNTY: PERKINS STATE: SD	144	174	205	237	268
COUNTY: POTTER STATE: SD	144	174	205	237	268
COUNTY: ROBERTS STATE: SD	144	174	205	237	268
COUNTY: SANBORN STATE: SD	163	198	233	269	304
COUNTY: SHANNON STATE: SD	144	174	205	237	268
COUNTY: SPINK STATE: SD	144	174	205	237	268
COUNTY: STANLEY STATE: SD	194	236	278	320	362
COUNTY: SULLY STATE: SD	144	174	205	237	268
COUNTY: TODD STATE: SD	144	174	205	237	268
COUNTY: TRIPP STATE: SD	144	174	205	237	268
COUNTY: TURNER STATE: SD	163	198	233	269	304
COUNTY: UNION STATE: SD	147	178	211	242	274
COUNTY: WALWORTH STATE: SD	159	192	227	261	295
COUNTY: WASHABAUGH STATE: SD	144	174	205	237	268
COUNTY: YANKTON STATE: SD	147	178	211	242	274
COUNTY: ZIEBACH STATE: SD	144	174	205	237	268

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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 STATE:HI	290	349	416	489	545
NON SMSA COUNTY:HAWAII STATE:HI	325	394	464	534	603
COUNTY:KAUAI STATE:HI	325	394	464	534	603
COUNTY:MAUI STATE:HI	325	394	464	534	603
COUNTY:GUAM STATE:	285	346	406	467	529
LOS ANGELES, CALIFORNIA AREA OFFICE					
SMSA: BAKERSFIELD, CA COUNTY:KERN STATE:CA	190	238	268	357	417
SMSA: LOS ANGELES-LONG BEACH, CA COUNTY:LOS ANGELES STATE:CA	235	285	335	417	497
SMSA: OXNARD-SIMI VALLEY-VENTURA, CA COUNTY:VENTURA STATE:CA	212	258	304	350	395
SMSA: SANTA BARBARA-SANTA MARIA-LOMPOC, CA COUNTY:SANTA BARBAR STATE:CA	229	279	361	416	469
NON SMSA COUNTY:SAN LUIS OBI STATE:CA	214	259	326	372	421
SMSA: PHOENIX, AZ COUNTY:MARICOPA STATE:AZ	215	261	307	354	399
NON SMSA COUNTY:APACHE STATE:AZ	158	191	225	259	293
COUNTY:COCONINO STATE:AZ	158	191	≠25	259	293
COUNTY:GILA STATE:AZ	158	191	≠25	259	293
COUNTY:MOHAVE STATE:AZ	158	191	≠25	259	293

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
LOS ANGELES, CALIFORNIA AREA OFFICE					
NON SMSA					
COUNTY:NAUAJO STATE:AZ	158	191	225	259	293
COUNTY:PINAL STATE:AZ	158	191	225	259	293
COUNTY:YAVAPAI STATE:AZ	158	191	225	259	293
COUNTY:YUMA STATE:AZ	158	191	225	259	293
SMSA: TUCSON, AZ					
COUNTY:PIMA STATE:AZ	198	240	282	326	368
NON SMSA					
COUNTY:COCHISE STATE:AZ	158	191	225	259	293
COUNTY:GRAHAM STATE:AZ	158	191	225	259	293
COUNTY:GREENLEE STATE:AZ	158	191	225	259	293
COUNTY:SANTA CRUZ STATE:AZ	158	191	225	259	293
SMSA. SAN DIEGO, CA					
COUNTY:SAN DIEGO STATE:CA	237	287	337	387	437
NON SMSA					
COUNTY:IMPERIAL STATE:CA	203	247	320	368	397
SMSA: ANAHEIM-SANTA ANA-GARDEN GROVE, CA					
COUNTY:ORANGE STATE:CA	252	300	353	482	548
SMSA: RIVERSIDE-SAN BERNARDINO-ONTARIO, CA					
COUNTY:RIVERSIDE STATE:CA	223	264	310	395	461
COUNTY:SAN BERNADIN STATE:CA	223	264	310	395	461
NON SMSA					
COUNTY:INYO STATE:CA	163	199	234	269	304
COUNTY:MONO STATE:CA	163	199	234	269	304

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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 STATE:CA	184	224	264	346	379
SMSA: MODESTO, CA COUNTY:STANISLAUS STATE:CA	200	222	270	368	400
NON SMSA COUNTY:KINGS STATE:CA	163	199	234	271 2	316 12
COUNTY:MADERA STATE:CA	163	199	234	271 2	316 12
COUNTY:MARIPOSA STATE:CA	172	209	247	283	320
COUNTY:MERCED STATE:CA	175	196	274	352	410
COUNTY:TULARE STATE:CA	193	219	281	370	410
SMSA: RENO, NV COUNTY:WASHOE STATE:NV	271	325	395	477	514
NON SMSA COUNTY:CHURCHILL STATE:NV	226	275	323	371	420
COUNTY:DOUGLAS STATE:NV	226	275	323	371	420
COUNTY:ELKO STATE:NV	226	275	323	371	420
NON SMSA COUNTY:ESMERALDA STATE:NV	206	249	303	357	395
COUNTY:EUREKA STATE:NV	206	249	303	357	395
COUNTY:HUMBOLDT STATE:NV	226	275	323	371	420
COUNTY:LANDER STATE:NV	226	275	323	371	420
COUNTY:LYON STATE:NV	226	275	323	371	420
COUNTY MINERAL STATE:NV	226	275	323	371	420
COUNTY:NYE STATE:NV	206	249	303	357	395
COUNTY:ORMSLEY STATE:NV	226	275	323	371	420
COUNTY:PERSHING STATE:NV	226	275	323	371	420
COUNTY:STOREY STATE:NV	226	275	323	371	420
COUNTY:WHITE PINE STATE:NV	206	249	303	357	395
INDEP. CITY:CARSON CITY STATE:NV	226	275	323	371	420

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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: SACRAMENTO, CA					
COUNTY:PLACER STATE:CA	193	234	275	316	357
COUNTY:SACRAMENTO STATE:CA	193	234	275	316	357
COUNTY:YOLO STATE:CA	193	234	275	316	357
SMSA: STOCKTON, CA					
COUNTY:SAN JOAQUIN STATE:CA	186	225	265	335	373
NON SMSA					
COUNTY:ALPINE STATE:CA	172	209	247	288 5	320
COUNTY:AMADOR STATE:CA	172	209	247	288 5	320
COUNTY:BUTTE STATE:CA	182	221	260	300	339
COUNTY:CALAUERAS STATE:CA	172	209	247	288 5	320
COUNTY:COLUSA STATE:CA	182	221	260	300	339
COUNTY:EL DORADO STATE:CA	182	221	260	300	339
COUNTY:GLENN STATE:CA	182	221	260	300	339
COUNTY:LASSEN STATE:CA	164 4	195	229	271 8	298 1
COUNTY:MODOC STATE:CA	164 4	195	229	271 8	298 1
COUNTY:NEVADA STATE:CA	182	221	260	300	339
COUNTY:PLUMAS STATE:CA	195	227	281	346	428
COUNTY:SHASTA STATE:CA	195	222	270	335	406
COUNTY:SIERRA STATE:CA	164 4	195	229	271 8	298 1
COUNTY:SISKIYOU STATE:CA	164 4	195	229	271 8	298 1
COUNTY:SUTTER STATE:CA	182	221	260	335	406
COUNTY:TEHAMA STATE:CA	164 4	195	229	271 8	298 1
COUNTY:TRINITY STATE:CA	164 4	195	229	271 8	298 1
COUNTY:TUOLUMNE STATE:CA	172	209	247	288 5	320
COUNTY:YUBA STATE:CA	182	221	260	300	339
SMSA: SALINAS-SEASIDE-MONTEREY, CA					
COUNTY:MONTEREY STATE:CA	215	260	305	433	471

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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: SAN FRANCISCO-OAKLAND, CA					
COUNTY:ALAMEDA STATE:CA	223	272	319	443	484
COUNTY:CONTRA COSTA STATE:CA	223	272	319	443	484
COUNTY:MARIN STATE:CA	223	272	319	443	484
COUNTY:SAN FRANCISC STATE:CA	223	272	319	443	484
COUNTY:SAN MATEO STATE:CA	223	272	319	443	484
SMSA: SAN JOSE, CA					
COUNTY:SANTA CLARA STATE:CA	258	313	368	466	509
SMSA: SANTA CRUZ, CA					
COUNTY:SANTA CRUZ STATE:CA	198	238	303	423	487
SMSA: SANTA ROSA, CA					
COUNTY:SONOMA STATE:CA	206	238	318	411	466
SMSA: VALLEJO-FAIRFIELD-NAPA, CA					
COUNTY:NAPA STATE:CA	203	248	291	411	455
COUNTY:SOLANO STATE:CA	203	248	291	411	455
NON SMSA					
COUNTY:DEL NORTE STATE:CA	160	195	229	271 8	298 1
COUNTY:HUMBOLDT STATE:CA	200	238	281	368	406
COUNTY:LAKE STATE:CA	203	248	291	335	379
COUNTY:MENDOCINO STATE:CA	195	249	308	390	433
COUNTY:SAN BENITO STATE:CA	187	227	267	307	347
SMSA: LAS VEGAS, NV					
COUNTY:CLARK STATE:NV	232	280	330	380	429
NON SMSA					
COUNTY:LINCOLN STATE:NV	206	249	303	357	395

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
ANCHORAGE, ALASKA AREA OFFICE					
SMSA: ANCHORAGE, AK					
DISTRICT:ANCHORAGE	337	410	483	555	629
STATE:AK					
NON SMSA					
DISTRICT:ALEUTIAN I.	360	438	515	592	670
STATE:AK					
DISTRICT:ANGOON	360	438	515	592	670
STATE:AK					
DISTRICT:BARROW	557	614	696	776	847
STATE:AK	197	176	181	184	177
DISTRICT:BETHEL	360	438	515	592	670
STATE:AK					
DISTRICT:BRISTOL B.B.	360	438	515	592	670
STATE:AK					
DISTRICT:BRISTOL BAY	360	438	515	592	670
STATE:AK					
DISTRICT:CORDOVA-MCCA	360	438	515	592	670
STATE:AK					
DISTRICT:FAIRBANKS	360	438	515	592	670
STATE:AK					
DISTRICT:HAINES	360	438	515	592	670
STATE:AK					
DISTRICT:JUNEAU	360	438	515	592	670
STATE:AK					
DISTRICT:KENAI-COOK	360	438	515	592	670
STATE:AK					
DISTRICT:KETCHIKAN	360	438	515	592	670
STATE:AK					
DISTRICT:KOBUK	360	438	515	592	670
STATE:AK					
DISTRICT:KODIAK	360	438	515	592	670
STATE:AK					
DISTRICT:KUSKOKWIM	360	438	515	592	670
STATE:AK					
DISTRICT:MATANUSKA-SU	360	438	515	592	670
STATE:AK					
DISTRICT:NOME	360	438	515	592	670
STATE:AK					
DISTRICT:OUTER KETCHK	360	438	515	592	670
STATE:AK					
DISTRICT:PR. OF WALES	360	438	515	592	670
STATE:AK					
DISTRICT:SEWARD	360	438	515	592	670
STATE:AK					
DISTRICT:SITKA	360	438	515	592	670
STATE:AK					
DISTRICT:SKGWY-YKTT	360	438	515	592	670
STATE:AK					
DISTRICT:SE FAIRBANKS	360	438	515	592	670
STATE:AK					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANCHORAGE, ALASKA AREA OFFICE					
NON SMSA					
DISTRICT:UPPER YUKON STATE:AK	360	438	515	592	670
DISTRICT:VLDZ-CHTN-WH STATE:AK	360	438	515	592	670
DISTRICT:WADE HAMPTON STATE:AK	360	438	515	592	670
DISTRICT:WRNGLL-PTRBR STATE:AK	360	438	515	592	670
DISTRICT:YKN-KOYKK STATE:AK	360	438	515	592	670
PORTLAND, OREGON AREA OFFICE					
SMSA: BOISE CITY, ID					
COUNTY:ADA STATE:ID	196	222	278	305	335
NON SMSA					
COUNTY:ADAMS STATE:ID	177	215	253	291	329
COUNTY:BANNOCK STATE:ID	197	239	281	323	366
COUNTY:BEAR LAKE STATE:ID	144	175	206	237	268
COUNTY:BENEWAH STATE:ID	175	212	250	288	324
COUNTY:BINGHAM STATE:ID	197	239	281	323	366
COUNTY:BLAINE STATE:ID	197	239	281	323	366
COUNTY:BOISE STATE:ID	177	215	253	291	329
COUNTY:BONNER STATE:ID	175	212	250	288	324
COUNTY:BONNEVILLE STATE:ID	197	239	281	323	366
COUNTY:BOUNDARY STATE:ID	175	212	250	288	324
COUNTY:BUTTE STATE:ID	197	239	281	323	366

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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
PORTLAND, OREGON AREA OFFICE					
NON SMSA					
COUNTY:CAMAS STATE:ID	197	239	281	323	366
COUNTY:CANYON STATE:ID	177	215	253	291	329
COUNTY:CARIBOU STATE:ID	197	239	281	323	366
COUNTY:CASSIA STATE:ID	197	239	281	323	366
COUNTY:CLARK STATE:ID	197	239	281	323	366
COUNTY:CLEARWATER STATE:ID	175	212	250	288	324
COUNTY:CUSTER STATE:ID	197	239	281	323	366
COUNTY:ELMORE STATE:ID	177	215	253	291	329
COUNTY:FRANKLIN STATE:ID	144	175	206	237	268
COUNTY:FREMONT STATE:ID	197	239	281	323	366
COUNTY:GEM STATE:ID	177	215	253	291	329
COUNTY:GOODING STATE:ID	197	239	281	323	366
COUNTY:IDAHO STATE:ID	175	212	250	288	324
COUNTY:JEFFERSON STATE:ID	197	239	281	323	366
COUNTY:JEROME STATE:ID	197	239	281	323	366
COUNTY:KOOTENAI STATE:ID	175	212	250	288	324
COUNTY:LATAH STATE:ID	185	212	251	262	295
COUNTY:LEMHI STATE:ID	197	239	281	323	366
COUNTY:LEWIS STATE:ID	175	212	250	288	324
COUNTY:LINCOLN STATE:ID	197	239	281	323	366
COUNTY:MADISON STATE:ID	197	239	281	323	366
COUNTY:MINIDOKA STATE:ID	197	239	281	323	366
COUNTY:NEZ PERCE STATE:ID	185	212	251	262	295
COUNTY:ONEIDA STATE:ID	144	175	206	237	268

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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
PORTLAND, OREGON AREA OFFICE					
NON SMSA					
COUNTY:OWYHEE STATE:ID	177	215	253	291	329
COUNTY:PAYETTE STATE:ID	177	215	253	291	329
COUNTY:POWER STATE:ID	197	239	281	323	366
COUNTY:SHOSHONE STATE:ID	175	212	250	288	324
COUNTY:TETON STATE:ID	197	239	281	323	366
COUNTY:TWIN FALLS STATE:ID	197	239	281	323	366
COUNTY:VALLEY STATE:ID	177	215	253	291	329
COUNTY:WASHINGTON STATE:ID	177	215	253	291	329
SMSA: EUGENE-SPRINGFIELD, OR					
COUNTY:LANE STATE:OR	188	213	255	325	385
SMSA: PORTLAND, OR-WA					
COUNTY:CLARK STATE:WA	191	230	271	356	387
COUNTY:CLACKAMAS STATE:OR	191	230	271	356	387
COUNTY:MULTNOMAH STATE:OR	191	230	271	356	387
SMSA: PORTLAND, OR-WA					
COUNTY:WASHINGTON STATE:OR	191	230	271	356	387
SMSA: SALEM, OR					
COUNTY:MARION STATE:OR	206	249	293	338	381
COUNTY:POLK STATE:OR	206	249	293	338	381
NON SMSA					
COUNTY:KLICKITAT STATE:WA	160	195	229	263	297
COUNTY:SKAMANIA STATE:WA	160	195	229	263	297
COUNTY:BAKER STATE:OR	149	181	213	245	277
COUNTY:BENTON STATE:OR	206	249	293	338	381
COUNTY:CLATSOP STATE:OR	186	214	252	289	328
COUNTY:COLUMBIA STATE:OR	186	214	252	289	328
COUNTY:COOS STATE:OR	172	222	283	318	345
COUNTY:CROOK STATE:OR	176	214	252	289	328
COUNTY:CURRY STATE:OR	188	226	262	350	380

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
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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
PORTLAND, OREGON AREA OFFICE					
NON SMSA					
COUNTY:DESCHUTES STATE:OR	176	214	252	289	328
COUNTY:DOUGLAS STATE:OR	169	204	241	277	314
COUNTY:GILLIAM STATE:OR	149	181	213	245	277
COUNTY:GRANT STATE:OR	149	181	213	245	277
COUNTY:HARNEY STATE:OR	177	215	253	291	329
COUNTY:HOOD RIVER STATE:OR	160	195	229	263	297
COUNTY:JACKSON STATE:OR	169	204	241	277	314
COUNTY:JEFFERSON STATE:OR	176	214	252	289	328
COUNTY:JOSEPHINE STATE:OR	186	211	251	285	324
COUNTY:KLAMATH STATE:OR	169	204	241	277	314
COUNTY:LAKE STATE:OR	169	204	241	277	314
COUNTY:LINCOLN STATE:OR	206	249	293	338	381
COUNTY:LINN STATE:OR	206	249	293	338	381
COUNTY:MALHEUR STATE:OR	177	215	253	291	329
COUNTY:MORROW STATE:OR	149	181	213	245	277
COUNTY:SHERMAN STATE:OR	160	195	229	263	297
COUNTY:TILLAMOOK STATE:OR	186	214	252	289	328
COUNTY:UMATILLA STATE:OR	149	181	213	245	277
COUNTY:UNION STATE:OR	149	181	213	245	277
COUNTY:WALLOWA STATE:OR	149	181	213	245	277
COUNTY:WASCO STATE:OR	160	195	229	263	297
COUNTY:WHEELER STATE:OR	149	181	213	245	277
COUNTY:YAMHILL STATE:OR	173	216	270	327	397

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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	223	271	318	397	432
COUNTY:SNOHOMISH STATE:WA	223	271	318	397	432
SMSA: TACOMA, WA					
COUNTY:PIERCE STATE:WA	188	219	270	350	383
SMSA: YAKIMA, WA					
COUNTY:YAKIMA STATE:WA	149	181	213	245	277
NON SMSA					
COUNTY:CHELAN STATE:WA	178	235	297	377	426
COUNTY:CLALLAM STATE:WA	182	221	260	300	339
COUNTY:COWLITZ STATE:WA	182	240	270	371	400
COUNTY:DOUGLAS STATE:WA	178	235	297	377	426
COUNTY:GRAYS HARBOR STATE:WA	182	221	260	300	339
COUNTY:ISLAND STATE:WA	182	221	260	300	339
COUNTY:JEFFERSON STATE:WA	182	221	260	300	339
COUNTY:KITSAP STATE:WA	200	238	287	402	476
COUNTY:KITTITAS STATE:WA	149	181	213	245	277
COUNTY:LEWIS STATE:WA	182	221	260	300	339
COUNTY:MASON STATE:WA	182	221	260	300	339
COUNTY:OKANOGAN STATE:WA	159	192	227	262	295
COUNTY:PACIFIC STATE:WA	182	221	260	300	339
COUNTY:SAN JUAN STATE:WA	182	221	260	300	339
COUNTY:SKAGIT STATE:WA	182	221	260	300	339
COUNTY:THURSTON STATE:WA	182	221	260	300	339
COUNTY:WAHKIAKUM STATE:WA	160	195	229	263	297
COUNTY:WHATCOM STATE:WA	189	215	260	373	418
SMSA: RICHLAND-KENNEWICK-PASCO, WA					
COUNTY:BENTON STATE:WA	196	239	291	373	421

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

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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: RICHLAND-KENNEWICK-PASCO, WA					
COUNTY:FRANKLIN STATE:WA	196	239	291	373	421
SMSA: SPOKANE, WA					
COUNTY:SPOKANE STATE:WA	198	228	283	346	400
NON SMSA					
COUNTY:ADAMS STATE:WA	159	192	227	262	295
COUNTY:ASOTIN STATE:WA	170	200	286	343	379
COUNTY:COLUMBIA STATE:WA	159	192	227	262	295
COUNTY:FERRY STATE:WA	137	188	231	275	317
COUNTY:GARFIELD STATE:WA	159	192	227	262	295
COUNTY:GRANT STATE:WA	159	192	227	262	295
COUNTY:LINCOLN STATE:WA	159	192	227	262	295
COUNTY:PEND OREILLE STATE:WA	137	188	231	275	317
COUNTY:STEVENS STATE:WA	157	216	265	314	362
COUNTY:WALLA WALLA STATE:WA	157	216	303	384	411
COUNTY:WHITMAN STATE:WA	173	216	276	401	466

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 115 PERCENT OF 4-BR FMR; 6-BR = 130 PERCENT OF 4-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 15 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN, THE TOP NUMBER IS THE PROPOSED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE PROPOSED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1980

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FY 80 SECTION 8 EXISTING FAIR MARKET RENTS FOR MOBILE HOMES FOR SMSAS

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
ABILENE, TX	44	50
AKRON, OH	81	81
ALBANY, GA	42	44
ALBANY-SCHENECTADY-TROY, NY	95	95
ALBUQUERQUE, NM	74	85
ALEXANDRIA, LA	58	69
ALLENTOWN-BETHLEHEM-EASTON, PA-NJ	73	73
ALTOONA, PA	66	66
AMARILLO, TX	78	83
ANAHEIM-SANTA ANA-GARDEN GROVE, CA	131	186
ANCHORAGE, AK	159	159
ANDERSON, IN	46	46
ANN ARBOR, MI	109	117
ANNISTON, AL	54	58
APPLETON-OSHKOSH, WI	81	86
ASHEVILLE, NC	58	69
ATLANTA, GA	67	72
ATLANTIC CITY, NJ	112	112
AUGUSTA, GA-SC	62	64
AUSTIN, TX	72	85
BAKERSFIELD, CA	87	131
BALTIMORE, MD	129	129
BATON ROUGE, LA	69	80
BATTLE CREEK, MI	70	81
BAY CITY, MI	82	85
BEAUMONT-PORT ARTHUR-ORANGE, TX	74	85
BILLINGS, MT	104	115
BILOXI-GULFPORT, MS	69	80
BINGHAMTON, NY-PA	65	65
BIRMINGHAM, AL	74	81
BISMARCK, N.D.	98	109
BLOOMINGTON, IN	43	43
BLOOMINGTON-NORMAL, IL	84	84
BOISE CITY, ID	76	86
BOSTON, MA	89	95
BRADENTON, FL	90	90
BRIDGEPORT, CT	110	110
BRISTOL, CT	***	***
BROCKTON, MA	89	89
BROWNSVILLE-HARLINGEN-SAN BENITO, TX	58	69
BRYAN-COLLEGE STATION, TX	72	80
BUFFALO, NY	84	84
BURLINGTON, NC	58	69
CAGUAS	***	***
CANTON, OH	59	59
CEDAR RAPIDS, IA	75	86

NOTE: *** INDICATES DATA ARE CURRENTLY NOT AVAILABLE

FY 80 SECTION 8 EXISTING FAIR MARKET RENTS FOR MOBILE HOMES FOR SMSAS

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
CHAMPAIGN-URBANA-RANTOUL, IL	69	69
CHARLESTON, SC	58	58
CHARLESTON, WV	69	69
CHARLOTTE-GASTONIA, NC	58	69
CHATTANOOGA, TN-GA	42	58
CHICAGO, IL	151	162
CINCINNATI, OH-KY-IN	69	83
CLARKSVILLE-HOPKINSVILLE, TN-KY	53	64
CLEVELAND, OH	86	86
COLORADO SPRINGS, CO	87	98
COLUMBIA, MO	65	70
COLUMBIA, SC	53	58
COLUMBUS, GA-AL	68	74
COLUMBUS, OH	75	86
CORPUS CHRISTI, TX	62	80
DALLAS-FORT WORTH , TX	64	80
DANBURY, CT	84	84
DAVENPORT-ROCK ISLAND-MOLINE, IA-IL	92	97
DAYTON, OH	59	59
DAYTONA BEACH, FL	80	80
DECATUR, IL	92	92
DENVER-BOULDER , CO	120	137
DES MOINES, IA	79	84
DETROIT, MI	106	114
DUBUQUE, IA	75	86
DULUTH-SUPERIOR, MN-WI	62	67
EAU CLAIRE, WI	76	82
EL PASO, TX	82	93
ELKHART, IN.	60	60
ELMIRA, NY	68	68
ERIE, PA	66	66
EUGENE-SPRINGFIELD, OR	104	106
EVANSVILLE, IN-KY	53	57
FALL RIVER, MA-RI	61	61
FARGO-MOORHEAD, ND-MN	86	97
FAYETTEVILLE, NC	58	69
FAYETTEVILLE-SPRINGDALE, AR	49	51
FITCHBURG-LEOMINSTER, MA	73	73
FLINT, MI	99	99
FLORENCE, AL	58	64
FORT COLLINS, CO	82	93
FORT LAUDERDALE-HOLLYWOOD, FL	133	133
FORT MYERS-CAPE CORAL, FL	85	85
FORT SMITH, AR-OK	28	31
FORT WAYNE, IN	49	66
FRESNO, CA	131	148

NOTE: *** INDICATES DATA ARE CURRENTLY NOT AVAILABLE

FY 80 SECTION 8 EXISTING FAIR MARKET RENTS FOR MOBILE HOMES FOR SMSAS

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
GADSDEN, AL	54	58
GAINESVILLE, FL	64	64
GALVESTON-TEXAS CITY, TX	85	96
GARY-HAMMOND-EAST CHICAGO, IN	72	83
GRAND FORKS, N.D.-MN	75	92
GRAND RAPIDS, MI	75	80
GREAT FALLS, MT	87	98
GREELEY, CO	82	93
GREEN BAY, WI	79	84
GREENSBORO--WINSTON-SALEM--HIGH POINT, NC	58	69
GREENVILLE-SPARTANBURG, SC	53	53
HAMILTON-MIDDLETOWN, OH	65	67
HARRISBURG, PA	64	64
HARTFORD, CT	95	95
HONOLULU, HI	***	***
HOUSTON, TX	77	87
HUNTINGTON-ASHLAND, WV-KY-OH	64	64
HUNTSVILLE, AL	74	81
INDIANAPOLIS, IN	63	73
JACKSON, MI	81	81
JACKSON, MS	74	90
JACKSONVILLE, FL	58	69
JANESVILLE-BELOIT,WI	79	84
JERSEY CITY, NJ	142	142
JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA	64	64
JOHNSTOWN, PA	66	66
KALAMAZOO-PORTAGE , MI	85	88
KANKAKEE, ILLINOIS	67	67
KANSAS CITY, MO-KS	71	86
KENOSHA, WI	84	89
KILLEEN-TEMPLE, TX	74	80
KNOXVILLE, TN	53	53
KOKOMO, IN	60	66
LA CROSSE, WI	72	78
LAFAYETTE, LA	64	74
LAFAYETTE-WEST LAFAYETTE, IN	55	80
LAKE CHARLES, LA	64	74
LAKELAND-WINTER HAVEN, FL	64	64
LANCASTER, PA	69	69
LANSING-EAST LANSING , MI	95	109
LAREDO, TX	53	64
LAS VEGAS, NV	137	153
LAWRENCE, KS	60	66
LAWRENCE-HAVERHILL, MA-NH	***	***
LAWTON, OK	57	64
LEWISTON-AUBURN, ME	61	61

NOTE: *** INDICATES DATA ARE CURRENTLY NOT AVAILABLE

FY 80 SECTION 8 EXISTING FAIR MARKET RENTS FOR MOBILE HOMES FOR SMSAS

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
LEXINGTON-FAYETTE , KY	70	78
LIMA, OH	75	75
LINCOLN, NE	80	84
LITTLE ROCK-NORTH LITTLE ROCK, AR	41	43
LONG BRANCH-ASBURY PARK, NJ	133	134
LONGVIEW-MARSHALL, TX	69	77
LORAIN-ELYRIA, OH	92	92
LOS ANGELES-LONG BEACH, CA	184	170
LOUISVILLE, KY-IN	60	66
LOWELL, MA NH	***	***
LUBBOCK, TX	77	80
LYNCHBURG, VA	58	58
MACON, GA	43	47
MADISON, WI	118	123
MANCHESTER, NH	78	84
MANSFIELD, OH	70	70
MAYAGUEZ	***	***
MC ALLEN-PHARR-EDINBURG, TX	68	80
MELBOURN-TITUSVILLE-COCOA, FL	74	74
MEMPHIS, TN-AR-MS	69	69
MERIDEN, CT	82	82
MIAMI, FL	106	106
MIDLAND, TX	80	85
MILWAUKEE, WI	92	97
MINNEAPOLIS-ST PAUL, MN-WI	97	97
MOBILE, AL	59	65
MODESTO, CA	137	148
MONROE, LA	58	69
MONTGOMERY, AL	59	64
MUNCIE, IN	45	50
MUSKEGON-NORTON SHORES-MUSKEGON HEIGHTS, MI	75	76
NASHUA, NH	95	95
NASHVILLE-DAVIDSON, TN	69	80
NASSAU-SUFFOLK, NY	***	***
NEW BEDFORD, MA	83	83
NEW BRITAIN, CT	95	95
NEW BRUNSWICK-PERTH AMBOY-SAYREVILLE, NJ	172	173
NEW HAVEN-WEST HAVEN, CT	86	86
NEW LONDON-NORWICH, CT-RI	82	82
NEW ORLEANS, LA	72	83
NEW YORK CITY, NY-NJ	***	***
NEWARK, NJ	***	***
NEWPORT NEWS-HAMPTON, VA	77	77
NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC	92	92
NORTHEAST, PA	58	58
NORWALK, CT	***	***

NOTE: *** INDICATES DATA ARE CURRENTLY NOT AVAILABLE

FY 80 SECTION 8 EXISTING FAIR MARKET RENTS FOR MOBILE HOMES FOR SMSAS

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
ODESSA, TX	80	85
OKLAHOMA CITY, OK	59	66
OMAHA, NE-IA	78	81
ORLANDO, FL	74	74
OWENSBORO, KY	65	75
OXNARD-SIMI VALLEY-VENTURA, CA	115	197
PANAMA CITY, FL	64	64
PARKERSBURG-MARIETTA, WV-OH	64	64
PASCAGOULA-MOSS POINT, MS	58	69
PATERSON-CLIFTON-PASSAIC, NJ	153	154
PENSACOLA, FL	64	64
PEORIA, IL	124	135
PETERSBURG-COLONIAL HEIGHTS-HOPEWELL, VA	78	78
PHILADELPHIA, PA-NJ	89	89
PHOENIX, AZ	82	98
PINE BLUFF, AR	23	25
PITTSBURGH, PA	64	64
PITTSFIELD, MA	89	89
PONCE	***	***
PORTLAND, ME	96	110
PORTLAND, OR-WA	120	133
POUGHKEEPSIE, NY	***	***
PROVIDENCE-WARWICK-PAWTUCKET, RI-MA	82	82
PROVO-OREM, UT	82	93
PUEBLO, CO	82	93
RACINE, WI	85	91
RALEIGH-DURHAM, NC	58	69
RAPID CITY,S.D.	82	93
READING, PA	69	69
RENO, NV	126	148
RICHLAND-KENNEWICK-PASCO, WA	104	104
RICHMOND, VA	98	98
RIVERSIDE-SAN BERNARDINO-ONTARIO, CA	87	137
ROANOKE, VA	64	64
ROCHESTER, MN	83	83
ROCHESTER, NY	95	95
ROCKFORD, IL	122	130
SACRAMENTO, CA	107	128
SAGINAW, MI	86	86
ST. CLOUD, MN	75	75
ST JOSEPH, MO	66	72
ST LOUIS, MO-IL	78	81
SALEM, OR	104	106
SALINAS-SEASIDE-MONTEREY, CA	131	164
SALT LAKE CITY-OGDEN, UT	93	104
SAN ANGELO, TX	69	74
SAN ANTONIO, TX	58	69
SAN DIEGO, CA	131	164
SAN FRANCISCO-OAKLAND, CA	137	197
SAN JOSE, CA	137	203
SAN JUAN	***	***

NOTE: *** INDICATES DATA ARE CURRENTLY NOT AVAILABLE

FY 80 SECTION 8 EXISTING FAIR MARKET RENTS FOR MOBILE HOMES FOR SMSAS

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
SANTA BARBARA-SANTA MARIA-LOMPOC, CA	189	164
SANTA CRUZ, CA	131	164
SANTA ROSA, CA	131	159
SARASOTA, FL	85	85
SAVANNAH, GA	53	58
SEATTLE-EVERETT, WA	98	137
SHERMAN-DENISON, TX	64	74
SHREVEPORT, LA	64	74
SIOUX CITY, IA-NE	72	72
SIOUX FALLS, SD	82	93
SOUTH BEND, IN	66	78
SPOKANE, WA	82	93
SPRINGFIELD, IL	81	86
SPRINGFIELD, MO	49	53
SPRINGFIELD, OH	61	72
SPRINGFIELD-CHICOPEE-HOLYOKE, MA-CT	71	71
STAMFORD, CT	***	***
STEUBENVILLE-WEIRTON, OH-WV	55	55
STOCKTON, CA	137	148
SYRACUSE, NY	79	79
TACOMA, WA	87	104
TALLAHASSEE, FL	58	58
TAMPA-ST PETERSBURG, FL	85	85
TERRE HAUTE, IN	43	53
TEXARKANA, TX-AR	88	90
TOLEDO, OH-MI	92	124
TOPEKA, KS	59	65
TRENTON, NJ	114	114
TUCSON, AZ	68	82
TULSA, OK	64	69
TUSCALOOSA, AL	78	77
TYLER, TX	64	67
UTICA-ROME, NY	73	73
VALLEJO-FAIRFIELD-NAPA, CA	126	142
VINELAND-MILLVILLE-BRIDGETON, NJ	108	108
WACO, TX	66	74
WASHINGTON, DC-MD-VA	117	117
WATERBURY, CT	***	***
WATERLOO-CEDAR FALLS, IA	75	86
WEST PALM BEACH-BOCA RATON, FL	106	106
WHEELING, WV-OH	58	58
WICHITA, KS	66	71
WICHITA FALLS, TX	48	53
WILLIAMSPORT, PA	53	53
WILMINGTON, DE-NJ-MD	84	84
WILMINGTON, NC	58	69
WORCESTER, MA	63	63
YAKIMA, WA	82	87
YORK, PA	69	69
YOUNGSTOWN-WARREN, OH	78	78

NOTE THE NON-METROPOLITAN PORTIONS OF COLORADO, MONTANA, UTAH, AND WYOMING ARE DELINEATED BY AREAS TO SHOW DIFFERENCES CAUSED BY ENERGY IMPACTION.

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
COLORADO		
EASTERN SLOPE	71	82
INCLUDES COUNTIES OF: ALAMOSA, BACA, BENT, CHEYENNE, CONEJOS, COSTILLA, CROWLEY, ELBERT, HUERFANO, KIOWA, KIT CARSON, LAS ANIMAS, LINCOLN, LOGAN, MINERAL, MORGAN, OTERO, PHILLIPS, PROWERS, RIO GRANDE, SAQUACHE, SEDGWICK, YUMA, WASHINGTON.		
WESTERN SLOPE	82	93
INCLUDES COUNTIES OF: ARCHULETA, CHAFFEE, CLEAR CREEK, CUSTER, DELTA, DOLORES, FREMONT, GRAND GUNNISON, HINSDALE, JACKSON, LAKE, LAPLATA, MESA, MONTEZUMA, MONTROSE, OURAY, PARK, SAN JUAN, SAN MIGUEL.		
MOUNTAIN/ENERGY	132	148
INCLUDES COUNTIES OF: EAGLE, GARFIELD, MOFFAT, PIKIN, RIO BLANCO, ROUTT, SUMMIT.		
MONTANA		
MOUNTAIN/ENERGY	82	93
INCLUDES COUNTIES OF: BIG HORN, CARBON, CUSTER, DAWSON, MUSSELSHELL, POWDER RIVER, ROSEBUD, TREASURE, BEAVERHEAD, BROADWATER, DEER LODGE, FLATHEAD GALLATIN, GRANITE, JEFFERSON, LAKE, LEWIS AND CLARK, LINCOLN MADISON, MEAGHER, MINERAL, MISSOULA, PARK, POWELL, RAVALLI, SANDERS, SILVER BOW, YELLOWSTONE NATIONAL PARK.		
PLAINS	60	71
INCLUDES COUNTIES OF: BLAINE, CARTER, CHOUTEAU, DANIELS, FALLON, FERGUS, GARFIELD, GLACIER, GOLDEN VALLEY, HILL, JUDITH BASIN, LIBERTY, MCCONE, PETROLEUM, PHILLIPS, PONDERA, PRAIRIE, RICHLAND, ROOSEVELT, SHERIDAN, STILLWATER, SWEET GRASS, TETON, TOOLE, TREASURE, VALLEY, WHEATLAND, WIBAUX.		
UTAH		
ENERGY AREA	82	93
INCLUDES COUNTIES OF: CARBON, EMERY, GRAND UINTAH.		
NON-METRO	60	71
INCLUDES COUNTIES OF: BEAVER, BOX ELDER, CACHE, DACCETT, DUCHESNE, GARFIELD, IRON, SUAB, KANE, MILLARD, MORGAN, PIUTE, RICH, SAN JUAN, SANPETE, SEVIER, SUMMIT, UTAH, WASHINGTON, WAYNE.		
WYOMING		
ENERGY IMPACT	137	148
INCLUDES COUNTIES OF: CAMPELL, CARBON, CONVERSE, FREMONT, NATRONA, SHERIDAN, SWEETWATER.		
NON-METRO	82	99
INCLUDES COUNTIES OF: ALBANY, BIG HORN, CROOK, GOSHEN, HOT SPRINGS, JOHNSON, LARAMIE, LINCOLN, NIOBRARA, PARK, PLATTE, SUBLETTE, TETON, UNITA, WASHAKIE, WESTON.		

[FR Doc. 79-39141 Filed 12-20-79; 8:45 am]

BILLING CODE 4210-01-C

federal register

Friday
December 21, 1979

Part IX

Department of Housing and Urban Development

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

Mobile Home Procedural and Enforcement Regulations; Formal Investigations and Adjudicative Hearings

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

24 CFR Part 3282

[Docket No. R-79-748]

Mobile Home Procedural and Enforcement Regulations; Formal Investigations and Adjudicative Hearings

AGENCY: Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the Mobile Home Procedural and Enforcement Regulations in order to provide a more detailed set of regulations to govern investigations and adjudicative proceedings by the Office of Mobile Home Standards. The purpose is to provide for uniform and fair proceedings with sufficient detail so that the parties involved are adequately informed of the procedures to be followed. The hearing procedures will apply uniformly to all proceedings where a party is aggrieved by a preliminary determination (including an administrative determination on the assessment of civil penalties) issued by the Office of Mobile Home Standards pursuant to the National Mobile Home Construction and Safety Standards Act of 1974 or its regulations.

DATES: Comments must be received on or before January 21, 1980.

ADDRESSES: Comments must be sent to the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410

FOR FURTHER INFORMATION CONTACT: Jeffrey Hammond, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-7055.

SUPPLEMENTARY INFORMATION: This proposed rule alters the present rule in that it consolidates the presentation of views procedure with the adjudicative procedure and in that it provides detailed rules governing the investigative and adjudicative procedures. With respect to formal investigations and adjudicative proceedings, the procedures retained in the proposed rules answer many questions which are left unanswered by the present regulations. As a result the procedures which are to be followed should be clear to all interested parties and there should be much less need for judicial or administrative interpretation of the procedural rules.

The proposed rules apply to all administrative actions and to all formal investigations. An "administrative action" is the only form of adjudicatory proceeding available under the proposed rules. Administrative actions can be used to determine the existence of an imminent safety hazard, serious defect, defect or noncompliance, the propriety of rejecting a state plan for full approval as an SAA, the propriety of withdrawing full approval of a state plan as an SAA, the facts in cases where the payment of civil penalties may be appropriate and the amount, if any, of civil penalty to be assessed, the propriety of disqualification of a primary inspection agency, and the facts relating to the issuance of an injunction. Formal investigations may be conducted when the Secretary needs to obtain information in order to promulgate or enforce Federal mobile home construction and safety standards or in order to carry out his other duties under the Act.

Administrative actions under the proposed rules provide for formal hearings including procedrual safeguards required by the Administrative Procedure Act 5 U.S.C. 551 *et seq.* In addition, many portions of the Federal Rules of Civil Procedure have been incorporated into the proposed rules. Included are provisions for discovery which are available as a matter of right to a limited extent in most cases. Extensive discovery is available by agreement of the parties or by order of the Judge. Expedited proceedings are also available where warranted by a particular case.

The present rules have been so completely rewritten that a section by section analysis of the changes would be difficult to make and would serve little purpose. As a result the Department will present here an analysis of the proposed rules without references to similar sections in the present rules.

Section 2382.151

This section sets forth the applicability and scope of these procedural rules. The purposes of these rules are to govern the conduct of formal investigations and to govern the conduct of administrative actions. Administrative action is defined in § 3282.152(a)(1) as an adjudicatory proceeding.

Section 3282.152

General rules which are applicable both to formal investigations and to administrative actions are contained in this section.

Section 3282.152(a) defines many of the words which are used in the rules. These definitions permit the use of shorthand references where a particular term is used frequently. For example "Judge" is defined as "an Administrative Law Judge qualified pursuant to 5 U.S.C. 3105." Also, "Judge" as used herein means an Administrative Law Judge qualified pursuant to 5 U.S.C. 3105.

Section 3282.152(b) provides for the assignment of hearing locations for administrative actions and for formal investigations.

Section 3282.152(c) requires that a party providing certain confidential information bring it to the attention of a responsible person so that its confidentiality can be protected.

Section 3282.152(d) requires that certain documents be retained as part of the Department's official record.

Section 3282.152(e) provides that service of process may be made by mail, telegram or by personal service, and that service may be made anywhere in the United States. The section also provides for proof of service in administrative actions.

Section 3282.152(f) sets forth the requirements for subpoenas in administrative actions and in formal investigations. This section provides for the issuance of the subpoena by the Judge in an administrative action and for the issuance by the Department in formal investigations. This section also contains requirements governing the form of the subpoena. These subpoenas may be used to obtain testimony or documentary evidence. In an administrative proceeding a party may move to quash the subpoena within five days after service, and in a formal investigation a subpoenaed party may file a petition for the withdrawal or modification of a subpoena.

Section 3282.152(g) requires that the Department consider any offer of settlement made by a party.

Section 3282.152(h) makes provision for an expedited proceeding in an administrative action where warranted by the circumstances of the case. In the case of an expedited proceeding the discovery which is otherwise available under the proposed rules is limited because of limited time.

Section 3282.152(i) provides that any party may be represented by an attorney in an administrative action or formal investigation. In addition an individual may appear on his own

behalf or on behalf of his or her partnership. A corporation may be represented by one of its officers.

Section 3282.153

Specific rules which govern the conduct of formal investigations are contained in this section.

Section 3282.153(a) permits the Secretary to take testimony or receive documents relating to any matter under investigation. Any such hearing would not be adjudicative. However, such hearing will be recorded and witnesses will be placed under oath.

Section 3282.153(b) sets forth the rights of witnesses in investigative hearings. Any witness would be permitted to purchase a copy of the transcript of his testimony or inspect the official transcript. A witness may be accompanied by counsel at any hearing. Objections may be stated on the record, bur a witness may refuse to answer a question only if the information sought is privileged. At the conclusion of questioning, a witness may clarify his answers.

Section 3282.154

Detailed rules governing adjudicative proceedings are contained in this section.

Section 3282.154(a) sets forth the circumstances under which an adjudicative proceeding (called an "administrative action" in these proposed rules) may be used. Administrative actions can be used generally to determine a fact relating to the applicability of the Act or regulations. In particular, an administrative action would be appropriate to determine the existence of an imminent safety hazard, serious defect, defect or noncompliance, the propriety of rejecting a state plan for full approval as a state administrative agency ("SAA"), the propriety of withdrawing full approval of a state plan as an SAA, the facts in cases where the payment of civil penalties may be appropriate and the amount, if any, of civil penalty to be assessed, the propriety of disqualification of a primary inspection agency, and the facts relating to the issuance of an injunction.

Section 3282.154(b) provides that an administrative action is started when the Department issues an administrative complaint. It also provides for the assignment of cases to Judges.

Section 3282.154(c) requires that most pleadings and other papers which are part of an administrative action must be served on the opposing party. All such papers are also required to be filed with the Judge.

Section 3282.154(d) provides that there will be no pleadings other than an administrative complaint and an answer. This section also requires that all motions other than those made during a hearging be made in writing. A party opposing a motion has ten days after service within which to answer. Oral argument on a motion may be permitted. The judge is permitted to rule upon motions for extensions of time ex parte.

Section 3282.154(e) sets forth rules governing pleading. It sets forth the rquirements both as to form and substance for administrative complaints and for answers. Parties are required to sign pleadings.

Section 3282.154(f) sets forth certain requirements with respect to the form of pleadings. It states what is required in the caption of a pleading. It also requires that all assertions of claim or defense are to be set forth in numbered paragraphs.

Section 3282.154(g) requires that a defendant serve his answer within 30 days after the service of the administrative complaint. All defenses of all types are required to be set forth in the answer. Any issue which could have been raised in the answer and which is not so raised may not be raised later. This section provides for the determination of the validity of certain defenses prior to a hearing on the merits unless the Judge otherwise orders.

Section 3282.154(h) provides for amendments to pleadings under certain circumstances. Generally an amendment would only be permitted immediately after a pleading is filed or if ordered by the Judge. However, amendments to the pleadings are permitted in order to make them conform to the evidence when issues are determined by express or implied consent of the parties. Supplemental pleadings are also permitted under certain circumstances in order to set forth the events which have occurred since the date of the original pleading.

Section 3282.154(i) permits the Judge to allow a person to intervene if that person claims an interest in the proceeding and if his interest may be adversely affected as a result of the proceeding. This section also contains the requirements which must be met by a petition to intervene and it requires that the Judge take into account certain factors when deciding whether to permit intervention.

Section 3282.154(j) contains general provisions with respect to discovery available by agreement of the parties or by order of the Judge. It requires that no motion concerning discovery may be filed unless the parties have discussed the matter and have been unable to reach agreement. This section also sets time limits with respect to the filing of requests for discovery and all motions for orders permitting discovery. The parties may agree to permit or the Judge may order the following types of discovery: Depositions, interrogatories, or production of documents or things or permission to enter upon land or other property. If discovery is ordered by the Judge, the Judge may put reasonable limits on such discovery.

Section 3282.154(k) provides that certain discovery is available to the parties as a matter of right. In particular, the parties may discover the following things as a matter of right through the use of interrogatories: (1) The names of experts including the substance of the expert's expected testimony; (2) the identification of any reports or other documents prepared by an expert; (3) the names of alla witnesses; and (4) the identity of all documents which are to be offered for evidence at a hearing. Parties are also permitted as a matter of right to request admissions from any other party. Finally, a party is permitted to request the production of all documents or things which the other party intends to offer for evidence.

Section 3282.154(l) provides detailed regulations governing the conduct of discovery. These regulations govern, so far as it is available, discovery permitted as a right. They also govern all discovery permitted by agreement of the parties or by order of the Judge.

This section contains requirements for the contents of a notice of deposition. It also provides that witnesses may be compelled by subpoena to attend depositions. Both examination and cross-examination of witnesses is permitted and the testimony is to be recorded. Objections to admissibility of evidence are generally not waived if not made during the deposition unless the basis of the objection could have been cured if it had been made at the time of the taking of the deposition. Motions to terminate or limit a deposition are permitted. After the deposition is transcribed the witness is permitted to read and sign the transcript making such changes in form and substance as are necessary. After signing, the deposition is to be filed with the Judge.

Rules relating to the use of depositions at hearings on the merits are found in this section. There are also rules governing the effect of errors or irregularities in depositions.

This section also sets forth requirements for interrogatories. It requires that interrogatories be answered separately and fully in writing and under oath and that answers or

objections, if any, must be served within 30 days after service of the interrogatories. Answers to interrogatories may be used at a hearing on the merits to the extent permitted by the Federal Rules of Evidence. Under certain circumstances a party may produce business records instead of answering interrogatories.

This section also governs a request for production of documents and things. By agreement of parties or order of the Judge a party may serve on any other party a request to produce documents or things or to permit entry upon land. The request is to specify a reasonable time and place for making the inspection. After service of the request, the party upon which it is served has 15 days to serve a written response. If the response does not say that inspection will be permitted, the reasons for any objection must be stated.

Section 3282.154(m) provides sanctions for failure to make discovery. For failure to make discovery the Judge may order that certain facts are to be taken as established. He may refuse to allow a disobedient party to support or oppose certain claims or defenses or prohibit him from introducing certain matters into evidence. The Judge may also strike out pleadings or parts of pleadings or stay the proceedings until an order is obeyed or dismiss the action or render a decision by default.

Section 3282.154(n) permits the consolidation of actions involving common questions of law or fact.

Section 3282.154(o) contains regulations concerning time. It sets forth exactly how days are counted and permits the Judge to enlarge periods of time during which an act is required or permitted to be done. This section also requires that a motion and notice of hearing be served not less than five days before the time specified for the hearing. Additional time is permitted when service is made by mail.

Section 3282.154(p) permits the Judge to schedule a conference in order to discuss and resolve such matters as may assist in the disposition of the action. The Judge is then required to issue an order which sets forth the action taken at the conference.

Section 3282.155

The rules contained in this section govern the conduct of administrative hearings.

Section 3282.155(a) sets forth the authority and responsibility of the Judge. The proposed rules give the Judge the authority and responsibility set forth in the Administrative Procedure Act. The Judge is given the power necessary to control the proceedings and decide cases. Evidentiary questions may be decided by the Judge in accordance with the Federal Rules of Civil Procedure and Federal Rules of Evidence. Parties are prohibited from communicating ex parte with the Judge except under certain circumstances. A Judge who receives an improper ex parte communication is required to inform all interested parties of the communication.

Witnesses at hearings for the purpose of giving evidence are to testify under oath which is to be administered by the Judge. Every party is permitted to present oral and documentary evidence and to conduct cross-examination. In addition, a party is permitted to make an offer of proof or have an exhibit marked for identification and retained in the record if such exhibit is not accepted as evidence.

Section 3282.155(b) requires that hearings on the merits be scheduled so that presentation of a case by the parties will be completed not later than five months after an answer has been filed. In scheduling such a hearing, the Judge may consult with the parties.

Section 3282.155(c) provides that the Department may dismiss any administrative action without prejudice at any time prior to the commencement of the hearing on the merits.

Section 3282.155(d) requires that hearings be recorded and transcribed. The Judge may order corrections of the transcript.

Section 3282.155(e) provides that parties may file briefs within a reasonable time fixed by the Judge following the close of presentation of the evidence.

Section 3282.156

This section provides rules with respect to the assessment of civil penalties after a determination has been made that there has been a violation for which a civil penalty may be assessed pursuant to 42 U.S.C. 5410.

Section 3282.156(a) lists factors which may be considered by the Judge in deciding upon the amount of a civil penalty.

Section 3282.156(b) provides that the United States has a claim against a person when such person and the Office of Mobile Home Standards enter into an agreement establishing the amount of such penalty or when the Judge's decision establishing the amount of such penalty becomes final.

Section 3282.157

This section contains the rules governing the Judge's decision in an administrative action.

Section 3282.157(a) requires that the Judge prepare and file a written decision setting forth his findings of facts and his conclusions of law. The Judge may also include an order as part of his decision.

Section 3282.157(b) sets time limits within which the Judge must make and file his decision. In a case which is decided as a result of a hearing on the merits the Judge must make and file his decision within 60 days following the close of the presentation of the evidence.

Section 3282.157(c) permits the Judge to amend his findings of fact and/or conclusions of law pursuant to a motion of a party made not later than ten days after the service of the decision.

Section 3282.157(d) requires that the Judge prepare and file such decision as appears appropriate for the administrative complaint where a party has failed to answer or otherwise defend. This section also provides that an answer may not be received after notice of default has been filed unless the party which filed such notice of default consents to the filing of an answer or unless the Judge orders that the notice of default be set aside.

Section 3282.157(e) permits a party to file a motion for summary decision where there is no genuine issue as to any material fact and where that party is entitled to summary decision as a matter of law. Such motions may be supported by affidavits or other verified documents. This rule permits cases to be partially adjudicated on a motion for summary decision.

Section 3282.157(f) provides that a decision of the Judge becomes final 15 days after filing unless an appeal is pursued.

Section 3282.157(g) permits relief from a decision or order under certain circumstances. Such relief is permitted where there are clerical mistakes or under certain circumstances in the event of a mistake, inadvertence, or newly discovered evidence.

Section 3282.158

This section sets forth the provisions governing the review of the Judge's decision in an administrative action.

Section 3282.158(a) requires that an appeal brief be filed with the Judge within 15 days after service of the decision appealed from if a party wants to appeal. Copies of the brief must be served on all parties.

Section 3282.158(b) provides that a party may answer an appeal brief within 20 days after service of the appeal brief upon him.

Section 3282.158(c) sets forth requirements governing briefs. Briefs may not exceed 25 pages unless permitted by the Judge.

There are also a number of requirements relating to form contained in this section.

Section 3282.158(d) provides that oral arguments shall not be permitted.

Section 3282.158(e) provides that all appeals and reviews shall be determined upon the record made before the Judge. The appeals officer may affirm, reverse, modify or set aside in whole or in part the Judge's decision. The appeals officer may also remand the case for further proceedings. The appellate order must be served on the parties not later than 35 days after the filing of the appeal brief. The decision of the appeals officer becomes final at the time of service on the parties.

A Finding of No Significant Impact under the National Environmental Policy Act of 1969 has been made in accordance with the Procedures for Protection and Enhancement of Environmental Quality. A copy of the Finding is available for inspection and copying according to Department rules and regulations during business hours at the Office of the Rules Docket Clerk, whose address is stated above.

The period available for public comment on these regulations has been set at 30 days. The Department is soliciting and is interested in comments by the public, but the comment period is limited because the Department presently has a number of cases which need to be resolved through administrative hearings. The Department believes that it would not be in the best interest of parties interested in preliminary determinations of the Secretary or of the Department to proceed with these cases under the present regulations. those regulations have shortcomings and do not provide certain due process procedural protections which are provided in the proposed regulations. The Department is interested in getting new procedural regulations in place as quickly as possible so that it can proceed with the cases mentioned above.

This proposed rule was listed on the Department's Agenda of Significant Regulations, which was published in the Federal Register on August 1, 1979.

Accordingly it is proposed that 24 CFR Part 3282 Subpart D §§ 3282.151–158 be revised as follows:

Subpart D—Formal Investigations and Adjudicative Hearings

Sec.

3282.151 Applicability and scope.
3282.152 General provisions.
3282.153 Formal investigations.
3282.154 Administrative actions.
3282.155 Conduct of administrative hearings.
3282.156 Assessment of civil penalties.
3282.157 Decision.
3282.158 Review.

Authority: Sec. 625, National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5424); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart D—Formal Investigations and Adjudicative Hearings

§ 3282.151 Applicability and scope.

This subpart sets forth general rules applicable to the conduct of formal investigations and administrative actions held pursuant to the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.* These rules shall be construed to secure the just, speedy and inexpensive determination of all proceedings mentioned herein.

§ 3282.152 General provisions.

(a) *Definitions.* As used in these rules:

(1) "Administrative action" is the only form of adjudicatory proceeding available under these regulations and it is commenced by the issuance and service of an "administrative complaint" by the U.S. Department of Housing and Urban Development, Office of Mobile Home Standards.

(2) "Administrative hearing" means a hearing held as part of an administrative action and pursuant to 5 U.S.C. 554.

(3) "Appeals Officer" means the Secretary or the Secretary's designee who shall hear, consider and determine fully and finally all appeals from decisions made as part of administrative actions.

(4) "Deputy" means the Deputy Assistant Secretary for Regulatory Functions or his or her order designee.

(5) "Formal investigation" means any investigation conducted by the Office of Mobile Home Standards.

(6) "Investigative hearing" means a hearing which is non-adjudicatory in nature and which is held in conjunction with a formal investigation.

(7) "Judge" means an administrative law Judge qualified pursuant to 5 U.S.C. 3105.

(8) "Presiding Officer" means an individual, who is not a Judge, and who is authorized by the Secretary or his designee to preside over the course of investigative hearings.

(b) *Hearing sites.* All administrative actions will be assigned a hearing site or sites by an order of the Judge, who shall give due regard to the convenience and necessity of the parties or their representatives and witnesses, the availability of suitable hearing facilities, and other relevant factors. Hearing sites for investigative hearings will be designated in the subpoena.

(c) *Protection of trade secrets and other confidential information.* Upon application by a party, in an administrative action or formal investigation where trade secrets or other matters may be divulged, the confidentiality of which may be protected by 42 U.S.C. 5413(c), the Judge, Presiding Officer or person conducting the investigation shall take such action as may be appropriate to protect the confidentiality of such matters.

(d) *Retention of documents.* All documents, pleadings, books, records, papers, things, etc., filed with the Judge as part of an administrative action will be retained as part of the official record of the proceeding. However, the withdrawal of original documents may be permitted by the Judge.

(e) *Service of process.* (1) Service of process shall be by registered, certified or express mail, return receipt requested; by telegram; or by any person of suitable age and discretion.

(2) *Proof of Service.* (i) Proof of service is not required in a formal investigation.

(ii) In an administrative action proof of service shall be by verification of the person making service or by affidavit containing the original return receipt as appropriate. Failure to make proof of service does not affect the validity of service. At any time in his discretion and upon such terms as he deems just, the Judge may allow any subpoena or proof of service to be amended, unless it clearly appears that the substantial rights of the party on whom service was made would be materially prejudiced.

(3) Service of process may be made anywhere within the United States.

(f) *Subpoenas in administrative actions and formal investigations*—(1) *For attendance of witnesses.* (i) Subpoenas for the attendance of witnesses in administrative actions shall be issued by the Judge, shall be captioned as required by § 3282.154(f)(1), and shall command each person to whom it is directed to attend and give testimony at a time and place specified therein. The Judge may provide blank subpoenas to the parties who shall complete them before service. The Judge may cause the subpoena to be served or he may deliver it to the party requesting it for service.

(ii) Subpoenas for the attendance of witnesses in formal investigations shall be issued by the Deputy of his designee and shall contain a caption containing: (A) "United States of America before the Department of Housing and Urban Development, (Office of Neighborhoods, Voluntary Associations and Consumer Protection—Office of Mobile Home Standards)"; (B) the name of the party or

parties being investigated; (C) the file number; and (D) a designation as appropriate, such as: "Subpoena Duces Tecum Et Subpoena Ad Testificandum." Such subpoenas shall command each person to whom it is directed to attend and give testimony at a time and place specified therein and the Office of Mobile Home Standards shall cause such subpoenas to be served.

(2) *For production of documentary evidence.* A subpoena may also command the person to whom it is directed to: (i) produce or permit access to the books, papers, documents, or tangible things designated therein; and/or (ii) answer interrogatories.

(3) Any witness subpoened under (3282.152(f)(1) or (2)) shall be paid by the party requesting the subpoena the same fees and mileage that are paid witnesses in the courts of the United States. When a subpoena for a witness or for production of documents is issued on behalf of any party other than the Department such person must tender with his request for a subpoena the fees for one day's attendance and the mileage allowed by law. Such tender shall be made to the Judge who shall hold such fee and deliver it to the witness after appearance.

(4) *Petition or motion to quash or limit.* (i) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance but in no event more than 5 days after the date of service of such subpoena, apply to the Judge, in the case of an administrative action, to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor. The Judge shall have the discretion of granting or denying said motion.

(ii) No motion to quash or limit is available in a formal investigation. However, a subpoened party may petition the Deputy to modify or withdraw a subpoena by filing a petition with 7 days after service of the subpoena. The petition may be in letter form but must set forth the facts and the law upon which the petition is based.

(iii) Any person who does not apply to the Judge within the time specified in paragraph (f)(4)(i) of this section or who does not petition the Deputy within the time specified in paragraph (f)(4)(ii) of this section may not later raise before the Judge or Deputy or in any further proceedings any issue which could have been so raised.

(g) *Settlement.* Parties may propose either orally or in writing at any time offers of settlement which shall be considered by the Deputy. If any offer of settlement is rejected the party making the offer shall be so notified and the offer shall be deemed withdrawn and shall not constitute a part of the record in such proceeding. If an offer of settlement is accepted, it shall become a final order of the Secretary.

(h) *Expedited proceedings.* At any time upon or after the commencement of an administrative action the Judge may order an expedited proceeding upon the motion of a party and for good cause shown. Such motion shall be in writing and accompanied by supporting documents, if any that establish the party's claim of exigent circumstances warranting expedition. Service of such motions where possible, shall be by personal delivery to all parties; otherwise service shall be by telegraphic communication followed by registered or certified mail. All parties opposing the motion shall file a response on the date the answer is due or within 5 days from the date of receipt of the motion, whichever is later. If the motion is granted time requirements provided elsewhere in these rules may be modified by the Judge to the extent required to fulfill the overall objectives of the Act and the ends of Justice: *Provided,* A hearing on the merits of the case shall not be scheduled on less than 5 days notice to the parties unless all parties to the case consent to an earlier hearing. Notwithstanding the provisions of § 3282.15(k) or any other section discovery is not available in expedited proceedings except by agreement of the parties or by order of the Judge for good cause shown.

(i) *Qualification for appearance.* (1) Members of the bar of a Federal Court or of the highest court of any state are eligible to practice before the Secretary. No register of attorneys will be maintained.

(2) Any individual or member of a partnership involved in any adminisrative action or formal investigation may appear on his own behalf or on behalf of the partnership upon adequate identification. A corporation or association may be represented by a bona fide officer thereof upon a showing of adequate authorization.

(3) A person shall not be represented except as stated in paragraphs (1) and (2) of this section.

§ 3282.153 Formal investigations.

(a) Generally. (1) The Secretary is authorized by 42 U.S.C. 5413 to conduct such investigations as may be necessary to promulgate or enforce Federal mobile home construction and safety standards established under the Act or otherwise to carry out his duties under the Act.

(2) Hearings may be conducted by the Secretary in the course of any investigation for the purpose of taking the testimony of witnesses and receiving documents and other data relating to any subject under investigation. These hearings are non-adversary in nature and will not result in a formal adjudication by the Department. The purpose of an investigation hearing is to establish the facts surrounding actual, suspected or threatened violations of the Act. These hearings shall be stenographically or electronically recorded and testimony of witnesses shall be under oath or affirmation. Unless the Deputy determines otherwise for good cause, these hearings shall be public.

(b) *Rights of witnesses in investigative hearings.* (1) Any person subpoened in connection with any formal investigation shall be entitled, upon payment of costs, to purchase a copy of the transcript of his testimony as reported, except that in a nonpublic proceeding the witness may for good cause be limited to inspection of the official transcript of the testimony.

(2) Any witness compelled to appear in person in an investigative hearing may be accompanied and represented, by counsel. The witness may be advised by counsel, in confidence, and upon initiative of either counsel or the witness, with respect to any question asked.

(3) *Objections.* (i) A witness may not refuse to answer a question or produce evidence except as permitted by § 3282.153(b)(3)(ii), otherwise testimony and other evidence will be taken subject to any objection which is made. Objections interposed will be continuing objections throughout the course of the proceedings, and repetitious or cumulative statement of an objection or of the grounds therefor, in such cases, is unnecessary.

(ii) Where the testimony or other evidence sought is privileged the witness may refuse to respond. If the witness refuses to respond he or his counsel shall state briefly and precisely on the record the grounds therefor.

(4) Upon completion of the examination of a witness, the witness may clarify any answers on the record in order that specified points of ambiguity, equivocation, or incompleteness may be corrected.

(5) The presiding official shall take all necessary action to regulate the course of the proceeding to avoid delay and to maintain order.

(6) In the case of contumacy of the witness or the witness's refusal to obey a subpoena or order of the Secretary, the United States District Court for the jurisdiction in which the inquiry is carried on may issue an order requiring

compliance therewith; and any failure to obey the court may be punished by such court as a contempt thereof.

§ 3282.154 Administrative actions.

(a) *Applicability and scope.* Sections 3282.154 through 3282.158 set out procedures applicable to adjudicative actions dealing with the following situations:

(1) The existence of imminent safety hazard, serious defeat, defect, or noncompliance under 42 U.S.C. 5414(e)(g) and 24 CFR 3282.407;

(2) The rejection of a State plan for full approval as an SAA under 42 U.S.C. 5422 and 24 CFR 3282.304;

(3) The withdrawal of full approval of a State plan under 42 U.S.C. 5422(f) and 24 CFR 3282.306;

(4) The assessment of a civil penalty under 42 U.S.C. 5401(a);

(5) The disqualification of a PIA under 24 CFR 3282.356;

(6) The determination of facts relating to the issuance of an injunction pursuant to 42 U.S.C. 5410;

(7) The determination of any fact relating to the applicability or non-applicability of the Act or any regulation promulgated pursuant thereto.

To the extent that these regulations provide for hearings for parties which would otherwise qualify for hearings under 24 CFR Part 24, the procedures of 24 CFR Part 24 shall not be available and shall not apply.

(b) *Commencement of action.* (1) An administrative action is commenced by the issuance of an administrative complaint by the United States Department of Housing and Urban Development, Office of Mobile Home Standards. Such administrative complaint shall be subtitled "Notice of Preliminary Determination" and the Department shall be named as plaintiff and all other parties shall be named as defendants.

(2) Prior to issuance of an administrative complaint the Secretary or his designee shall assign the proceeding to a Judge.

(3) The Office of Mobile Home Standards shall issue the administrative complaint and cause it to be served pursuant to § 3282.154(e)

(4) Prior to the filing of an administrative complaint the Office of Mobile Home Standards may send, by certified or registed mail, to any person or entity, a letter which notifies that person or entity of a preliminary determination made by the Secretary and of any action which the Secretary has preliminarily decided to take. The letter shall set forth such preliminary determination and action. The letter shall then contain the following paragraph:

"The Secretary of the Department of Housing and Urban Development has preliminarily made the above stated determination(s) of fact and has prelimiarily decided to take the above stated action. If you would like a hearing pursuant to the procedures set forth in 24 CFR 3282.151 *et seq.* you must request such a hearing by sending a written request to (here state the name and address of the person to whom the request must be sent). Such request must be sent by registered or certified mail and must be mailed by you no later than 30 days following the receipt of this letter. If you do not so request a hearing then the Secretary's preliminary determination(s) and action shall become final determination(s) and action at midnight on the 30th day following receipt of this letter. If such determination(s) and action become final then you may not later contest either the determination(s) or the action by any administrative process or in any court."

(i) This process may be used to notify a person or entity of any action which the Secretary might take including the assessment of civil penalties.

(ii) If the person or entity to whom the letter is sent does not request a hearing within the time and by the method set forth in the letter then the preliminary factual determinations of the Secretary become final determinations and the action becomes final action of the Secretary. Such determinations and action become final at midnight of the 30th day following receipt of the letter by the person or entity.

(iii) Once the determinations and action become final the person or entity to whom the letter was addressed may not later contest such determinations or action by any administrative process, in any court or otherwise.

(iv) If a person or entity requests a hearing within the time and by the method set forth in the letter then (A) an administrative complaint shall be issued and served on the person or entity to whom the letter was addressed; or (B) the Office of Mobile Home Standards shall notify the person or entity to whom the letter was addressed that it is not going to pursue the matter at the present time. If the Office of Mobile Home Standards notifies the person or entity to whom the letter was addressed that it is not going to pursue the matter at the present time an administrative complaint may still be issued at any later time.

(c) *Service and filing of pleadings and other papers.* (1) Except as otherwise provided in these regulations, every order required by its terms to be served, every pleading subsequent to the original administrative complaint unless the Judge otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the Judge otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of settlement, proposed order, proposed findings of fact or conclusions of law, brief, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims or requesting new or additional relief against them shall be served upon them in the manner provided for service of subpoenas in § 3282.152(e). In the case of papers required to be served upon the Department two copies thereof shall be served.

(2) Whenever under these regulations service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the Judge. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last know address or, if no address is known, by leaving it with the Judge. Delivery of a copy means: Handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion residing therein. Service by mail is complete upon mailing.

(3) All papers required to be served upon a party shall be filed with the Judge either before service or within a reasonable time thereafter.

(4) Every paper required to be served upon a party shall be accompanied by a signed certificate of service which shall state the person who was served, the address of service, the manner of service and the date of service.

(d) *Pleadings and motions.*—(1) *Pleadings.* There shall be an administrative complaint and an answer. No other pleading shall be allowed except as permitted by order of the Judge.

(2) *Motions and other papers.* (i) An application to the Judge for an order shall be by motion which, unless made during a hearing, shall be made in writing, shall state with particularity the

grounds therefor, and shall set forth the relief or order sought.

(ii) The regulations applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these regulations.

(iii) Within 10 days after service of any written motion, an opposing party may answer in writing. The moving party shall have no right to reply except as permitted by the Judge. Oral argument on motions may be required by the Judge on his own motion or it may be permitted by the Judge upon request by one of the parties made with the motion or with the answer to the motion.

(iv) The Judge may, in his discretion, rule upon motions for extension of time ex parte. Extensions of time or continuances in any administrative action may be offered for sufficient cause in the discretion of the Judge on his own motion, or on the motion of either party.

(v)(A) When a motion is granted with the result that the proceeding before the Judge is terminated, the Judge shall file a decision in accordance with the provisions of § 3282.157. If such a motion is not granted as to all allegations and as to all parties, the Judge shall file an order with respect to that part of the motion which is granted.

(B) A motion to dismiss may be made by any party at any time.

(e) *Rules of pleading.* (1) The administrative complaint shall contain: (i) A short and plain statement of the claim showing that the Department is entitle to relief; and (ii) a demand for decision for the relief to which the Department deems itself entitled including a statement of the facts to be determined if any. Relief in the alternative or of several different types may be demanded.

(2) *Particular requirements for administrative complaint.* Following the portions of the administrative complaint which are otherwise required by these regulations there shall be a Notice to Defendant, titled as such which shall be signed by the Deputy or his designee, and which shall state:

"The procedural regulations governing this action are located at 24 CFR 3282.151 *et seq.* If you wish to contest this action you must appear and defend by filing an answer with (here state the name and address of the Judge) and by serving two copies on the Department's attorney whose name and address appear above. The answer must conform to the procedural regulations and it must be served within 30 days following service of the administrative complaint. If you do not appear and defend within the time provided, decision by default will be rendered against you for the relief demanded in this administrative complaint and the facts requested herein to be determined shall be determined as true."

(3) *Defenses; form of denials.* A party shall state in short and plain terms his defenses to each claim asserted and shall admit or deny the assertions upon which the Department relies, and a party shall admit or deny the truth of each fact stated by another party as one to be determined. If he is without knowledge or information sufficient to form a belief as to the truth or an assertion, or fact, he shall so state and this has the effect of a denial. Denials shall meet the substance of the assertion or facts denied. When a party intends in good faith to deny only a part or a qualification of an assertion or fact, he shall specify so much of it as is true and material and shall deny only the remainder. Unless the party intends in good faith to controvert all the assertions or facts of the administrative complaint, he may make his denials as specific denials of designated assertions or facts or paragraphs, or he may generally deny all the assertions or facts except such designated assertions or facts or paragraphs as he expressly admits; but, when he intends to controvert all assertions and facts he may do so by general denial subject to the obligations set forth in § 3282.154(e)(8).

(4) *Affirmative defenses.* The answer shall set forth affirmatively accord and satisfaction, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, license, payment, release, res judicata, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense.

(5) *Effect of failure to deny.* Assertions in the administrative complaint, other than those as to the amount of damage, are admitted when not denied in the answer. Assertions in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

(6) *Pleading to be concise and direct; consistency.* (i) Each assertion in a pleading shall be simple, concise, and direct. No technical forms of pleadings or motions are required.

(ii) A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency. All statements shall be made subject to the obligations set forth in § 3282.154(e)(8).

(7) *Construction of pleadings.* All pleadings shall be so construed as to do substantial justice.

(8) *Signing of pleadings.* Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address and telephone number shall be stated. A party who is not represented by an attorney shall sign his pleading and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay.

(f) *Form of pleadings.* (1) Every pleading shall contain a caption containing: (i) "United States of America before the Department of Housing and Urban Development"; (ii) the title of the action; (iii) the file number; and (iv) a designation as in § 3282.154(d)(1). In the administrative complaint the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.

(2) *Paragraphs; separate statements.* All assertions of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number thereafter. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth. In addition, each fact to be determined is to be set forth in a separate lettered or numbered paragraph.

(3) *Adoption by reference: Exhibits.* Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

(g) *Defenses and objections.* (1) A defendant shall serve his answer within 30 days after the service of the administrative complaint upon him.

(2) Every defense, in law or fact, to a claim shall be asserted in the answer including the following: (i) Lack of jurisdiction over the subject matter; (ii) lack of jurisdiction over the person; (iii) insufficiency of process; (iv) insufficiency of service of process; (v) failure to state a claim upon which relief can be granted. No defense or objection is waived by being joined with one or more other defenses or objections in an answer. No counterclaim shall be permitted.

(3) The defenses specifically enumerated in paragraph (g)(2)(i) of this section and a motion for decision on the pleadings on summary decision shall be heard and determined before the hearing on the merits on application of any party unless the Judge otherwise directs.

(4) Waiver or Preservation of Certain Defenses: (i) A defense or lack of jurisdiction over the person, insufficiency of process, or insufficiency of service of process is waived if omitted from the answer or an amendment thereof permitted by § 3282.154(h) to be made as a matter of course.

(ii) A defense of failure to state a claim upon which relief can be granted and an objection of failure to state a legal defense to a claim may be made in any pleading permitted or ordered or by motion for decision on the pleadings, or at the hearing on the merits.

(iii) Whenever it appears that the Department lacks jurisidiction of the subject matter, the Judge shall dismiss the action.

(h) *Amended and supplemental pleadings.*—(1) *Amendments.* The department may amend its administrative complaint once as a matter of course at any time before an answer is served and a party may amend his answer once as a matter of course at any time within 20 days after it is served unless the action has been scheduled for a hearing on the merits. Otherwise a party may amend his pleading only by leave of the Judge or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be the longer, unless the Judge otherwise orders.

(2) *Amendments to conform to the evidence.* When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after decision; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues raised by the pleadings, the Judge may allow the pleadings to be amended and shall do so freedly when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The Judge may grant a continuance to enable the objecting party to meet such evidence.

(3) *Relation back of amendments.* Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading. An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against him the party to be brought in by amendment (i) has received such notice of the institution of the action that he will not be prejudiced in maintaining his defense on the merits, and (ii) knew or should have known that, but for a mistake concerning the identy of the proper party, the action would have been brought against him.

(4) *Supplemental pleadings.* Upon motion of a party the Judge may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its statement of a claim for relief or defense. If the Judge deems it advisable that the adverse party plead to the supplemental pleading, it shall so order, specifying the time therefor.

(i) *Intervention.* (1) The Judge upon timely written application shall permit anyone to intervene when the applicant claims an interest relating to the property or transaction which is the subject of the administrative action and he is so situated that the disposition of the administrative action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(2) The petition for intervention shall contain: (i) The petitioner's relationship to, and interest in, the matters involved in the proceeding; (ii) a concise statement of the petitioner's position with respect to each specific issue upon which he proposes to intervene, and of the facts which he proposes to adduce in support of each such position; and (iii) the petitioner's assent to the exercise of jurisidiction by the Department over him.

(3) The Judge shall determine the propriety of such intervention and the extent to which such intervenor may participate, basing such determination upon the directness and substantiality of the petitioner's interest in the administrative action and the effect upon the administrative action of allowing such participation. If intervention is permitted the Judge shall name such party as a plaintiff or as a defendent.

(j) *Discovery—Generally.* (1) Except as provided for by these regulations no discovery is permitted unless agreed to by the parties or unless ordered by the Judge for good cause shown. No motion concerning any aspect of discovery may be made unless the party making such motion or his attorney: (i) Certifies that, after personal consultation with the other party or his attorney, the parties have been unable to reach agreement; and (ii) states the time and date of such consultation.

(2) Any motion for an order permitting discovery must be accompanied by copies of all discovery papers (interrogatories, notices of depositions, etc.) which the party desires to file.

(3) Except in cases where a motion for an expedited proceeding is filed pursuant to § 3282.152(h) all requests for discovery and all motions for orders permitting discovery must be filed within 30 days after the date on which the answer is filed, unless otherwise ordered by the Judge for good cause shown. In cases where a motion for an expedited proceeding has been filed pursuant to § 3282.152(h) all motions for orders permitting discovery must be filed by the date on which the response to the motion for an expedited proceeding is due. If the motion for an expedited proceeding is denied then request for discovery and additional motions for orders permitting discovery may be filed within the time otherwise prescribed by this regulation.

(4) The parties may agree to permit the following types of discovery or the Judge may order such discovery for good cause shown: Depositions upon oral examination or written questions;

written interrogatories; and production of documents or things or permission to enter upon land or other property, for inspection and other purposes.

(5) In ordering discovery the Judge may place such limits on it as are just and reasonable.

(k) *Discovery as a matter of right.* Discovery provided for in this section (§ 3282.154(k)) is available as of right and without agreement of parties and without order by the Judge. The frequency of use is not limited.

(1) *Discovery relating to experts.* (i) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness at any hearing, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify along with a summary of the grounds for each opinion.

(ii) A party may also require through interrogatories that any other party identify any reports or other documents prepared by any expert in preparation for the case.

(iii) A party is under a duty to amend his answers to interrogatories relating to experts.

(iv) If a party has been asked to identify expert witnesses then that party may present expert testimony only by those individuals who have been identified unless otherwise ordered by the Judge for good cause shown.

(v) If a party has been asked to state the subject matter on which an expert is expected to testify and/or to state the substance of the facts and opinions to which the expert is expected to testify then that party may present expert testimony only with respect to the matters contained in his answers to such interrogatories unless otherwise ordered by the Judge for good cause shown.

(2) A party may through interrogatories require any other party to identify each person who is to be called as a witness by such party. The name, home and work addresses and home and work telephone numbers of a witness may be required. No other information may be required as a matter of right.

(i) A party is under a duty to amend his answers to interrogatories relatiing to the names of witnesses.

(ii) If a party has been asked to identify witnesses then that party may present testimony only by those individuals who have been named unless otherwise ordered by the Judge for good cause shown.

(3) *Requests for admission.* (i) A party may serve upon any other party a written request for the admission of the truth of any matters concerning the pending action set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying.

(ii) Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 30 days after service of the request, or within such other time as the Judge may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney, but, unless the Judge shortens the time, a defendant shall not be required to serve answers or objections before the expiration of 30 days after service of the administrative complaint upon him. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request. The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the Judge determines that an objection is justified, it shall order that an answer be served. If the Judge determines that an answer does not comply with the requirements of this rule, he may order either that the matter is admitted or that an amended answer be served. The Judge may, in lieu of these orders, determine that final disposition of the request be made at a pre-hearing conference or at a designated time prior to the hearing on the merits.

(c) *Effect of admission.* Any matter admitted under § 3282.154(k)(3) is conclusively established unless the Judge on motion permits withdrawal or amendment of the admission. The Judge may permit withdrawal or amendment when the presentation of the merits of the action will be served thereby and the party who obtained the admission fails to satisfy the Judge that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits. Any admission made by a party under § 3282.154(k)(3) is for the purpose of the pending action and for the purpose of any related action, administrative or otherwise, involving the same parties.

(4) *Documents.* (i) A party may through interrogatories require any other party to identify each document or thing which is to be offered for evidence by such party. Except as permitted here and in § 3282.154(k)(1)(ii) the identity of no other document or thing may be required as a matter of right.

(A) A party is under a duty to amend his answers to interrogatories relating to the identity of documents or things which are to be offered for evidence.

(B) If a party has been asked to identify documents or things which are to be offered for evidence then that party may offer for evidence only those documents or things which have been identified unless otherwise ordered by the Judge for good cause shown.

(ii) A party may request the production of documents or things the identity of which is asked pursuant to § 3282.154(k)(4)(i) or § 3282.154(k)(1)(ii). No other request for production is permitted as a matter of right.

(l) *Discovery—By agreement of the parties or by order of the judge.* The regulations contained herein govern discovery which may be agreed to by the parties or ordered by the Judge except that the regulations governing interrogatories also govern the limited discovery which is available as of right pursuant to § 3282.154(k)(1), (2) and (4) and except that the regulations governing requests for production also govern the limited discovery which is available as of right pursuant to § 3282.154(k)(4).

(1) *Depositions.* The attendance of witnesses may be compelled by subpoena as provided in § 3282.152(e).

(i) A notice of deposition shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena

shall be attached to or included in the notice.

(ii) The notice to a party deponent may be accompanied by a request made for the production of documents and tangible things at the taking of the deposition.

(iii) A party may in his notice and in a subpoena name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which he will testify. A subpoena shall advise a non-party organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This provision does not preclude taking a deposition by any other procedure authorized in these regulations.

(iv) *Examination and cross-examination; record of examination; oath; objections.* Examination and cross-examination of witnesses may proceed as permitted under the provisions of the Federal Rules of Evidence. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. If requested by one of the parties, the testimony shall be transcribed. All objections made at the time of the examination to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and he shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

(v) *Motion to terminate or limit examination.* At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the Judge may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the Judge. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

(vi) *Submission to witness; changes; signing.* When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 10 days of its submission to him, the officer shall sign and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as though signed unless on a motion to suppress the Judge holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(vii) *Certification and filing by officer; exhibits; copies; notice of filing.* (A) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly file it with the Judge or send it by registered or certified mail to the Judge. Documents and things produced for inspection during the examination of the witness, shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that the person producing the materials may substitute copies to be marked for identification, if he affords to all parties fair opportunity to verify the copies by comparison with the originals, and if the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the Judge, pending final disposition of the case.

(B) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

(C) The party taking the deposition shall give prompt notice of its filing to all other parties.

(2) *Use of Depositions at Hearings*—(i) *Use of Depositions.* At the hearing on the merits or upon the hearing of a motion any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(A) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(B) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party for any purpose.

(C) The deposition of a witness whether or not a party, may be used by any party for any purpose if the Judge finds: (*1*) that the witness is dead; or (*2*) that the witness is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or (*3*) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or (*4*) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (*5*) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

(D) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

(ii) *Objections to admissibility.* Subject to the provisions of

§ 3282.154(l)(2)(iii)(C) of this rule, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(iii) Effect of errors and irregularities in depositions. (i) *As to notice.* All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(B) *As to disqualification of officer.* Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(C) *As to taking of deposition.* Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time. Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(D) *As to completion and return of deposition.* Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

(3) *Interrogatories to parties*—(i) *Availability; procedures for use.* (A) Written interrogatories are to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party.

(B) Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories or within such other time as the Judge may allow. The party submitting the interrogatories may move for an order under § 3282.154(m) with respect to any objection to or other failure to answer an interrogatory.

(ii) *Scope; use at hearing.* (A) Answers to interrogatories may be used to the extent permitted by the Federal Rules of Evidence.

(B) An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law of fact, but the Judge may order that such interrogatory need not be answered until discovery has been completed or until a pre-hearing conference has taken place or until some other later time.

(iii) *Option to produce business records.* Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries.

(4) *Production of documents and things and entry upon land for inspection and other purposes*—(i) *Scope.* Any party may serve on any other party a request (A) to produce and permit the party making the request, or someone acting on his behalf, to inspect and copy, any designated documents (including writings, drawings, graphs, charts, photographs, phono-records, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which are in the possession, custody or control of the party upon whom the request is served; or (B) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon.

(ii) *Procedure.* The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. The party upon whom the request is served shall serve a written response within 15 days after the service of the request, except that a defendant may serve a response within 30 days after service of the administrative complaint upon that defendant. The Judge may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under § 3282.154(m) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

(m) *Sanctions for failure to make discovery.* (1) A party, upon reasonable notice to other parties and all persons affected thereby, may apply to the Judge for an order compelling discovery if a deponent fails to answer a question as part of an oral or written deposition or if a corporation or other entity fails to designate a person to testify on its behalf at a deposition or if a party fails to answer an interrogatory or if a party fails, in response to a request for inspection, to permit inspection or to permit inspection as requested. When taking a deposition or oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order. For purposes of this provision an evasive or incomplete answer is to be treated as a failure to answer.

(2) If a party or an officer, director or managing agent of a party or a person designated under § 3282.154(l)(1)(iii) to testify on behalf of a party fails to obey an order to provide or permit discovery the Judge may make such orders in regard to the failure as are just, and among others the following:

(i) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(ii) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or

prohibiting him from introducing designated matters in evidence; and

(iii) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a decision by default against the disobedient party.

(3) If a party or an officer, director, or managing agent of a party or a person designated under § 3282.154(l)(1)(iii) to testify on behalf of a party fails (i) to appear before the officer who is to take his deposition, after being served with proper notice, or (ii) to serve answers or objections to interrogatories after proper service of the interrogatories, or (iii) to serve a written response to a request for inspection after proper service of the request, the Judge on motion may make such orders in regard to the failure as are just and among others he may take any action authorized in § 3282.154(m)(2) (i), (ii), and (iii).

(n) *Consolidation.* When administrative actions involving a common question of law or fact are pending, a Judge may order a joint hearing of any or all the matters in issue in the action; he may order all the actions consolidated; and he may make such orders concerning proceedings therein as may tend to avoid unnecessary cost or delay.

(o) *Time*—(1) *Computation.* In computing any period of time prescribed or allowed by these regulations, or by order of the Judge, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this regulation, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States.

(2) *Enlargement.* When by these rules or by a notice given thereunder or by order of the Judge an act is required or allowed to be done at or within a specified time, the Judge, for cause shown, may at any time in his discretion (i) with or without motion or notice order the period enlarged if request therefore is made before the expiration of the period originally prescribed or as extended by a previous order, or (ii) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

(3) *For motions—affidavits.* A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than 5 days before the time specified for the hearing, unless a different period is fixed by these regulations or by order of the Judge. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; and, opposing affidavits may be served not later than 1 day before the hearing, unless the Judge permits them to be served at some other time.

(4) *Additional time after service by mail.* Whenever a party has the right or is required to take some action within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.

(p) *Pre-hearing procedure: formulating issues.* (1) In any administrative action, the Judge may in his discretion direct the attorneys for the parties to appear before him for a conference to consider:

(i) The simplification of the issues;

(ii) The necessity or desirability of amendments to the pleadings;

(iii) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;

(iv) The limitation of the number of expert witnesses;

(v) Such other matters as may aid in the disposition of the action.

(2) The Judge shall issue an order which states the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and which limits the issues for hearing to those not disposed of by admissions or agreements of counsel; and such order when entered controls the subsequent course of the action, unless modified at the hearing on the merits to prevent manifest injustice.

§ 3282.155 Conduct of administrative hearings.

(a) *Authority and responsibility of the judge.* (1) The Judge shall conduct a fair and impartial hearing, take all necessary action to avoid delay in the disposition of the administrative action and maintain order. In addition, he shall have all powers necessary to those ends including all powers granted under 5 U.S.C. 556(c), and also power including but not limited to the following:

(i) To administer oaths and affirmations;

(ii) To rule upon offers of proof and receive evidence;

(iii) To regulate the course of the hearing and the conduct of the parties and their counsel;

(iv) To hold conferences as necessary for the simplification and clarification of issues or any other purpose;

(v) To consider and rule upon, as justice may require, all procedrual and other motions appropriate as part of an administrative action;

(vi) To make and file decisions; and

(vii) To receive relevant and material evidence, and exclude all irrelevant, immaterial or unduly repetitious evidence.

(2) In dealing with all procedural and evidentiary issues arising within the context of an administrative action the Judge may, to the extent it is not expressly provided for otherwise in these regulations, decide such questions in accordance with the Federal Rules of Civil Procedure and Federal Rules of Evidence.

(3) (i) No person shall communicate with a Judge either directly or indirectly concerning any pending proceeding unless prior to or simultaneously with such communication its contents are disclosed in detail to all persons interested in the proceeding; nor shall any Judge request or consider any such unauthorized ex parte communication. This prohibition shall not apply to a simple request for information respecting the status of the proceeding, nor any ex parte communication expressly authorized by these rules.

(ii) Any Judge who receives an ex parte communication which he knows or has reason to believe is unauthorized, shall promptly place the communication, or its substance, in the public file and shall inform all persons interested in the proceeding of its existence and general contents. Facts or arguments so communicated shall not be taken into account in deciding any matter in issue unless such facts or arguments shall be brought properly before the Judge.

(iii) An opportunity to answer allegations or contentions contained in an unauthorized ex parte communication may be afforded any interested person upon his motion for leave to do so, whenever such leave will operate to assure a fair hearing or decision.

(iv) When a motion is based on facts not appearing of record the Judge may hear the matter on affidavits presented by the respective parties, but the Judge may direct that the matter by heard wholly or partly on oral testimony or deposition.

(v) *Evidence.* (A) All witnesses at a hearing for the purpose of taking evidence shall testify under oath or affirmation which shall be administered by the Judge. Every party shall have the right to present such oral or documentary evidence and to conduct such cross-examinations as may by required for a full and true disclosure of the facts. The Judge shall receive relevant and material evidence, rule upon offers of proof and exclude all irrelevant, immaterial or unduly repetitious evidence.

(B) When offered evidence is excluded, the party offering shall be permitted to state on the record an offer of proof with respect thereto and rejected exhibits, adequately marked, shall on request of the party offering the same be retained in the record for purposes of review. Evidence may be received subject to deferred ruling on objections to its admissability.

(C) Objections shall be timely made and shall specify the particular ground of objection. Formal exception to an adverse ruling is unnecessary.

(b) *Scheduling of hearing.* The Judge shall schedule an administrative hearing on the merits to take place so that the presentation of evidence in the case will be concluded by the parties not later than 5 months after the answer has been filed. In scheduling such hearing the Judge may consult with the parties. A hearing may be scheduled later only upon agreement of all parties or if ordered by the Judge upon a finding that good cause exists.

(c) *Dismissal of actions.* An action may be dismissed by the plaintiff without order of the Judge by filing a notice of dismissal at any time prior to the commencement of the hearing on the merits. Unless otherwise stated in the notice of dismissal, the dismissal is without prejudice.

(d) *Reporting and transcription.* Hearings shall be stenographically or electronically recorded. Such recording shall be transcribed. The original transcript shall be a part of the record and the sole official transcript.

(1) Corrections of the official transcript may be made pursuant to order of the Judge.

(e) *Briefs.* The Judge shall fix a reasonable time not to exceed 30 days following the close of the presentation of the evidence during which any party may file with the Judge proposed findings of fact, proposed conclusions of law, a proposed order and a brief in support thereof.

§ 3282.156 Assessment of civil penalties.

(a) *Amount of penalty.* In determining the amount of the civil penalty the Judge may consider the following factors as well as other relevant factors:

(1) The seriousness of the violations;

(2) The number of violations;

(3) Whether the defendant had knowledge of the violation;

(4) Whether the defendant has a prior history of violations;

(5) The size of the defendant's business;

(6) The readiness of the defendant to comply with the Act and regulations; and

(7) The deterrent value of the penalty as against future violations by the same manufacturer or dealer, and as against violations by other manufacturers or dealers.

(b) *Existence of a claim.* The United States has a claim against a manufacturer, dealer or other person liable for such penalty when: (1) The Office of Mobile Home Standards and such person or entity enter into an agreement establishing the amount of such penalty; or (2) when a Judge's decision establishing the amount of such penalty becomes final.

§ 3282.157 Decision.

(a) *Written decision.* The Judge shall prepare and file a written decision which shall set forth his findings of facts and which shall set forth separately his conclusions of law thereon. Findings of fact shall include specific findings as to the existence or non-existence of each fact which was presented in the pleadings as one to be determined. The Judge may also include as part of his decision an order if appropriate for the case.

(b) *Time for decision.* The Judge shall make and file his decision: (1) Within 30 days after the expiration of the time fixed pursuant to § 3282.155(E) but in any event not later than 60 days following the close of the presentation of the evidence, where the decision is made following a hearing on the merits; (2) within 15 days after a notice of default for failure to appear is filed; or (3) within 50 days after the filing of a motion if the case is fully adjudicated on such motion. The Judge shall serve the decision on the parties.

(c) *Amendment.* Upon motion of a party made not later than 10 days after the service of the decision the Judge may amend or add to his findings of fact and/or conclusions of law and may amend the order, if any.

(d) *Default.* (1) When a party against whom a decision is sought has failed to answer or otherwise defend as provided by these regulations and that fact is made to appear by a notice filed with the Judge (which notice need not be served on the defaulting party) the Judge shall prepare and file such decision as appears from the administrative complaint to be appropriate.

(2) After a notice of default has been filed an answer may not be received except: (i) If the party which filed such notice consents in writing filed with the Judge to the setting aside of the notice; or (ii) if the Judge orders the notice set aside upon motion by the defaulting party and for good cause shown. Such motion to set aside the notice must be filed within 15 days after the filing of the notice. If a decision has been filed as a result of a default for failure to appear it may be set aside along with the notice.

(e) *Summary decision*—(1) *Filing.* At any time after commencement of an administrative action and before the scheduling of a hearing on the merits, a party to the action may move the Judge to render summary decision disposing of all or part of the action.

(2) *Grounds.* A motion for summary decision shall be granted only if the entire record, including the pleadings, depositions, answers to interrogatories, admissions and affidavits, shows:

(i) That there is no genuine issue as to any material fact; and

(ii) That the moving party is entitled to summary decision as a matter of law.

(3) *Form of motion and affidavits.* The motion may be supported by affidavits or other verified documents, and shall specify the grounds showing the party's right to the relief sought. Supporting and opposing affidavits shall be made on personal knowledge and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or be incorporated if not otherwise a matter of record. The Judge may permit affidavits to be supplemented or opposed by testimony, depositions, answers to interrogatories, admissions or further affidavits. When a motion for summary decision is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or otherwise must set forth specific facts showing that there is a genuine issue for hearing. If he does not so respond, summary decision, if appropriate, shall be entered against him.

(4) *Case not fully adjudicated on motion.* If a motion for summary decision is denied in whole or in part, and the Judge determines that an evidentiary hearing of the case is necessary, he shall, if practicable, and upon examination of all relevant documents and evidence before him,

ascertain what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, and direct such further proceedings as deemed appropriate.

(f) *Decision becomes final.* The decision of the Judge shall become final 15 days after filing unless an appeal brief is filed pursuant to § 3282.158(a).

(g) *Relief from decision or order*—(1) *Clerical mistakes.* Clerical mistakes in decisions, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the Judge at any time of his own initiative or on the motion of any party and after such notice, if any, as the Judge orders.

(2) *Mistakes; inadvertence; newly discovered evidence; fraud, etc.* On motion and upon such terms as are just, the Judge may relieve a party or his legal representative from a final decision, order, or proceeding for the following reasons: (i) Mistake or inadvertence; (ii) newly discovered evidence which by due diligence could not have been discovered previously; (iii) fraud, misrepresentation or other misconduct of an adverse party; or (iv) any other reason justifying relief from the operation of the decision. The motion shall be made within a reasonable time and for reasons (i), (ii), and (iii) not more than six months after the decision, order, or proceeding was entered or taken. A motion under this subdivision (II) does not affect the finality of a decision or suspend its operation.

§ 3282.158 Review.

(a) *Appeal from decision of Judge*—(1) *Appeal brief.* The Judges decision may be appealed by filing a written appeal brief with the Judge within 15 days after service of the decision appealed from. Copies of the brief shall be served on all parties. The brief shall be specify, in separte numbered paragraphs each issue upon which the appeal is based.

(b) *Answering brief.* Within 20 days after service of the appeal brief upon a party, such party may file an answering brief conforming to the requirements of § 3282.158(c).

(c) *Length and form of briefs.* A brief shall not exceed 25 pages in length except by order of the Judge or the appeals officer and shall contain, in the order indicated, the following:

(1) The title of the proceeding, file number, the name of the party on whose behalf it is submitted and the name and address of the attorney in the matter on the front cover or title page.

(2) Subject index with page references.

(3) Table of cases alphabetically arranged, statutes, texts, and other authorities and materials cited, with page references.

(4) A concise statement of the facts of the case, without argument.

(5) A concise statement of the questions sought to be raised.

(6) The argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question with specific page references to the record so far as available, and to legal authority or other material relief upon in support of statements contained in the argument.

(d) *Oral argument.* Oral argument shall not be permitted.

(e) *Decision on appeal or review.* (1) Upon appeal from or review of a Judge's decision, the appeals officer will consider such parts of the record as are cited or as may be necessary to resolve the issues. All appeals and reviews shall be determined upon the record made before the Judge.

(2) The appeals officer may affirm, reverse, modify or set aside, in whole or in part the Judges decision or remand for further proceedings. The appellate order shall set forth the reasons upon which the decision is based. The appellate order shall be served on the parties not later than 35 days after the filing of the appeal brief.

(3) The decision of the appeals officer shall be final at the time of service upon the parties.

(4) Any issue which could have been raised before the Judge or the Appeals Officer which is not timely raised may not later be raised before the Judge, the Appeals Officer or in any further proceedings.

Issued at Washington, D.C. December 17, 1979.

Richard C. D. Fleming,

Acting Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 79-39136 Filed 12-20-79; 8:45 am]

BILLING CODE 4210-01-M

federal register

Friday
December 21, 1979

Part X

Department of Energy

Economic Regulatory Administration

Gas and Electric Utilities Covered in 1980 by Titles I and III of the Public Utility Regulatory Policies Act of 1978 and Title II of the National Energy Conservation Policy Act of 1978

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-R-79-43]

Gas and Electric Utilities Covered in 1980 by Titles I and III of the Public Utility Regulatory Policies Act of 1978 and Title II of the National Energy Conservation Policy Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice.

SUMMARY: Sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA) and section 211(b) of the National Energy Conservation Policy Act of 1978 (NECPA) require the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each gas utility and electric utility to which Titles I and III of PURPA and Part 1 of Title II of NECPA apply during such calendar year. This Notice contains the list for 1980. Written comments are invited with respect to the inclusion of Citizens Utilities Company on the list.

DATE: Written comments must be received by January 21, 1980.

ADDRESSES: Written comments should be forwarded to the Department of Energy, Office of Public Hearings Management, 2000 M Street, NW. (Room 2313), Docket No. ERA-R-79-43, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Stephen S. Skjei, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW. (Room 4016), Washington, D.C. 20461, (202) 254-8209.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*) and section 211(b) of the National Energy Conservation Policy Act of 1978 (NECPA), Pub. L. 95-619, 92 Stat. 3206 *et seq.*, the Department of Energy (DOE) is required to publish a list of utilities to which Titles I and III of PURPA and Part 1 of Title II of NECPA apply in 1980. State regulatory authorities are required by the above cited sections of PURPA and NECPA to notify the Secretary of Energy as to their ratemaking authority over the listed utilities.

On September 24, 1979, DOE issued a notice containing a list of utilities to which PURPA and NECPA apply in 1980 and requesting each State regulatory authority to notify DOE in writing of each utility on the list for which it has ratemaking authority (44 FR 56602, October 1, 1979). DOE also requested public comment on the accuracy of the list of gas and electric utilities.

The notice issued today reflects changes made in the list as a result of notifications by State regulatory authorities. These changes include (1) additions and deletions of utilities based upon the annual sales criteria set forth in PURPA and NECPA, and (2) additions and deletions based upon sales or acquisitions of gas and electric distribution facilities.

The inclusion or exclusion of any utility on or from the list does not affect the legal obligations of such utility or the responsible State regulatory authority under PURPA and NECPA.

II. Discussion of Comments

DOE received two comments from utilities in response to the October 1 notice.

CP National Corporation (CP) requested deletion from the list of covered utilities because it operates geographically separate distribution systems, none of which alone exceeds the coverage thresholds for Titles I and III of PURPA and Title II of NECPA. CP cited, in support of its request, an earlier determination by DOE to delete Citizens Utilities Company (Citizens) from the 1979 list.

In response to this comment, DOE has determined, after reconsideration of its determination not to include Citizens on the list, that both CP and Citizens should be included on the 1980 list. This is because sections 102(c) and 301(d) of PURPA and section 211(b) of NECPA require the Secretary of Energy to publish a list identifying those utilities which have retail sales exceeding the PURPA and NECPA thresholds and both CP and Citizens have companywide retail sales exceeding the statutory thresholds.

Since Citizens was not included on the list published with the October 1 Notice, written comments are invited, as provided in section III, with respect to DOE's determination to include Citizens on the 1980 list.

CP also asserted that its annual gas sales are below the PURPA and NECPA thresholds. After reexamination of available sales information and verification by appropriate State regulatory authorities, DOE has determined that CP's annual retail sales of natural gas exceed the PURPA and NECPA thresholds.

A comment was submitted by Cabot Corporation asserting that its annual natural gas sales are below the PURPA and NECPA thresholds. Due to the lateness of this comment, DOE was not able to determine the validity of Cabot's assertion prior to publication of this list. After such determination is made, DOE will notify Cabot Corporation and the appropriate State regulatory authority and, if necessary, modify the list of gas and electric utilities appropriately.

III. Comment Procedures

All interested persons are invited to comment in writing with respect to DOE's determination to include Citizens Utilities Company on the 1980 list. Five copies of such comments should be sent to the address indicated in the "ADDRESS" section of this Notice and should be identified on the outside of the envelope and on the document with the designation "Docket No. ERA-R-79-43." Written comments should include the commenter's name, address and telephone number.

Comments must be received by the data indicated in the "DATE" section of this Notice. All comments received will be available for public inspection in the DOE Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

IV. List of Electric Utilities and Gas Utilities

Appendix A is the list of utilities to which Titles I and III of PURPA and Title II of NECPA apply, with exceptions noted for listed utilities not covered by NECPA. The list is arranged alphabetically, but subdivided into electric and gas utilities and further subdivided by type of ownership: investor-owned utilities, publicly-owned utilities, and rural cooperatives.

DOE is also publishing, as Appendix B, a tabulation of utilities which separately identifies, by State, each State regulatory authority, the covered utilities it regulates, and other covered utilities in the State not regulated by the State regulatory authority. This tabulation, including explanatory notes, is based solely on information provided to DOE by State regulatory authorities in response to the notice of October 1, 1979.

The utilities classified in Appendix B as not regulated by the State regulatory authority may in fact be regulated by local municipal authorities. Under "definitions" used in PURPA, these municipal authorities would be classified as a "State Agency" and thus have responsibilities under PURPA similar to those of the State regulatory authority.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); National Energy Conservation Act, Pub. L. 95–619, 92 Stat. 3206 *et seq.*)

Issued in Washington, D.C., on December 19, 1979.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

Appendix A

Electric Utilities

All utilities listed below had electric energy sales, for purposes other than resale, in excess of 500 million kilowatt-hours in 1976, 1977 or 1978. All, except those marked (*), are covered by PURPA Title I and NECPA Title II. Utilities marked (*) either do not exceed the NECPA threshold of 750 million kilowatt-hours in 1978 or do not have residential sales and, therefore, are not covered by NECPA Title II. The utilities listed more than once have sales in more than one State and those States are indicated by abbreviations in parentheses.

Investor-Owned

Alabama Power Company
Appalachian Power Company (VA)
Appalachian Power Company (WV)
Arizona Public Service Company
Arkansas-Missouri Power Company (AR)
Arkansas-Missouri Power Company (MO)
Arkansas Power & Light Company (AR)
Arkansas Power & Light Company (LA)
Arkansas Power & Light Company (TN)
Atlantic City Electric Company
Baltimore Gas & Electric Company
Bangor Hydro-Electric Company
Black Hills Power & Light Company (MT)
Black Hills Power & Light Company (SD)
Black Hills Power & Light Company (WY)
Blackstone Valley Electric Company
Boston Edison Company
Cambridge Electric Light Company
Carolina Power & Light Company (NC)
Carolina Power & Light Company (SC)
Central Hudson Gas & Electric Corporation
Central Illinois Light Company
Central Illinois Public Service Company
Central Louisiana Electric Company
Central Maine Power Company
Central Power & Light Company
Central Telephone & Utilities Corporation (CO)
Central Telephone & Utilities Corporation (KS)
Central Vermont Public Service Corporation
Cincinnati Gas & Electric Company
Citizens Utilities Company (AZ)
Citizens Utilities Company (HI)
Citizens Utilities Company (ID)
Citizens Utilities Company (VT)
Cleveland Electric Illuminating Company
Columbus and Southern Ohio Electric Company
Commonwealth Edison Company
Community Public Service Company (NM)
Community Public Service Company (TX)
Connecticut Light & Power Company
Consolidated Edison Company of New York
Consumers Power Company
CP National Corporation (AZ)
CP National Corporation (CA)
CP National Corporation (NV)
CP National Corporation (OR)
CP National Corporation (UT)
Dallas Power & Light Company
Dayton Power & Light Company
Delmarva Power & Light Company (DE)
Delmarva Power & Light Company of Maryland
Delmarva Power & Light Company of Virginia
Detroit Edison Company
Duke Power Company (NC)
Duke Power Company (SC)
Duquesne Light Company
Eastern Edison Company
El Paso Electric Company (NM)
El Paso Electric Company (TX)
Empire District Electric Company (AR)
Empire District Electric Company (KS)
Empire District Electric Company (MO)
Empire District Electric Company (OK)
Florida Power Corporation
Florida Power & Light Company
Georgia Power Company
Green Mountain Power Corporation
Gulf Power Company
Gulf States Utilities Company (LA)
Gulf States Utilities Company (TX)
Hartford Electric Light Company
Hawaiian Electric Company, Inc.
Houston Lighting & Power Company
Idaho Power Company (ID)
Idaho Power Company (NV)
Idaho Power Company (OR)
Illinois Power Company
Indiana & Michigan Electric Company (IN)
Indiana & Michigan Electric Company (MI)
Indianapolis Power & Light Company
Interstate Power Company (IA)
Interstate Power Company (IL)
Interstate Power Company (MN)
Iowa Electric Light & Power Company (IA)
Iowa Electric Light & Power Company (IL)
Iowa Power & Light Company
Iowa Public Service Company (IA)
Iowa Public Service Company (SD)
Iowa Suthern Utilities Company
Jersey Central Power & Light Company
Kansas City Power & Light Company (KS)
Kansas City Power & Light Company (MO)
Kansas Gas & Electric Company
Kansas Power & Light Company
Kentucky Power Company
Kentucky Utilities Company (KY)
Kentucky Utilities Company (TN)
Kingsport Power Company
*Lake Superior District Power Company (MI)
*Lake Superior District Power Company (WI)
Long Island Lighting Company
Louisiana Power & Light Company
Louisville Gas & Electirc Company
Madison Gas & Electric Company
Massachusetts Electric Company
Metropolitan Edison Company
*Michigan Power Company
Minnesota Power & Light Company
Mississippi Power Company
Mississippi Power & Light Company
Missouri Edison Company
Missouri Power & Light Company
Missouri Public Service Company
Missouri Utilities Company
Monongahela Power Company (OH)
Monogahela Power Company (WV)
Montana-Dakota Utilities Company (MT)
Montana-Dakota Utilities Company (ND)
Montana-Dakota Utilities Company (SD)
Montana-Dakota Utilities Company (WY)
Montana Power Company
Narrangansett Electric Company
Nevada Power Company
New Bedford Gas & Edison Light Company
*New Mexico Electric Service Company
New Orleans Public Service, Inc.
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
Northern Indiana Public Sevice Company
Northern States Power Company (MN)
Northern States Power Company (ND)
Northern States Power Company (SD)
Northern States Power Company (WI)
*Northwestern Public Service Company
Ohio Edison Company
Ohio Power Company
Oklahoma Gas & Electric Company (AR)
Oklahoma Gas & Electric Company (OK)
*Old Dominion Power Company
Orange & Rockland Utilities
Otter Tail Power Company (MN)
Otter Tail Power Company (ND)
Otter Tail Power Company (SD)
Pacific Gas & Electric Company
Pacific Power & Light Company (CA)
Pacific Power & Light Company (ID)
Pacific Power & Light Company (MT)
Pacific Power & Light Company (OR)
Pacific Power & Light Company (WA)
Pacific Power & Light Company (WY)
Pennsylvania Electric Company (NY)
Pennsylvania Electric Company (PA)
Pennsylvania Power & Light Company
Pennsylvania Power Company
Philadelphia Electric Company
Portland General Electric Company
Potomac Edison Company (MD)
Potomac Edison Company (VA)
Potomac Edison Company (WV)
Potomac Electric Power Company (DC)
Potomac Electric Power Company (MD)
Potomac Electric Power Company (VA)
Public Service Company of Colorado
Public Service Company of Indiana
Public Service Company of New Hampshire (ME)
Public Service Company of New Hampshire (NH)
Public Service Company of New Hampshire (VT)
Public Service Company of New Mexico
Public Service Company of Oklahoma
Public Service Electric and Gas Company
Puget Sound Power & Light Company
Rochester Gas & Electric Corporation
Rockland Electric Company
St. Joseph Light & Power Company
San Diego Gas & Electric Company
Savannah Electric & Power Company
Sierra Pacific Power Company (CA)
Sierra Pacific Power Company (NV)
South Carolina Electic & Gas Company
Southern California Edison Company
Southern Indiana Gas & Electric Company
Southwestern Electric Power Company (AR)
Southwestern Electric Power Company (LA)
Southwestern Electric Power Company (TX)
*Southwestern Electric Service Company
Southwestern Public Service Company (KS)
Southwestern Public Service Company (NM)
Southwestern Public Service Company (OK)

Southwestern Public Service Company (TX)
Tampa Electric Company
Texas Electric Service Company
Texas Power & Light Company
Toledo Edison Company
Tucson Electric Power Company
*UGI–Luzerne Electric Division
Union Electric Company (IA)
Union Electric Company (IL)
Union Electric Company (MO)
Union Light, Heat & Power Company
United Illuminating Company
*Upper Peninsula Power Company
Utah Power & Light Company (ID)
Utah Power & Light Company (UT)
Utah Power & Light Company (WY)
Virginia Electric & Power Company (NC)
Virginia Electric & Power Company (VA)
Virginia Electric & Power Company (WV)
Washington Water Power Company (ID)
Washington Water Power Company (MT)
Washington Water Power Company (WA)
West Penn Power Company
West Texas Utilities Company
Western Massachusetts Electric Company
Wheeling Electric Company
Wisconsin Electric Power Company (MI)
Wisconsin Electric Power Company (WI)
Wisconsin Power & Light Company
Wisconsin Public Service Corporation (MI)
Wisconsin Public Service Corporation (WI)

Publicly Owned

*Albany Water, Gas & Light Commission (GA)
Anaheim Utilities Department (CA)
Austin Electric Department (TX)
*Bristol Tennessee Electric System (TN)
*Burbank Public Service Department (CA)
Central Lincoln People's Utility District (OR)
Chattanooga Electric Power Board (TN)
*Clarksville Department of Electricity (TN)
*Clatskanie People's Utility District (OR)
*Cleveland Division of Light & Power (OH)
*Cleveland Utilities (TN)
Colorado Springs Department of Public Utilities (CO)
Decatur Electric Department (AL)
*Dothan Electric Department (AL)
Eugene Water & Elecric Board (OR)
Fayetteville Public Works Commission (NC)
Florence Electricity Department (AL)
*Gainesville-Alachua County Regional Electric, Water, and Sewer Utilities Board (FL)
*Garland Electric Department (TX)
*Glendale Public Service Department (CA)
*Greeneville Light & Power System (TN)
*Greenville Utilities Commission (NC)
Huntsville Utilities (AL)
Imperial Irrigation District (CA)
*Independence Power & Light Department (MO)
Jackson Utility Division—Electric Department (TN)
Jacksonville Electric Authority (FL)
Johnson City Power Board (TN)
Kansas City Board of Public Utilities (KS)
Knoxville Utilities Board (TN)
*Layfayette Utilities System (LA)
Lakeland Department of Electricity and Water (FL)
Lansing Board of Water & Light (MI)
*Lenoir City Utilities Board (TN)
Lincoln Electric System (NE)
*Los Angeles Department of Water and Power
*Lower Colorado River Authority
*Lubbock Power & Light (TX)
Memphis Light, Gas & Water Division (TN)
*Modesto Irrigation District (CA)
*Muscatine Power & Water (IA)
Nashville Electric Service (TN)
Nebraska Public Power District (NE)
Nebraska Public Power District (SD)
Omaha Public Power District (IA)
Omaha Public Power District (NE)
Orlando Utilities Commission (FL)
Palo Alto Electric Utility (CA)
Pasadena Water & Power Department (CA)
*Power Authority of New York (NY)
*Port Angeles Light & Water Department (WA)
Public Utility District No. 1 of Benton County (WA)
Public Utility District No. 1 of Chelan County (WA)
Public Utility District No. 1 of Clark County (WA)
Public Utility District No. 1 of Cowlitz County (WA)
*Public Utility District of Franklin County (WA)
Public Utility District of Grant County (WA)
Public Utility District No. 1 of Grays Harbor County (WA)
*Public Utility District No. 1 of Lewis County (WA)
Public Utility District No. 1 of Snohomish County (WA)
Puerto Rico Water Resources Authority (PR)
*Richland Energy Services Department (WA)
*Richmond Department of Public Utilities (VA)
*Richmond Power & Light (IN)
Riverside Public Utilities (CA)
*Rocky Mount Public Utilities (NC)
Sacramento Municipal Utility District (CA)
Salt River Project Agricultural Improvement and Power District (AZ)
San Antonio Public Service Board (TX)
Santa Clara Electric Department (CA)
Seattle City Light Department (WA)
South Carolina Public Service Authority
Springfield City Utilities (MO)
*Springfield Utilities Board (OR)
Springfield Water, Light & Power Department (IL)
Tacoma Public Utilities-Light Division (WA)
Tallahassee, City of (FL)
*Turlock Irrigation District (CA)
Vernon Municipal Light Department (CA)
*Wilson Utilities Department (NC)

Rural Electric Cooperatives

*Anoka Electric Cooperative (MN)
*Appalachian Electric Cooperative (TN)
Chugach Electric Association (AK)
*Clay Electric Cooperative (FL)
Cumberland Electric Membership Corporation (TN)
*Duck River Electric Membership Corporation (TN)
*First Electric Cooperative Corporation (AR)
*Flint Electrical Membership Corporation (GA)
*4-County Electric Power Association (MS)
*Gibson County Electric Membership Corporation (TN)
Green River Electric Corporation (KY)
Henderson-Union Rural Electric Cooperative Corporation (KY)
*Jackson Electric Membership Corporation (GA)
*Lee County Electric Cooperative (FL)
*Meriwether Lewis Electric Cooperative (TN)
Middle Tennessee Electric Membership Corporation (TN)
*Moon Lake Electric Association (UT)
North Georgia Electric Membership Corporation (GA)
*Pedernales Electric Cooperative (TX)
*Pennyrile Rural Electric Cooperative Corporation (KY)
*Prince William Electric Cooperative (VA)
*Singing River Electric Power Association (MS)
*South Central Power Company (OH)
Southern Maryland Electric Cooperative, Inc. (MD)
*Southern Pine Electric Power Association (MS)
Southwest Louisiana Electric Membership Corporation (LA)
*Southwest Tennessee Electric Membership Corporation (TN)
*Tri-County Electric Membership Corporation (TN)
*Umatilla Electric Cooperative Association (OR)
*Upper Cumberland Electric Membership Corporation (TN)
Volunteer Electric Cooperative (TN)
*Warren Rural Electric Cooperative Corporation (KY)
*West Kentucky Rural Electric Cooperative Corporation (KY)
*Withlacoochee River Electric Cooperative (FL)

Federal Agencies

*Bonneville Power Administration (OR)
*Tennessee Valley Authority (TN)
*Western Area Power Administration (CO)

Gas Utilities

All utilities listed below had natural gas sales, for purposes other than resale, in excess of 10 billion cubic feet in 1976, 1977 or 1978 and are covered by PURPA Title III and NECPA Title II. The utilities listed more than once have sales in more than one State and those States are indicated by abbreviations in parentheses.

Investor-Owned

Alabama Gas Corporation
Alabama-Tennessee Natural Gas Company
Alaska Gas & Service Company
Anadarko Production Company
Arizona Public Service Company
Arkansas-Louisiana Gas Company (AR)
Arkansas-Louisiana Gas Company (KS)
Arkansas-Louisiana Gas Company (LA)
Arkansas-Louisiana Gas Company (OK)
Arkansas-Louisiana Gas Company (TX)
Arkansas-Oklahoma Gas Corporation (AR)
Arkansas-Oklahoma Gas Corporation (OK)
Arkansas Western Gas Company
Atlanta Gas Light Company
Baltimore Gas & Electric Company
Bay State Gas Company
Boston Gas Company
Brooklyn Union Gas Company
Cabot Corporation Utility Division
Carnegie Natural Gas Company
Carolina Pipeline Company
Cascade Natural Gas Corporation (OR)

Cascade Natural Gas Corporation (WA)
Central Illinois Light Company
Central Illinois Public Service Company
Chattanooga Gas Company (GA)
Chattanooga Gas Company (TN)
Cheyenne Light, Fuel and Power Company
Cincinnati Gas and Electric Company
Cities Service Gas Company (covered by NECPA only)
City Gas Company of Florida
Columbia Gas of Kentucky, Inc.
Columbia Gas of New York, Inc.
Columbia Gas of Ohio, Inc.
Columbia Gas of Pennsylvania, Inc.
Columbia Gas of Virginia, Inc.
Columbia Gas of West Virginia, Inc.
Commonwealth Gas Company
Connecticut Light & Power Company
Connecticut Natural Gas Corporation
Consolidated Edison Company of New York, Inc.
Consolidated Gas Supply Corporation
Consumers Power Company
CP National Corporation (AZ)
CP National Corporation (CA)
CP National Corporation (NV)
CP National Corporation (OR)
Dayton Power & Light Company
Delmarva Power & Light Company (DE)
East Ohio Gas Company
East Tennessee Natural Gas Company
Elizabethtown Gas Company
Entex Inc. (LA)
Entex Inc. (MS)
Entex Inc. (WV)
Equitable Gas Company (KY)
Equitable Gas Company (PA)
Equitable Gas Company (WV)
Florida Gas Company
Gas Company of New Mexico
Gas Light Company of Columbus
Gas Service Company (KS)
Gas Service Company (MO)
Gas Service Company (NE)
Gas Service Company (OK)
Greeley Gas Company (CO)
Greeley Gas Company (KS)
Greeley Gas Company (MN)
Gulf States Utilities Company
Illinois Power Company
Indiana Gas Company
Inland Gas Company
Inter City Gas Limited
Intermountain Gas Company
Interstate Power Company (IA)
Interstate Power Company (IL)
Interstate Power Company (MN)
Iowa Electric Light & Power Company (CO)
Iowa Electric Light & Power Company (IA)
Iowa Electric Light & Power Company (MN)
Iowa Electric Light & Power Company (NE)
Iowa-Illinois Gas & Electric Company (IA)
Iowa-Illinois Gas & Electric Company (IL)
Iowa Power & Light Company
Iowa Public Service Company (IA)
Iowa Public Service Company (NE)
Iowa Public Service Company (SD)
Iowa Southern Utilities Company
Kansas-Nebraska Natural Gas Company (CO)
Kansas-Nebraska Natural Gas Company (KS)
Kansas-Nebraska Natural Gas Company (NE)
Kansas-Nebraska Natural Gas Company (WY)
Kansas Power & Light Company
Kokomo Gas & Fuel Company
Laclede Gas Company Consolidated
Lone Star Gas Company (OK)
Lone Star Gas Company (TX)
Long Island Lighting Company
Louisiana Gas Service Company
Louisville Gas & Electric Company
Lowell Gas Company
Madison Gas & Electric Company
Michigan Consolidated Gas Company
Michigan Gas Utilities Company
Michigan Power Company
Minnesota Gas Company (IA)
Minnesota Gas Company (MN)
Minnesota Gas Company (NE)
Minnesota Gas Company (SD)
Mississippi Valley Gas Company
Missouri Public Service Company
Mobile Gas Service Corporation
Montana-Dakota Utilities Company (MN)
Montana-Dakota Utilities Company (MT)
Montana-Dakota Utilities Company (ND)
Montana-Dakota Utilities Company (SD)
Montana-Dakota Utilities Company (WY)
Montana Power Company
Mountain Fuel Supply Company (UT)
Mountain Fuel Supply Company (WY)
Nashville Gas Company
National Fuel Gas Distribution Corporation (NY)
National Fuel Gas Distribution Corporation (PA)
National Gas and Oil Company
New Bedford Gas and Edison Light Company
New Jersey Natural Gas Company
New Orleans Public Service, Inc.
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
North Carolina Natural Gas Corporation
North Central Public Service Company (IA)
North Central Public Service Company (MN)
North Shore Gas Company
Northern Illinois Gas Company
Northern Indiana Public Service Company
Northern Natural Gas Company (KS)
Northern Natural Gas Company (NE)
Northern States Power Company (MN)
Northern States Dower Company (ND)
Northern States Power Company (WI)
North Penn Gas Company
Northwest Natural Gas Company (OR)
Northwest Natural Gas Company (WA)
Northwestern Public Service Company (NE)
Northwestern Public Service Company (SD)
Oklahoma Natural Gas Company
Orange & Rockland Utilities
Pacific Gas & Electric Company
Panhandle Eastern Pipeline Company (IL)
Panhandle Eastern Pipeline Company (IN)
Panhandle Eastern Pipeline Company (KY)
Panhandle Eastern Pipeline Company (KS)
Panhandle Eastern Pipeline Company (LA)
Panhandle Eastern Pipeline Company (MI)
Panhandle Eastern Pipeline Company (MO)
Panhandle Eastern Pipeline Company (OK)
Panhandle Eastern Pipeline Company (TN)
Pennsylvania Gas & Water Company
Peoples Gas, Light and Coke Company
Peoples Gas System
Peoples Natural Gas Company
Peoples Natural Gas Division of Northern Natural Gas Company (CO)
Peoples Natural Gas Division of Northern Natural Gas Company (IA)
Peoples Natural Gas Division of Northern Natural Gas Company (KS)
Peoples Natural Gas Division of Northern Natural Gas Company (MI)
Peoples Natural Gas Division of Northern Natural Gas Company (MN)
Peoples Natural Gas Division of Northern Natural Gas Company (MO)
Peoples Natural Gas Division of Northern Natural Gas Company (NE)
Peoples Natural Gas Division of Northern Natural Gas Company (TX)
Penn Fuel Gas, Inc.
Piedmont Natural Gas Company (NC)
Piedmont Natural Gas Company (SC)
Pioneer Natural Gas Company
Providence Gas Company
Public Service Company of Colorado
Public Service Company, Inc. of North Carolina
Public Service Electric and Gas Company
Rochester Gas & Electric Corporation
San Diego Gas & Electric Company
South Carolina Electric & Gas Company
South Jersey Gas Company
Southeastern Michigan Gas Company
Southern California Gas Company
Southern Connecticut Gas Company
Southern Indiana Gas & Electric Company
Southern Union Gas Company (AZ)
Southern Union Gas Company (OK)
Southern Union Gas Company (TX)
Southern Gas Corporation (AZ)
Southwest Gas Corporation (CA)
Southwest Gas Corporation (NV)
Terre Haute Gas Corporation
T. W. Phillips Gas and Oil company
UGI Corporation
Union Gas System Inc. (KS)
Union Gas System Inc. (OK)
Union Light, Heat & Power Company (KY)
Union Light, Heat & Power Company (OH)
United Cities Gas Company (GA)
United Cities Gas Company (IL)
United Cities Gas Company (NC)
United Cities Gas Company (SC)
United Cities Gas Company (TN)
Virginia Electric & Power Company
Washington Gas Light Company (DC)
Washington Gas Light Company (MD)
Washington Gas Light Company (VA)
Washington Natural Gas Company
Washington Water Power Company (ID)
Washington Water Power Company (WA)
West Ohio Gas Company
Western Kentucky Gas Company
Wisconsin Fuel & Light Company
Wisconsin Gas Company
Wisconsin Natural Gas Company
Wisconsin Power & Light Company
Wisconsin Public Service Corporation (MI)
Wisconsin Public Service Corporation (WI)

Publicly-Owned

Citizens Gas & Coke Utility (IN)
City of Richmnd, Virginia, Department of Public Utilities (VA)
City Public Service Board (San Antonio) (TX)
Colorado Springs Department of Public Utilities (CO)
Long Beach Gas Department (CA)
Memphis Light, Gas & Water Division (TN)
Metropolitan Utilities District of Omaha (NE)
Philadelphia Gas Works (PA)
Springfield City Utilities (MO)

Appendix B

State: Alabama
Regulatory authority: Alabama Public Service Commission

Gas Utilities—Investor-owned:

Alabama Gas Corporation
Mobile Gas Service Corporation
Electric Utilities—Investor-owned:
Alabama Power Company
The following covered utilities within the State of Alabama are not regulated by the Alabama Public Service Commission:
Electric Utilities—Publicly-owned:
Decatur Electric Department
*Dothan Electric Department
Florence Electricity Department
Huntsville Utilities
State: Alaska
Regulatory authority: Alaska Public Utilities Commission
Gas Utilities—Investor-owned: Alaska Gas and Service Company
Electric Utilities—Rural Electric Cooperatives: Chugach Electric Association
State: Arizona
Regulatory authority: Arizona Corporation Commission
Gas Utilities—Investor-owned:
Arizona Public Service Company
Southern Union Gas Company
Southwest Gas Corporation
Electric Utilities—Investor-owned:
Arizona Public Service Company
Citizens Utilities Company
CP National Corporation
Tucson Electric Power Corporation
The following covered utility within the State of Arizona is not regulated by the Arizona Corporation Commission:
Electric Utilities—Publicly-owned: Salt River Project Agricultural Improvement and Power District
State: Arkansas
Regulatory authority: Arkansas Public Service Commission
Gas Utilities—Investor-Owned:
Arkansas-Louisiana Gas Company
Arkansas-Oklahoma Gas Corporation
Arkansas Western Gas Company
Electric Utilities—Investor-Owned:
Arkansas-Missouri Power Company
Arkansas Power and Light Company
Empire District Electric Company
Oklahoma Gas and Electric Company
Southwestern Electric Power Company
Rural Electric Cooperatives: *First Electric Cooperative Corporation
State: California
Regulatory Authority: California Public Utilities Commission
Gas Utilities—Investor-Owned:
CP National Corporation
Pacific Gas and Electric Company
San Diego Gas and Electric Company
Southern California Gas Company
Southwest Gas Corporation
Electric Utilities—Investor-Owned:
CP National Corporation
Pacific Gas and Electric Company
Pacific Power and Light Company
San Diego Gas and Electric Company
Sierra Pacific Power Company
Southern California Edison Company
The following covered utilities within the State of California are not regulated by the California Public Utilities Commission:
Electric Utilities—Publicly-Owned:
Anaheim Utilities Department
*Burbank Public Service Department
*Glendale Public Service Department
Imperial Irrigation District
Los Angeles Department of Water and Power
Modesto Irrigation District
Palo Alto Electric Utility
Pasadena Water and Power Department
Riverside Public Utilities
Sacramento Municipal Utility District
Santa Clara Electric Department
*Turlock Irrigation District
Vernon Municipal Light Department
Gas Utilities—Publicly-Owned: Long Beach Gas Department
State: Colorado
Regulatory authority: Colorado Public Utilities Commission
Gas Utilities—Investor-Owned:
Greeley Gas Company
Iowa Electric Light and Power Company
Kansas-Nebraska Natural Gas Company
Peoples Natural Gas Division of Northern Natural Gas Company
Public Service Company of Colorado
Publicly-Owned: Colorado Springs Department of Public Utilities (jurisdiction only outside city limits)
Electric Utilities—Investor-Owned:
Central Telephone and Utilities Corporation
Public Service Company of Colorado
Publicly-Owned: Colorado Springs Department of Public Utilities (jurisdiction only outside city limits)
The following covered utilities within the State of Colorado are not regulated by the Colorado Public Utilities Commission:
Gas Utilities—Publicly-Owned: Colorado Springs Department of Public Utilities (within city limits)
Electric Utilities—Publicly-Owned:
Colorado Springs Department of Public Utilities (within city limits)
State: Connecticut
Regulatory authority: Connecticut Public Utilities Control Authority
Gas Utilities—Investor-Owned:
Connecticut Light and Power Company
Connecticut Natural Gas Corporation
Southern Connecticut Gas Company
Electric Utilities—Investor-Owned:
Connecticut Light and Power Company
Hartford Electric Light Company
United Illuminating Company
State: Delaware
Regulatory authority: Delaware Public Service Commission
Gas Utilities—Investor-Owned: Delmarva Power and Light Company
Electric Utilities—Investor-Owned:
Delmarva Power and Light Company
State: District of Columbia
Regulatory authority: Public Service Commission of the District of Columbia
Gas Utilities—Investor-Owned:
Washington Gas Light Company
Electric Utilities—Investor-Owned:
Potomac Electric Power Company
State: Florida
Regulatory authority: Florida Public Service Commission
Gas Utilities—Investor-Owned:
City Gas Company of Florida
Florida Gas Company
Peoples Gas System
Electric Utilities—Investor-Owned:
Florida Power Corporation
Florida Power and Light Company
Gulf Power Company
Tampa Electric Company
Publicly-Owned: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—
*Gainesville-Aluchua County Regional Electric, Water and Sewer Utilities Board
Jacksonville Electric Authority
Lakeland Department of Electricity and Water
Orlando Utilities Commission
Tallahassee, City of
Rural Electric Cooperatives: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—
*Clay Electric Cooperative
*Lee County Electric Cooperative
*Withlacoochee River Electric Cooperative
State: Georgia
Regulatory authority: Georgia Public Service Commission
Gas Utilities—Investor-Owned:
Atlanta Gas Light Company
Chattanooga Gas Company
Gas Light Company of Columbus
United Cities Gas Company
Electric Utilities—Investor-Owned:
Georgia Power Company
Savannah Electric and Power Company
The following utilities within the State of Georgia are not regulated by the Georgia Public Service Commission:
Electric Utilities—Publicly-Owned:
*Albany Water, Gas & Light Commission
Rural Electric Cooperatives:
*Flint Electrical Membership Corporation
*Jackson Electric Membership Corporation
North Georgia Electric Membership Corporation
State: Hawaii
Regulatory authority: Hawaii Public Utilities Commission
Gas Utilities—None
Electric Utilities—Investor-Owned:
Citizens Utilities Company
Hawaiian Electric Company, Inc.
State: Idaho
Regulatory authority: Idaho Public Utilities Commission
Gas Utilities—Investor-Owned:
Intermountain Gas Company
Washington Water Power Company
Electric Utilities—Investor-Owned:
Citizens Utilities Company
Idaho Power Company
Pacific Power and Light Company
Utah Power and Light Company
Washington Water Power Company
State: Illinois
Regulatory authority: Illinois Commerce Commission
Gas Utilities—Investor-Owned:
Central Illinois Light Company
Central Illinois Public Service Company
Illinois Power Company
Interstate Power Company
Iowa-Illinois Gas and Electric Company
North Shore Gas Company
Northern Illinois Gas Company
Panhandle Eastern Pipeline Company
Peoples Gas, Light and Coke Company
United Cities Gas Company
Electric Utilities—Investor-Owned:
Central Illinois Light Company
Central Illinois Public Service Company
Commonwealth Edison Company
Illinois Power Company
Interstate Power Company

Iowa-Illinois Gas and Electric Company
Union Electric Company
The following covered utility within the State of Illinois is not regulated by the Illinois Commerce Commission:
Electric Utilities—Publicly-Owned:
Springfield Water, Light and Power Department
State: Indiana
Regulator authority: Indiana Public Service Commission
Gas Utilities—Investor-owned:
Indiana Gas Company
Kokomo Gas and Fuel Company
Northern Indiana Public Service Company
Panhandle Eastern Pipeline Company
Southern Indiana Gas and Electric Company
Terre Haute Gas Corporation
Publicly-Owned: Citizens Gas and Coke Utility
Electric Utilities—Investor-Owned:
Indiana and Michigan Electric Company
Indianapolis Power and Light Company
Northern Indiana Public Service Company
Public Service Company of Indiana
Southern Indiana Gas and Electric Company
Publicly-Owned: *Richmond Power and Light
State: Iowa
Regulatory authority: Iowa Commerce Commission
Gas Utilities—Investor-Owned:
Interstate Power Company
Iowa Electric Light and Power Company
Iowa-Illinois Gas and Electric Company
Iowa Power and Light Company
Iowa Public Service Company
Iowa Southern Utilities Company
Minnesota Gas Company
North Central Public Service Company
Peoples Natural Gas Division of Northern Natural Gas Company
Electric Utilities—Investor-Owned:
Interstate Power Company
Iowa Electric Light and Power Company
Iowa-Illinois Gas and Electric Company
Iowa Power and Light Company
Iowa Public Service Company
Iowa Southern Utilities Company
Union Electric Company
Publicly-Owned: The Iowa Commerce Commission has service and safety regulation over the following utilities—
*Muscatine Power and Light
Omaha Public Power District
State: Kansas
Regulatory authority: Kansas State Corporation Commission
Gas Utilities—Investor-Owned:
Anadarko Production Company
Arkansas-Louisiana Gas Company
Gas Service Company
Greeley Gas Company
Kansas-Nebraska Natural Gas Company
Kansas Power and Light Company
Northern Natural Gas Company
Panhandle Eastern Pipeline Company
Peoples Natural Gas Division of Northern Natural Gas Company
Union Gas System Inc.
Electric Utilities—Investor-Owned:
Central Telephone and Utilities Corporation
Empire District Electric Company
Kansas City Power and Light Company
Kansas Gas and Electric Company
Kansas Power and Light Company
Southwestern Public Service Company
The following covered utility within the State of Kansas is not regulated by the Kansas State Corporation Commission:
Electric Utilities—Publicly-Owned: Kansas City Board of Public Utilities
State: Kentucky
Regulatory Authority: Kentucky Energy Regulatory Commission
Gas Utilities—Investor-Owned:
Columbia Gas of Kentucky, Inc.
Equitable Gas Company
Inland Gas Company
Louisville Gas and Electric Company
Panhandle Eastern Pipeline Company
Union, Light, Heat and Power Company
Western Kentucky Gas Company
Electric Utilities—Investor-Owned:
Kentucky Power Company
Kentucky Utilities Company
Louisville Gas and Electric Company
Union, Light, Heat and Power Company
Rural Electric Cooperatives:
Green River Electric Corporation
Henderson-Union Rural Electric Cooperative Corporation
State: Louisiana
Regulatory authority: Louisiana Public Service Commission
Gas Utilities—Investor-Owned:
Arkansas-Louisiana Gas Company
Entex, Inc.
Louisiana Gas Service Company
Panhandle Eastern Pipeline Company
Electric Utilities—Investor-Owned:
Arkansas Power and Light
Central Louisiana Electric Company
Gulf States Utilities Company
Louisiana Power and Light Company (jurisdiction only outside of the Parish of Orleans)
Southwestern Electric Power Company
The following covered utilities within the State of Louisiana are not regulated by the Louisiana Public Service Commission:
Gas Utilities—Investor-Owned:
Gulf States Utilities Company
New Orleans Public Service, Inc.
Electric Utilities—Investor-Owned:
New Orleans Public Service, Inc.
Louisiana Power and Light Company (within the Parish of Orleans)
Publicly-Owned: *Lafayette Utilities System
Rural Electric Cooperatives: Southwest Louisiana Electric Membership Corporation
State: Maine
Regulatory authority: Maine Public Utilities Commission
Gas Utilities—None
Electric Utilities—Investor-Owned:
Bangor Hydro-Electric Company
Central Maine Power Company
Public Service Company of New Hampshire
State: Maryland
Regulatory authority: Maryland Public Service Commission
Gas Utilities—Investor-Owned:
Baltimore Gas and Electric Company
Washington Gas Light Company
Electric Utilities—Investor-Owned:
Baltimore Gas and Electric Company
Delmarva Power and Light Company of Maryland
Potomac Edison Company
Potomac Electric Power Company
Rural Electric Cooperatives: Southern Maryland Electric Cooperative, Inc.
State: Massachusetts
Regulatory authority: Massachusetts Department of Public Utilities
Gas Utilities—Investor-Owned:
Bay State Gas Company
Boston Gas Company
Commonwealth Gas Company
Lowell Gas Company
New Bedford Gas and Edison Light Company
Electric Utilities—Investor-Owned:
Boston Edison Company
Cambridge Electric Light Company
Eastern Edison Company
Massachusetts Electric Company
New Bedford Gas and Edison Light Company
Western Massachusetts Electric Company
State: Michigan
Regulatory authority: Michigan Public Service Commission
Gas Utilities—Investor-Owned:
Consumers Power Company
Michigan Consolidated Gas Company
Michigan Power Company
Panhandle Eastern Pipeline Company
Peoples Natural Gas Division of Northern Natural Gas Company
Southeastern Michigan Gas Company
Wisconsin Public Service Corporation
Electric Utilities—Investor-Owned:
Consumers Power Company
Detroit Edison Company
Indiana and Michigan Electric Company
*Lake Superior District Power Company
*Michigan Power Company
*Upper Peninsula Power Company
Wisconsin Electric Power Company
Wisconsin Public Service Corporation
The following covered utilities within the State of Michigan are not regulated by the Michigan Public Service Commission:
Electric Utilities—Publicly-Owned:
Lansing Board of Water and Light
State: Minnesota
Regulatory authority: Minnesota Public Service Commission
Gas Utilities—Investor-owned:
Greeley Gas Company
Inter City Gas Limited
Interstate Power Company
Iowa Electric Light and Power Company
Minnesota Gas Company
Montana-Dakota Utilities Company
North Central Public Service Company
Northern States Power Company
Peoples Natural Gas Division of Northern Natural Gas Company
Electric Utilities—Investor-owned:
Interstate Power Company
Minnesota Power and Light Company
Northern States Power Company
Otter Tail Power Company
The following covered utility within the State of Minnesota is not regulated by the Minnesota Public Service Commission:
Electric Utilities—Rural Electric Cooperatives: *Anoka Electric Cooperative
State: Mississippi
Regulatory authority: Mississippi Public Service Commission
Gas Utilities—Investor-owned:
Entex, Incorporated
Mississippi Valley Gas Company
Electric Utilities—Investor-owned:
Mississippi Power and Light Company

Mississippi Power Company
The following covered utilities within the State of Mississippi are not regulated by the Mississippi Public Service Commission:
Electric Utilities—Rural Electric Cooperatives:
*4-County Electric Power Association
*Singing River Electric Power Association
*Southern Pine Electric Power Association
State: Missouri
Regulatory Authority: Missouri Public Service Commission
Gas Utilities—Investor-Owned:
Gas Service Company
Laclede Gas Company Consolidated
Missouri Public Service Company
Panhandle Eastern Pipeline Company
Peoples Natural Gas Division of Northern Natural Gas Company
Electric Utilities—Investor-Owned:
Arkansas-Missouri Power Company
Empire District Electric Company
Kansas City Power and Light Company
Missouri Edison Company
Missouri Power and Light Company
Missouri Public Service Company
Missouri Utilities Company
St. Joseph Light and Power Company
Union Electric Company
The following covered utilities within the State of Missouri are not regulated by the Missouri Public Service Commission:
Gas Utilities—Investor-Owned: Cities Service Gas Company
Publicly-Owned: Springfield City Utilities
Electric Utilities—Publicly-Owned:
* Independence Power and Light Department
Springfield City Utilities
State: Montana
Regulatory authority: Montana Public Service Commission
Gas Utilities—Investor-Owned:
Montana-Dakota Utilities Company
Montana Power Company
Electric Utilities—Investor-Owned:
Black Hills Power and Light Company
Montana-Dakota Utilities Company
Montana Power Company
Pacific Power and Light Company
Washington Water Power Company
State: Nebraska
Regulatory authority: Nebraska Public Service Commission
The Commission does not regulate the rates and services of the gas and electric utilities of the State of Nebraska.
The following covered utilities within the State of Nebraska are not regulated by the Nebraska Public Service Commission:
Electric Utilities: Publicly-Owned:
Lincoln Electric System
Nebraska Public Power District
Omaha Public Power District
Gas Utilities—Investor-Owned:
Gas Service Company
Iowa Electric Light and Power Company
Iowa Public Service Company
Kansas-Nebraska Natural Gas Company
Minnesota Gas Company
Northern Natural Gas Company
Northwestern Public Service Company
Peoples Natural Gas Division of Northern Natural Gas Company
Publicly-Owned: Metropolitan Utilities District of Omaha
State: Nevada
Regulatory authority: Nevada Public Service Commission
Gas Utilities—Investor-Owned:
CP National Corporation
Southwest Gas Corporation
Electric Utilities—Investor-Owned:
CP National Corporation
Idaho Power Company
Nevada Power Company
Sierra Pacific Power Company
State: New Hampshire
Regulatory authority: New Hampshire Public Utilities Commission
Gas Utilities—None
Electric Utilities—Investor-Owned: Public Service Company of New Hampshire
State: New Jersey
Regulatory authority: New Jersey Department of Energy, Board of Public Utilities
Gas Utilities—Investor-Owned:
Elizabethtown Gas Company
New Jersey Natural Gas Company
Public Service Electric and Gas Company
South Jersey Gas Company
Electric Utilities—Investor-Owned:
Atlantic City Electric Company
Jersey Central Power and Light Company
Public Service Electric and Gas Company
Rockland Electric Company
State: New Mexico
Regulatory authority: New Mexico Public Service Company
Gas Utilities—Gas Company of New Mexico
Electric Utilities—Investor-Owned:
Community Public Service Company
El Paso Electric Company
*New Mexico Electric Service Company
Public Service Company of New Mexico
Southwestern Public Service Company
State: New York
Regulatory authority: New York Public Service Commission
Gas Utilities—Investor-Owned:
Brooklyn Union Gas Company
Columbia Gas of New York, Inc.
Consolidated Edison Company of New York, Inc.
Long Island Lighting Company
National Fuel Gas Distribution Corporation
New York State Electric and Gas Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilities
Rochester Gas and Electric Corporation
Electric Utilities—Investor-Owned:
Central Hudson Gas and Electric Corporation
Consolidated Edison Company of New York
Long Island Lighting Company
New York State Electric and Gas Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilities
Rochester Gas and Electric Corporation
The following covered utilities within the State of New York are not regulated by the New York Public Service Commission:
Electric Utilities—Publicly-Owned: *Power Authority of New York
State: North Carolina
Regulatory authority: North Carolina Utilities Commission
Gas Utilities.—Investor-Owned:
North Carolina Natural Gas Corporation
Piedmont Natural Gas Company
Public Service Company, Inc. of North Carolina
United Cities Gas Company
Electric Utilities—Investor-Owned:
Carolina Power and Light Company
Duke Power Company
Virginia Electric and Power Company
The following covered utilities within the State of North Carolina are not regulated by the North Carolina Utilities Commission:
Electric Utilities—Publicly-Owned:
Fayetteville Public Works Commission
*Greenville Utilities Commission
*Rocky Mount Public Utilities
*Wilson Utilities Department
State: North Dakota
Regulatory authority: North Dakota Public Service Commission
Gas Utilities—Investor-Owned:
Montana-Dakota Utilities Company
Northern States Power Company
Electric Utilities—Investor-Owned:
Montana-Dakota Utilities Company
Northern States Power Company
Otter Tail Power Company
State: Ohio
Regulatory authority: Ohio Public Utilities Commission
Gas Utilities—Investor-Owned:
Cincinnati Gas and Electric Company
Columbia Gas of Ohio, Inc.
Dayton Power and Light Company
East Ohio Gas Company
National Gas and Oil Company
West Ohio Gas Company
Electric Utilities—Investor-Owned:
Cincinnati Gas and Electric Company
Cleveland Electric Illuminating Company
Columbus and Southern Ohio Electric Company
Dayton Power and Light Company
Monongahela Power Company
Ohio Edison Company
Ohio Power Company
Toledo Edison Company
The following covered utilities within the State of Ohio are not regulated by the Ohio Public Utilities Commission:
Electric Utilities—Publicly-Owned:
*Cleveland Division of Light and Power
Rural Electric Cooperatives: *South Central Power Company
State: Oklahoma
Regulatory authority: Oklahoma Corporation Commission
Gas Utilities—Investor-Owned:
Arkansas-Louisiana Gas Company
Arkansas-Oklahoma Gas Corporation
Gas Service Company
Lone Star Gas Company
Oklahoma Natural Gas Company
Panhandle Eastern Pipeline Company
Southern Union Gas Company
Union Gas System Inc.
Electric Utilities—Investor-Owned:
Empire District Electric Company
Oklahoma Gas and Electric Company
Public Service Company of Oklahoma
Southwestern Public Service Company
The following covered utility within the State of Oklahoma is not regulated by the Oklahoma Corporation Commission:
Gas Utilities—Investor-Owned: Cities Service Gas Company
State: Oregon
Regulatory authority: Published Utility Commissioner of Oregon
Gas Utilities—Investor-Owned:

CP National Corporation
Cascade Natural Gas Corporation
Northwest Natural Gas Company
Electric Utilities—Investor-Owned:
CP National Corporation
Idaho Power Company
Pacific Power and Light Company
Portland General Electric Company
The following covered utilities within the State of Oregon are not regulated by the Public Utility Commissioner of Oregon:
Electric Utilities—Publicly-Owned:
Central Lincoln People's Utility District
*Clatskanie People's Utility District
Eugene Water and Electric Board.
*Springfield Utilities Board
Rural Electric Cooperative: *Umatilla Electric Cooperative Association
State: Pennsylvania
Regulatory authority: Pennsylvania Public Utility Commission
Gas Utilities—Investor-Owned:
Carnegie Natural Gas Company
Columbia Gas of Pennsylvania, Inc.
Equitable Gas Company
National Fuel Gas Distribution Corporation
North Penn Gas Company
Penn Fuel Gas, Inc.
Pennsylvania Gas and Water Company
Peoples Natural Gas Company
Philadelphia Electric Company
T. W. Phillips Gas and Oil Company
UGI Corporation
Electric Utilities—Investor-Owned:
Duquesne Light Company
Metropolitan Edison Company
Pennsylvania Electric Company
Pennsylvania Power Company
Pennsylvania Power and Light Company
Philadelphia Electric Company
*UGI—Luzerne Electric Division
West Penn Power Company
The following covered utility within the State of Pennsyvania is not regulated by the Pennsylvania Public Utility Commission:
Gas Utilities—Publicly-Owned:
Philadelphia Gas Works
State: Puerto Rico
Regulatory authority: Puerto Rico Public Service Commission
Gas Utilities—None.
Electric Utilities—None
The following covered utility within Puerto Rico is not regulated by the Puerto Rico Public Service Commission:
Electric Utilities—Publicly-Owned: Puerto Rico Water Resources Authority
State: Rhode Island
Regulatory authority: Rhode Island Public Utilities Commission
Gas Utilities—Investor-Owned: Providence Gas Company
Electric Utilities—Investor-Owned:
Blackstone Valley Electric Company
Narragansett Electric Company
State: South Carolina
Regulatory Authority: South Carolina Public Service Commission
Gas Utilities—Investor-Owned:
Carolina Pipeline Company
Piedmont Natural Gas Company
South Carolina Electric and Gas Company
United Cities Gas Co.
Electric Utilities—Investor-Owned:
Carolina Power and Light Company
Duke Power Company
South Carolina Electric and Gas Company
The following covered utility within the State of South Carolina is not regulated by the South Carolina Public Service Commission:
Electric Utilities—Publicly-Owned: South Carolina Public Service Authority
State: South Dakota
Regulatory authority: South Dakota Public Utilities Commission
Gas Utilities—Investor-Owned:
Iowa Public Service Company
Minnesota Gas Company
Montana-Dakota Utilities Company
Northwestern Public Service Company
Electric Utilities—Investor-Owned:
Black Hills Power and Light Company
Iowa Public Service Company
Montana-Dakota Utilities Company
Northern States Power Company
* Northwestern Public Service Company
Otter Tail Power Company
The following covered utility within the State of South Dakota is not regulated by the South Dakota Public Service Commission:
Electric Utilities—Publicly-Owned:
Nebraska Public Power District
State: Tennessee
Regulatory authority: Tennessee Public Service Commission
Gas Utilities—Investor-Owned:
Alabama-Tennessee Natural Gas Company
Chattanooga Gas Company
East Tennessee Natural Gas Company
Nashville Gas Company
Panhandle Eastern Pipeline Company
United Cities Gas Company
Electric Utilities—Investor-Owned:
Arkansas Power and Light Company
Kentucky Utilities Company
Kingsport Power Company
The following covered utilities within the State of Tennessee are not regulated by the Tennessee Public Service Commission:
Electric Utilities—Publicly-Owned:
* Bristol Tennessee Electric System
Chattanooga Electric Power Board
* Clarksville Department of Electricity
* Cleveland Utilities
* Greenville Light and Power System
* Jackson Utility Division—Electric Department
Johnson City Power Board
Knoxville Utilities Board
* Lenoir City Utilities Board
Memphis Light, Gas and Water Division
Nashville Electric Service
Rural Electric Cooperatives:
Cumberland Electric Membership Corporation
* Duck River Electric Membership Corporation
* Gibson County Electric Membership Corporation
* Meriweither Lewis Electric Cooperative
Middle Tennessee Electric Membership Corporation
* Southwest Tennessee Electric Membership Corporation
* Tri-County Electric Membership Corporation
* Upper Cumberland Electric Membership Corporation
Volunteer Electric Cooperative
Gas Utilities—Publicly-Owned: Memphis Light, Gas and Water Division
State: Tennessee
Regulatory authority: Tennessee Valley Authority
Gas Utilities—None
Electric Utilities—Publicly-Owned:
*Bristol Tennessee Electric System
Chattanooga Electric Power Board
*Clarksville Department of Electricity
*Cleveland Utilities
Decatur Electric Department
Florence Electricity Department
*Greenville Light and Power System
Huntsville Utilities
Jackson Utility Divison-Electric Department
Johnson City Power Board
Knoxville Utilities Board
*Lenoir City Utilities Board
Memphis, Light, Gas and Water Division
Nashville Electric Service
Rural Electric Cooperatives:
*Appalachian Electric Cooperative
Cumberland Electric Membership Cooperative
*Duck River Electric Membership Cooperative
*4-County Electric Power Association
*Gibson County Electric Membership Corporation
*Meriwether Lewis Electric Cooperative
Middle Tennessee Electric Membership Corporation
North Georgia Electric Membership Corporation
*Pennyrile Rural Electric Cooperative Corporation
*Southwest Tennessee Electric Membership Corporation
*Tri-County Electric Membership Corporation
*Upper Cumberland Electric Membership Corporation
Volunteer Electric Cooperative
*Warren Rural Electric Cooperative Corporation
*West Kentucky Rural Electric Cooperative Corporation
State: Texas
Regulatory authority: Railroad Commission of Texas
Gas Utilities—Investor-Owned:
Arkansas-Louisiana Gas Company
Entex, Inc.
Lone Star Gas Company
Peoples Natural Gas Division of Northern Natural Gas Company
Pioneer Natural Gas Company
Southern Union Gas Company
(The Railroad Commission of Texas has *appellate* jurisdiction only over the activities of the above companies within incorporated cities.)

The following covered utilities within the State of Texas are not regulated by the Railroad Commission of Texas:
Gas Utilities—Investor-Owned: Cities Service Gas Company
Publicly-Owned: City Public Service Board (San Antonio)
State: Texas
Regulatory authority: Texas Public Utility Commission
Gas Utilities—Investor-Owned: None
Electric Utilities—Investor-Owned:
Central Power and Light Company
Community Public Service Company
Dallas Power and Light Company

El Paso Electric Company
Gulf States Utilities Company
Houston Lighting and Power Company
Southwestern Electric Power Company
*Southwestern Electric Service Company
Southwestern Public Service Company
Texas Electric Service Company
Texas Power and Light Company
West Texas Utilities Company
Publicly-Owned: *Lower Colorado River Authority
Rural Electric Cooperatives: *Pedernales Electric Cooperative

The Texas Public Utility Commission has special appellate jurisdiction over ratemaking decisions of the governing body of any municipality which affect the rates of a municipally-owned electric utility as provided by State statute. The governing body of each Texas municipality exercises exclusive original ratemaking jurisdiction over electric utility rates, operation, and services provided by an electric utility within its city or town limits.

The following municipally-owned electric utilities are *not* under the Commission's original ratemaking jurisdiction. The Commission's jurisdiction over these utilities is limited to appeal de novo.

Electric Utilities—Publicly-Owned:
Austin Electric Department
Garland Electric Department
*Lubbock Power and Light
San Antonio Public Service Board
State: Utah
Regulatory authority: Utah Public Service Commission
Gas Utilities—Investor-Owned: Mountain Fuel Supply Company
Electric Utilities—Investor-Owned:
CP National Corporation
Utah Power and Light Company
Rural Electric Cooperatives: *Moon Lake Electric Association
State: Vermont
Regulatory authority: Vermont Public Service Board
Gas Utilities—None
Electric Utilities—Investor-Owned:
Central Vermont Public Service Corporation
Citizens Utilities Company
Green Mountain Power Corporation
Public Service Company of New Hampshire
State: Virginia
Regulatory authority: Virginia State Corporation Commission
Gas Utilities—Investor-Owned:
Columbia Gas of Virginia, Inc.
Virginia Electric and Power Company
Washington Gas Light Company
Electric Utilities—Investor-Owned:
Appalachian Power Company
Delmarva Power and Light Company of Virginia
*Old Dominion Power Company
Potomac Edison Company
Potomac Electric Power Company
Virginia Electric and Power Company
Rural Electric Cooperatives: *Prince William Electric Cooperative

The following covered utility within the State of Virginia is not regulated by the Virginia State Corporation Commission:

Electric Utilities—Publicly-Owned:
Richmond Department of Public Utilities
State: Washington
Regulatory authority: Washington Utilities and Transportation Corporation
Gas Utilities—Investor-Owned:
Cascade Natural Gas Corporation
Northwest Natural Gas Company
Washington Natural Gas Company
Washington Water Power Company
Electric Utilities—Investor-Owned:
Pacific Power and Light Company
Puget Sound Power and Light Company
Washington Water Power Company

The following covered utilities within the State of Washington are not regulated by the Washington Utilities and Transportation Corporation:

Electric Utilities—Publicly-Owned:
*Port Angeles Light and Water Department
Public Utility District No. 1 of Benton County
Public Utility District No. 1 of Chelan County
Public Utility District No. 1 of Clark County
Public Utility District No. 1 of Cowlitz County
Public Utility District No. 1 of Franklin County
Public Utility District No. 1 of Grant County
Public Utility District No. 1 of Grays Harbor County
*Public Utility District No. 1 of Lewis County
Public Utility District No. 1 of Snohomish County
*Richland Energy Services Department
Seattle City Light Department
Tacoma Public Utilities—Light Division
State: West Virginia
Regulatory authority: West Virginia Public Service Commission
Gas Utilities—Investor-Owned:
Cabot Corporation Utility Division
Columbia Gas of West Virginia, Inc.
Consolidated Gas Supply Corporation
Equitable Gas Company
Electric Utilities—Investor-Owned:
Appalachian Power Company
Monongahela Power Company
Potomac Edison Company
Virginia Electric and Power Company
Wheeling Electric Company
State: Wisconsin
Regulatory authority: Wisconsin Public Service Commission
Gas Utilities—Investor-Owned:
Madison Gas and Electric Company Northern States Power Company
Wisconsin Fuel and Light Company
Wisconsin Gas Company
Wisconsin Natural Gas Company
Wisconsin Power and Light Company
Wisconsin Public Service Corporation
Electric Utilities—Investor-Owned:
*Lake Superior District Power Company
Madison Gas and Electric Company
Northern States Power Company
Wisconsin Electric Power Company
Wisconsin Power and Light Company
Wisconsin Public Service Corporation
State: Wyoming
Regulatory authority: Wyoming Public Service Commission
Gas Utilities—Investor-Owned:
Cheyenne Light, Fuel and Power Company
Kansas-Nebraska Natural Gas Company
Montana-Dakota Utilities Company
Mountain Fuel Supply Company
Electric Utilities—Investor-Owned:
Black Hills Power and Light Company
Montana-Dakota Utilities Company
Pacific Power and Light Company
Utah Power and Light Company

[FR Doc. 79-39265 Filed 12-20-79; 8:45 am]
BILLING CODE 6450-01-M

federal register

Friday
December 21, 1979

Part XI

Department of Agriculture

Agriculture Stabilization and Conservation Service

1980 Rural Clean Water Program

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 700

1980 Rural Clean Water Program

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), U.S. Department of Agriculture (USDA).

ACTION: Proposed Rules.

SUMMARY: ASCS is publishing regulations to carry out the experimental Rural Clean Water Program (RCWP) as authorized in the Agriculture, Rural Development, and Related Agencies Appropriations Act, fiscal year 1980, Public Law 96–108. The program provides long-term financial and technical assistance to owners and operators having control of agricultural land. The purpose of this assistance is to install and maintain best management practices to control agricultural nonpoint source pollution for improved water quality.

DATES: Comments are due on or before January 21, 1980 in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Durick, Director, Conservation and Environmental, Protection Division, Agricultural Stabilization and Conservation Service, USDA, Washington, D.C. 20013, Telephone: 202–447–6221 (8:30 a.m.–4:30 p.m.).

COMMENTS: Are to be sent to Alan Durick at the above address.

SUPPLEMENTARY INFORMATION: These regulations implement the experimental Rural Clean Water Program authorized in the Agriculture, Rural Development, and Related Agencies Appropriations Act, fiscal year 1980, PL 96–108, 93 Stat. 821, 835, approved November 9, 1979. The objective of the RCWP is to assist in improving water quality in rural areas, to be achieved in the most cost-effective manner possible, in keeping with the provision of adequate supplies of food and fiber and a quality environment.

The appropriation act provides as follows:

> For necessary expenses for carrying out an experimental Rural Clean Water Program. $50,000,000, to remain available until expended and to be targeted at areas with identified and significant agricultural nonpoint source water pollution problems to be selected by the Secretary: Provided, That practices under the above program shall be recommended by the County Committees, approved by the State Committees and the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, or recommended by the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, and approved by the State Committees and the County Committees: Provided further, That such program shall be in addition to the regular Agricultural Conservation Program, and coordinated therewith, with the Soil Conservation Service and others providing technical assistance and the Agricultural Stabilization and Conservation Service providing administrative services for the program, including, but not limited to, the negotiation and administration of contracts and the disbursement of payments: Provided further, That such funds as may be required shall be transferred to the Soil Conservation Service, or others, for necessary technical assistance.

In addition, the Conference Report to the appropriation act for fiscal year 1980 provides, in part, as follows:

> The conferees will also expect that the approved funds will be used only for highest priority projects in geographical areas to be selected primarily from applications previously submitted to the Secretary and approved by him in consultation with the Administrator of the Environmental Protection Agency. In addition, where practical, the Agricultural Stabilization and Conservation Service and its State and local committees shall seek the advice and assistance of conservation districts, State soil and water conservation agencies or State water quality agencies. (See H.R. 96–553, dated October 24, 1979, p. 25.)
>
> The conferees also expected that the funding of approved projects under the 1980 RCWP will be primarily from those project applications previously submitted to the Secretary based on the regulations issued under Part 634 on November 1, 1978.

The experimental RCWP is only applicable to privately owned agricultural land. Any owner or operator whose land is in an approved project area and contributing to the area's agricultural nonpoint source water quality problems and who has an approved water quality plan may enter into a contract. The RCWP contract will include Best Management Practices (BNPs) to control agricultural nonpoint source pollution for improved water quality. The basis for the RCWP contracts is a land owner or operator water-quality plan prepared with technical assistance from SCS or its designee and approved by a soil conservation district. Land owner or operator participation in RCWP is on a voluntary basis. The criteria for establishing priorities among individual land owners and operators will be developed by the Local Coordinating Committee (LCC) in consultation with the State Coordinating Committee (SCC) for use by the County ASC Committee and the Soil Conservation District in setting priorities to assure that the most critical water quality problems are addressed.

Included in these rules and regulations are: (1) the responsibilities of USDA agencies, State and local agencies, land owners or operators, and EPA, (2) criteria for selecting, approving, and carrying out projects, (3) requirements for individual land owners or operators to enter into and carry out long-term RCWP contracts with financial and technical assistance, (4) provisions for project funding and termination, (5) requirements for making cost-share payments to participants, and (6) plans for program and project monitoring and evaluation.

Proposed Rule

Accordingly, it is proposed that 7 CFR Part 700 reads as follows:

PART 700—1980 RURAL CLEAN WATER PROGRAM

Subpart A—General

Sec.

700.1 Purpose and scope.
700.2 Objective.
700.3 Administration.
700.4 Definitions.
700.5 Responsibilities.
700.6 Officials not precluded from exercising authority.

Subpart B—Project Authorization and Funding

700.10 Applicability.
700.11 Availability of funds.
700.12 Eligible project areas.
700.13 Project applications.
700.14 Review and approval of project applications.
700.15 Project and technical assistance funding.
700.16 Termination of project funding.

Subpart C—Participant's RCWP Contracts

700.20 Eligible land.
700.21 Eligible person.
700.22 Application for assistance.
700.23 Water quality plan.
700.24 Cost sharing.
700.25 RCWP contract.
700.26 Contract modifications.
700.27 Cost-share payment.
700.28 Appeals.
700.29 Contract violations.
700.30 [Reserved].

Subpart D—Monitoring and Evaluation

700.40 General program monitoring and evaluation.
700.41 Comprehensive USDA/EPA joint project waterquality monitoring, evaluation and analysis.
700.42 Program evaluation.

Authority: PL 96–108, 93 Stat. 821, 835.

Subpart A—General

§ 700.1 Purpose and scope.

(a) The purpose of this Part is for the U.S. Department of Agriculture (USDA), with certain concurrences by the U.S. Environmental Protection Agency (EPA), to set forth regulations to carry out an experimental Rural Clean Water Program (RCWP) as authorized by the Agriculture, Rural Development and Related Agencies Appropriations Act, fiscal year 1980, PL 96–108 (hereinafter referred to as the "1980 appropriations act").

(b) The RCWP will provide financial and technical assistance to private land owners and operators (participants) having control of agricultural land. The assistance is provided through long-term contracts of 3 to 10 years to install best management practices (BMPs) in approved project areas which have critical water quality problems resulting from agricultural activities. The project area should reflect the water quality priority concerns developed through the water quality management program process. Participation in RCWP is voluntary.

(c) This is a new USDA program using the experiences under various on-going USDA programs and existing water quality management programs of EPA.

§ 700.2 Objective.

The objectives of the RCWP are to:

(a) Achieve improved water quality in the approved project area in the most cost-effective manner possible in keeping with the provision of adequate supplies of food, fiber, and a quality environment.

(b) Assist agricultural land owners and operators to reduce agricultural nonpoint source water pollutants and to improve water quality in rural areas to meet water quality standards or water quality goals.

(c) Develop and test programs, policies and procedures for the control of agricultural non-point source pollution.

§ 700.3 Administration.

At the national level, the Secretary of Agriculture will administer the RCWP in consultation with the Administrator, EPA, including EPA's concurrence in the selection of the BMPs, as provided in the 1980 Appropriations Act. Authority to approve projects is reserved to the Secretary. The Secretary of Agriculture hereby delegates responsibility for administration of the program to the Administrator, Agricultural Stabilization and Conservation Service (ASCS) and the coordination of technical assistance to the Administrator, Soil Conservation Service (SCS). ASCS will be assisted by other USDA agencies in accordance with existing authorities.

(a) National Rural Clean Water Coordinating Committee (NCC), chaired by the Administrator, ASCS, will assist in carrying out the RCWP.

(b) A State Rural Clean Water Coordinating Committee (SCC) will assist the State ASC Committee in administering the program. The State ASC Committee Chairperson will chair the SCC. Where two or more States are involved in a project area the Deputy Administrator, State and County Operations (DASCO), ASCS, shall develop a coordinating process.

(c) A Local Rural Clean Water Coordinating Committee (LCC) will be established to assure coordination at the project level. The LCC Committee will be chaired by the County ASC Committee Chairperson and will assist the County ASC Committee as provided in these regulations and as otherwise developed by the SCC and the LCC. Where two or more counties are involved in a project area, the SCC shall develop a coordination process.

§ 700.4 Definitions.

(a) Adequate level of participation. An adequate level of participation is reached when participants having control of 75 percent (unless a different level is approved by the Administrator, ASCS, with the concurrence of the NCC), of the identified critical area(s) or source(s) of the agricultural nonpoint source pollution problem in the project area, are under contract.

(b) Administrative services. The administration of the RCWP except for the technical phases as assigned in § 700.5 of these regulations.

(c) *Agricultural land.* That portion(s) of a farm or ranch used to produce commercially: Grains, row crops, seed crops, vegetables, hay, pasture, orchards, vineyards, trees, field grown ornamentals, livestock or other agricultural commodities.

(d) *Agricultural nonpoint source pollution.* Pollution originating from diffused sources, including, but not limited to, land areas and return flows from agricultural lands such as:

(1) Animal waste areas and land used for livestock and/or crop production, or

(2) Silviculturally related pollution.

(e) *Applicant.* A person in an approved project area who applies for RCWP.

(f) *Average cost.* The calculated cost, determined by recent actual local costs and current cost estimates, considered necessary for carrying out BMPs or an identifiable unit thereof.

(g) *Best management practice (BMP).* A single practice or a system of practices to improve water quality included in the approved RCWP application that reduces or prevents agricultural nonpoint source pollution.

(h) *BMP cost.* The amount of money actually paid or obligated to be paid by the participant for equipment use, materials, and services for carrying out BMPs or an identifiable unit of a BMP. If the participant uses their own resources, the cost includes the computed value of their own labor, equipment use, and materials.

(i) *BMP life span.* Each BMP shall have a life span of not less than 5 years unless otherwise approved by the Administrator, ASCS.

(j) *Conservation district (CD).* A subdivision of a State or territory organized pursuant to the State Soil Conservation District Law, as amended. In some States these are called soil conservation districts, soil and water conservation districts, resource conservation districts, or natural resource districts.

(k) *Contract.* The document that includes the water-quality plan and is executed by the participant and approved by the County ASC Committee. Such document evidences the agreement between parties for carrying out BMPs on the participant's land.

(l) *Contract period.* That period of time, 3 to 10 years, established as necessary to implement the BMPs needed to solve the water quality problems in the contract.

(m) *Cost-share level.* That percentage of the total cost of installing a BMP which is to be borne by the government under the RCWP.

(n) *Cost share rate.* The amount of money per unit (cubic yard, acre, etc.) to be paid for carrying out BMPs under the RCWP.

(o) *County ASC Committee.* The County ASC Committee elected by the farmers/ranchers in the county as provided for under Section 8(b) of the Soil Conservation and Domestic Allotment Act 16 (16 USC 590 h (b)).

(p) *Critical areas or sources.* Those designated areas or sources of agricultural nonpoint source pollutants identified in the project area as having the most significant impact on the quality of the receiving waters.

(q) *Direct costs.* The costs that can be specifically identified with the program.

(r) *Eligible participant.* An individual, partnership, corporation or other entity except Federal, State, or local government, or subdivisions thereof in an approved project area.

(s) *Farmer/rancher.* An owner and/or operator who has a vested interest in the operation of the farm or ranch.

(t) *Federal funds authorized.* The total amount of funds authorized to approved projects.

(u) *Fiscal year.* The fiscal year beginning October 1 and ending September 30.

(v) *Identifiable unit.* A part of a BMP that can be clearly identified as a separate component in carrying out BMPs in the water quality plan.

(w) *Implementation.* The act of carrying out or executing a water quality

plan, including both installation and maintenance of BMPs.

(x) *Maximum payment limitation.* The total amount of RCWP payments which a participant may receive for the full contract period. The total amount of such payments shall not exceed $50,000.

(y) *Offsite benefits.* Favorable effects of BMPs that occur away from the land of the participant receiving RCWP assistance and which accrue to the public.

(z) *Participant.* A land owner and/or operator who is an agricultural producer and applies for and receives assistance under RCWP.

(aa) *Participant's water quality plan.* The plan that identifies critical agricultural nonpoint sources of pollution, identifies water quality problems and schedules the application of BMPs which contribute to meeting the water quality objectives of the project.

(bb) *Plan of work.* A written strategy for implementing the approved project, outlining the actions needed and to be taken by various USDA, State and local agencies and interested groups.

(cc) *Pooling agreement.* An agreement between two or more farmers or ranchers to pool their resources to treat a common water quality problem.

(dd) *Privately-owned rural land.* Lands not owned by Federal, State, or local governments that include cropland, pastureland, forest land, rangeland, and other associated lands.

(ee) *Project area.* The geographic determination included in the project application as agreed upon by the SCC and LCC, and approved by the Secretary, utilizing the water quality planning process which identifies agricultural nonpoint source water quality problems.

(ff) *Project life span.* The maximum total life span of a project shall be fifteen (15) years or less from the date RCWP funds are first made available for the project.

(gg) *RCWP project.* The total system of BMPs, administrative support, institutional arrangements, cost-sharing, technical and community support that are authorized in a RCWP project application.

(hh) *Secretary.* The Secretary of the U.S. Department of Agriculture.

(ii) *Silvicultural.* The science and art of cultivating (growing and tending) forest crops based on the knowledge of forestry. Silviculture-related pollution is included as agriculture nonpoint source pollution in the RCWP.

(jj) *Standards and Specifications.* Requirements that establish the minimum acceptable quality level for planning, designing, installing, and maintaining BMPs.

(kk) *Technical assistance.* The preparation of the participant's water quality plan, the design, layout and implementation of BMPs to accomplish the purposes of the water quality plan, and water quality monitoring and evaluation.

(ll) *Water quality management program.* A Federal-state-local program for addressing and solving point and non-point source pollution problems consistent with national clean water goals. the authority for this program is in Sec. 208 of the Federal Water Pollution Control Act, as amended, Pub. L. 92–500.

§ 700.5 Responsibilities.

(a) *The United States Department of Agriculture (USDA) will:*

(1) Administer the RCWP by entering into contracts with land owners and operators to install and maintain BMPs to control agriculture nonpoint source pollution for improved water quality and:

(i) Consult with EPA in the selection of projects;

(ii) Obtain concurrence from EPA in approval of BMPs; and

(iii) Conduct joint USDA/EPA monitoring and evaluation studies on selected projects.

(2) Provide technical assistance and share the cost of carrying out BMPs as specified in the contracts.

(3) Evaluate the overall effectiveness of the program in improving water quality.

(b) *The Environmental Protection Agency (EPA) will:*

(1) Participate in the NCC, SCC and LCC.

(2) Furnish information from the water quality management planning process which can assist in identifying areas with the most critical water quality problems for project applications.

(3) Participate in the approval of project applications for funding.

(4) Concur with the Secretary on BMPs recommended by the County and State ASC Committees and approved by the Secretary for funding, or recommended by the Secretary, with concurrence of the Administrator, EPA, and approved by the State and County ASC Committees.

(5) Assist USDA in evaluating the effectiveness of the program in improving water quality, including concurrence on projects selected for comprehensive monitoring and evaluation and development of the criteria for the comprehensive, joint USDA–EPA water quality monitoring, evaluation, and analysis program.

(c) *The Agricultural Stabilization and Conservation Service will:*

(1) Serve as chairperson of the NCC, SCC and LCC and be responsible for developing and administering the RCWP.

(2) Provide to the Secretary those project applications recommended for approval, including the recommendations of the NCC.

(3) Through County ASCS Offices, provide the administrative support in all approved RCWP projects, such as accepting applications, preparing and approving contracts, carrying out funds control, issuing cost-share payments, otherwise administering contracts and payments, provide compliance oversight, maintain records and develop reports.

(4) Enter into agreements with Federal, State and local agencies and others as needed for support to be provided in an approved RCWP project.

(5) Through County and Community ASC Committees work with landowners and operators in the project area to encourage participation.

(6) Develop cost-share rates for installing needed BMPs.

(7) Assure that RCWP is coordinated with other farm programs.

(8) Provide guidance to State and County ASC Committees and coordinate the Agricultural Conservation Program (ACP), the Forestry Incentives Program (FIP), and related conservation programs, with RCWP.

(9) Allocate project funds to County ASC Committees in the approved project areas.

(10) Where a project area involves a part(s) of two or more States, DASCO, ASCS, will designate the State ASC Chairperson to chair the SCC for that project.

(d) *The Soil Conservation Service (SCS) will:*

(1) Participate on the NCC, SCC and LCC.

(2) Coordinate technical responsibility and recommend appropriate agency or group to provide technical assistance on a project by project basis.

(3) Provide technical assistance for the appropriate BMPs.

(4) Assist the LCC in developing criteria for use by the County ASC Committees and the conservation district in determining priorities of assistance among individual applicants for developing the water quality plan.

(e) *The Forest Service (FS) will:*

(1) Participate on the NCC and as appropriate, SCC and LCC.

(2) Provide technical assistance for forestry type BMPs, by providing technical assistance through the State Forestry Agency (State Forester as appropriate) for planning, applying, and maintaining forestry BMPs.

(3) As appropriate, assist in developing the water quality plan to assure that the most critical water quality problems are addressed.

(f) *The Science and Education Administration (SEA) will:*

(1) Participate on the NCC, SCC and LCC.

(2) Develop, implement, and coordinate informational and educational programs for agricultural nonpoint source water pollution control.

(3) Provide technical assistance for management type BMPs.

(g) *The Economics, Statistics and Cooperatives Service (ESCS) will:*

(1) Participate on the NCC and, as appropriate, the SCC and LCC.

(2) Assist in the economic evaluation of RCWP projects and BMPs.

(3) Make data available from existing and planned ESCS surveys relating to water quality and related matters.

(4) Conduct socioeconomic research, within ESCS authorities and funds, on relevant policy and program issues pertinent to RCWP.

(5) Assist in the annual program evaluation.

(h) *The Farmers Home Administration (FmHA) will:*

(1) Participate on the NCC, SCC and LCC.

(2) Provide assistance and coordinate their farm loan and grant programs with RCWP.

(i) *The National Rural Clean Water Coordinating Committee (NCC).* The NCC is chaired by the Administrator, ASCS. Other members of the National Committee are the Administrators of SCS, FmHA, and ESCS; the Chief of FS; the Director of SEA; and the Assistant Administrator for Water and Waste Management, EPA. Nonfederal agencies such as conservation districts, State soil and water conservation agencies, State water quality management agencies, and other organizations may attend as observers. The duties of the NCC are to:

(1) Assist the Administrator, ASCS, in developing the program regulations and procedures.

(2) Recommend to the Administrator, ASCS, the project applications to be approved.

(3) Advise the Secretary on the maximum Federal contribution to the total cost of the project and the maximum cost-share levels of BMPs.

(4) Assist in coordinating individual agency programs with the RCWP.

(5) Make recommendations as appropriate on the technical aspects of the program.

(6) Recommend project areas and criteria for comprehensive joint USDA/EPA water quality monitoring, evaluation, and analysis.

(7) Annually review the Plan of Work and approve recommended changes in the project.

(8) Annually review the progress in each project. Periodically advise the Secretary, the Under Secretary for International Affairs and Commodity Programs, and Assistant Secretary for Natural Resources and the Environment on program and policy issues.

(j) *The State Rural Clean Water Coordinating Committee (SCC).* Members include a representative of the agency members on the NCC or their designee. Other members are the State water quality agency having responsibility for water quality planning, and the State soil and water conservation agency and others, including those recommended by the Governor, and approved by the Chairperson of SCC. Other State and local agencies, and organizations, or individuals may attend as observers. The duties of the committee are to:

(1) Submit its recommendations for approval of project application(s) to the State ASC Committee for forwarding to the NCC, through the Administrator, ASCS.

(2) Assure coordniation of activities at the project level by assisting in determining the composition and responsibilities of the LCC.

(3) Assure adquate public participation, including public meeting(s), and appropriate environmental evaluation in the preparation of RCWP applications.

(4) Provide oversight for the RCWP in the State and to assist USDA and EPA in their comprehensive, joint water quality monitoring and evaluation of selected project areas, including coordination with the LCC.

(5) Develop procedures for coordination between the RCWP and other water quality programs at the local level.

(6) Assist the State ASC Committee in developing the membership of the LCC. For multi county projects, there will be one LCC.

(7) Review and forward the annual Plan of Work and recommended changes of the LCC to the NCC through the Administrator, ASCS.

(k) *The Local Rural Clean Water Coordinating Committee (LCC).* The LCC is chaired by the County ASC Committee Chairperson. Other members include a representative of the agency members on the NCC, where applicable, and a representative of the soil and water conservation district, the designated water quality management agency. State forestry agency, and others as designated by the STC. (Where more than one county is in a project area only one LCC will be established by the project area.) The duties of the committee are to ensure that a process exists and actions are taken to implement any approved project. The duties will include, among others which may be outlined by the SCC, the following:

(1) Assure an adequate level of public participation in implementing the project.

(2) Provide project coordination, including development of the plan of work for implementing the approved project using various USDA agencies, local agencies and interested groups.

(i) Enlist resources from other agencies and local groups.

(ii) Conduct informational and educational activities relating to the project.

(iii) Develop criteria with the SCC for use by the County ASC Committee and the soil conservation district to establish priorities among individual applications for developing water quality plans.

(iv) Assist with the development of an adequate plan for project monitoring and evaluation.

(3) Consult with SCC for coordination with USDA State officials, State water quality official, and EPA regional representatives to develop criteria for project plan of work and project coordination.

(4) Review the project Plan of Work annually and recommend changes in the approved project to the SCC.

(l) *State ASC Committee will:*

(1) Provide the Chairperson for the SCC and be responsible for administration of the RCWP project(s) in the State.

(2) Submit those project applications recommended by the SCC to the Administrator, ASCS.

(3) Provide overall administrative support for the RCWP through the County ASC Committee(s).

(4) Designate a County ASC Committee Chairperson to serve as Chairperson of the LCC in multi-county projects.

(5) Approve the BMPs for inclusion in project applications.

(6) Be responsbile for all other administrative functions as provided in these regulations.

(m) *The Governor of each State may:*

(1) Recommend to the SCC Chairperson appropriate additional individuals for membership on the SCC.

(2) Furnish to the SCC a listing of the water quality priority areas in the State.

(m) *The State soil and water conservation agency may:*

(1) Participate on the SCC and LCC.

(2) Assist in preparing and submitting RCWP project applications.

(3) Carry out responsbilities of soil conservation districts where no soil conservation district exists.

(o) *The State water quality agency may:*

(1) Participate on the SCC and LCC.

(2) Assist in preparing and submitting RCWP project applications.

(3) Assist is monitoring and evaluating the water quality effectiveness of projects.

(p) *The County ASC Committee will:*

(1) Be responsbile for administration of the RCWP at the the local level.

(2) Provide the chairperson of the LCC.

(3) Provide overall administrative support for the RCWP approved project through the ASCS County Office, including accepting applications, administering the contracts and making payments and preparing reports.

(4) Recommended approval of BMP's.

(5) Together with the Soil Conservation District, determine the priority for technical assistance among individual applicants for water quality plans based on criteria developed by the LCC to assure that the most critical water quality problems are addressed.

(6) Establish the cost share level for BMP's in the RCWP project applications in consultation with the LCC.

(7) Utilize the Community ASC Committee(s) and LCC in encouraging farmers in the project area to install needed BMPs on the priority basis developed by the LCC.

(8) Be responsible for developing, and annually reviewing and carrying out the plan of work for the approved project.

(9) Assist the LCC in and coordinate the overall evaluation of the effectiveness of the project in improving water quality.

(q) *The Soil Conservation District will:*

(1) Participate on the local coordinating committees.

(2) Assist in the preparation and submission of applications for the RCWP.

(3) Assist in the promotion of the approved RCWP project.

(4) Together with the County ASC Committee, determine the priority of technical assistance among individual applicants for water quality plans based on criteria developed by the LCC to assure that the most critical water quality problems are addressed.

(5) Approve participants' water quality plans and revisions.

§ 700.6 Officials not precluded from exercising authority.

Nothing in these regulations shall preclude the Secretary; Administrator ASCS; NCC; or Deputy Administrator, State and County Operations, ASCS; from administering any or all phases of the RCWP programs or exercising other functions delegated to the LCC, County ASC Committee, SCC, State ASC Committee or any employee(s). In exercising this authority either the Secretary, Administrator, ASCS, or Deputy Administrator, ASCS, may delegate a person or persons to be in charge with full authority to carry out the program or other function(s) without regard to the LCC. ASC committee(s), or employee(s) for such period of time as he or she may deem necessary.

Subpart B—Project Authorization and Funding

§ 700.10 Applicability.

The RCWP is applicable in project areas that meet the criteria for eligibility contained in § 700.12 and are authorized for funding by the Secretary.

§ 700.11 Availability of funds.

(a) The allocation of funds to the County ASC Committee(s) in a project area is to be made on the basis of the total funds needed to carry out the approved project.

(b) The obligation of Federal funds for RCWP contracts with participants is to be made on the basis of the total contract costs.

§ 700.12 Eligible project areas.

(a) Only those project areas which reflect the water quality priority concerns developed through the water quality management planning process and have identified agricultural nonpoint source water quality problems are eligible for authorization under RCWP. Only those critical areas or sources of pollutants significantly contributing to the water quality problems are eligible for financial and technical assistance.

(b) An RCWP project area is a hydrologically related land area. Exceptions may be made for ease of administration, or to focus on concentrated critical areas. To be designated as an RCWP project area eligible for authorization, the area's water quality problems must be related to agricultural nonpoint source pollutants, including sediment, animal waste, irrigation return flows, runoff, or leachate that contain high concentrations of nitrogen, phosphorus, dissolved solids, toxics (pesticides and heavy metals), or high pathogen levels.

§ 700.13 Project applications.

Existing and subsequent project applications submitted for consideration must contain adequate information on each item specified in § 700.14. Instructions on such information requirements will be issued by the Administrator, ASCS.

Opportunity will be provided prior to final approval of a project for the LCC and the SCC, in consultation with the Governor, through the applicable County and State ASC Committees, for modification necessary to bring them into conformance with the provisions of these regulations.

§ 700.14 Review and approval of project applications.

(a) In reviewing applications and recommending priorities, the NCC will consider the following:

(1) Severity of the water quality problem caused by agricultural and silvicultural related pollutants, including:

(i) State designated uses of the water affected, (ii) Kinds, sources, and effects of pollutants, (iii) Miles of stream or acres of water bodies affected, and

(2) Demonstration of public benefits from the project, inlcuding:

(i) Effects on human health, (ii) Population benefited by improved water quality, (iii) Effects on the natural environment, and (iv) Additional beneficial uses of the waters that result from improvement of the water quality,

(3) Economic, and technical feasibility to control water quality problems within the life of the project, including:

(i) Size of the area and BMPs needed, (ii) Cost per participant and cost per acre for solution of problem, and (iii) Cost effectiveness of BMPs.

(4) Suitability of the project for the experimental RCWP in the testing of programs, policies and procedures for the control of agricultural non-point source pollution, including:

(i) Project representative of a geographic area with significant water quality problems. (ii) The potential of the project for monitoring and evaluation, including existing base line data.

(5) State, local and other input in the project area, including:

(i) Funds for cost-sharing and technical assistance. (ii) Commitment of local leadership to promote the program.

(6) The project's contribution to meeting the national water quality goals including identification and relative significance of other major sources of pollutants which affect the water quality in or near the project area.

(b) Based on the project application, the NCC is to recommend an upper limit of the Federal contribution to the total cost of the project. This includes both BMP cost-share and technical assistance costs.

(c) All project applications will be reviewed by EPA. BMPS approval for funding require EPA concurrence, except that the Secretary may assume EPA's concurrence, if EPA does not act within 15 days following receipt of the request for concurrence.

(d) The Secretary will approve projects for funding taking into consideration the recommendations of the NCC and consultation with EPA. The Chairperson, State ASC Committee, through the SCC, will assure that involved Federal, State, and local agencies are informed of the project approval.

§ 700.15 Project and technical assistance funding.

(a) Upon approval of a project, the Administrator, ASCS, will transfer funds to the State(s) ASC Committee for funding the project. The State committee will transfer funds to the County ASC Committee(s) for the county or counties in an approved project.

(b) ASCS will transfer funds to the applicable agency or organization providing the specific technical assistance. The transfer will be made on a project by project basis.

§ 700.16 Termination of project funding.

(a) Based on evidence of failure to accomplish the approved project, including inadequate level of participation, the Administrator, ASCS, may issue a termination notice after conferring with the Administrator, EPA and the NCC.

(b) The State ASC Committee shall give 10-day written notice to the applicable County ASC Committee of intent to terminate project funding. The termination shall establish the effective date of termination and the date for return of funds.

(c) After receipt of a project termination, the County ASC Committee shall not make any new commitments or enter into any new RCWP contracts. Those contracts in force at the time of project termination will remain in force until completed.

Subpart C—Participant's RCWP Contracts

§ 700.20 Eligible land.

RCWP is only applicable to privately owned agricultural lands in approved project areas.

§ 700.21 Eligible person.

(a) Any land owner or operator whose land or activities in a project area is contributing to the area's agricultural nonpoint source water quality problems and who has an approved water quality plan is eligible to enter into an RCWP contract.

(b) This program will be conducted in compliance with all requirements respecting nondiscrimination as contained in the Civil Rights Act of 1964 and amendments thereto and the Regulations of the Secretary of Agriculture (7 CFR 15.1–15.12).

§ 700.22 Application for assistance.

(a) Land owners or operators must apply for RCWP assistance through the office of the County ASC Committee(s) by completing the prescribed application form.

(b) The priority for developing water quality plans among applicants is to be determined by the County ASC Committee and the soil conservation district based on the criteria developed by the LCC in consultation with the SCC, with technical assistance from SCS.

§ 700.23 Water quality plan.

(a) The participant's water quality plan, developed with technical assistance and certification by the SCS or its designee and approved by the CD, is to include appropriate BMPs identified in the water quality planning process. Such BMPs must reduce the amount of pollutants that enter a stream or lake by:

(1) Methods such as reducing the application rates or changing the application methods of potential pollutants, and

(2) Methods such as practices or combinations of practices which prevent potential pollutants from leaving source areas or reduce the amount of potential pollutants that reach a stream or lake after leaving a source area.

(b) Participants' water quality plans shall include BMPs for the treatment of all critical areas or sources on the farm on that land within the project area regardless of eligibility for cost-sharing with RCWP funds. Management type BMPs which are not cost-shared but for which technical advice will be given project participants shall be listed in the plan.

(c) The participant is responsible for compliance with all applicable Federal, State, and local laws including those relating to the environment, in installing BMPs to solve the nonpoint source water quality problems.

(d) Time schedules for implementing BMPs are to be provided in the participant's water quality plan.

§ 700.24 Cost sharing.

(a) The level of cost-sharing for each project is approved by the Secretary, taking into consideration the recommendation of the NCC. The federal cost-share shall not exceed 75%, unless otherwise approved.

(b) The maximum cost-sharing by Federal, State, or Subdivision thereof shall not exceed 100% of the cost of carrying out the BMP.

(c) The County ASC Committee(s) in consultation with the LCC will annually set maximum individual BMP cost-share rates for the project area.

(d) BMPs to be cost shared must have a positive effect on water quality.

(e) Cost sharing is not to be made available for measures installed primarily for:

(1) Bringing additional land into crop production.

(2) Increasing production on existing crop land.

(3) Flood protection as the primary purpose.

(4) Structural measures authorized for installation under Pub. L. 83–566.

§ 700.25 RCWP contract.

(a) To participate in RCWP, a land owner or operator must enter into a contract in which they agree to carry out the water-quality plan. Any person who controls, or shares control, of the farm, or ranch, for the proposed contract period must sign the contract.

(b) Cost-sharing payments cannot be provided for any measure that is initiated before the contract is approved by the County ASC Committee.

(c) The participant must furnish satisfactory evidence of his or her control of the farm, or ranch.

(d) RCWP contracts shall include the basic contract document, the participant's water-quality plan, schedule of operations, and special provisions as needed.

(e) Technical assistance will be provided to participants to develop the water quality plan and to install BMPs.

(f) SCS or its designee shall approve the technical adequacy of the Water Quality Plan.

(g) Participants shall install BMPs according to the specifications that are applicable at the time measures are installed.

(h) The contract period is to be not less than 3 and not more than 10 years. A contract is to extend for at least 1 year after the application of the last cost-shared BMPs. All contract items are to be accomplished prior to contract expiration.

(i) BMPs are to be maintained by the participant at no cost to the RCWP.

(j) All cost shared BMPs shall be maintained for a minimum of 5 years after year of installation or for the established life span of the BMP if the life span exceeds 5 years.

(k) The County ASC Committee in consultation with the LCC shall establish a BMP life span for each BMP offered in the approved project area. Each BMP cost-shared shall have a life span of at least 5 years, unless otherwise approved by the Administrator, ASCS.

(l) A participant may enter into a pooling agreement with other participants to solve mutual water quality problems.

(m) Participants are responsible for:

(1) Accomplishing the water quality plan,

(2) Obtaining and maintaining any required permits and easements necessary to perform the planned work,

(3) Applying or arranging for the application of BMPs, as scheduled in the plan, according to approved standards and specifications,

(4) The operation and maintenance of BMPs installed during the contract period, and

(5) Obtaining the authorities, rights, easements, or other approvals necessary to maintain BMPs in keeping with applicable laws and regulations.

(n) Unless otherwise approved by the NCC, the County ASC Committees shall not enter into any new RCWP contracts after five (5) years from the date when RCWP funds are first made available to the project.

§ 700.26 Contract modifications.

(a) The County ASC Committee by mutual agreement with the landowner or operator, may modify contracts previously entered into if it is determined to be desirable to carry out the purposes of the program, facilitate the practical administration thereof, or to accomplish equitable treatment with respect to other conservation, land-use, and/or water quality programs.

(b) Requirements of active contracts may be modified by the County ASC Committee only if such modifications are specifically provided for in these regulations. The concurrence of SCS or its designee in modifications is necessary when modifications involve a technical aspect of the participant's water quality plan. A contract may be modified only if it is determined that such modifications are desirable to carry out purposes of the program or to facilitate the program's practical administration.

(c) Contracts shall be modified when the participants add or delete land to the farm.

(d) Contracts may be modified to add, delete, or substitute BMPs when:

(1) The installed measure failed to achieve the desired results through no fault of the participant,

(2) The installed measure deteriorated because of conditions beyond the control of the participant,

(3) Another BMP will achieve the desired results, or

(4) Extent of BMP is changed.

(e) Contract modifications are not required when items of work are accomplished prior to scheduled completin or within 1 year following the year of scheduled completion. Other time schedule revisions will require modification.

(f) If, during the contract period, all or part of the right and interest in the land is transferred by sale or other transfer action, the contract is terminated on that portion of the contract, the participant:

(1) Forfeits all right to any future cost-share payments on the transferred portion, and

(2) Must refund all cost-share payments that have been made on the transferred land unit unless the new land owner or operator becomes a party to the contract, except that where it is determined by the County ASC Committee with the concurrence of the technical agency and with the approval of the State ASC Committee, and the established BMPs will provide water quality benefits for the design life of the BMP, the payment may be retained.

(g) If the new land owner or operator becomes a party to the contract:

(1) Payment which has been earned, may be made to the participant who applied the BMPs and had control prior to the transfer.

(2) The new land owner or operator is to assume all obligations of the previous participant with respect to the transferred land,

(3) The contract with the new participant is to remain in effect with the original terms and conditions, and

(4) The original contract is to be modified in writing to show the changes caused by the transfer. If the modification is not acceptable to the County ASC Committee, the provisions of (f)(1) and (2) of this section apply.

§ 700.27 Cost-share payment.

(a) *General.* Participants are to obtain or contract for materials or services as needed to install BMPs. Federal cost-share payments are to be made by the County ASC Committee upon certification by the District Conservationist, SCS, or designee, that the BMPs, or an identifiable unit thereof, have been properly carried out and meet the appropriate standards and specifications.

(b) *Payment maximum.* The maximum RCWP cost-share payment to a participant shall be limited to $50,000.

(c) *Basis for cost-share payment.*

(1) Cost-share payments are to be made by the County ASC Committee at the cost-share percentage specified in the project approval notice and by one of the following methods as set out in the contract:

(i) Average cost, or

(ii) Actual cost but not to exceed the average cost.

(2) If the average cost at the time of starting the installation of a BMP or identifiable unit is less than the costs specified in the contract, payment is to be at the lower rate. If the costs at the start of installation are higher, payment may be made at the higher rate. A modification will be necessary if the higher cost results in a significant increase in the total cost-share obligation. Cost-share payment is not to be made until the modification reflecting the increase is approved.

(d) *Average cost development.* Average costs are to be developed by the County ASC Committee for each project using cost data from the local area. These costs shall be reviewed by the SCC for consistency with average costs in other USDA programs. These average costs shall be updated annually by the County ASC Committee in consultation with the LCC.

(e) *Application for payment.* Cost-share payments shall be made by the County ASC Committee after a participant has completed a BMP or an identifiable unit of a BMP and it is determined to meet standards and specifications. Application for payment must be submitted to the County ASC Committee, on the prescribed form and be supported by such cost receipts as are required by the County ASC Committee. It is the participant's responsibility to apply for payments.

(f) *Authorizations for payments to suppliers.*

(1) The contract may authorize that part or all of the Federal cost share for a BMP or an identifiable unit be made directly to suppliers of materials or services. The materials or services must be delivered or performed before payment is made.

(2) Federal cost shares will not be in excess of the cost share attributable to the material or service used or not in excess of the cost share for all identifiable units as may be requested by the participant.

(g) *Material inspection and analysis.* When authorizations for payments to suppliers are specified, the County ASC Committee, its representatives, or the Federal Government reserve the right to inspect, sample, and analyze materials or services prior to their use.

(h) *Assignments, set-offs, and claims.*

(1) Any person who may be entitled to any cost-share may assign rights thereto in accordance with regulations governing the assignments of payments. (31 U.S.C. 203, as amended, and 41, U.S.C. 15, as amended.)

(2) If any participant to whom compensation is payable under RCWP is indebted to the United States and such indebtedness is listed on the country register of indebtedness maintained by the County ASC Committee, the compensation due the participant must be used (set-off) to reduce that indebtedness. Indebtedness to USDA is to be given first consideration. Deductions for setoffs involving a nonresident alien shall be made as provided by 26 U.S.C. 871. Setoffs made pursuant to this section are not to deprive the participant of any right to contest the justness of the indebtedness involved. (See 7 CFR Part 13.)

(3) Any cost-share payment due any participant shall be allowed without deduction of claims for advances except as provided for above and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the participant or any other creditor.

(i) *Access to land unit and records.* The County ASC Committee, the agency providing technical assistance or representatives thereof, shall have the right of access at reasonable times to land under application or contract, and the right to examine any program records to ascertain the accuracy of any representations made in the applications or contract.

(j) *Suspension of payments.* No cost-share payments will be made pending a decision on whether or not a contract violation has occurred.

(k) *Ineligible payments.* The filing of requests for payment for BMPs not carried out, or for BMPs carried out in such a manner that they do not meet the contract specifications, constitutes a violation of the contract.

§ 700.28 Appeals.

(a) The applicant may, prior to execution of the contract, request that the County ASC Committee review or reconsider administrative criteria being used in developing his or her contract.

(1) The applicant shall make a written request to the County ASC Committee setting forth the basis for the appeal.

(2) The County ASC Committee shall have 30 days in which to make a decision and notify the applicant in writing.

(3) The decision of the County ASC Committee may be appealed to the State ASC Committee.

(4) The State ASC Committee decision shall be final.

(b) The applicant/participant may request and receive a review by the SCS State Conservationist of criteria used in developing the water quality plan or BMP specifications.

(c) After the contract has been executed, the participant may request and receive a review of administrative procedures under the ASCS appeals procedures set out in 7 CFR 780.

§ 700.29 Contract violations.

(a) The following actions constitute a violation of the RCWP contract by a participant:

(1) Knowingly or negligently damaging or causing BMPs to become impaired.

(2) Failing to comply with the terms of the contract.

(3) Filing a false claim.

(4) Misusing conservation materials or services.

(5) Adopting a land use or practice during the contract period which tends to defeat the purposes of the program.

(b) *Contract termination as a result of violations.*

(1) The participant agrees to forfeit all rights to further cost-sharing payments under a contract and to refund all cost-share payments received if the County ASC Committee with the concurrence of the State ASC Committee, determines that:

(i) There was a violation of the contract during the time the participant had control of the land; and

(ii) The violation was of such a nature as to warrant termination of the contract.

(2) The participant shall be obligated to refund all cost-share payments, including those paid to vendors for materials and services.

(c) *Payment adjustments and refunds resulting from violations.*

(1) The participant agrees to refund cost-share payments received under the contract or to accept payment adjustments if the County ASC Committee determines and the State ASC Committee concurs that:

(i) There was a violation of the contract during the time the participant had control of the land; and

(ii) The nature of the violation does not warrant termination of the contract.

(2) Payment adjustments may include decreasing the rate of the cost share, or deleting from the contract a cost-share commitment, or withholding cost-share payments earned but not paid. The participant who signs the contract may be obligated to refund cost-share payments.

§ 700.30 [Reserved]

Subpart D—Monitoring and Evaluation

§ 700.40 General program monitoring and evaluation.

(a) *Requirement.* All approved RCWP projects will be monitored in sufficient detail to determine BMP application progress and to generally document water quality improvement trends through the life of the project. This will include, among others, data on BMP installation progress, payments made, refunds, periodic water quality monitoring for addressing short and long-term trends in water quality.

(b) *Monitoring report.* A water quality monitoring report will be submitted with the annual BMP progress report. The initial report will include:

(1) A description of water quality monitoring strategy for the area,

(2) Data collection schedule,

(3) Parameters being monitored (and baseline values),

(4) Collection and analytical methods,

(5) A summary of existing data and trends.

Subsequent reports will update the initial data and report any significant changes in water quality land use or occurrences.

(c) *Program monitoring funding.* The project application and the proposed monitoring plan are to include an estimate of the local and State financial and technical support. General monitoring will not be financed with RCWP funds.

§ 700.41 Comprehensive USDA/EPA joint project water quality monitoring, evaluation, and analysis.

(a) *Requirement.* The Secretary and Administrator, EPA will jointly select a limited number of projects to be comprehensively monitored and evaluated from a list of projects recommended by the NCC. The NCC will develop criteria for selecting the project areas.

(b) *Project selection.* The NCC will recommend projects for this comprehensive program. The project areas are to be representative of the agricultural and silvicultural nonpoint source pollution problems.

(c) *Plan development.* After a project is selected for the comprehensive monitoring and evaluation, the SCC is to submit within 90 days, a plan for USDA–EPA review and approval. USDA and EPA will have 30 days for the plan review and approval process.

(d) *Plan requirements.* In general, the comprehensive monitoring plan will address and include the following:

(1) *Objective.* Define the purpose and scope of the monitoring program and

establish clear objectives for each activity proposed.

(2) *Monitoring strategy.* Define the basic hydrological and meteorological factors within the proposed RCWP project area and identify the strategy and parameters to be used to identify the changes in water quality attributable to the installation of BMPs. Wherever possible, identify and quantify changes in land use, land use patterns and farming practices that will effect the quantity, quality or timing of nonpoint source pollutants reaching an aquatic system. Detail information as to number and location of sampling stations and the frequency of sample collection.

(3) *Socioeconomic impacts.* Identify the positive and negative impacts on the landowners in the project area and estimate the community or off-site benefits expected of the project if completed as planned.

(4) *Institutional aspects.* Identify and clearly define the role and responsibility for each participating agency including, where appropriate fiscal and manpower commitments.

(5) *Educational aspects.* Clearly define the approach(es) to be used to inform and educate individual landowners. Include procedures for periodic evaluation of this effort so the mid-course corrections can be made if needed.

(6) *Quality assurance.* To insure that the data collected is useable to make National projections, a quality assurance program must be included that is consistent with that of the EPA Region within which the project is located.

(7) *Data storage.* The data collected on comprehensive monitoring projects must be available to USDA and EPA RCWP user groups.

(e) *Reporting.* Reports for these projects are to be made at least annually to the NCC based on guidance sent to the SCC by the Administrator, ASCS.

(f) *Funding.* Funding for comprehensive monitoring will be provided from RCWP funds and other authorizations.

§ 700.42 Program evaluation.

(a) The RCWP will be evaluated annually by the USDA. The evaluation will be based on the reports provided in these regulations and on special studies undertaken by USDA or EPA as part of the RCWP program

(b) The USDA Deputy Under Secretary for International Affairs and Commodity Program will have the responsibility for coordinating the program evaluation and preparing an annual report for transmittal to the Secretary of Agriculture and the Administrator of EPA. The Deputy Assistant Secretary for Natural Resources and the Director of Economics, Policy Analysis and Budget, USDA, and the Assistant Administrator for Water and Waste Management, EPA will assist in this effort through their representative on the NCC.

Note.—A program of assistance to landowners and operators similar to that in this program was developed in 1978 by the Soil Conservation Service (SCS). The SCS went through the rule making process for such program. Draft regulations were issued in April 1978. Public hearings and public comment were received on such program and final regulations were issued on November 1, 1978 by the SCS. An environmental impact statement (EIS) and an impact analysis statement was also developed on such program. The above referred to regulations, public comments, and impact statements were utilized to the extent feasible in developing this experimental Rural Clean Water Program. In view of the foregoing, as well as the fact that it is important that the project area be designated under the RCWP before normal planting time, it is hereby determined that these regulations are being published under the emergency provisions of 5 U.S.C. 553 and Executive Order 12044 and that the 30-day comment period is warranted. Accordingly, all comments must be received by January 21, 1980 in order to be assured of consideration.

These regulations are being classified as "significant", therefore a draft Impact Analysis and a draft Environmental Impact Statement is available for review from Alan Durick, ASCS, Washington, D.C.

Dated: December 19, 1979.

Approved by:

Jim Williams,

Acting Secretary.

[FR Doc. 79-39285 Filed 12-20-79; 8:45 am]

BILLING CODE 3410-05-M

federal register

Friday
December 21, 1979

Part XII

Department of the Interior

Geological Survey

Revised Outer Continental Shelf Orders Governing Oil and Gas Lease Operations

DEPARTMENT OF THE INTERIOR

Geological Survey

Revised Outer Continental Shelf Orders Governing Oil and Gas Lease Operations

Notice is hereby given that, pursuant to Title 30 CFR Part 250.11, the Chief, Conservation Division, U.S. Geological Survey, has approved the issuance of revisions to the Outer Continental Shelf (OCS) Orders for the following OCS Areas:

Gulf of Mexico
Pacific
Gulf of Alaska
Atlantic

Revised Area OCS Orders Nos. 1, 2, 3, 4, 5, 7, 8, and 12 will be effective January 1, 1980. These Orders supersede the corresponding Orders currently in effect for the OCS Areas listed above.

During the development of the final version of these Orders, it was determined that the requirements for the Orders for the North, South, and Mid-Atlantic Areas were the same. Therefore, the requirements were incorporated into a single set of Atlantic Area OCS Orders.

These Orders incorporate appropriate suggestions which were received in response to the solicitations for comments and postponement announcements as presented by the following **Federal Register** Notices:

1. Vol. 44, No. 127, June 29, 1979, requested comments on the final version of OCS Orders Nos. 1, 2, 3, 4, 5, 7, and 12 for the Gulf of Mexico, Pacific, Gulf of Alaska, and Atlantic Areas as published in the **Federal Register**, Part IV, Vol. No. 44, No. 98, May 18, 1979. This Notice postponed the effective date of the Orders to October 1, 1979.

2. Vol. 44, No. 189, September 27, 1979, postponed the effective date of the Orders to December 1, 1979, and announced that the final orders would include the final version of Arctic Orders Nos. 1, 2, 3, 4, 5, 7, and 12.

3. Vol. 44, No. 128, July 2, 1979, requested comments on proposed OCS Order No. 8 and proposed "Operating Procedures for the OCS Platform Verification Program" for the Gulf of Mexico, Pacific, Gulf of Alaska, Atlantic, and Arctic Areas.

4. Vol. 44, No. 232, November 30, 1979, postponed the effective date of the Orders to January 1, 1980.

These Orders have also been revised to reflect the revision of the operating regulations contained in Title 30 of the Code of Federal Regulations, Part 250 (30 CFR 250), which implements the Outer Continental Shelf Lands Act Amendments (OCSLAA) of 1978. These regulation revisions were published in the **Federal Register**, Vol. 44, No. 209, Part VII, on October 26, 1979, with an effective date of December 13, 1979.

The Arctic OCS Orders are not being published in final form at this time as announced in the September 27, 1979, **Federal Register**. They will be published in the near future with an analysis of the difference between these Orders and the Orders in effect in other OCS Areas. However, the Arctic Orders will be published and have an effective date prior to conducting any operation subject to these Orders.

Comments were received from the following organizations:

Alaska Legal Services Corporation
Alaska Oil and Gas Association
American Bureau of Shipping
AMOCO Production Co.
Atlantic Richfield Co.
Axelson, Inc.
Brown & Root, Inc.
Chevron USA, Inc.
Chicago Bridge and Iron Co.
Continental Oil Co.
Det Norske Veritas
Engineering Specialties, Inc.
Exxon Company, USA
Getty Oil Co.
Gulf Oil Exploration and Production Co.
H. M. Tiedmann & Co., Inc.
Hunt Oil Co.
J. Ray McDermott & Co.
Lone Star Steel Co.
Marathon Oil Co.
Massachusetts Executive Office of Environmental Affairs
National Ocean Industries Association
Natural Resources Defense Council, Inc.
Offshore Operators Committee
Otis Engineering Corporation
Pace Marine Engineering Systems, Inc.
Pennzoil Co.
Phillips Petroleum Co.
Shell Oil Co.
Sun Production Co.
Tennessee Gas Pipeline
Texaco, Inc.
Trans-Continental Gas Pipeline Corporation
Trustees for Alaska
Union Oil Company of California, Gulf and Western Regions
U.S. Department of the Interior, Fish and Wildlife Service
U.S. Navy, Naval Facilities Engineering Command

Summaries of the comments received, discussions for accepting or rejecting the suggestions of the commenters, the final versions of the Orders, and the final version of the document entitled "Operating Procedures for the OCS Platform Verification Program" are published below. The requirements of certain paragraphs and subparagraphs are different for the various Areas due to environmental, geological, geophysical, or geographical differences. The Areas which are affected by these varying requirements are identified in the appropriate paragraphs and subparagraphs of the Orders. Booklet copies of the final Orders for each Area will contain only those requirements which are applicable to that Area.

The term OCS Area as used herein is defined as an established organizational unit of a U.S. Geological Survey Region which is under the jurisdiction of an Area Oil and Gas Supervisor. An Area is comprised of one or more Districts which are under the administration of a District Supervisor.

These Area OCS Orders are applicable to leases on the Outer Continental Shelf. The term "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 31, 83rd Congress, 1st Session) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Where these Area OCS Orders refer to approvals or determinations by the Supervisor, these references mean the appropriate Area Oil and Gas Supervisor. In those instances where approvals or determinations are to be made by the District Supervisor, the Orders so state and the determination is made by the appropriate District Supervisor.

Departures granted under the provisions of the previous Area OCS Orders shall remain in effect, provided these specific provisions under which the departures were granted remain unrevised in these Orders.

For further information, contact Mr. Richard B. Krahl, Chief of the Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, Mail Stop 640, Reston, Virginia 22092 (703–860–7531). The primary author of this document is Mr. Lloyd M. Tracey, OCS Orders and Standards Section, Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, Mail Stop 640, Reston, Virginia 22092 (703–860–7835).

Federal Register reprints of the revised Area OCS Orders are available from the following:

Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, P.O. Box 7944, Metairie, Louisiana 70011.
Conservation Manager, Eastern Region, U.S. Geological Survey, 1725 K Street, N.W., Washington, D.C. 20006.
Conservation Manager, Western Region, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California 94025.
Area Oil and Gas Supervisor, Alaska Area, P.O. Box 259, Anchorage, Alaska 99510.

Conservation Manager, Pacific Region, 1340 West 6th Street, Los Angeles, California 90017.

Chief, Conservation Division, U.S. Geological Survey, Mail Stop 640, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

Booklet copies of the revised Area OCS Orders will be available from the addresses listed above after January 1, 1980.

Copies of the U.S. Geological Survey Standards, which are referenced in Area OCS Order No. 2, are available from the Chief, Conservation Division, at the address above.

Dated: December 18, 1979.

Don E. Kash,

Chief, Conservation Division.

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General Comments

Comments. One commenter contended that "Generally, the revised OCS Orders in their present form are more restrictive and more demanding in paperwork and recordkeeping by both Industry and Survey which certainly is not in accord with Presidential Executive Order 12044."

Discussion. The commenter's contention that full compliance with the revised Orders results in an increase over the paperwork and recording requirements of existing OCS Orders is correct; however, the comment fails to recognize that those increased requirements are the result of revisions in the OCS Orders to reflect the requirements of applicable laws including the 1978 Amendments of the OCS Lands Act. In keeping with the intent of Executive Order 12044, we have worked to keep the increased requirements to a minimum.

Comments. One commenter contended that "* * * the rulemaking procedure was inadequate and in violation of Sections 552 and 553 of the Administrative Procedure Act, as well as Executive Order number 12044, because, among other things, the proposed National Orders were arbitrarily and substantially changed after the period provided for public comment * * *."

Discussion. The issuance of revised OCS Orders, as set forth below, is not formal rulemaking and thus does not violate the Administrative Procedure Act. However, under a participatory procedure similar to that of the Administrative Procedure Act, the revised Orders as published in the **Federal Register,** Vol. 44, No. 98, May 18, 1979, reflected appropriate responses to comments that had been received in response to the proposed National OCS Orders which were published in the **Federal Register,** Vol. 42, No. 125, on June 29, 1977, and Vol. 42, No. 165, on August 25, 1977. The summaries of comments and discussions which were published with the OCS Orders on May 18, 1979, provided adequate response to all comments received. The revisions to the OCS Orders which were not the results of comments have been examined by the USGS, and it has determined that all of those revisions were either for the purpose of clarification or were requirements incorporated into the OCS Orders to avoid hazardous situations recognized as a result of blowouts or other accidents which occurred during the time period between the publication of the proposed National Orders in 1977 to the publication of final Orders on May 18, 1979. Although we believe all such revisions were fully justified, in response to several requests that the comment period be reopened, the USGS announced in the **Federal Register,** Vol. 44, No. 127, on June 29, 1979, an additional comment period ending August 1, 1979. That Notice also announced the postponement of the effective date of the revised OCS Orders to October 1, 1979. The revised Orders which are published below reflect the consideration given to the comments which were received between June 29 and August 1, 1979. In order to respond to the large volume of comments received, the effective date of the Orders was postponed to December 1, 1979, as announced in the **Federal Register,** Vol. 44, No. 189, on September 27, 1979. The effective date was subsequently extended to January 1, 1980, as announced in the **Federal Register,** Vol. 44, No. 232, on November 30, 1979. This extension was necesssary to provide time to incorporate the final revisions of the regulations which were published in the **Federal Register,** Vol. 44, No. 209, on October 26, 1979. These

regulations are to be effective on December 13, 1979.

It should be noted that the Preamble of each of the revised OCS Orders cites the new and revised regulations which implement the Outer Continental Shelf Lands Act Amendments (OCSLAA) of 1978.

It should also be noted that, due to technical and editorial revisions, the paragraph numbering has been changed in many of the OCS Orders. In the discussion of the revisions, the new paragraph numbering coincides with the final Order. The former paragraph numbering is shown in parenthesis.

Comments. One commenter noted that the term "operator" has been replaced with the term "lessee" throughout the revised OCS Orders. The commenter also contended that "There appears to be some confusion between 'drilling contractor' and 'operator.' We agree that the 'drilling contractor' is the lesee's agent and that the 'lessees' are generally responsible for drilling and development of the lease. Therefore, with regard to provisions addressing legal liabilities, 'lessee' would be correct. However, many of the provisions apply to operational questions, such as submission of forms, reporting, etc. We suggest that the 'operator' is the proper party in those instances, not the lessee (non-operator). In those instances, the lessee (non-operator) would have to first obtain the information from the operator before it could respond. This requirement would be unnecessary, burdensome, and inefficient. We urge you to direct such requirements to the 'operator' not 'lessee' (non-operator) with regard to operational activity."

Discussion. As indicated on page 29261 of the **Federal Register**, May 18, 1979, under the discussion for the revisions of subparagraph 2.1.1., the USGS maintains that the lessee is legally responsible for all requirements for compliance including drilling and developing the lease. The USGS recognizes that much of the information which is required must be submitted in behalf of the lessee(s) by the operator.

The Preambles of OCS Orders Nos. 2 and 5 have been revised to clarify that required information may be submitted by the "designated lease operator."

Comments. One commenter stated, "It is clear from the record that no study of economic feasibility has been made, so the Orders are not sanctioned under Section 21 (of the OCSLAA of 1978)."

Discussion. It is assumed that the commenter refers to the economic feasibility findings which are provided for in conjunction with the requirements for the use of the best available and safest technologies (BAST) in accordance with section 21(b) of the OCSLAA of 1978. It is intended that economic feasibility findings will be made on a case-by-case basis, for example, whenever a specific items is identified as meeting or not meeting BAST requirements.

OCS Order No. 1

Paragraph 1

Comments. One commenter suggested that the Order should provide different requirements for large and small structures.

Discussion. These suggestions were adopted. Paragraph 1 was reorganized into two subparagraphs, 1.1 *Large Platforms and Structures*, 1.2 *Small Structures.*

The requirements for large platforms are the same as the original Order. The requirements for small structures are the same as the existing OCS Order for the Gulf of Mexico Area and are consistent with the U.S. Coast Guard requirements.

Paragraph 2

Comments. One commenter suggested that the entire paragraph be deleted since it would create an unnecessary hazard during its installation and during subsequent drilling operations.

Discussion. The USGS disagrees. This requirement is in accordance with 30 CFR 250.37 which requires each drilling structure to be clearly identified. The sign will not create any hazard since it may be affixed outside the derrick and will not interfere with the drilling operations. We have revised the Order to allow the option of installing the sign on the heliport. We feel that these signs are necessary to facilitate the identification of particular floating drilling vessels by air traffic, especially during emergency conditions.

Paragraph 3

Comments. One commenter suggested that the words "floating platforms" be added to the first sentence.

Discussion. The USGS agrees with the intent of this suggestion; therefore, the Order was revised by deleting the word "semi-submersible." The words "floating platforms" are considered to be all inclusive.

Paragraph 4

Comments. One commenter felt that only potentially hazardous or sizeable submerged objects should be reported to the U.S. Coast Guard.

Discussion. This suggestion was not adopted. The U.S. Coast Guard has the responsibility for the determination of the hazards to navigation and commercial fishing operations; therefore, all submerged objects must be reported for their evaluation.

Paragraph 5

Comments. No comments received.

Discussion. A new paragraph 5, *Marking of Equipment*, was added in accordance with the new regulation, 30 CFR 250.54, which implements section 403(b) of the Outer Continental Shelf Lands Act Amendments (OCSLAA) of 1978. The subsequent paragraph was renumbered.

U.S. Department of the Interior, Geological Survey Conservation Division

OCS Order No. 1—Effective January 1, 1980

Identification of Wells, Platforms, Structures, Mobile Drilling Units, and Subsea Objects

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10, 250.11, and in accordance with 30 CFR 250.37 and 250.54.

1. *Identification of Fixed Platforms or Structures.*

1.1 *Large Platforms and Structures.* Platforms and structures which have helicopter landing facilities shall be identified at two diagonal corners by a sign with letters and figures not less than 30 centimeters (12 inches) in height with the following information:

a. The name of the lease operator.

b. The area designation based on OCS Official Protraction Diagrams.

c. The block number in which the platform or structure is located.

d. The platform or structure designation.

The information shall be abbreviated as in the following example:

The Blank Oil Company operates "C" platform on Block 999 of the Salisbury Area. The identifying sign on the platform would indicate: BOC–SAL–999–C.

1.2 *Small Structures.* Small structures, including single well structures which do not have helicopter landing facilities, shall be identified with one sign only, with letters and figures not less than 7.6 centimeters (3 inches) in height.

The information shall be abbreviated as in the following example:

The Blank Oil Company operates well No. 1 which is equipped with a protective structure in Block 68 in the East Cameron Area. The identifying sign on the protective structure would show: BOC–E.C.–68–No. 1.

2. *Identification of Mobile Drilling Units.* Floating platforms, bottom-setting mobile rigs, and drilling ships shall be identified by one sign with letters and figures not less than 30 centimeters (12

inches) in height affixed to the derrick or the heliport so as to be visible to approaching traffic and shall contain the following information:

a. The name of the lease operator.

b. The area designation based on OCS Official Protraction Diagrams.

c. The block number in which the drilling unit is located.

d. The OCS lease number.

e. The well number.

3. *Identification of Wells.* The OCS lease and well number shall be painted on the wellhead or on a sign affixed to the wellhead of each singly completed well. In multiply completed wells, each completion shall be individually identified at the wellhead. All identifying signs shall be maintained in a legible condition.

4. *Identification of Subsea Objects.* All subsea objects resulting from lease operations which are determined by the U.S. Coast Guard District Commander to be hazards to navigation or to the deployment of commercial fishing devices shall be identified by suitable aid-to-navigation devices as directed by the District Commander. Prior to the establishment of a subsea object or in the event of the accidental submergence of an object, the owner shall inform the District Commander of the object's description, location, and unobstructed depth of water above the object's highest point. Based on this information, the District Commander will determine what marking and permits, if any, will be required (14 U.S.C. 83, 85, 43 U.S.C. 1333; 33 CFR 67). The owner shall maintain these navigational markings onsite and properly functioning at all times while the obstruction remains.

5. *Marking of Equipment.* Whenever practicable, all materials, equipment, tools, containers, and items used on the OCS are to be properly color coded, stamped, or labeled with the owner's identification prior to actual use. For oil and gas operations, this means the owner's identification, as approved or prescribed by the Director, is to be placed upon all materials, cable, equipment, tools, containers, and other objects which could be freed and lost overboard from rigs, platforms, or supply vessels and are of sufficient size or are of such a nature that they could be expected to interfere with commercial fishing gear if dropped overboard.

6. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Approved:
Don E. Kash,
Chief, Conservation Division.

OCS Order No. 2

Preamble

Comments. No comments received.

Discussion. In accordance with section 21 of the OCSLAA of 1978, a sentence has been added to the preamble of this Order to require the use of the best available and safest technologies (BAST).

Subparagraph 1.2

Comments. Several commenters stated that the last sentence should be revised to require that "if drilling activity does not commence within 6 months" be changed to 12 months. It was contended that the 6 months requirements will "create new problems as a result of rig scheduling, partnership agreements and availability of equipment."

Another comment stated that the last sentence in this subparagraph should be changed to provide that "if drilling activity does not commence within one year after approval date, the permit will expire unless an application for extension due to unusual circumstances is made to the District Supervisor."

Discussion. The USGS has considered the reasons submitted for the proposed change. The last sentence of subparagraph 1.2 has been deleted.

Paragraph 2

Comments. Several commenters suggested that some of the subparagraphs which require the submittal of information should be deleted from the requirements for the Gulf of Mexico Area.

Discussion. It has been recognized that some of the requirements of this paragraph should be modified for the Gulf of Mexico Area. The modifications are discussed below on an item-by-item basis.

Subparagraph 2.1.1. Fitness of Drilling Unit

This subparagraph was extensively revised for the Gulf of Mexico Area. It was determined that the list of items (a–e) which is required to be submitted as evidence of the fitness of the drilling unit is not required because many of these items are already available in the files of the District Supervisors for the Gulf of Mexico Area. The list was deleted and replaced by the following sentence, "This evidence shall include drawings and specifications or other information as required by the District Supervisor." This evidence is to be submitted with the Application for Permit to Drill rather than with the Exploration Plan or Development and Production Plan as not required for all other Areas of the OCS.

As a result of the extensive revisions of paragraph 2 for the Gulf of Mexico Area, it was not necessary to categorize the requirements into General Requirements, Mobile Drilling Units, and Fixed Drilling Platforms as required for all other areas for the OCS. The subparagraph heading "2.1 *General Requirements"* has been deleted from the requirements for the Gulf of Mexico Area and the subsequent subparagraphs have been renumbered and retitled as follows:

2.1 *Fitness of Drilling Unit.*
2.2 *Pre-Drilling Inspection.*
2.3 *Well Site Surveys.*
2.4 *Oceanographic, Meteorologic, Performance Data.*

For the Gulf of Mexico Area the following sentence has been added to subparagraph 2.1: "Mobile drilling units which have their jacking equipment removed or have been otherwise immobilized, will be considered fixed drilling platforms and applications shall also be submitted in accordance with OCS Order No. 8." This sentence has been added to subparagraph 2.3, *Fixed Drilling Platforms,* for the other areas of the OCS.

Subparagraph 2.1.3 Well Site Surveys

The requirements of this subparagraph (renumbered 2.3 for the Gulf of Mexico Area) have been revised for all Areas of the OCS. The revised subparagraph requires the lessee to submit a shallow geologic hazards report which the supervisor will evaluate to determine if additional shallow geologic hazard surveys are required. The phrase "or other surveys required by the Supervisor" was added because the Supervisor may require other surveys, such as archaeological surveys or biological surveys, to be conducted in certain areas as stipulated by lease terms.

Subparagraph 2.1.4 Oceanographic, Meteorological, and Performance Data

Comments. Several commenters proposed that this subparagraph be deleted, or if not deleted, the Gulf of Mexico should be exempted, since the data required is readily available.

Discussion. The USGS believes that these requirements are necessary in frontier areas. It is agreed that the Gulf of Mexico Area has accumulated sufficient oceanographic, meteorological, and performance data to merit an exemption. Therefore, subparagraphs 2.4 for the Gulf of Mexico

Area and 2.1.4 for the other Areas have been revised to require "Where such information is not readily available, lessees shall collect and report oceanographic, meteorological, and performance data during the period of operations as required by the Supervisor."

Subparagraph 2.1.5 Subfreezing Operations

Subparagraph 2.1.5, *Subfreezing Operations,* has been deleted from the requirements for the Gulf of Mexico and Pacific Areas.

Subparagraph 2.2 Mobil Drilling Units (Pacific, Gulf of Alaska, and Atlantic Areas)

As a result of the reorganization of the requirements for paragraph 2 of the Gulf of Mexico Area, subparagraph 2.2 *Mobile Drilling Units,* has been deleted from the Gulf of Mexico Area requirements. For the other Areas of the OCS, subparagraph 2.2 has been revised as follows:

Subparagraph 2.2(a)

This subparagraph has been revised to require a listing of the maximum environmental and operational conditions used for the design.

This revision is a clarification of the previous wording. The reference to the Critical Operations and Curtailment Plan was deleted from the requirements for the Gulf of Mexico Area and has been incorporated as item f. of subparagraph 2.1.1 for all other Areas of the OCS.

Subparagraph 2.2(b)

The requirements of subparagraph 2.2(b) have been segregated into two categories, (1) the Pacific Area and (2) the Gulf of Alaska and Atlantic Areas. The requirements for the Gulf of Alaska and Atlantic Areas now include a listing of ice loading and icing conditions.

Subparagraph 2.2(c)

This subparagraph has been revised to require the submittal of sea-bed data.

Subparagraph 2.2(d)

This subparagraph contains the requirement pertaining to the certification of the drilling units which was formerly in subparagraph 2.2(c). The last sentence of the former subparagraph 2.2(c) pertaining to the resubmittal of data after a drilling unit has been approved for use in an Area has been incorporated into subparagraph 2.1, for the Gulf of Mexico Area, and subparagraph 2.1.1, for all other Areas. It should be noted that the requirement for including a current American Bureau Shipping (ABS) of Classification, a U.S. Coast Guard Certificate of Inspection, or other appropriate certification, has been deleted from the Gulf of Mexico requirements. Due to the large number of mobile drilling units operating in the Gulf of Mexico Region without inspection certificates, it has been determined that it is not practical to enforce this requirement at this time; therefore, the requirement has been deleted from paragraph 2 for the Gulf of Mexico Region.

Subparagraph 2.2

Comments. It was suggested that this subparagraph should be rewritten to make it clear that existing installations are exempt from compliance with new requirements in accordance with Section 30(b) of the OCS Lands Act Amendments (OCSLAA) of 1978.

Discussion. This commenter also made a similar comment of the following Orders and subparagraphs:

OCS orders and subparagraphs:
No. 2—5.1.1.
No. 2—5.1.3.
No. 2—5.2.
No. 5—4.2.
No. 5—4.4(g).
No. 5—5.1.5.
No. 5—5.1.6.
No. 5—5.1.8.
No. 5—5.1.10.
No. 7—1.1.3(2).
No. 7—3.1.3(b).

This discussion is applicable in response to the comments on the subparagraphs listed above.

The intent of section 30 of OCSLAA is to require that any vessel, rig, platform, or other vehicle or structure which is built or rebuilt 1 year after the effective date of the regulations which implement the Lands Act Amendments shall comply with such minimum standards of *design, construction, alteration, and repair* as the Secretary establishes. Section 30(b) states that the regulations issued under subsection (a)(2) shall not apply to any vessel, rig, platform, or other vehicle or structure built prior to the date of enactment of this section until such time after such date as such vehicle or structure is rebuilt. It is clear that section 30(a)(2) is applicable to the *design, construction, alternation, and repair* of new platforms. This does not address new requirements for existing platform equipment.

Section 21(b), "Safety Regulations," states that "* * * the Secretary, * * * shall require on all new drilling and production operations and, wherever practical on *existing operations,* the use of the best available and safest technologies (BAST) * * *." It is also evident from section 21(b) that new requirements may be added to *new* and *old* platforms "* * * wherever failure of *equipment* would have a significant effect on the safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies."

The requirement for the use of BAST has been aded to the preamble of this Order. The intent of subparagraph 2.2 of the Order is to obtain *data* upon which to assess the fitness of mobile drilling units to perform the planned drilling operations in a specific geographic area. These data are not required to determine if the drilling units *meet such minimum standards of design, construction, alteration, or repair,* as the Secretary may prescribe.

The revision of subparagraph 2.2 as suggested by the above comment was not adopted; however, paragraph 2 for the Gulf of Mexico Region was reorganized and restructured in response to other comments as previously discussed.

Subparagraph 3.1

Comments. It was suggested that the fourth sentence of subparagraph 3.1 should be revised as follows: (1) Delete the requirement "12 meters (39 feet) below the ocean floor." (2) Insert "the depth of the structure casing shoe." It was contended that "placement of the Mudline Suspension starting ring should determine the depth at which cement should be removed below the mudline. Sufficient data is not always available to place the starting ring within 39′ of the mudline."

Discussion. The USGS agrees with the commenter's reason for the suggestion. This suggestion was adopted.

Comments. In the penultimate paragraph, one commenter suggested that the first sentence be changed to state that "The lessee, its assignee or the lease operator * * *."

Discussion. This suggestion was not adopted because it is not necessary to use the term "assignee," since one who has been assigned an interest in a lease becomes the lessee.

Comments. Another commenter stated that pipe/casting manufacturers produce "numerous proprietary grades of casing" for which there are no API Standards. It was further stated that excessive paper work would be eliminated if each manufacturer of proprietary grade casing files their specification with each District Supervisor.

Discussion. The USGS agrees with this proposal. Accordingly, the sentence in the fourth paragraph is changed as

follows: "If casing to be used is not fabricated to API Standards, the yield strengths of the casing shall be included on the Application for Permit to Drill (From 9–331C), provided these specificatons are not on file with the U.S. Geological Survey (USGS)."

Comments. It was suggested that the penultimate sentence of the first paragraph be revised to insert "after consulting with" in lieu of "in accordance with the instructions of."

Discussion. This suggestion was not adopted. The proposed phrase implies that anything the lessee proposes to do would be acceptable to the Supervisor. The phrase "* * * as approved by the District Supervisor" was adopted.

Comments. A commenter recommended that item "d" be amended to add: "A + 25-foot tolerance shall be allowed for casing and drill depth requirements." It was contended that: "casing joint lengths and hole fill require some tolerance to meet a specified depth limit."

Discussion. This change was not adopted. Exceptions to the casing setting depth may be authorized by the District Supervisor if evidence supporting the need for such exceptions is presented.

Subparagraph 3.2

Comments. It was suggested that the last sentence be changed to add the phrase "with a larger diameter bit than outside diameter of the casing," following the word "drilled" and before the word "the."

Discussion. It is not believed necessary to include this phrase, since, when any hole is drilled to be cased, the casing outside diameter must be smaller than the bit.

Subparagraph 3.3.1

Comments. It was suggested that the fourth sentence in the first paragraph be revised by changing the word "exact" to "approximate." Another suggeston stated that the following sentence be added to the first paragraph: "Exceptions to the above casing setting depth restraints may be authorized by the District Supervisor if evidence supporting the need for such exceptions is presented by the operator."

It was contended that: "As deeper waters are reached, the fracture gradient is reduced with water depth and these current depths may not permit circulation to the surface. (i.e.) fracture gradient insufficient to support a column of liquid. Casing setting depth exceptions may be required to ensure the safety of operations."

Discussion. Proposed casing programs are to be submitted with the Application for Permit to Drill. Actual well conditons, depth of prospective zones, and other considerations may justify changes in casing setting depth(s), subject to approval by the Supervisor. The word "exact" has been deleted.

Comments. One commenter noted that "137 meters" in the last sentence of the Pacific paragraph is in error and should be 152 meters.

Discussion. The "137 meters" (450 feet) is correct and is consistent with Pacific field rules.

Comments. No comments received.

Discussion. A new paragraph was added for the Gulf of Mexico, which is quoted, in part, as follows: "The District Supervisor may approve a request to waive the requirement for setting conductor casing * * *." Due to the drilling experience in the Gulf of Mexico, it has been determined that in certain cases the setting conductor pipe may be eliminated. After drilling the first well at a specific location, it has been common practice not to require conductor casing on adjacent wells after it has been confirmed that no shallow hazards exist. This provision was not added to the other Orders, due to insufficient drilling history to justify this practice.

Subparagraph 3.3.2

Comments. It was observed that "the suggested change in paragraph 3.1 for removal of cement to the mudline hanger applies to paragraph 3.3.2 as well. It is necessary to remove the cement to the mudline hanger assemblies in order to facilitate the operation of mudline suspension equipment and to permit temporary abandonment and re-entry of wells.

Discussion. The USGS agrees with this comment. The following sentence has been added to subparagraph 3.3.2: "Upon approval by the District Supervisor, the cement may be washed out or displaced to a depth not exceeding the depth of the structural casing shoe to facilitate casing removal upon well abandonment."

Subparagraph 3.3.3

Comments. It was suggested that the following sentence be added after the first sentence: "For floating drilling operations that use a one stack blowout preventer system, a lesser volume of cement is permissable to prevent sealing the annular space between the conductor casing and surface casing." It was contended that "Measurements to test the seal between the surface and conductor casing are difficult to register when all variables on a floating rig are considered.

"If the surface-conductor casing annulis is sealed at the bottom when using a one-stack subsea blowout preventer system, the subsea casing hanger pack-off sealing this annulis cannot be effectively pressure-tested without bursting of the conductor casing each time the BOP's are tested to pressure exceeding the collapse pressure of the casing. With some formation exposed below the conductor pipe, the formation should break down before collapse of the surface pipe or burst of the conductor pipe, if a leak occurs in the sealing arrangement."

Discusssion. The following statement was adopted. "For floating drilling operations that use a one-stack blowout preventer (BOP) system, a lesser volume of cement is permissable to prevent sealing the annular space between the conductor casing and surface casing, when approved by the District Supervisor. Any annular space open to the drilled hole must be sealed in accordance with the requirements in Order No. 3 upon abandonment."

Subparagraph 3.4

Comments. It was suggested that the fourth sentence be deleted, which states: "Presssure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight."

It was contended that: "Formation fracture strength (in shale) often increases over a period of time with exposure to mud filtrate. Therefore, it is not possible in many cases to test a casing shoe soon after drilling out as high as needed to reach a given mud weight objective. Subsequent (and progressively higher) formation tests are not desirable either since some amount of 'new hole' is always exposed and a fracture if inititiated in a long open-hole section is difficult or impossible to repair without running more casing. Also, testing to 'leak-off' or otherwise inadvertently initiating a borehole fracture can limit the initial (undisturbed) strength of the borehole."

Discussion. This suggestion was not adopted: however, this sentence was changed to the following: "Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight as approved by the District Supervisor."

The USGS considers the data of formation leak-off or testing to an equivalent mud weight a necessary procedure in wild cat or exploratory wells. Once these data are adequately developed in a given field, it would not be required on each well.

Subparagraph 3.6

Comments. It was suggested that the word "prolonged" be inserted before the word "unscheduled" in the first line of the first sentence in the paragraph following the table. Another commenter suggested inserting: "that result in redrilling of the entire open hole interval" after the second use of "operation" in the third line.

Discussion. the USGS is in general agreement with these comments. This paragraph has been rewritten as follows: "In the event of prolonged drill pipe operations which could cause damage to the casing, the casing shall be pressure-tested, calipered, or otherwise evaluated, as approved by the District Supervisor."

Comments. It was suggested that the fourth paragraph be revised in the first sentence to delete "addition to" and insert "lieu of." Also in the first sentence, delete "sufficient time must elapse" and insert "the waiting time need not exceed the time required." It was contended that: "Industry experience over the past several years shows that there is no reasonable necessity to wait on cement any longer than the time necessary to reach a compressive strength of 500 psi. Cement can be designed and pretested to reach this strength in a minimum time, taking into account bottom hole temperature."

Discussion. These suggestions were not adopted. There are a large number of cement types (slurries) the lessee may elect to use, depending on well depth, temperature, and other well conditions. Cement setting time varies considerably, depending on the percent bentonite, or calcium chloride, or other additives (or retarders) used. It is believed that the 8- and 12-hour waiting time requirements are reasonable.

Comments. Another commenter suggested that "The second to last paragraph should be deleted or reworded to state that the compressive strength of the bottom 500′ of cement should be at least that of the formation in which it is set." It was contended that: "On conductor and surface casing cement jobs, the slurry composition is often modified to prevent loss of circulation. This modification precludes development of 500 psi compressive strengths; however, this is insignificant as the surrounding formations generally have less than 100 psi compressive strength."

Discussion. The suggestion was not adopted. Surface casing is commonly set at depths where formation compressive strengths substantially exceed 100 psi.

Comments. It was suggested that, in paragraph 4, the 502 feet annular cement fill be changed to 100 feet. It was stated that there will be excessive Writing on Cement (WOC) time on conductor casing where lightweight, low fluid loss cement must be used in the upper portion of the annulus to prevent lost circulation.

Discussion. The suggestion was not adopted. It is believed that only 100 feet that has attained 500 psi compressive strength does not provide integrity to the total cement column, sufficient to resume drilling operations.

Paragraph 4

Comments. One commenter stated that: "It is felt that the maximum individual inclination survey limit of 6 degrees is too restrictive and that the limit of 3 degrees for average inclination is sufficiently limiting. It is suggested that the maximum individual inclination survey limit of 6 degrees be dropped." Another commenter suggested that this paragraph be revised to require that "* * * well will be considered directional if any one survey exceeds 6° *and* overall average angle exceeds 3°."

Another commenter suggested that the first sentence in the last paragraph be revised by inserting the following qualifying phrase after surface casing: "If directional at that depth." It was further suggested: "Insert a 2nd sentence 'Dipmeter directional data is an acceptable substitution for directional surveys.' In the present 3rd sentence, insert after 'structural casing,' 'if directional at this depth or below surface casing if vertical'."

It was contended that: "For most drilling cases unless the well is intended to be directional, shallower than the surface casing setting depth, the well will be virtually vertical (1° inclination), and surveys above surface casing depth on vertical wells would serve no useful purpose."

Discussion. It is agreed that a maximum individual inclination survey limit of 6 degrees can be too restrictive. Therefore, this requirement was deleted.

The USGS is concerned with maintenance of leaseline and other spacing requirements; however, the USGS is also concerned as to the location of the bottom of the hole throughout the drilling of the well to total depth.

It is not agreed that directional surveys should start below surface casing, since this casing is permitted to be set as deep as 4,500 feet. Hole deviation may become substantial at this depth under certain drilling conditions.

Subparagraph 5.1.1

Comments. Several commenters suggested that the term "maximum anticipated surface pressure" be changed to "anticiapted surface pressure." Another comment suggested that the phrase "maximum burst load" be used. Some of the rationale submitted in support of "anticipated surface pressure" is quoted as follows: "Use of 'maximum anticipated surface pressure' as defined by the USGS on page 29263, FR May 18, 1979, in this context would require use of equipment that is not available. (The definition allows for consideration of a gas filled wellbore).

"Casing design requirements and bit size restriction through high pressure BOP's would be all but impossible to live with. In addition, the capability of shutting in a well and reachieving primary well control by circulating under the 'maximum anticipated' pressure is also only a remote possibility.

"The anticipated surface pressure shall consider all pertinent factors for well control such as (a) Formation Pressure (b) Formation Fracture Gradients (c) Mud Densities (d) Casing Setting Depths."

One commenter defined anticipated surface pressure as follows: "Anticipated surface pressure is defined as the surface well pressure to be exposed to a casing string and its related wellhead equipment. Anticipated surface pressure will take into account the anticipated drilling, completion and producing conditions. It will consider mud densities to be used below various casing strings, fracture gradients of the exposed formations, casing setting depths, total well depth, formation fluid type and other pertinent conditions. Considerations for anticipated surface pressure will vary for each segment of the well."

Discussion. The USGS has analyzed the rationale submitted in support of the phrase "anticipated surface pressure." The commenter's suggestion that "anticipated surface pressure" be used instead of "maximum-anticipated surface pressure" is adopted. The commenter's definition of anticipated surface pressure has also been adopted as stated above.

On the Application for Permit to Drill, the lessee shall include anticipated surface pressures at all casing setting depths and at total depth. The calculations and rationale to substantiate the stated pressures shall also be included.

Comments. In another comment on subparagraph 5.1.1, it was suggested that: "The paragraph also ought to be

rewritten so as to make it clear that existing BOP equipment is exempted from compliance with the new requirements, under 30(b) of the amended OCSLA."

Discussion. This suggestion was not adopted for the same reasons as stated in the discussion of subparagraph 2.2.

Subparagraph 5.1.1

Comments. No comments received.

Discussion. The last sentence in the first paragraph of subparagraph 5.1.1 has been changed to read as follows: "The working pressure of any blowout preventer shall exceed the anticipated surface pressure to which it may be subjected." The phrase "except that the working pressure of the annular preventer need not exceed 34,475 kPa (5,000 psi)" has been deleted.

This revision was made since there are some situations where high anticipated surface pressures would require the use of an annular BOP with a working pressure greater than 34,475 kPa (5,000 psi).

Subparagraph 5.1.1.f and 5.1.1.g

Comments. It was suggested that this subparagraph be revised to provide for the use of flexible steel hose and hammer unions.

Discussion. The USGS agrees that the use of flexible steel hoses and hammer unions is common industry practice, and has adopted the suggestion. This equipment is acceptable provided the working pressure ratings are equal to or exceed the other pressure fittings in the choke manifold.

Comments. It was proposed that the following sentence be added: "Equipment downstream of the choke need not meet this pressure requirement."

Discussion. This proposal was not adopted since API RP 53 provides for this.

Subparagraph 5.1.3

Comments. It was proposed to add that this requirement does not apply to the Gulf of Mexico.

Discussion. All Area OCS Orders will ultimately be published in separate books. Since this subparagraph does not apply to the Gulf of Mexico or the Pacific Areas, subparagraph 5.1.3, "Subfreezing Operations," will be deleted from the Orders for these Areas.

Comments. Another comment concerning subparagraph 5.1.3 stated that: "Further, as written, the provision fails to indicate that existing BOP's and related equipment are exempted from compliance with the new equipment under 30(b) of the amended OCSLA."

Discussion. This suggestion was not adopted for the same reasons as stated in the discussion of subparagraph 2.2.

Subparagraph 5.2

Comments. Several commenters were concerned with notes 1, 3, and 4, which explain the BOP requirements in the table. It was stated that: "Rewording is needed here to include grandfather clause for the requirement of top-of-the-riser diverter mounting. Use of the subsea stack and choke and kill lines as a diverter system is still routine on some of the older Gulf of Mexico floaters. Conversion to top-of-the-riser mounting would require extensive rig modification, which is not necessary."

Discussion. The USGS believes that the commenters misinterpreted the intent of the first paragraph and notes 1, 3, and 4 of the table. Notes 1 and 2 apply after drive pipe has been set and during the drilling of the conductor hole. This is the intent of the first sentence, by the phrase "drilling below."

Note 1 refers to subparagraph 5.4.1. The first sentence of subparagraph 5.4.1 has been revised by adding the phrase "utilizing an annular-type preventer" after the words "diverter system." It is the intent that the conductor hole should be drilled, using an annular-type preventer to permit diversion of hydrocarbons or other fluids. In view of these considerations, a grandfather clause referred to in the comment is not necessary.

Subparagraph 5.2, Note 5

Comments. No comments received.

Discussion. This note was changed to read as follows: "When a tapered drill string is in use, the BOP stack shall be equipped with two (2) sets of pipe rams for the larger size string and one (1) set for the smaller size string of drill pipe."

This revision was made to clarify that two sets of pipe rams are required for the larger size pipe and one set of rams for the smaller size pipe in a tapered string, since most of the string consists of the larger size pipe, which should have a back-up set of rams.

Comments. Another comment concerning subparagraph 5.2 stated that: "Further, the paragraph ought to be rewritten so as to make it clear that existing subsea BOP's are exempted from compliance with new requirements under 30(b) of the amended OCSLA."

Discussion. This suggestion was not adopted for the same reasons as stated in the discussion of subparagraph 2.2.

Comments. It was proposed that the phrase "or storm packer" be added to the last sentence of subparagraph 5.2, after "bridge plug." It was stated that: "The inclusion of the term more clearly defines equipment that the operator may select to use depending upon well conditions."

Discussion. This suggestion was adopted.

Subparagraph 5.3

Comments. No comments received.

Discussion. The first item in the table, "Drive or Structural," was amended to add "1-Annular." This requires that when drilling a conductor hole (or surface hole), an annular-type preventer and a diverter system is required to enhance the safety of this drilling operation.

Comments. It was suggested that Note 1 be revised to add the following at the end of the paragraph: "The flowpath from the BOP to the branch point of diverter lines in new systems shall have a minimum internal diameter of 15 centimeters (6 inches)." It was contended that "For clarification that only one flowpath is required from the BOP to the branch point."

Discussion. This suggestion was adopted for clarity.

Subparagraph 5.3, Note 2

Comments. No comments received.

Discussion. The wording of subparagraph 5.3, Note 2, was changed to read the same as subparagraph 5.2, Note 5.

Subparagraph 5.4.1

Comments. It was suggested that in the third sentence the word "prevent" was in error.

Discussion. This word was changed to "permit." This typographical error was previously recognized and corrected by *Federal Register* Notice, Vol. 44, No. 127, page 38004, June 29, 1979.

Subparagraph 5.4.2

Comments. It was stated that the second sentence reads: "This progran shall include all known pertinent information, including. . . , a schematic diagram indicating the equipment to be installed from the rotary table to the proposed conductor-casing seat, and . . . ." It was recommended the schematic diagram requirement be deleted, since "* * * the riser is not used there will be no equipment to show in a diagram."

Discussion. This is true if the marine riser cannot be used to drill the conductor hole. However, some conductor holes are drilled with a riser equipped with a dump valve, which permits seafloor diversion of returns. In these cases, a schematic is required.

Subparagraph 5.7

Comments. No comments received.

Discussion. It is considered necessary that all BOP tests should be recorded. Therefore, the following sentence was added: "All BOP tests shall be recorded in the driller's report."

Subparagraph 5.7.2

Comments. Several commenters recommended that the last sentence be deleted. It was contended that: "The testing of the smaller pipe rams with this frequency and while off bottom with open hole is a hazardous exposure and should be avoided. The small pipe rams should be tested with the same frequency and in the same manner with the other ram-type BOP's."

Discussion. The USGS agrees with the above rationale, and has deleted the last sentence.

Comments. Another commenter recommended that the following sentence be added for clarification: "After drilling out, the blind rams need not be tested."

Discussion. For the Guld of Mexico Area, a new sentence was added as follows: "After drilling out of each casing or liner shoe, the blind rams need not be tested until before drilling out the subsequent casing or liner shoe." This requirement would result in the blind rams being tested each 1 or 2 weeks based on the known rapid drilling rates in relatively soft formations. This sentence was not added for the other Areas because of insufficient history of drilling rates. Blind rams are required to be tested once each week in the other Areas.

Comments. Another commenter is quoted as follows: *"Section 5.* (Blowout-Preventer (BOP) Equipment Requirements). This section appears flawed with a serious inconsistency. Although Section 5.1.1. requires 'the working pressure of any blowout preventer shall exceed the maximum-anticipated surface pressure to which it may be subjected,' Section 5.7.2, *Pressure Testing Surface BOP Systems* reads:

"Ram-type BOPs and related control equipment shall be tested at the maximum-anticipated surface pressure or at 70% of the minimum internal yield pressure of the casing, whichever is the lesser. The annular type BOP shall be tested at 70% of the minimum internal yield pressure of the casing, whichever is the lesser.

Therefore, if 70% of the minimum internal yield pressure of the casing is less than the maximum anticipated surface pressure at a ram-type BOP, if a blowout occurred at maximum pressure, the BOP would not have been tested for that great a pressure and failure might ensue. Similarly, at best, the annular BOP will be tested at 70% of the maximum anticipated surface pressure. This minimum testing cannot assure proper functioning of the equipment at full load.

Discussion. The commenter incorrectly quoted the second sentence of subparagraph 5.7.2. The phrase "of its rated working pressure or 70" was deleted in the comment. This deletion changed the meaning of the second sentence concerning annular type BOP testing. Testing annular type BOP's at 70 percent of the anticipated surface pressure is not the intent, as stated in the penultimate sentence of the commenter. The annular type preventers are to be tested at 70 percent of their rated working pressure, or 70 percent of the internal yield pressure of the casing, whichever is lesser. Casing strings are designed with the minimum internal yield pressure greater than the anticipated surface pressure at their setting depths.

In BOP testing, the limiting factor is the minimum internal yield pressure of the casing. The safety factor of 70 percent is used to protect the casing string from pressures exceeding the internal yield in the event of a test plug failure. In all cases, BOP's are factory tested to pressure greater than their working pressure. It is not practical to field test BOP's above their working pressure which could be greater than the internal yield pressure of the casing.

Subparagraph 5.7.4a

Comment. One commenter suggested that the requirement for actuation of pipe rams be modified to require daily or once per trip actuation, whichever is less.

Discussion. This suggestion was not adopted since on long-bit runs, it could be several days before a trip is made.

Subparagraph 5.7.5

Comments. It was proposed that the first paragraph be deleted. It was contended that: "Industry experience indicated that closing the pipe rams on the empty hole causes extrusion damage of the ram rubbers and that closing the pipe rams on moving pipe causes excessive wear of the ram rubbers. It is recommended that the daily operational tests of pipe rams of subsea blowout preventers be eliminated."

Discussion. This proposal was not adopted. In view of widespread use of modern-day motion compensators, the movement of pipe through the rams is considered minimal. Wear will be minimized by using correct accumulator closing pressures. Some models of Subsea BOP stacks require frequent function to keep ram cavities free of debris, thus making them more dependable. Subparagraph 5.7.5 has been revised to provide that pipe rams on subsea stacks shall be actuated every other day. The sentence "In order to prevent damage to the rams, complete closure of the rams on the drill pipe is not required, provided movement of the rams is indicated by the hydraulic system pressure and flow indicators." was added for clarification.

Subparagraph 5.8

Comments. A commenter proposed that the following two sentences be added: "When using the underwater television equipment for other purposes, it is expected that the BOP stack and marine riser systems be inspected. Deployment of the television equipment for the express purpose of inspection of the stack and riser systems needs to be done only weekly at the time of performance of the subsea BOP tests."

Discussion. This proposal was not adopted. The USGS believes that daily inspection is necessary in order to verify the integrity of the BOP stack and marine riser.

Comments. Another commenter proposed "If the manufacturer suggest minimal maintenance, then all that must be done is minimal maintenance. If a manufacturer found that because he recommended minimal maintenance he sold more BOP's, maybe he would recommend minimal maintenance and be happy to sell more BOPs."

Discussion. Blowout preventers are the most important mechanical safety and well control devices on any drilling rig. It is in the manufacturers interest to ensure the reliability of their equipment. Therefore, maintenance procedures are designed to provide the maximum reliable service life.

Subparagraph 5.9

Comments. A comment suggested that a phrase in the last sentence be changed from "at any time" to "any reasonable time." Another commenter recommended that the following phrase be added to the last sentence: "after consulting with the operators's senior representative present." It was contended that: "During certain times in drilling operations, a BOP drill would be hazardous. Consultation with operator's representative would avoid such hazards."

Discussion. It is agreed that drills should not be conducted during unusual operations. The last sentence has been revised to add the following: "after notifying the lessee's senior representative present."

Comments. No comments received.

Discussion. It is considered necessary that all BOP drills should be recorded. Therefore, the following paragraph was added: "All BOP drills shall be recorded on the driller's report."

Subparagraph 6.1

Comments. A commenter suggested that in subparagraph 6.1C, in the penultimate paragraph, the term "vacuum-type" should be deleted. It was further stated that: "To define vacuum type only precludes any advancements on new equipment for this purpose. It would also require removal of existing equipment."

Discussion. The USGS agrees, and has adopted this suggestion. The term "an operable gas separator" has been adopted.

Subparagraph 6.2.a.

Comments. A commenter proposed the following: "Section 6.2(a) provides for monitoring of mud levels, and requires visual and audio warning devices. The Gulf of Alaska Operations Orders specified numerical maximum changes beyond which warning devices would be triggered. We suggest that such a provision be added to this section."

Discussion. The sensitivity of the pit volume measuring devices should be custom-designed to provide the maximum sensitivity possible considering the type of vessel or structure. Therefore, limitations should not be placed on these indicators.

Subparagraph 6.3

Comments. It was the consensus of some commenters that subparagraphs 6.3a and 6.3b required excessive mud quantities, which may exceed certain rig mud storage capacity. Another commenter stated that: "The requirement should include only that which is common practice in the offshore, i.e. to keep weighting material storage full at all times and to have replacement for useage within several hours of reach. Material storage volume requirements should be specified as the 'quantity required to weight up the system 1 ppg'." Another opinion stated that "a very simple and practical approach to this subject is to require a minimum mud material inventory of the amount necessary to increase the weight of the active mud system by 1 pound/gallon."

Discussion. The USGS agrees that some rig mud storage capacity would be exceeded under the requirements of subparagraphs 6.3a and 6.3b; therefore, the requirements of subparagraphs 6a and 6b have been deleted. Since the Order requires a table of mud quantities versus well depth to be submitted with the Application for Permit to Drill, the District Supervisory will evaluate the criteria used to determine these quantities.

The second paragraph clearly provides for adjustment where the required quantities exceed rig storage capacity. This paragraph states: "When the mud quantity required exceeds the storage capacity of the drilling facility, the lessee shall maintain maximum mud inventories and must receive approval from the District Supervisor of the lessee's plans to resupply mud inventories in the event of an emergency. The plan shall include an estimate of the time required for delivery of the mud supplies."

Subparagraph 7.2

Comments. One commenter suggested adding "storm packer" following bridge plug in the last sentence.

Discussion. The USGS agrees and "storm packer" was added.

Paragraph 9

Comments. A comment stated that: "The effective date of the Order does not provide sufficient time for operators to prepare this plan and file it for approval."

It was also suggested that 6 months be allowed to submit a critical operations and curtailment plan after the effective date of this Order.

Discussion. It is recognized that the May 18, 1979, Order did not address future and existing platforms and Mobile drilling units. Therefore, language was added to the Orders to provide for new installations and to allow time for the submittal of plans for existing facilities which do not have plans.

Comments. It was stated that: "Present wording requires the name of the person with responsibility for safety of drilling operations. We feel very strongly that this should be the title of the person and not a name—thus allowing more flexibility of personnel and much more practical." Another commenter suggested that in this subparagraph, "eliminate the words . . . at the site . . . and replace with . . . the person in charge of overall drilling operations. . . ." It was also stated that: "The representative 'at the site' does not have overall responsibility for the operation and is subject to change due to work schedule."

Discussion. The USGS does not agree that only a title of the person in charge should be submitted. Generally, titles within an organization may remain the same, i.e., "Drilling Superintendent," "Drilling Foreman," etc. In normal operations, and particularly in times of emergency, it is considered essential that the names corresponding to these positions be known, so that the individual may be contacted. It is agreed that the lessee's representative may not have the "overall responsibility for the operation" at the site. Accordingly, this subparagraph has been revised to read: "The name of the person who has responsibility, as the person in charge of overall drilling operations."

U.S. Department of the Interior, Geological Survey Conservation Division

OCS Order No. 2—Effective January 1, 1980

Drilling Operations

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10 and 250.11. All exploratory and development wells drilled for oil and gas shall be drilled in accordance with 30 CFR 250.30, 250.34, 250.36, 250.38, 250.40, 240.41, and the provisions of this Order except for those provisions superseded by the issuance of field drilling rules.

This Order requires the lessee to submit plans, applications, data, and other information. In all cases where the lessee(s) has (have) identified another party as designated lease operator in accordance with 30 CFR 250.31 and where the term "operator" is defined in accordance with 30 CFR 250.2(gg), the required information may be submitted by the designated lease operator.

In addition to the requirements of this Order, the lessee shall comply with the requirements of paragraph 9, *Requirements for Drilling Rigs,* of OCS Order No. 5.

1. *Plans and Applications.*

1.1 *Exploration Plan and Development and Production Plan.* In accordance with 30 CFR 250.34, the lessee shall submit Exploration Plans and Development and Production Plans to the Supervisor for approval. All wells drilled under the provisions of this Order shall be included in the appropriate plan.

1.2 *Application for Permit to Drill.* Prior to commencing drilling under an approved Exploration Plan or a Development and Production Plan, the lessee shall file, in triplicate, an Application for Permit to Drill (Form 9-331 C) with the District Supervisor for approval. Additionally, the Supervisor will prescribe the number of public information copies to be submitted.

2. *Drilling from Fixed Platforms and Mobile Drilling Units. Gulf of Mexico:*

2.1 *Fitness of Drilling Unit.* Applications for installations of fixed

drilling platforms or structures, including artifical islands, shall be submitted in accordance with OCS Order No. 8. Mobile drilling units which have their jacking equipment removed, or have been otherwise immobilized, will be considered fixed drilling platforms and applications shall also be submitted in accordance with OCS Order No. 8.

All fixed and mobile drilling units shall be capable of withstanding the oceanographic and meteorological conditions for the proposed area of operations. The lessee shall submit with the Application for Permit to Drill evidence to the District Supervisor of the fitness of the drilling unit to perform the planned drilling operation. This evidence shall include drawings and specifications or other information as required by the District Supervisor. After a drilling unit has been approved for use in an area, this information need not be resubmitted unless required by the District Supervisor, or there are changes in equipment which affect the rated capability of the unit.

2.2 *Pre-Drilling Inspection.* Prior to commencing operations in an OCS Area, all fixed drilling platforms and mobile drilling units shall be made available for a complete inspection by the District Supervisor.

2.3 *Well-Site Surveys.* Lessees shall submit a shallow geologic hazards report, and conduct such shallow geologic hazard surveys or other surveys as required by the Supervisor. The results of these surveys, and an analysis of the geological hazards shall be furnished to the District Supervisor. All data obtained from the surveys and all geophysical data relating to shallow hazards shall be furnished upon request to the District Supervisor.

2.4 *Oceanographic, Meteorological, Performance Data.* Where such information is not readily available, lessees shall collect and report oceanographic, meteorological, and performance data during the period of operations as required by the Supervisor.

Pacific, Gulf, of Alaska, and Atlantic:

2.1 *General Requirements.*

Pacific, Gulf of Alaska, and Atlantic:

2.1.1 *Fitness of Drilling Unit.* All fixed and mobile drilling units shall be capable of withstanding the oceanographic and meteorological conditions for the proposed area of operations. The lessee shall submit with the Exploration Plan or Development and Production Plan evidence to the Supervisor of the fitness of the drilling unit to perform the planned drilling operation.

After a drilling unit has been approved for use in an area, the information listed below need not be resubmitted unless required by the Supervisor, or there are changes in equipment which affect the rated capability of the unit. This evidence shall include the following specifications or other information as requested by the District Supervisor:

a. The rated capacity of all major drilling equipment.

b. Drilling safety systems.

c. Firefighting equipment.

d. Pollution-prevention equipment associated with the drilling operation.

e. A schematic diagram of the drilling unit.

f. A "Critical Operations and Curtailment Plan" as described in paragraph 9 of this Order.

Pacific, Gulf of Alaska, and Atlantic:

2.1.2 *Pre-Drilling Inspection.* Prior to commencing operations in an OCS Area, all fixed drilling platforms and mobile drilling units shall be made available for a complete inspection by the District Supervisor.

2.1.3 *Well-Site Surveys.* Lessees shall submit a shallow geological hazards report, and conduct such shallow geologic hazard surveys, or other surveys as required by the Supervisor. The results of these surveys and an analysis of the geological hazards shall be furnished to the District Supervisor. All data obtained from the surveys and all geophysical data relating to shallow hazards shall be furnished upon request to the District Supervisor.

2.1.4 *Oceanographic, Meteorological, Performance Data.*

Pacific, Gulf of Alaska, and Atlantic: Where such information is not readily available, lessees shall collect and report oceanographic, meteorological, and performance data during the period of operations as required by the Supervisor.

2.1.5 *Subfreezing Operations.*

Gulf of Alaska and Atlantic: Lessees shall furnish evidence that the drilling equipment, drilling safety systems, and other associated equipment and materials are suitable for operations in those Areas which are subject to subfreezing conditions.

Pacific, Gulf of Alaska, and Atlantic:

2.2 *Mobile Drilling Units.* Applications for drilling from mobile drilling units shall include the following:

a. A listing of the maximum environmental and operational conditions used for the design.

Pacific: b. A listing of the regional maximum environmental conditions, including wave, wind, current, storm surges, seismic motion, and of the unusual site-specific environmental conditions anticipated to be encountered at the drill site during the drilling operations.

Gulf of Alaska and Atlantic: b. A listing of the regional maximum environmental conditions, including wave, wind, current, ice loading, icing, storm surges, and seismic motion, and of the unusual site-specific environmental conditions anticipated to be encountered at the drill site during the drilling operations.

Pacific, Gulf of Alaska, and Atlantic: c. Sediment and seabed data, including seabed profiles, sediment consistency, allowable bearing and sliding loads, and nearby potential seabed hazards, i.e., sand waves, slumps, and mud slides.

Pacific, Gulf of Alaska, and Atlantic: d. Current American Bureau of Shipping Classification, U.S. Coast Guard Certificate of Inspection, or other appropriate classifications, with operational limitations.

Pacific, Gulf of Alaska, and Atlantic:

2.3 *Fixed Drilling Platforms.* Applications for installations of fixed drilling platforms or structures, including artificial islands, shall be submitted in accordance with OCS Order No. 8. Mobile Drilling Units which have their jacking equipment removed or have been otherwise immobilized will be considered fixed drilling platforms and applications shall also be submitted in accordance with OCS Order No. 8.

3. *Well Casing and Cementing.*

3.1 *General Requirements.*

All wells shall be cased and cemented in accordance with the requirements of 30 CFR 250.41(a)(1). The Application for Permit to Drill shall include the casing design safety factors for collapse, tension, and burst. Wells drilled in areas which are underlain by freshwater aquifers shall have casing programs which are designed to protect the freshwater zones. In cases where cement has filled the annular space back to the ocean floor, upon approval by the District Supervisor, the cement may be washed out or displaced to a depth not exceeding the depth of the structural casing shoe to facilitate casing removal upon well abandonment. For the purpose of this Order, the several casing strings in order of normal installation are drive or structural, conductor, surface, intermediate, and production casing. If there are indications of inadequate cementing (such as lost returns, cement channeling, or mechanical failure of equipment in the surface, intermediate, and production casings strings), the lessee shall evaluate the adequacy of the cementing operations by pressure testing the casing shoe, running a

cement bond log, running a temperature survey, or a combination thereof before continuing operations. If the evaluation indicates inadequate cementing, the lessee shall recement or take other actions as approved by the District Supervisor. The lessee shall verify the adequacy of the remedial cementing operations as required by the District Supervisor.

The design criteria for all wells shall consider and be submitted with the Application for Permit to Drill, all pertinent factors for well control, such as:

a. Formation fracture gradients.
b. Formation pressure.
c. Anticipated surface pressure.
d. Casing setting depths.

The lessee shall utilize appropriate drilling technology and state-of-the-art methods, such as drilling-rate evaluation, shale-density analysis, or other appropriate methods in order to enhance the evaluation of conditions of abnormal pressure and to minimize the potential for the well to flow or kick.

All casing, except drive pipe or structural casing, shall be new pipe which meets or exceeds American Petroleum Institute (API) standards, or reconditioned used pipe that has been tested to assure that it will meet or exceed API standards for new pipe. If casing to be used is not fabricated to API standards, the yield strengths of the casing shall be included on the Application for Permit to Drill (Form 9–331 C), provided these specifications are not on file with the U.S. Geological Survey (USGS).

3.2 *Drive or Structural Casing.*

This casing shall be set by driving, jetting, or drilling to a minimum depth of 30 meters (98 feet) below the ocean floor or to other depths, as may be required or approved by the District Supervisor, in order to support unconsolidated deposits and to provide hole stability for initial drilling operations. If this portion of the hole is drilled, the drilling fluid shall be of a type that is in compliance with the liquid disposal requirements of OCS Order No. 7, and a quantity of cement sufficient to fill the annular space back to the ocean floor shall be used.

3.3 *Conductor and Surface Casing Setting and Cementing Requirements.*

3.3.1 *Conductor and Surface Casing Setting Depths.*

Gulf of Mexico: Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons, other potential hazards, and water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; however, the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. The District Supervisor may prescribe the setting depths for those wells which may encounter abnormal pressure conditions. Conductor casing setting depths shall be between 152 meters (499 feet) and 305 meters (1,000 feet) TVD below the Gulf floor. Surface casing setting depths shall be between 457 meters (1,499 feet) and 1,372 meters (4,500 feet) TVD below the Gulf floor. The District Supervisor may approve a request to waive the requirement for setting conductor casing at a specific well location provided the following conditions are fulfilled:

a. At least one well has been drilled adjacent to the specified well location.

b. The well logs and mud monitoring procedures demonstrate to the District Supervisor's satisfaction the absence of shallow hydrocarbons or hazards.

Engineering and geologic data which are used to substantiate the proposed setting depths of the conductor and surface casing (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with the Application for Permit to Drill.

Pacific: Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons, other potential hazards, and the water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; however, the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. The District Supervisor may prescribe the setting depths for those wells which may encounter abnormal pressure conditions. Conductor casing settings depths shall be between 91 meters (298 feet) and 152 meters (499 feet) TVD below the ocean floor. Surface casing setting depths shall be between 305 meters (1,000 feet) and 366 meters (1,200 feet) TVD below the ocean floor, but may be set 457 meters (1,499 feet) in the event that conductor casing is set as deep as 137 meters (450 feet) TVD below the ocean floor.

Engineering and geologic data which are used to substantiate the proposed setting depths of the conductor and surface casings (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with Application for Permit to Drill.

Gulf of Alaska and Atlantic: Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons, other potential hazards, and water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; however, the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. The District Supervisor may prescribe the setting depths for those wells which may encounter abnormal pressure conditions. Except as may otherwise be prescribed, conductor casing setting depths shall be between 91 meters (298 feet) and 305 meters (1,000 feet) TVD below ocean floor, and surface casing setting depths shall be between 305 meters (1,000 feet) and 1,400 meters (4,593 feet) TVD below ocean floor. Engineering, geophysical, and geologic data used to substantiate the proposed setting depths of the conductor and surface casings (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with Application for Permit to Drill.

3.3.2 Conductor Casing Cementing Requirements.

Conductor casing shall be cemented with a quantity of cement sufficient to fill the calculated annular space back to the ocean floor. Cement fill to the ocean floor shall be verified by the observation of cement returns. In the event that observation of cement returns is not feasible or possible, an excess volume of cement shall be used to assure fill to the ocean floor. The excess volume shall be approved by the District Supervisor. Upon approval by the District Supervisor, the cement may be washed out or displaced to a depth not exceeding the depth of the structural casing shoe to facilitate casing removal upon well abandonment.

3.3.3 Surface Casing Cementing Requirements.

Gulf of Mexico, Gulf of Alaska, and Atlantic: Surface casing shall be cemented with a quantity of cement sufficient to protect all freshwater zones, to provide well control until the next string of casing is set, and with sufficient cement to fill the calculated annular space to at least 60 meters (197 feet) inside the conductor casing.

For floating drilling operations that use a one-stack blowout preventor (BOP) system, a lesser volume of cement is permissible to prevent sealing the annular space between the conductor casing and surface casing, when approved by the District Supervisor. Any annular space open to the drilled hole must be sealed in accordance with the requirements in Order No. 3 upon abandonment. After drilling a maximum 15 meters (49 feet) of new hole, a pressure test shall be conducted to obtain data to be used in estimating the formation fracture gradient. Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight as approved by the District Supervisor. The results of this test and any subsequent tests of the formation shall be recorded on the driller's report and used to determine the depth and maximum mud weight to be used in the intermediate hole.

Pacific: Surface casing shall be cemented with a quantity of cement sufficient to protect all freshwater zones, to provide well control until the next string of casing is set, and with sufficient cement to fill the calculated annular space to the ocean floor, or as approved by the District Supervisor.

For floating drilling operations that use a one-stack blowout preventor (BOP) system, a lesser volume of cement if permissible to prevent sealing the annular space between the conductor casing and surface casing, when approved by the District Supervisor. Any annular space open to the drilled hole must be sealed in accordance with the requirements in Order No. 3 upon abandonment.

After drilling a maximum of 15 meters (49 feet) of new hole, a pressure test shall be conducted to obtain data to be used in estimating the formation fracture gradient. Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight as approved by the District Supervisor. The results of this test and any subsequent tests of the formation shall be recorded on the driller's report and used to determine the depth and maximum mud weight to be used in the intermediate hole.

3.4 Intermediate Casing Setting and Cementing Requirements.

One or more strings of intermediate casing shall be set when required by anticipated abnormal pressure, mud weight, sediment, and other well conditions. The setting depth for intermediate casing shall be based on the pressure tests of the exposed formation below the surface casing shoe or on subsequent pressure tests. After drilling a maximum of 15 meters (49 feet) of new hole, a pressure test shall be conducted to obtain data to be used in estimating the formation fracture gradient. Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight as approved by the District Supervisor. The results of this test and any subsequent tests of the formation shall be recorded on the driller's report and used to determine the depth and maximum mud weight to be used in the hole below the intermediate-casing string.

A quantity of cement sufficient to cover and isolate all hydrocarbon zones and to isolate abnormal pressure intervals from normal pressure intervals shall be used. This requirement for isolation may be satisfied by squeeze cementing prior to completion, suspension of operations, or abandonment, whichever occurs first. Sufficient cement shall be used to provide annular fill-up to a minimum of 150 meters (492 feet) above the zones to be isolated or 150 meters (492 feet) above the casing shoe in cases where zonal coverage is not required. If a liner is used as an intermediate string, it shall be lapped a minimum of 30 meters (98 feet) into the previous casing string and cemented as required for intermediate casing. The liner shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and the next larger string has been achieved. The test shall be recorded on the driller's report. If the test indicates an improper seal, the top of the liner shall be squeeze cemented. When such liner is used as production casing, it shall be extended to the surface and cemented to avoid surface casing beig used as production casing.

3.5 Production Casing.

Production casing shall be set before completing the well for production. It shall be cemented in a manner necessary to cover or isolate all zones above the shoe which contain hydrocarbons; but in any case, a calculated volume sufficient to fill the annular space at least 150 meters (492 feet) above the uppermost hydrocarbon zone must be used. Open-hole and slotted-liner completions are permitted when approved by the District Supervisor.

When a liner is used as production casing below intermediate casing, it shall be lapped a minimum of 30 meters (98 feet) into the previous casing string and cemented as required for the production casing. Testing of the seal between the liner top and the next larger string shall be conducted as in the case of intermediate liners and recorded on the driller's report. If the test indicates an improper seal, the top of the liner shall be squeeze cemented.

3.6 Pressure-Testing of Casing.

Prior to drilling the plug after cementing, all casing strings, except the drive or structural casing, shall be pressure-tested as shown in the table below. The test pressure shall not exceed 70 percent of the internal yield pressure of the casing. If the pressure declines more than 10 percent in 30 minutes or if there is another indication of a leak, the casing shall be recemented, repaired, or an additional casing string run, and the casing tested again. The above procedures shall be repeated until a satisfactory test is obtained.

Casing and Minimum Surface Pressure

Conductor—1,400 kilopascals (kPa) (203 psi).
Surface—*00 kPa (1,000 psi).
Intermediate, Liner, and Production—*10,400 kPa (1,508 psi) of 5 kPa/m (0.22 psi/ft.) whichever is greater.

In the event of prolonged drill pipe operations which could cause damage to the casing, the casing shall be pressure-tested, calipered, or otherwise evaluated, as approved by the District Supervisor.

After cementing any of the above strings, drilling shall not be resumed until a time lapse of 8 hours under pressure for the conductor casing string or 12 hours under pressure for all other strings. Cement is considered under pressure if one or more float valves are employed and are shown to be holding the cement in place or when other means of holding pressure is used. All casing pressure tests shall be recorded on the driller's report.

In addition to the time lapse stated above, sufficient time must elapse to allow the bottom 153 meters (502 feet) of annular cement fill, or total length of annular cement fill, if less, to attain a compressive strength of at least 3,448

* Must not exceed 70 percent of the minumm internal yield pressure.

kPa (500 psi) or as approved by the District Supervisor before drilling resumes.

The typical performance data for the particular cement mix used in the well shall be used to determine the time lapse required.

4. *Directional Surveys.*

Gulf of Mexico: Wells are considered vertical if inclination does not exceed an average of 3 degrees from the vertical. Inclinational surveys shall be obtained on all vertical wells at intervals not exceeding 300 meters (984 feet) during the normal course of drilling.

Wells are considered directional if inclination exceeds an average of 3 degrees from the vertical. Directional surveys giving both inclination and azimuth shall be obtained on all directional wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling and at intervals not exceeding 30 meters (98 feet) in all planned angle-change portions of the hole.

On both vertical and directional wells, directional surveys giving both inclination and azimuth shall be obtained at intervals not exceeding 150 meters (492 feet prior to, or upon, setting surface or intermediate casing, liners, and at total depth. Composite directional surveys shall be filed with the District Supervisor. The interval shown will be from the bottom of conductor casing or, in the absence of conductor casing, from the bottom of drive or structural casing to total depth. In calculating all surveys, a correction from true north to Universal Transverse Mercator Grid north or Lambert Grid north shall be made after making the magnetic-to-true-north correction. A composite dipmeter directional survey including a listing of the directionally computed inclinations and azimuths on a well classified as vertical will be acceptable as fulfilling the applicable requirement of this paragraph.

Pacific, Gulf of Alaska, and Atlantic: Wells are considered vertical if inclination does not exceed an average of 3 degrees from the vertical. Inclinational surveys shall be obtained on all vertical wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling.

Wells are considered directional if inclination exceeds an average of 3 degrees from the vertical. Directional surveys giving both inclination and azimuth shall be obtained on all directional wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling and at intervals not exceeding 30 meters (98 feet) in all planned angle-change portions of the hole.

On both vertical and directional wells, directional surveys giving both inclination and azimuth shall be obtained at intervals not exceeding 150 meters (492 feet) prior to, or upon, setting surface or intermediate casing, liners, and at total depth. Composite directional surveys shall be filed with the District Supervisor. The interval shown will be from the bottom of conductor casing or, in the absence of conductor casing, from the bottom of drive or structural casing to total depth. In calculating all surveys, a correction from true north to Universal Transverse Mercator Grid north or Lambert Grid north shall be made after making the magnetic-to-true-north correction. A composite dipmeter directional survey including a listing of the directionally computed inclinations and azimuths on a well classified as vertical will be acceptable as fulfilling the applicable requirements of this paragraph.

5. *Blowout-Preventor (BOP) Equipment Requirements.*

5.1 *General Requirements.* Blowout preventers and related well-controlled equipment shall be installed, used, maintained, and tested in a manner necessary to assure well control.

5.1.1 *BOP Equipment.* Blowout-preventer equipment shall consist of an annular preventer and the specified number of ram-type preventers. The pipe rams shall be of proper size to fit the drill pipe in use. The working pressure of any blowout preventer shall exceed the anticipated surface pressure to which it may be subjected.

Information submitted with the Application for Permit to Drill shall include the anticipated surface pressure and the criteria used to determine this pressure. All blowout-preventer systems shall be equipped with:

a. A hydraulic actuating system that provides sufficient accumulator capacity to supply 1.5 times the volume necessary to close all BOP equipment units with a minimum pressure of 1,400 kPa (203 psi) above the precharge pressure. An accumulator backup system, supplied by a secondary power source independent from the primary power source, shall be provided with sufficient capacity to close all blowout preventers and hold them closed. Locking devices shall be provided on the ram-type preventers. The method of BOP actuation control such as hydraulic, acoustic, or other methods, shall be described and included in the Application for Permit to Drill.

b. At least one operable remote blowout-preventer-control station, in addition to the one on the drilling floor. This control station shall be in a readily accessible location away from the drilling floor.

c. A drilling spool with side outlets, if side outlets are not provided in the BOP body, to provide for separate kill and choke lines.

d. A kill line equipped with 2 kill-line valves is required. The master valve shall be located adjacent to the BOP. This valve shall not normally be used for opening or closing on flowing fluid. The second valve shall be located adjacent to the master valve. This valve shall be used as the control valve.

e. A fill-up line above the uppermost preventer.

f. A choke manifold equipped in accordance with "API Recommended Practice for Blowout-Prevention Equipment Systems," API RP 53, First Edition, February 1976, reissued February 1978, Sections 3A and 3B, or subsequent revisions which the Chief, Conservation Division, has approved for use.

g. Valves, pipes, flexible steel hoses, and other fittings upstream of, and including, the choke manifold shall have a pressure rating at least equal to the anticipated surface pressure.

h. A wellhead assembly with a working pressure at least equal to the anticipated surface pressure.

5.1.2 *Auxiliary Equipment.* The following auxiliary equipment shall be provided and maintained in operable condition at all times:

a. A kelly cock shall be installed below the swivel and an essentially full-opening valve of such design that it can be run through blowout preventers shall be installed at the bottom of the kelly. A wrench to fit each valve shall be stored in a conspicuous location readily accessible to the drilling crew.

b. An inside blowout preventer and an essentially full-opening drill string safety valve in the open position shall be maintained on the rig floor at all times while drilling operations are being conducted. These valves shall be maintained on the rig floor to fit all connections that are in the drill string.

c. A safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string that is being run in the hole at the time.

5.1.3 *Subfreezing Operations.*

Gulf of Alaska and Atlantic: The blowout preventers and related control equipment shall be suitable for operations in those Areas which are subject to subfreezing conditions.

5.2 *Subsea BOP Requirements.* The minimum requirements for drilling below the casing strings for subsea blowout-preventer stacks are tabulated below:

Drive or structural—See Notes [1] and [2].
Conductor—1-Annular, 1-Diverter System [3] and [4].
Surface 1-Annular, 2-Pipe Rams, 1-Blind Shear Ram.
Intermediate 1-Annular, 2-Pipe Rams [5], 1-Blind Shear Ram.

Note 1.—When drilling fluids are circulated to the drilling vessel, a diverter system as described in subparagraph 5.4.1 shall be installed on top of the marine riser.

Note 2.—If returns to the surface cannot be established, refer to subparagraph 5.4.2.

Note 3.—The choke and kill lines or equivalent vent lines, equipped with necessary connections and fittings, can be used for diversion, if approved by the District Supervisor, or an annular preventer or pressure-rotating, packoff-type head, equipped with suitable diversion lines, shall be installed on top of the marine riser.

Gulf of Mexico

Note 4.—To be installed on top of the marine rise. Diverter systems installed prior to the effective date of this Order shall include a minimum of two 10-centimeter (4-inch) internal diameter lines and full-opening valves. Diverter systems installed or modified after the effective date of this Order shall include a minimum of two 15-centimeter (6-inch) internal diameter lines and full-opening valves.

Pacific, Gulf of Alaska, and Atlantic:

Note 4.—To be installed on top of the marine riser. The diverter system shall provde, as a minimum, two 15-centimeter (6-inch) internal diameter lines and full-opening valves.

All Areas

Note 5.—When a tapered drill string is in use, the BOP stack shall be equipped with two (2) sets of pipe rams for the larger size string and one (1) set for the smaller size string of drill pipe.

Subsea blowout-preventer stacks shall be equipped with blind shear rams. A subsea accumulator or a suitable alternate approved by the District Supervisor is required to provide fast closure of the preventers and to operate all critical functions in case of loss of power fluid connection to the surface. The blowout-preventer system shall include dual pod control systems in accordance with API RP 53, First Edition, February 1976, reissued February 1978, Subsection 5.B.13, or subsequent revisions which the Chief, Conservation Divison, has approved for use. Prior to the removal of the marine riser for installing casing, the riser shall be displaced with seawater. Sufficient hydrostatic head shall be maintained within the well bore to compensate for the reduction in head and to maintain a safe well condition. If repair or replacement of the blowout-preventer stack is necessary after installation, this work shall be accomplished after casing has been cemented prior to drilling out the casing shoe or by setting a cement or bridge plug or storm packer to assure safe well conditions.

5.3 *Surface BOP Requirements.* The minimum requirements for drilling below the casing strings for conventional surface blowout-preventer stacks are tabulated below:

Drive or structural 1-Annular, 1-Diverter System [1].
Conductor 1-Annular, 1-Diverter System
Surface 1-Annular, 2-Pipe Rams, 1-Blind Ram.
Intermediate 1-Annular, 2-Pipe Rams [2], 1-Blind Ram.

Gulf of Mexico

Note 1.—Diverter systems installed prior to the effective date of this Order shall include a minimum of two 10-centimeter (4-inch) internal diameter lines and full-opening valves. Diverter systems installed or modified after the effective date of this Order shall include a minimum of two 15-centimeter (6-inch) internal diameter lines and full-opening valves. The flowpath from the BOP to the branch point of diverter lines in new systems shall have a minimum internal diameter of 15 centimeters (6 inches).

Pacific, Gulf of Alaska, and Atlantic

Note 1.—The diverter system shall include a minimum of two 15-centimeter (6-inch) internal diameter lines and full-opening valves. The flowpath from the BOP to the branch point of diverter lines in new systems shall have a minimum internal diameter of 15 centimeters (6 inches).

All Areas

Note 2.—When a tapered drill string is in use, the BOP stack shall be equipped with two (2) sets of pipe rams for the larger size string and one (1) set for the smaller size string of drill pipe.

5.4 *Drive Pipe or Structural Casing BOP Requirements.*

5.4.1 *Drilling Operations from Bottom-Supported Rigs.* Before drilling below this string with a bottom setting rig, a diverter system utilizing an annular type preventer and related equipment shall be installed for circulating the drilling fluid to the drilling structure. The diverter system shall be equipped with remote-control valves in the main and diverter flow lines that can be operated from the control panel prior to shutting in the well. The diverter lines shall vent in different directions to permit downwind diversion. A schematic diagram and operational procedure for the diverter system shall be submitted with the Application for Permit to Drill (Form 9–331 C) to the District Supervisor for approval.

5.4.2 *Floating Drilling Operations.* In drilling operations where a floating or semi-submersible type of drilling vessel is used and formation competency at the structural casing setting depth is not adequate to permit circulation of drilling fluids to the vessel while drilling the conductor hole, a program which provides for safety in these operations shall be described and submitted to the District Supervisor for approval. This program shall include all known pertinent information, including seismic and geologic data, water depth, drilling-fluid hydrostatic pressure, a schematic diagram indicating the equipment to be installed from the rotary table to the proposed conductor-casing seat, and a contingency plan for moving off location.

5.5 *Conductor Casing.* Before drilling below this sting, at least one remote-controlled, annullar-type blowout preventer shall be installed. A diverter system and other equipment for circulating the drilling fluid to the drilling structure or vessel shall be installed as described in subparagraph 5.4.1.

5.6 *Surface and Intermediate Casing.* Before drilling below these strings, the blowout-preventer system shall consist of at least four remote-controlled, hydraulically operated blowout preventers including at least two equipped with pipe rams, one with blind rams, and one annular type. Subsea blowout-preventer stacks used with floating drilling vessels shall include one set of blind shear rams.

5.7 *Testing of BOP Systems.* Prior to conducting high-pressure tests, all BOPs shall be tested to a low pressure of 1,400 to 2,000 kPa (203 to 290 psi). All BOP tests shall be recorded in the driller's report.

5.7.1. *BOP Testing Frequency.* Surface and subsea BOP stacks shall be tested as follows:

a. When installed.

b. Before drilling out after each string of casing has been set.

c. At least once each week, but not exceeding 7 days between tests, alternating between control stations. A period of more than 7 days between blowout-preventer tests is allowed when well operations prevent testing and remedial efforts are being performed, provided the tests will be conducted as soon as possible before normal operations resume, and the reason for postponing testing is entered into the log. Well operations which prevent testing are stuck drill pipe and pressure control operations. Testing shall be at staggered intervals to allow each drilling crew to operate the equipment.

d. Following repairs that require disconnecting a pressure seal in the assembly.

5.7.2 *Pressure Testing Surface BOP Systems.*

Gulf of Mexico: Ram-type BOPs and related control equipment including the choke manifold shall be tested at the anticipated surface pressure or at 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser. The annualar-type BOP shall be tested at 70 percent of its rated working pressure or 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser. Before drilling out of each casing or liner shoe, the blind rams shall be tested as required for pipe rams. After drilling out of each casing or liner shoe, the blind rams need not be tested until before drilling out the subsequent casing or liner shoe.

Pacific, Gulf of Alaska, and Atlantic: Ram-type BOPs and related control equipment including the choke manifold shall be tested at the anticipated surface pressure or at 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser. The annular-type BOP shall be tested at 70 percent of its rated working pressure or 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser.

5.7.3 *Pressure Testing Subsea BOP Systems.*

Gulf of Mexico: Subsea BOPs and all related well-control equipment shall be stump-tested at the surface with water to the anticipated surface pressure, except that the annular-type BOP shall not be tested above 70 percent of its rated working pressure. After the installation of the BOP stack on the sea floor, the control equipment and pipe rams, conforming to the drill string within the stack, shall be tested as required under subparagraph 5.7.2. Before drilling out of each casing or liner shoe, the blind shear rams shall be tested as required for blind rams under subparagraph 5.7.2.

Pacific, Gulf of Alaska, and Atlantic: Subsea BOPs and all related well-control equipment shall be stump-tested at the surface with water to the anticipated surface pressure, except that the annular-type BOP shall not be tested above 70 percent of its rated working pressure. After the installation of the BOP stack on the sea floor, the control equipment and ram-type BOPs shall be tested as required under subparagraph 5.7.2.

5.7.4. *Actuation of Surface BOP Systems.*

The following minimum-actuation frequencies are required:

a. Pipe Rams—Daily. In order to prevent damage to the rams, complete closure of the rams on drill pipe is not required, provided proper operation is indicated.

b. Blind Rams—Once each trip while the drill pipe is out of the hole. If multiple trips are made, only one actuation per day is required.

c. Annular-Type Preventer—Once each week in conjunction with the pressure test.

d. Control Stations—Once each trip from alternate control stations, while the drill pipe is out of the hole; however, not more than once each day if multiple trips are made. If either systems is not functional, further drilling operations shall be suspended until that system becomes operable.

e. Choke manifold valves, kelly cocks, drill pipe safety valves—Weekly.

5.7.5 *Actuation of Subsea BOP Systems.* The actuation frequency requirements for subsea BOP systems shall be the same as those listed in subparagraph 5.7.4 for surface BOP systems, except the pipe rams shall be actuated every other day. In order to prevent damage to the rams, complete closure of the rams on the drill pipe is not required, provided movement of the rams is indicated by the hydraulic system pressure and flow indicators.

The blind shear rams shall be actuated once each trip from alternate control stations and control systems; however, not more than once each day if multiple trips are made. During the weekly pressure tests, all hydraulic systems except those actuating the blind shear rams shall be actuated from each control station and control system.

5.8 *Inspection and Maintenance.* All BOP systems, marine risers, and associated equipment shall be inspected and maintained in accordance with the manufacturer's recommended procedures. The BOP systems and marine risers shall be visually inspected at least once each day if the weather and sea conditions permit the inspection. Inspection of subsea installations may be accomplished by the use of television equipment.

5.9 *Blowout-Preventer Drills.* All drilling personnel shall be indoctrinated in blowout-preventer drills and be familiar with the blowout-preventer equipment before starting work on the well. A blowout-preventer drill shall be conducted for each drilling crew in accordance with the well-control drill requirements of the U.S. Geological Survey (USGS) Outer Continental Shelf Standard "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," No. T 1 (GSS–OCS–T 1), First Edition, December 1977, and subsequent revisions thereto. A BOP drill may be required by a USGS designated representative at any time during the drilling operation, after notifying the lessee's senior representative present.

All BOP drills shall be recorded in the driller's report.

6. *Mud Program.*

The characteristics, use, and testing of drilling mud and the implementation of related drilling procedures shall be designed to prevent the loss of well control. Sufficient quantities of mud materials shall be maintained readily accessible for use at all times to assure well control.

6.1 *Mud Control.* Before starting out of the hole with drill pipe, the mud shall be properly conditioned. Proper conditioning requires either circulation with the drill pipe just off bottom to the extent that the annular volume is displaced, or proper documentation in the driller's report prior to pulling the drill pipe as follows:

a. There was no indication of influx of formation fluids prior to starting to pull the drill pipe from the hole.

b. The weight of the returning mud is not less than the weight of the mud entering the hole.

c. Other mud properties recorded on the daily drilling log are within the specified ranges required by the mud program. When the mud in the hole is circulated, the driller's report shall be so noted.

When coming out of the hole with drill pipe, the annulus shall be filed with mud before the change in mud level decreases the hydrostatic pressure 517 kPa (75 psi) or every 5 stands of drill pipe, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe and drill collars that may be pulled prior to filling the hole and the equivalent mud volume shall be calculated and posted. A mechanical, volumetric, or electronic device for measuring the amount of mud required to fill the hole shall be utilized.

When there is an indication of swabbing or influx of formation fluids, the necessary safety devices and action shall be employed to control the well. The mud shall be circulated and conditioned, on or near bottom, unless well or mud conditions prevent running the drill pipe back to the bottom.

For each casing string, the maximum pressure to be contained under the blowout preventer, before controlling excess pressure by bleeding through the choke, shall be posted near the driller's control console.

An operable gas separator shall be installed in the mud system prior to commencement of drilling operations. The separator shall be maintained for use throughout the drilling and completion of the well.

The mud in the hole shall be circulated or reverse-circulated prior to

pulling the drill-stem test tools from the hole.

6.2 *Mud Testing and Monitoring Equipment.* Mud-testing equipment shall be maintained on the drilling rig at all times, and mud tests shall be performed once each tour, or more frequently, as conditions warrant. Such tests shall be conducted in accordance with procedures outlined in "API Recommended Practice for Standard Procedure for Testing Drilling Fluids," API RP 13B, Seventh Edition, April 1978, or subsequent revisions which the Chief, Conservation Division, has approved for use. The results of the tests shall be recorded and maintained at the drill site.

The following mud-system monitoring equipment shall be installed with derrick floor indicators and used when mud returns are established and throughout subsequent drilling operations:

a. Recording mud pit level indicator to determine mud pit volume gains and losses. This indicator shall include both a visual and an audio warning device.

b. Mud-volume measuring device for accurately determining mud volumes required to fill the hole on trips.

c. Mud-return indicator to determine that returns essentially equal the pump discharge rate.

d. Gas-detecting equipment to monitor the drilling mud returns, with indicators located in the mud-logging compartment or on the derrick floor. If the indicators are in the mud-logging compartment, there shall be a means of immediate communication with the rig floor, and the equipment shall be continually manned.

6.3 *Mud Quantities.* The lessee shall include, with his Application for Permit to Drill, a tabulation of well depth versus minimum quantities of mud material, including weighting material, to be maintained at the drill site to assure well control.

When the mud quantity required exceeds the storage capacity of the drilling facility, the lessee shall maintain maximum mud inventories and must receive approval from the District Supervisior of the lessee's plans to resupply mud inventories in the event of an emergency. The plan shall include an estimate of the time required for delivery of the mud supplies.

Daily inventories of mud materials, including weighting material, shall be recorded and maintained at the well site. Drilling operations shall be suspended in the absence of minimum quantities of mud material specified in the table or as modified in the approved plan.

7. *Supervision, Surveillance, and Training.*

7.1 *Supervision.* A representative of the lessee shall provide onsite supervision of drilling operations on a 24-hour basis.

7.2 *Surveillance.* From the time drilling operations are initiated and until the well is completed or abandoned, a member of the drilling crew or the toolpusher shall maintain rig-floor surveillance continuously, unless the well is secured with blowout preventers, bridge plugs, storm packer, or cement plugs.

7.3 *Training.* By December 1, 1979, lessee and drilling contractor personnel shall be trained and qualified in accordance with the provisions of the USGS Outer Continental Shelf Standard "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," No. T 1 (GSS–OCS–T 1), First Edition, December 1977, and subsequent revisions thereto.

Any driller, toolpusher, or operator's representative who received training in well-control operations between December 1, 1975, and December 1, 1979, will be credited with having met the training requirements of GSS–OCS–T 1.

After December 1, 1979, in order to maintain qualification, employees must successfully complete a USGS-approved refresher course annually and repeat the basic well-control course every 4 years, as described in the provisions of GSS–OCS–T 1. Credit for these courses shall be obtained from USGS-approved schools.

The refresher course shall be completed within 45 days of the student's anniversary date. The anniversary date is established upon the student's successful completion of a basic course in well control.

Records shall be maintained at the drill site for the affected personnel, indicating the specific training and refresher courses successfully completed, the dates of completion, and the names and dates of the courses.

In those Areas which are subject to subfreezing conditions, the lessee shall ensure that personnel responsible for maintenance of the blowout-preventer stack, the associated-control equipment, and the hydraulic-control fluids shall be instructed in the proper procedures to prevent freezing of the hydraulic-control fluids in the control system and the fluids in the choke and kill lines.

8. *Hydrogren Sulfide.* When drilling operations are planned which will penetrate reservoirs known or expected to contain hydrogen sulfied (H_2S), or in those Areas where the presence of H_2S is unknown, or upon encountering H_2S, the preventive measures and the operating practices set forth in USGS Outer Continental Shelf Standard "Safety Requirements for Drilling Operations in a Hydrogen Sulfide Environment," No. 1 (GSS–OCS–1), Second Edition, June 1979, or subsequent revisions thereto, shall be followed.

9. *Critical Operations and Curtailment Plans.*

Gulf of Mexico: Certain operations performed in drilling are more critical than others with respect to well control, and for the prevention of fire, explosion, oil spills and other discharges or emissions. Prior to conducting any such operations the lessee shall file with the District Supervisor, for approval, a Critical Operations and Curtailment Plan to be followed while conducting drilling operations in each District area. Plans shall be filed for existing platforms and operating mobile drilling units, which do not have approved plans, within 90 days after the effective date of this Order. This plan shall include:

a. The guidelines the operator will follow to assure coordination, control, and, if necessary, curtailment of drilling activities.

b. The name of the person who has responsibility as the person in charge of overall drilling operations.

c. An outline of any additional safety or antipollution measures that are required when conducting critical drilling operations.

The lessee shall review the plan at least annually. The lessee shall notify the District Supervisor of the results of this review. Any amendments or modifications of the plan are subject to the approval of the District Supervisor.

Pacific, Gulf of Alaska, and Atlantic: Certain operations performed in drilling are more critical than others with respect to well control, and for the prevention of fire, explosion, oil spills, and other discharges or emissions. The lessee shall submit with the Exploration Plan or Development and Production Plan a Critical Operations and Curtailment Plan to be followed while conducting drilling operations on each lease. Plans shall be filed for existing platforms and operating mobile drilling units, which do not have approved plans, within 90 days after the effective date of this Order. This plan shall include:

a. A list or description of the critical drilling operations that are, or are likely to be, conducted on the lease. This list or description shall specify the operations to be ceased, limited, or not to be commenced under given circumstances or conditions.

This list shall include operations such as:

(1) Drilling in close proximity to another well.

(2) Drill-stem testing.

(3) Running and cementing casing.

(4) Cutting and recovering casing.

(5) Logging or wireline operations.

(6) Well-completion operations.

(7) Moving the drilling vessel off location in an emergency, repositioning the vessel on location, and reestablishing entry into the well.

b. A list or description of circumstances or conditions under which such critical operations shall be curtailed. This list or description shall be developed from all the factors and conditions relating to the conduct of operations on the lease, and shall consider but not necessarily be limited to the following:

(1) Whether the drilling operations are to be conducted from mobile or fixed platforms.

(2) The availability and capability of containment and cleanup equipment and spill-control system response time.

(3) Abnormal or unusual conditions expected to be encountered during drilling operations.

(4) Known or anticipated meteorologic or oceanographic conditions.

(5) Availability of personnel and equipment for particular operations to be conducted.

(6) Other factors peculiar to the particular lease under consideration.

c. The name of the person who has responsibility as the person in charge of overall drilling operations.

When any circumstance or condition listed or described in the plan occurs or other operational limits are encountered, the lessee shall notify the District Supervisor and shall curtail the critical operations as set forth under 9a.

Deviations from the plan shall require prior approval of the District Supervisor. If emergency action requires deviation from the plan, the District Supervisor shall be notified as soon as possible. The lessee shall review the plan at least annually. The lessee shall notify the District Supervisor of the results of this review. Any amendments or modifications of the plan are subject to the approval of the District Supervisor.

10. *Field Drilling Rules.* When sufficient geological and engineering information is obtained as a result of drilling operations, the lessee may make an application or the Supervisor may require an application for the establishment of field drilling rules. After field drilling rules have been established by the Supervisor, development wells shall be drilled in accordance with these rules and the requirements of this Order which are not affected by such rules.

11. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 205.11(b).

Approved:

Don E. Kash,

Chief, Conservation Division.

OCS Order No. 3

Paragraph 1

Comments. No comments received.

Discussion. A new paragraph 1, *Application for Approval to Abandon a Well,* was added in accordance with the regulation, 30 CFR 250.92, *Sundry Notices and Reports on Wells.* The subsequent paragraphs were renumbered.

Subparagraph 2.4.1.b

Comments. One commenter suggested that subparagraph 2.4.1.b (1.4.1.b) be reworded to clarify where the cement should be set.

Discussion. The USGS has revised this subparagraph for clarification.

Paragraph 3(2)

Comments. One commenter suggested that subparagraph 2.3 (1.3), *Plugging or Isolating Perforated Intervals,* should be included in the exceptions to temporary abandonment. It was felt that a producible zone would be damaged if subjected to the cement job.

Discussion. This suggestion was not adopted. Since temporary abandonment does not have any time constraints, this type of plugging should be required to prevent migration of fluids. The subparagraph allows for isolation of the zone by setting a bridge plug above the interval as long as the perforations are isolated from the hole below. This method will prevent formation damage.

Comments. It was suggested that subparagraph 2.5 (1.5), *Plugging of Annular Space,* be included in the exceptions to temporary abandonment. If test casing were installed, it would be undesirable to perforate and squeeze before testing other formations.

Discussion. The suggestion was not adopted. We agree that it would be undesirable to perforate and squeeze a test casing string. However, we believe that a request for departure is required to justify a waiver of the requirement for cementing the annular space. A departure of this nature may be approved on a case-by-case basis after consideration of all the risk factors.

U.S. Department of the Interior, Geological Survey Conservation Division

OCS Order No. 3—Effective January 1, 1980

Plugging and Abandonment of Wells

The Order is issued pursuant to the authority prescribed in 30 CFR 250.10, 250.11, and in accordance with 30 CFR 250.15 and 250.92. The operator shall comply with the following minimum plugging and abandonment procedures which have general application to all wells drilled for oil and gas. Plugging and abandonment operations shall not be commenced prior to obtaining approval from the appropriate District Supervisor. Oral or telegraphic approvals shall be in accordance with 30 CFR 250.13.

1. *Application for Approval to Abandon a Well.* In accordance with 30 CFR 250.92, the lessee shall submit for approval a Form 9–331, Sundry Notices and Reports on Wells, containing the following information:

1.1 *Notice of Intention to Abandon a Well.* A detailed statement of the proposed work for abandonment of any well. For all wells, the statement shall describe the proposed work (including by depths, the kind, location, and length of plugs) and plans for mudding, cementing, shooting, testing, and removing casing, and other pertinent information. The statement as to a producible well shall set forth the reasons for abandonment, the amount and date of last production, and complete data from the last well test.

1.2 *Subsequent Report of Abandonment.* A detailed report of the manner in which the abandonment or plugging work was accomplished, including the nature and quantities of materials used in the plugging and the location and extent, by depths, of casing left in the well, and the volume of mud fluid used. If an attempt was made to cut and pull any casing string, a description of the methods used and results obtained must be included.

2. *Permanent Abandonment.*

2.1 *Isolation of Zones in Open Hole.* In uncased portions of wells, cement plugs shall be spaced to extend 30 meters (98 feet) below the bottom to 30 meters (98 feet) above the top of any oil, gas, and freshwater zones so as to isolate them in the strata in which they are found and to prevent them from escaping into other strata or the surface. The placement of additional cement plugs to prevent the migration of formation fluids in the well bore may be required by the District Supervisor.

2.2 *Isolation of Open Hole.* Where there is open hole below the casing, a cement plug shall be placed in the deepest casing string in accordance with "a" or "b" below. In the event lost circulation conditions have been experienced or are anticipated, a permanent-type bridge plug may be placed in accordance with "c" below:

a. A cement plug set by the displacement method so as to extend a minimum of 30 meters (98 feet) above and 30 meters (98 feet) below the casing shoe.

b. A cement retainer with effective back-pressure control set not less than 15 meters (49 feet) nor more than 30 meters (98 feet) above the casing shoe, with a cement plug calculated to extend at least 30 meters (98 feet) below the casing shoe and 15 meters (49 feet) above the retainer.

c. A permanent-type bridge plug set within 45 meters (148 feet) above the casing shoe with 15 meters (49 feet) of cement on top of the bridge plug. This bridge plug shall be tested in accordance with subparagraph 1.7 prior to placing subsequent plugs.

2.3 *Plugging or Isolating Perforated Intervals.* A cement plug shall be set by the displacement method opposite all open perforations (perforations not squeezed with cement) extending a minimum of 30 meters (98 feet) above and 30 meters (98 feet) below the perforated interval or down to a casing plug, whichever is less. In lieu of setting a cement plug by the displacement method, the following two methods are acceptable, provided the perforations are isolated from the hole below:

a. A cement retainer with effective back-pressure control set not less than 15 meters (49 feet) nor more then 30 meters (98 feet) above the top of the perforated interval with a cement plug calculated to extend at least 30 meters (98 feet) below the bottom of the perforated interval and 15 meters (49 feet) above the retainer.

b. A permanent-type bridge plug set within 45 meters (148 feet) above the top of the perforated interval with 15 meters (49 feet) of cement on top of the bridge plug.

2.4 *Plugging of Casing Stubs.* If casing is cut and recovered leaving a stub, one of the following methods shall be used to plug the casing stub.

2.4.1 *Stub Termination Inside Casing String.* A stub terminating inside a casing string shall be plugged by one of the following methods:

a. A cement plug set so as to extend 30 meters (98 feet) above and 30 meters (98 feet) below the stub.

b. A cement retainer set 15 meters (49 feet) above the stub with a volume of cement equivalent to 45 meters (148 feet) squeezed below the retainer and with an additional 15 meters (49 feet) placed above the retainer.

c. A permanent bridge plug set 15 meters (49 feet) above the stub and capped with 15 meters (49 feet) of cement.

2.4.2 *Stub Termination Below Casing String.* If the stub is below the next larger string, plugging shall be accomplished in accordance with either subparagraph 2.1 or 2.2.

2.5 *Plugging of Annualar Space.* Any annular space communicating with any open hole and extending to the ocean floor shall be plugged with cement.

2.6 *Surface Plug.* A cement plug at least 45 meters (148 feet) in length, with the top of the plug 45 meters (148 feet) or less below the ocean floor, shall be placed in the smallest string of casing which extends to the ocean floor.

2.7 *Testing of Plugs.* The setting and location of the first plug below the surface plug shall be verified by one of the following methods:

a. By placing a minimum pipe weight of 6,800 kilograms (15,000 pounds) on the cement plug, cement retainer, or bridge plug. The cement placed above the bridge plug or retainer need not be tested.

b. By testing the plug with a minimum pump pressure of 6,900 kPa (1,000 psi) with no more than a 10-percent pressure drop during a 15-minute period.

2.8 *Mud.*

Each of the respective intervals of the hole between the various plugs shall be filled with mud fluid of sufficient density to exert hydrostatic pressure exceeding the greatest formation pressure encountered while drilling the intervals between the plugs.

2.9 *Clearance of Location.* All casing, wellhead equipment, and piling shall be removed to a depth of at least 5 meters (16 feet) below the ocean floor, or at a depth approved by the District Supervisor after a review of data on the ocean botton conditions. The operator shall verify that the location has been cleared of all obstructions.

3. *Temporary Abandonment.* Any drilling well which is to be temporarily abandoned shall be mudded and cemented as required for permanent abandonment except for the requirements in subparagraphs 2.6 and 2.9. When a drilling well is temporarily abandoned, a bridge plug or a cement plug shall be set at the base of the deepest casing string. If a cement plug is set, it is not necessary for the cement plug to extend below the casing shoe into the open hole.

The lessee shall set a retrievable or permanent bridge plug, or a cement plug at least 30 meters (98 feet) in length in the casing between 5 and 60 meters (16 and 197 feet) below the ocean floor.

When a casing stub extends above the ocean floor, the lessee shall comply with the requirements of OCS Order No. 1, paragraph 4, "Identification of Subsea Objects."

4. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Approved:
Don E. Kash,
Chief, Conservation Division.

OCS Order No. 4

Paragraph 1

Comments. Several commenters suggested that an Application of Determination of Well Producibility should be filed at the operator's discretion. The thought was that the application would be a "waste of time" for dry holes, and that an operator would lose competitive advantage by submitting such proprietary data.

Discussion. The USGS believes that the application provides necessary scientific and technical information concerning the geology of the Outer Continental Shelf and OCS lease areas under USGS jurisdiction. The timely submittal of this information is required for the Supervisor's evaluation of the diligence of the lessee in the development of the lease.

The proprietary nature of all information submitted with the Application for Determination of Well Producibility will be evaluated, in accordance with the Freedom of Information Act. Data which is determined to be proprietary will not be released.

U.S. Department of the Interior, Geological Survey, Conservation Division

OCS Order No. 4—Effective January 1, 1980

Determination of Well Producibility

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10, 250.11, and in accordance with 30 CFR 250.12. An OCS lease provides for extension beyond its primary term for as long as oil or gas may be produced from the lease in paying quantities. The term "paying quantities" as used herein means production of oil and gas in quantities sufficient to yield a return in excess of operating costs. An OCS lease may be maintained beyond the primary term, in the absence of actual production, when a suspension of

production has been approved in accordance with 30 CFR 250.12.

1. *Application for Determination of Well Producibility.* An application shall be submitted to the District Supervisor for the determination of every new well's capability of producing until a well, drilled on the lease, has been determined to be capable of producing oil or gas in paying quantities. The application shall be submitted within 60 days after the drilling rig has been moved from the well.

2. *Criteria for the Determination of Well Producibility.* The Supervisor shall prescribe which of the following criteria is to be used to determine the capability of a well to produce in paying quantities.

2.1 *Production Tests.* All tests must be witnessed by an authorized representative of the U.S. Geological Survey. Test data accompanied by the lessee's affidavit, or third-party test data, may be accepted in lieu of a witnessed test, provided approval is obtained from the District Supervisor prior to the performance of the test. All tests must conform to the following minimum requirements:

a. A production test for oil wells of at least 2 hours' duration following stabilization of flow.

b. A deliverability test for gas wells of at least 2 hours' duration following stabilization of flow or a 4-point back-pressure test.

2.2 *Production Capability Determination.*

Gulf of Mexico: The following may be considered as reliable evidence that a well is capable of producing oil or gas in paying quantities:

a. A resistivity log of the well showing a minimum of 15 feet of producible sand in one section that does not include any interval which appears to be water-saturated. All of the section counted as producible shall exhibit the following properties:

(1) Electrical spontaneous potential exceeding 20 negative millivolts beyond the shale base line. If mud conditions prevent a 20-negative-millivolt reading beyond the shale base line, a gamma ray log deflection of at least 70 percent of the maximum gamma ray deflection in the nearest clean water-bearing sand may be substituted.

(2) A minimum true resistivity ratio of the producible section to the nearest clean water-bearing sand of at least 5:1.

(3) A porosity log indicating porosity in the producible section.

b. Sidewall cores and core analyses which indicate that the section is capable of producing oil or gas.

c. The aforementioned criteria will ascertain that a well is producible. However, recognizing the fact that all geologic formations in the Gulf of Mexico Region do not possess the same physical properties and, therefore, do not lend themselves to one single method of log analysis, the U.S. Geological Survey may, at its discretion, accept sound log-interpretation techniques which demonstrate that a well would produce hydrocarbons in a particular area, even though the well might not qualify under items "a" and "b." The lessee can support the determination of well producibility by submitting further evidence such as wireline formation tests and/or mud logging analyses.

Pacific, Gulf of Alaska, and Atlantic: When the District Supervisor determines that open hole evaluation data, such as wireline formation tests, drill stem tests, core data, and logs, have been demonstrated as reliable in a geologic area, such data may be considered as acceptable evidence that a well is capable of producing in paying quantities.

3. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Approved:

Don E. Kash,

Chief, Conservation Division.

OCS Order No. 5

Paragraph 1

Comments. One commenter suggested that the requirement for the use of the best available and safest technology (BAST) be specifically stated in this Order.

Discussion. This paragraph was revised to include language requiring the use of BAST.

Subparagraph 3.1

Comments. Several commenters stated that : (1) the requirement that the attendant be "at the wellhead" is unnecessary if the well is shut-in, (2) "at the wellhead" can be a dangerous location if operations are to be conducted overhead, and (3) the attendant could be more effective if free to move about an monitor overall operations.

Discussion. "At the wellhead" is considered overly restrictive, and attendance is not necessary if the well is shut-in (not open to flow from a hydrocarbon-bearing zone). The subparagraph was revised accordingly.

Subparagraph 3.1

Comments. A commenter who uses a tubular/annular type subsurface-safety device which vents annular gas pressure on wells lifted by electric submersible pumps requested that this type of safety device be included in the list of acceptable devices. Another commenter suggested that criteria be established for the determination of the capability of a well to flow.

Discussion. The revised list includes the tubular/annular type subsurface-safety device. The availability of criteria from the District Supervisor toward determination of the capability of a well to flow was noted in the revised subparagraph.

Subparagraph 3.1.1.a. and 3.1.1.b

Comments. One commenter claimed that advances in technology have solved earlier problems related to the control lines and connections of surface-controlled subsurface-safety valves (SCSSV's).

Discussion. The primary reason for requiring subsurface-controlled safety valves (SSCSV's) at pressures above 4,000 psi were problems of communication in the control lines and tubing hangers at these higher pressures.

A determination was made that these problems have been solved adequately by improvements in technology. The requirement for SSCSV's above 4,000 psi has been removed accordingly.

Subparagraph 3.2

Comments. Several commenters suggested that this paragraph be revised to conform to the February 1, 1980, compliance date as announced in the **Federal Register** Notice, Vol. 44, No. 117, pg. 34650, dated June 15, 1979.

Discussion. The paragraph was revised as suggested.

Comments. It was suggested that the definition of inventory include valves presently in wells and on the shelves to facilitate operations.

Discussion. By **Federal Register** Notice of June 15, 1979, the term replacement was defined as occurring when that *portion* of the valve assembly containing the serial number is removed from the inventory and a new certified valve is placed in the inventory. The word inventory does include those subsurface valves in wells and currently on the lessees shelves. In addition, as long as the portion of the valve assembly containing the serial number can be repaired, it would not have to be replaced.

Subparagraph 3.3

Comments. Several commenters suggested that this paragraph be revised to conform to the February 1, 1980, compliance date as announced in the **Federal Register** Notice, Vol. 44, No. 117, pg. 34650, dated June 15, 1979.

Discussion. Subsequent to this **Federal Register** Notice, the latest edition of the American Petroleum Institute Recommended Practice 14B (API RP 14B) was disapproved for use by the Chief, Conservation Division. All references to API RP 14B have been removed from this Order.

Subparagraph 3.4

Comments. Several commenters requested that the Gulf of Mexico Area be specifically excluded from the requirement to furnish evidence that the surface-controlled subsurface-safety devices and related equipment are capable of normal operation under subfreezing conditions since the area is not normally subject to these conditions.

Discussion. It was not intended that the Gulf of Mexico or Pacific Areas be subjected to this requirement. For clarity, the subparagraph about subfreezing conditions has been removed from the Gulf of Mexico and Pacific Area requirements.

Subparagraph 3.4.1

Comments. One commenter argued that the requirement to test wireline retrievable valves monthly for 3 months after being removed for frequently conducted routine operations results in excessive testing and causes unnecessary wear and possible failure of the valves.

Discussion. The comment about excessive testing leading to possible failure has validity. The paragraph has been revised to remove all monthly testing requirements for both wireline and tubing retrievable valves. Also, the reference to API RP 14B was deleted for the reasons as stated in the discussion under subparagraph 3.3

Comments. Another commenter argued that the rate of testing is too infrequent and that frequency should be increased over the life of the devices since equipment becomes less reliable with age.

Discussion. The performance of subsurface-safety valves is very closely monitored under a formal failure and inventory reporting system as outlined in paragraph 6 of the Order.

Statistical analyses of these data do not suggest that an increase in the testing frequency, over that to be required, would contribute to safety or reliability.

Subparagraph 3.5

Comments. No comments received.

Discussion. The words "or jacket" were deleted as being unnecessary and a source of confusion.

Subparagraph 3.5.1

Comments. One commenter apparently suggests that subsurface-controlled subsurface-safety valves (SSCSV's) be tested in place by surface means.

Discussion. There is no known hazard-free and convenient method to flow test a SSCSV for closure in a well.

Subparagraph 3.6

Comments. No comments received.

Discussion. The words "after the date of this Order" have been deleted. These words have appeared in previous Orders for several years and have outlived their original intent. Any remaining installations of tubing plugs not of the pump-through type shall be brought into conformance.

Subparagraph 3.7

Comments. No comments received.

Discussion. It was determined that the proper functioning of subsurface-safety devices in injection wells is if such importance to warrant the formal, periodic testing program.

Subparagraph 3.8

Comments. Several commenters stated that: (1) "at the wellhead" can be a dangerous location if operations are being conducted overhead, (2) the attendant could be more effective if free to move about and monitor overall operations, and (3) clarification was needed as to under what conditions attendance at the wellhead is required.

Discusson. "At the wellhead" is considered overly restrictive, and attendance is not necessary if the well is shut-in (not open to flow from a hydrocarbon-bearing zone). The subparagraph was revised accordingly.

Subparagraph 3.11

Comments. One commenter claimed that the paperwork required to be prepared and maintained offshore is excessive.

Discussion. The USGS is aware of the paperwork burden and constantly searches for methods and places to reduce the load without sacrificing essential information. Any comments with specific recommendations would be very welcome.

Subparagraph 3.11.a

Comments. It was suggested that, for clarity, the term "design" be qualified as the "manufacturer's design."

Discussion. This suggestion was adopted.

Subparagraph 3.11.f

Comments. Commenters remarked that this requirement is unclear and that it is difficult to make accurate verifications of personnel.

Discussion. The subparagraph was revised to require the identity of the person qualified in accordance with subparagraph 5.7.

Paragraph 4

Comments. One commenter alleged that the language used in this paragraph is vague and does not assure use of BAST.

Discussion. Paragraph 1 of this Order was revised to require the use of BAST.

Subparagraph 4.2

Comments. No comments received.

Discussion. The January 1, 1980, date was based on the Order being effective July 1, 1979. Both dates are moved forward 6 months.

Comments. One commenter suggested that subparagraph 4.2 should be deleted. The commenter contended "As suggested, this paragraph is in contradiction to the statutory limitations set forth in the Outer Continental Shelf Lands Act Amendments of 1978."

Discussion. This suggestion was not adopted. This commenter made a similar comment on subparagraphs 4.4(g), 5.1.5, 5.1.6, 5.1.8, and 5.1.10 of this Order and several subparagraphs of OCS Orders Nos. 2 and 7. Refer to the discussion of subparagraph 2.2 for OCS Order No. 2.

Subparagraph 4.3

Comments. Another commenter requested that valves used to vent casing pressure on certain low-pressure wells produced by electric submersible pumps be exempt from certification requirements.

Discussion. these valves used as casing vent valves on wells produced by electric submersible pumps are not considered to primarily surface-safety valves and are therefore exempt from the requirements of API RP 14D and certification requirements.

Comments. Several commenters suggested that this paragraph be revised to conform with the **Federal Register** Notice, Vol. 44, No. 117, pg. 34650, dated June 15, 1979.

Discussion. The paragraph was revised as suggested.

Subparagraph 4.4.g

Comments. One commenter requested that this requirement be limited to new installations made after the effective date of the Order.

Discussion. The paragraph was revised to apply only to installations made after the effective date of the Order.

Subparagraph 5.1.1

Comments. One commenter remarked that subparagraph 5.1.1 was apparently contradictory to subparagraph 5.1.1d.

Discussion. Subparagraph 5.1.1 was revised to remove the apparent contradiction.

Subparagraph 5.1.1c

Comments. Two commenters recommended removal of the requirement that the high pressure shut-in sensor be set no higher than 10 percent above the highest operating pressure of the vessel on the grounds that there is no justification for protecting a vessel from pressures below its working pressure and that such a pressure sensor setting would cause nuisance shut-ins.

Discussion. The comments were not accepted since the margin of safety surrendered is not offset by possible nuisance shut-ins or other adverse effects.

The phrase "by the use of pressure recorders" was added in order to clarify the intent of the requirement for the recording of operating pressure ranges.

Comments. Another commenter noted that some production processes operate at less than 35 kPa (5 psi) and suggested that the activation pressure of low-pressure sensors on these pressure vessels be approved by the District Supervisor on a case-by-case basis.

Discussion. The suggestion was adopted. The language in the unrevised subparagraph did not adequately cover vessels operating at these low pressures.

Subparagraph 5.1.2a

Comments. No comments received.

Discussion. There have been several questions from field personnel as to the interpretation of the first sentence of the subparagraph and the recommendations of Section A–1 of API RP 14C. The first sentence was revised to make it clear that the high- and low-pressure sensors are to be located on the flowline in accordance with *Section 1–A and Figure A–1* of API RP 14C.

The second sentence was deleted. The requirement for equipment to permit testing of pressure sensors with an external pressure source is stated in subparagraph 5.1.3 of this Order.

Comments. One commenter recommended that the high-pressure flowline sensor may be set at 250 psi above the normal operating pressure of the system to allow for swings in pressure, such as heading.

Discussion. This recommendation was not accepted. The reduction in the level of safety by such a broad license is not offset by the efforts involved in resetting pilots or using two sets of pilots and in using pressure recorders.

Subparagraph 5.1.4

Comments. Several commenters objected to the requirement for posting a schematic of the Emergency Shutdown (ESD) System and to the requirement for platform shutdown not to exceed 45 seconds. Other commenters suggested a time delay between closure of the surface-safety valve and the subsurface-safety valve.

Discussion. The posting of a schematic of the ESD was considered as not worthwhile and the requirement deleted. The paragraph was also revised to provide for designed time delays between closure of the surface and subsurface valves.

Subparagraph 5.1.5

Comments. Several commenters objected to the requirement for spark arrestors on other than diesel engines on the basis that natural gas engines, do not emit particulate matter, arrestors would be harmful to the engines and that arrestors are not available for many natural gas engines, including turbines.

Discussion. These arguments are cogent and the requirement for arrestors has been limited to diesel engines.

Subparagraphs 5.1.7.a(1)(2)(3), b(1)(2)

Comments. No comments received.

Discussion. It was determined that both suction and interstage scrubbers should be protected. The Order was revised accordingly.

Suparagraph 5.1.8

Comments. Several Commenters objected to the requirements for fixed water-spray systems in the well bays and to the language that chemicals may be used in lieu of a water-*spray* system only.

Discussion. The subparagraph was revised to limit the requirement for fixed water-spray systems to the *enclosed* well-bay areas and to permit the use of chemicals in lieu of water-*spray* systems.

Subparagraph 5.1.9a

Comments. Several commenters requested that the term "adequate ventilation" be defined.

Discussion. The definition of adequate ventilation as defined in API RP 14C was adopted.

Subparagraphs 5.1.9a (1), (2), (3)

Comments. Several commenters found these definitions of a high-hazard area as vague and very incomplete. One commenter also remarked that it is impractical to show the multiplicity of fusible plugs on a posted diagram.

Discussion. It is agreed that the definition of a high-hazard area as presented is inadequate and the *posting* of a schematic of detection points does not serve a useful purpose. The subparagraph was deleted accordingly.

Subparagraph 5.1.9b

Comments. Several commenters recommended to allow the low-level concentration gas detection devices to be automatic whereas the high-level concentration or hazardous gas detection devices would still be the manual-reset type.

Discussion. The main danger of explosion is in the high-level gas concentrations. It is in this area where a manual-reset alarm is important. On the other hand, in areas of low gas concentrations, it becomes burdensome to continuously have to manually reset alarms where an automatic device would suffice. The Order was revised accordingly.

Subparagraph 5.1.9c

Comments. Several commenters objected to the requirement for the use of both fuel gas odorant and an automatic gas-detection and alarm system.

Discussion. It was determined that in continuously manned areas of the platform, either an odorant or automatic detection and alarm system would suffice.

Subparagraph 5.1.9d

Comments. One commenter recommended that this requirement be deleted on the basis that it is ambiguous and subject to arbitrary interpretation and that the other subparagraphs provide adequate descriptions of gas detector and alarm requirements.

Discussion. This recommendation was not accepted. This subparagraph gives the District Supervisor the authority to make a decision in areas that are not readily discernible—grey areas. It is not an attempt to be arbitrary but instead to ensure safety.

Subparagraph 5.1.9e

Comments. Once commenter suggested that the subparagraph be explained or deleted since, as worded, it defies comprehension.

Discussion. The USGS agrees that the wording is confusing and has revised the subparagraph to more clearly state the intent.

Subparagraph 5.1.10

Comments. One commenter suggested that language be added granting

authority to the Supervisor to grant departures for the use of nonshielded secondary leads on certain 2-cycle engines.

Discussion. The Supervisor has the authority without so stating in this subparagraph. Accordingly, the subparagraph was not revised.

Subparagraph 5.1.10e

Comments. Two commenters remarked that posting of an elementary schematic would serve no useful purpose and the requirement should be deleted.

Discussion. The *posting* of a schematic does not serve a worthwhile purpose. However, the schematic should be available for those in charge of maintaining the system in operational order. The subparagraph was revised accordingly.

Subparagraph 5.1.10f

Comments. One commenter requested that the term "qualified" be defined.

Discussion. A definition of a qualified person was added to the subparagraph.

Subparagraph 5.2

Comments. No comments received.

Discussion. For clarity, language was added which explicitly exempts atmospheric and pressure vessels which have been taken out of service from compliance with safety device requirements, provided the vessel is securely isolated from production facilities and with the intention that it remains isolated for an extended period.

Subparagraph 5.3

Comments. Several commenters requested that the requirement be qualified to cover only those operations which are significantly different from those in the General Plan. This is intended to avoid duplicate paperwork and submittals.

Discussion. This suggestion was adopted. If not reworded, it would impose an unnecessary paper burden on the operator if a supplemental plan should be required each time wireline, workover, or other activities were performed simultaneously with production operations.

Subparagraph 5.4

Comments. One commenter stated that when proper precautions are taken, welding can be safely performed on a platform without installing a "Safe-Welding Area."

Discussion. When a safe-welding area cannot be established pursuant to the National Fire Protection Association Bulletin No. 51B, the Order provides under subparagraph 5.4.3 for procedures which will ensure safe welding.

Subparagraph 5.4.1

Comments. No comments received.

Discussion. The requirement that a general plan be submitted within 90 days after the effective date of the Order was revised to require that an approved plan exist prior to conducting any welding, burning, or hot tapping operations. The 90-day clause was deleted from the Gulf of Mexico Order because this clause has been in the existing Gulf of Mexico Order No. 8 since October 1, 1976. The clause is not necessary for the Gulf of Alaska because there are no existing platforms or operating drilling rigs; therefore, compliance is required prior to conducting welding and burning operations.

The 90-day clause was retained for the Pacific and Atlantic Areas to cover existing platforms and drilling operations.

Subparagraph 5.4d

Comments. Several commenters recommended that revisions be made so as to permit hot tapping.

Discussion. The recommendation was adopted. Hot tapping is widely used and considered a safe practice when properly outlined and defined. The subparagraphs were revised to permit hot tapping with the stipulation that a presubmitted plan has been approved.

Subparagraph 5.4e

Comments. One commenter maintained that drilling, workover, or wireline operations could be carried on simultaneously with welding if proper safety practices are enforced.

Discussion. This compromise in levels of safety was not accepted.

Subparagraph 5.4f

Comments. One commenter maintained that well production and welding in the well bay area can safely occur simultaneously if proper procedures are followed.

Discussion. This compromise in levels of safety was not accepted.

Subparagraph 5.5h

Comments. No comments received.

Discussion. The wording in this subparagraph was revised in order to clarify the intent.

Subparagraph 5.51

Comments. One commenter suggested that this subparagraph be deleted since it could cause extensive shut-ins and create some safety hazards.

Discussion. This requirement was deleted in its entirety since the testing of specific devices as required in other subparagraphs is fully adequate.

Subparagraphs 5.6 and 5.6.1

Comments. One commenter stated that the quality assurance program provides the only 5-year record-retention requirement, and under the FIRS program, the USGS will receive inventory and failure reports on all safety devices; therefore, the lessee should not be required to maintain duplicate records for the many devices not subject to the quality assurance program for more than 1 year at the offshore field office.

Discussion. It is required that some safety devices be tested at least once a year and the results recorded. In order to verify compliance, it is necessary that records be kept for longer than 1 year.

Subparagraph 5.7

Comments. One commenter noted that the third paragraph in paragraph 5.7 is deficient in that: (1) It does not require that the manufacturer's representatives be at least qualified by the manufacturer to service, install, or repair the safety system or device and (2) it does not require that the supervisory person qualified in accordance with API RP T–2, who is supervising the manufacturer's representative, be familiar with or knowledgeable of the manufacturer's specific safety system or device.

The commenter further noted that the above deficiencies may create a situation where neither the manufacturer's representative nor the supervisor is familiar with the specific system or device to be installed, serviced, or repaired.

Discussion. This comment is valid. The revised paragraph requires the person servicing the equipment and the supervisor to be qualified.

Paragraph 6

Comments. It was suggested that the FIRS program be voluntary and not be required by those who see no practical benefit from the program.

Discussion. The purpose of the safety device FIRS program is for the USGS to identify potential problem areas, rather than having to experience an expensive and dangerous series of replacements. Implementation of a program on a voluntary basis would not provide sufficient meaningful information with regard to the various operating conditions, uses, and corrective actions taken.

Comments. It was commented that the FIRS system is a valuable tool for use by offshore operations but that the decision

to use specific equipment should be left to the lessee, taking into account the lessee's specific operating conditions and economics.

Discussion. It is not the intent of the FIRS program to tell lessees which equipment to buy, but to report what failure trends are occurring on individual pieces of equipment covered by the program. It could serve as a tool for lessees to identify which pieces of equipment would perform best in different operating conditions.

Subparagraph 6.1.1

Comments. It was suggested that provisions for a name or signature of the person completing or approving the failure data submitted to the USGS be included in the FIRS program. The commenters felt this would provide the safety equipment manufacturers with a point of contact for determining actual failure cause and contributing circumstances, and would assist them in identifying the most appropriate corrective action.

Discussion. The USGS concurs with this recommendation and has revised the subparagraph to require the signature of the person initiating and/or approving the data submitted. This signature will identify the person to be contacted by the equipment manufacturer for obtaining any additional information required in the performance of their failure analysis.

Subparagraph 6.1.2

Comments. It was suggested that the pneumatic or hydraulic fastbleed relay used as a 3-way or 4-way fast block-and-bleed device with SSV or SDV actuators be included in the listing of the required inventory and failure reporting.

Discussion. These relays are under consideration. The UDS plans to implement the FIRS program as it now stands and, based on the data gathered, decide on whether these relays should be added in the next revision of the FIRS program.

Subparagraph 6.1.3.1a and 6.1.3.lb

Comments. One commenter suggested that it be made clear that only active devices and not those which have not yet been placed in service are to be included in the reports.

Discussion. The devices to be included in the required reports were qualified as the active devices in the revised subparagraphs.

Subparagraph 6.1.4.1

Comments. One commenter suggested that the time frame be extended to at least 60 days to allow proper handling of the failure reports and to combine the malfunction and failure reports required by SPPE–1 and 2 and API RP 14B.

Discussion. The time frame allowed by subparagraph 6.1.4.1 is between 30 and 60 days (depending on the time of failure). In most cases, this time will be sufficient. In the event it is not, the USGS has provided a procedure in which a failure report with incomplete data may be submitted to the USGS and updated at some later date (see page F–13, column 73 and page F–15 in the FIRS instruction booklet).

All references to API RP 14B have been removed from the Order as explained in the discussion for subparagraph 3.3.

Subparagraph 6.1.4.

Comments. One commenter remarked that 30 days is insufficient time to reply and requested this be changed to 60 days.

Discussion. The 30-day time period was increased to 6 weeks. This is considered a reasonable response time.

Subparagraph 6.1.4.3

Comments. Several commenters suggested that the USGS differentiate by definition between failure and malfunction. They felt this was needed because failure and malfunction are defined in applicable API documents. Their concern was that the only time a failure occurs is when a piece of equipment fails to perform its designed function.

Discussion. With regard to defining failure and malfunction, the USGS believes there is no need to differentiate between the two. However, the report the USGS develops will contain a "critical" failure mode (failure) and an "other" mode (malfunction). This will, in essence, differentiate between equipment that did not perform with regard to its designed function (critical mode).

U.S. Department of the Interior, Geological Survey Conservation Division

OCS Order No. 5—Effective January 1, 1980

Production Safety Systems

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10 and 250.11 and in accordance with 30 CFR 250.30, 250.38, 250.45, and 250.46. The lessee shall be responsible for compliance with the requirements of this Order in the installation and operation of the production safety systems on all platforms and structures located on the leasehold including those facilities not operated or owned by the lessee. All applications for approval under the provisions of this Order shall be submitted to the District Supervisor.

This Order requires the lessee to submit plans, applications, reports, data, and other information. In all cases where the lessee(s) has (have) identified another party as designated lease operator in accordance with 30 CFR 250.31, and where the term "operator" is defined in accordance with 30 CFR 250.2(gg), the required information may be submitted by the designated lease operator.

1. *Use of Best Available and Safest Technologies (BAST).*

The lessee is encouraged to continue the development of safety-system technology. As research and product improvement results in increased effectiveness of existing safety equipment or the development of new equipment systems, such equipment may be used and, if such technologies provide a significant cost effective incremental benefit to safety, health, or the environment, shall be required to be used if determined to be BAST.

Gulf of Mexico and Pacific: Conformance to the standards, codes, and practices referenced in this Order will be considered to be the application of BAST. Specific equipment and procedures or systems not covered by standards, codes, or practices will be analyzed to determine if the failure of such would have a significant effect on safety, health, or the environment. If such are identified and until specific performance standards are developed or endorsed by the U.S. Geological Survey (USGS), and as directed by the Supervisor on a case-by-case basis, the lessee shall submit such information necessary to indicate the use of BAST, the alternatives considered to the specific equipment or procedures, and the rationale why one alternative technology was considered in place of another. This analysis shall include a discussion of the costs involved in the use of such technology and the incremental benefits gained.

Gulf of Alaska and Atlantic: Conformance to the standards, codes, and practices referenced in this Order will be considered to be the application of BAST. Specific equipment and procedures or systems not covered by standards, codes, or practices will be analyzed to determine if the failure of such would have a significant effect on safety, health, or the environment. If such are identified and until specific performance standards are developed or endorsed by the U.S. Geological Survey (USGS), the lesee shall submit such information necessary to indicate the use of BAST, the alternatives considered

to the specific equipment or procedures, and the rationale why one alternative technology was considered in place of another. This analysis shall include a discussion of the costs involved in the use of such technology and the incremental benefits gained.

2. *Quality Assurance and Performance of Safety and Pollution Prevention Equipment.* Safety and Pollution-Prevention Equipment (SPPE) shall conform to the following quality assurance standards or subsequent revisions which the Chief, Conservation Division, has approved for use.

a. American National Standards Institute/American Society of Mechanical Engineers Standard "Quality Assurance and Certification of Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," ANSI/ASME SPPE–1–1977, December 1977 (formerly ANSI/ASME–OCS–1–1977).

b. American National Standards Institute/American Society of Mechanical Engineers Standard "Accreditation of Testing Laboratories for Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," ANSI/ASME–SPPE–2–1977, December 1977 (formerly ANSI/ASME–OCS–2–1977)

The dates for compliance with these quality assurance standards, the applicable SPPE components, and the applicable SPPE specifications are identified in subparagraph 3.2 and subparagraph 4.3.

3. *Subsurface-Safety Devices.*

3.1 *Installation.*

Gulf of Mexico, Pacific, Gulf of Alaska, and Atlantic: All tubing installations open to hydrocarbon-bearing zones shall be equipped with a subsurface-safety device such as a Surface-Controlled Subsurface-Safety Valve (SCSSV), a Subsurface-Controlled Subsurface-Safety Valve (SSCSV), and injection valve, a tubing plug, or a tubular/annular subsurface-safety device, unless, after application and justification, the well is determined to be incapable of flowing. Criteria and procedural guidelines for the determination of the capability of a well to flow are established by and are available from the District Supervisor. The device shall be installed at a depth of 30 meters (98 feet) or more below the ocean floor within 2 days after production is stabilized. The well shall be attended in the immediate vicinity of the well so that emergency actions may be taken, if necessary, while the well is open to flow from a hydrocarbon-bearing zone, unless a subsurface safety device is installed.

3.1.1 *Subsurface-Safety Valves.* The requirements for subsurface-safety valves vary according to when the wells are completed. Alternatives to the following requirements may be approved by the Supervisor when greater reliability or safety can be demonstrated.

a. *Wells completed after the effective date of this Order.* All tubing installations shall be equipped with a surface-controlled, or other remotely controlled, subsurface-safety device.

b. *Wells completed prior to the effective date of this Order.* All tubing installations shall be equipped with a surface- or other remotely controlled subsurface-safety device when the tubing is first removed and reinstalled.

3.2 *Specification for Subsurface-Safety Valves.* Surface-controlled and subsurface-controlled subsurface-safety valves required by subparagraphs 3.4 and 3.5, which are installed on new installations or replaced on old installations after February 1, 1980, shall conform to "American Petroleum Institute (API) Specification for Subsurface-Safety Valves," API Spec 14A, Fourth Edition, November 1979, or subsequent revisions which the Chief, Conservation Division, has approved for use at the time of installation.

For purposes of this requirement, the term replacement is defined as occurring when that portion of the valve assembly containing the serial number is removed from inventory and a new certified valve is placed in inventory.

3.3 *Design, Installation, and Operation.* Subsurface-safety devices shall be designed, adjusted, installed, and maintained to insure reliable operation. During testing and inspection procedures, the well shall not be left unattended while open to production unless a properly operating subsurface-safety device has been installed in the well.

3.4. *Surface-Controlled Subsurface-Safety Valves.*

Gulf of Mexico and Pacific: After the effective date of this Order, all tubing installations open to a hydrocarbon-bearing zone shall be equipped with a surface-controlled subsurface-safety valve, except as specified in subparagraphs 3.1, 3.5, and 3.6. The surface controls may be located on the site or at a remote location.

Gulf of Alaska and Atlantic: After the effective date of this Order, all tubing installations open a hydrocarbon-bearing zone shall be equipped with a surface-controlled subsurface-safety valve, except as specified in subparagraphs 3.1, 3.5, and 3.6. The surface controls may be located on the site or at a remote location.

The lessee shall furnish evidence that the surface-controlled subsurface-safety devices and related equipment are capable of normal operation under subfreezing conditions.

3.4.1 Testing of Surface-Controlled Subsurface-Safety Valves. Each surface-controlled, or other remotely controlled, subsurface-safety device installed in a well shall be tested in place for proper operation when installed or reinstalled and thereafter at intervals not exceeding 6 months. If the device does not operate properly, it shall be removed, repaired, reinstalled or replaced, and tested to insure proper operation.

3.5 *Subsurface-Controlled Subsurface-Safety Valves.* Tubing installations in wells completed from single well or and multiwell satellite caissons or ocean floor completions may be equipped with a subsurface-controlled subsurface-safety valve in lieu of a surface-controlled, or other remotely controlled, subsurface-safety valve.

3.5.1 *Inspection and Maintenance of Subsurface-Controlled Subsurface-Safety Valves.* Each subsurface-controlled subsurface-safety valve installed in a well shall be removed, inspected, and repaired or adjusted as necessary and reinstalled at intervals not exceeding:

(1) 6 months for those valves not installed in a landing nipple.

(2) 12 months for those valves installed in a landing nipple.

3.6 *Tubing Plugs in Shut-in Wells.*

Gulf of Mexico, Pacific Gulf of Alaska, and Atlantic: A tubing plug shall be installed in lieu of, or in addition to, other subsurface-safety devices if a well has been shut in for a period of 6 months. Tubing plugs shall be set at a depth of 30 meters (98 feet) or more below the ocean floor. All tubing plugs installed shall be of the pump-through type. All wells perforated and completed but not placed on production shall be equipped with a subsurface-safety valve or tubing plug within 2 days after completion. A surface-controlled subsurface-safety valve of the pump-through type may be used as a pump-through tubing plug for the purpose of this subparagraph, provided the surface control has been rendered inoperative. A shut-in well which is equipped with a tubing plug shall be inspected for leakage by opening the well to possible flow at intervals not exceeding 6 months. If a liquid leakage rate in excess of 400 cc/min or a gas leakage rate in excess of 7 dm^3/sec (15 cubic ft/min) is observed, the plug shall be removed, repaired, and reinstalled, or an additional tubing plug may be installed in lieu of removal and repair.

3.7 *Injection Wells.* A surface-controlled subsurface-safety valve or an injection valve capable of preventing backflow shall be installed in all wells placed in injection service after the effectve date of this Order.

Wells which were placed in injection service prior to the effective date of this Order shall be equipped with a surface-controlled subsurface-safety valve or injection valve capable of preventing backflow when the tubing is first removed and reinstalled.

Surface-controlled subsurface-safety valves shall be tested in accordance with subparagraph 3.4.1. Injection valves shall be tested in the manner as outlined for testing tubing plugs in subparagraph 3.6.

These requirements are not applicable if the District Supervisor concurs that the well is incapable of flowing. The lessee shall verify the no-flow condition of the well annually and submit an annual report certifying the no-flow status of the well.

3.8 *Temporary Removal for Routine Operations.* Each wireline- or pumpdown-retrievable subsurface-safety device may be removed, without further authorization or notice, for a routine operation which does not require the approval of a Sundry Notice and Report on Wells (Form 9–331) for a period not to exceed 15 days. The well shall be identified by a sign on the wellhead stating that the subsurface-safety device has been removed. The removal of the subsurface-safety device shall be noted in the records as required by subparagraph 3.11g. The well shall be attended in the immediate vicinity of the well so that emergency actions may be taken, if necessary, while the well is open to flow from a hydrocarbon-bearing zone until the subsurface-safety device is reinstalled, unless attendance has been waived by the District Supervisor. The well shall not be open to flow while the subsurface-safety device is removed except when flowing the well is necessary for that particular operation.

The provisions of this paragraph are not applicable to the testing and inspection procedures in subparagraphs 3.4.1, 3.5.1, 3.6, and 3.7.

3.9 *Additional Safety Equipment.* All tubing installations in which a wireline- or pumpdown-retrievable subsurface-safety device is installed after the effective date of this Order shall be equipped with a landing nipple, with flow couplings or other protective equipment above and below, to provide for the setting of the subsurface-safety valve. The control system for all surface-controlled subsurface-safety valves shall be an integral part of the platform Emergency Shutdown System (ESD) as defined in API RP 14C, Appendix C, Section C1. In addition to the activation of the ESD system by manual action on the platform, the system may be activated by a signal from a remote location. Surface-controlled subsurface-safety valves shall close in response to shut-in signals from the ESD system or the fire loop, or both.

3.10 *Emergency Action.* All tubing installations open to hydrocarbon-bearing zones and capable of flowing in which the subsurface-safety device has been removed, in accordance with the provisions of this Order, shall be identified by a sign on the wellhead stating that the subsurface-safety device has been removed. A subsurface-safety device shall be available for each well on the platform. In the event of an emergency such as an impending storm, this device shall be properly installed as soon as possible with due consideration being given to personnel safety.

3.11 *Records.* The lessee shall maintain records for a minimum period of 5 years for each subsurface-safety device installed. These records shall be maintained in the nearest offshore field office for a minimum period of 2 years. (If the lessee has no such offshore field office, then the records shall be kept in the nearest onshore field office.) The records may then be transferred to the onshore field office for the remaining 3 years of the 5-year retention period. These records shall be available for review by any authorized representative of the U.S. Geological Survey (USGS). The records to be maintained shall contain verification of:

a. The manufacturer's design, including make, model, and type. For subsurface-controlled valves, number of the spacers, size of beans, springs, and the pressure settings.

b. The devices having been manufactured in accordance with the quality-assurance requirements of ANSI/ASME–SPPE–1 (formerly ANSI/ASME–OCS–1) as required by paragraph 2.

c. The completion and return of the receiving report to the manufacturer as required by ANSI/ASME–SPPE–1.

d. The record of all configuration modifications to the certified design.

e. Installation at the required setting depth and in accordance with the manufacturer's instructions.

f. The identity of the personnel qualified in accordance with subparagraph 5.7 who directed all installations and removals.

g. The results of tests required by this Order, the dates of removals and reinstallations, and the reasons for removals and reinstallations.

h. The completion and submission of all failure reports required by paragraph 6 and all investigation reports required by paragraphs OE–2529 and OE–2670 of ANSI/ASME–SPPE–1.

3.12 *Reports.* Well completion reports (Form 9–330) and any subsequent reports of workover (Form 9–331) shall include the manufacturer, the type, and the installed depth of the subsurface-safety devices.

4. *Design, Installation, and Operation of Surface Production Safety Systems.*

Gulf of Mexico and Pacific: All production facilities, including separators, treaters, compressors, headers, and flowlines, shall be designed, installed, and maintained in a manner which will facilitate an efficient, safe, and pollution-free operation.

Gulf of Alaska and Atlantic: All production facilities, including separators, treaters, compressors, headers, and flowlines, shall be designed, installed, and maintained in a manner which will facilitate an efficient, safe, and pollution-free operation.

The lessee shall furnish evidence that the surface-safety system and related equipment are capable of normal operation under subfreezing conditions, and that all equipment and operating procedures take into account floating ice, icing, and other extreme environmental conditions that may occur in the Area.

4.1 *New Platforms.* New platform production facilities shall be protected with a basic and ancillary surface-safety system designed, analyzed, tested, and maintained in operating condition in accordance with the provisions of "API Recommended Practice for Analysis, Design, Installation, and Testing of Basic Surface-Safety Systems on Offshore Production Platforms," API RP 14C, Second Edition, January 1978, except Section A9, "Pipelines," which will be covered under OCS Order No. 9, or subsequent revisions which the Chief, Conservation Division, has approved for use and the additional requirements of the Order. For this application, the word "should" contained in API RP 14C shall be read "shall," except for those contained in explanatory statements, sections 3.4c and 4.3a(4)(a)–(f). If processing components are to be utilized, other than those for which Safety Analysis Checklists (SAC's) are included in API RP 14C, the analysis technique and documentation specified therein shall be utilized to determine the effects and requirements of these components upon the safety system.

4.2 *Existing Platforms.*

Gulf of Mexico: Existing platforms shall comply with the provisions of API RP 14C except Section A9, "Pipelines," which will be covered under OCS Order No. 9, and with the additional safety and pollution-control requirements of paragraphs 4 and 5 of this Order. The submittal of information relative to design and installation features, as listed in subparagraph 4.4, is not required until an equipment modification to an existing facility is performed (other than those necessary for proper maintenance of the facility).

Pacific: Existing platforms shall comply with the provisions of API RP 14C except Section A9, "Pipelines," which will be covered under OCS Order No. 9, and with the additional safety and pollution-control requirements of paragraphs 4 and 5 of this Order, by July 1, 1980. The submittal of information relative to design and installation features, as listed in subparagraph 4.4, is not required until an equipment modification to an existing facility is performed (other than those necessary for proper maintenance of the facility).

4.3 *Specification for Wellhead Surface-Safety Valves.* All wellhead Surface-Safety Valves (SSV's) required by subparagraphs 4.1 and 4.2, which are installed on new installations or replaced on old installations after February 1, 1980, shall conform to "API Specification for Wellhead Surface Safety Valves for Offshore Service," API Spec 14D, Second Edition, November 1977, as amended by Supplement 2, November 1978, or subsequent revisions which the Chief, Conservation Division, has approved for use at the time of installation.

For purposes of this requirement, the term replacement is defined as occurring when that portion of the valve assembly (valve or actuator) containing the serial number is removed from inventory and a new certified valve is placed in inventory.

4.4 *Submittal of Safety-System Design and Installation Features.* Prior to installation, the lessee shall submit for approval to the District Supervisor, in duplicate, information relative to design and installation features, as indicated in subparagraphs a through g. This information shall also be maintained at the lessee's onshore field engineering office. All approvals are subject to field verifications. This information shall include:

a. A schematic flow diagram showing size, capacity, and design working pressure of separators, treaters, storage tanks, compressors, pipeline pumps, and metering devices.

b. A schematic flow diagram (reference API RP 14C, example: figure E1) and the related Safety Analysis Function Evaluation (SAFE) chart (reference API RP 14C, Subsection 4.3c). These diagrams and charts shall be developed in accordance with the provisions of API RP 14C and the additional requirements of this Order.

c. A schematic piping diagram showing the size and maximum-allowable working pressure with reference to welding specification(s) or code(s) used. The maximum-allowable working pressures shall be determined in accordance with "API Recommended Practice for Design and Installation of Offshore Production Platform Piping Systems," API RP 14E, First Edition, August 1975, and Supplement 2, October 1977, or subsequent revisions which the Chief, Conservation Division, has approved for use. The recommendations contained in API RP 14E are acceptable for the design and installation of the platform piping system.

d. A diagram of the fire-fighting system.

e. Electrical system information including the following:

(1) A plan of each platform deck outlining any nonrestricted area, i.e., areas which are unclassified with respect to electrical equipment installations and outlining areas in which potential ignition sources, other than electrical, are to be installed. The area outline shall include the following information:

(a) Any surrounding production or other hydrocarbon source and a description of the deck, overhead, and firewall.

(b) Location of generators, control rooms, panel boards, major cabling—conduit routes, and identification of the wiring method, including the identification of each wire and cable type that is utilized.

(2) Elementary electrical schematic of any platform safety-shutdown system with a functional legend.

(3) Classification of areas for electrical installations in accordance with the National Electrical Code, 1978 Edition, and with the "API Recommended Practice for Classification of Areas for Electrical Installations at Drilling Rigs and Production Facilities on Lands and on Marine Fixed and Mobile Platforms," API RP 500B, Second Edition, July 1973, or subsequent revisions which the Chief, Conservation Division, has approved for use.

f. The design and schematics of the installation and maintenance of all fire and gas detection systems shall include the following:

(1) Type, location, and number of detection heads.

(2) Type and kind of alarm, including emergency equipment to be activated.

(3) Method used for detection.

(4) Method and frequency of calibration.

(5) Name of organization to perform system inspection and calibration.

(6) A functional block diagram of the detection system, including the electric power supply.

g. Certification that the design for the mechanical and electrical systems to be installed were approved by registered professional engineers. After these systems are installed, the lessee shall submit a statement to the District Supervisor certifying that the new installations conform to the approved designs or the lessee shall request approval of the "As-Built" changes.

5. *Additional Safety and Pollution-Control Requirements.* The following requirements modify or are in addition to those contained in API RP 14C.

5.1 *Design, Installation, and Operation.*

5.1.1. *Pressure Vessels.* Unless otherwise qualified for use according to subparagraph 5.1.1d below, pressure vessels shall be designed, fabricated, stamped, and maintained in accordance with specific sections of the ASME Boiler and Pressure Vessel Code as listed below. The pressure vessels shall conform to the July 1, 1977, edition of the Code or subsequent revisions which the Chief, Conservation Division, has approved for use.

a. Pressure relief valves shall be designed, installed, and maintained in accordance with applicable provisions of sections I, IV, and VIII. The relief valves shall conform to the valve-sizing and pressure-relieving requirements specified in these documents; however, the relief valves shall be set no higher than the maximum-allowable working pressure of the vessel. All relief valves and vents shall be piped in such a way as to prevent fluid from striking personnel or ignition sources.

b. Steam generators shall be equipped with low-water level controls (LWL) in accordance with applicable provisions of sections I and IV.

c. The lessee shall determine, by the use of pressure recorders, the operating pressure ranges of all pressure-operated vessels in order to establish the pressure-sensor settings. Current pressure recorder charts shall be maintained at the nearest offshore field office. The high-pressure shut-in sensor shall be set no higher than 10 percent above the highest operating pressure of the vessel. This setting shall also be sufficiently below the relief valve's set pressure to assure that the pressure source is shut in before the relief valve

starts relieving. The low-pressure shut-in sensor shall activate no lower than 15 percent or 35 kilopascals (kPa) (5 psi), whichever is greater, below the lowest pressure in the operating range. The activation of low-pressure sensors on pressure vessels which operate at less than 35 kilopascals (kPa) (5 psi) shall be approved by the District Supervisor on a case-by-case basis.

d. All pressure or fired vessels used in the production of oil or gas, ordered after the effective date of this Order, shall conform to the requirements stipulated in the edition of the ASME Boiler and Pressure Vessel Code, sections I, IV, and VIII, as appropriate, in effect at the time the vessel is ordered. Uncoded vessels shall be hydrostatically tested to a pressure 1.5 times their working pressures prior to placing in service. The test date, test pressure, and working pressure shall be marked on the vessel in a prominent place. A record of the test shall be maintained by the lessee in the field area.

5.1.2. *Flowlines.*

a. All flowlines from wells shall be equipped with high- and low-pressure shut-in sensors located in accordance with Section A1 and Figure A1 of API RP 14 C. The lessee shall determine, by the use of pressure recorders, the operating pressure ranges of flowlines in order to establish pressure-sensor settings. Current pressure-recorder charts shall be maintained at the nearest offshore field office.

The high-pressure shut-in sensor(s) shall be set no higher than 10 percent above the highest operating pressure of the line; but, in all cases, it shall be set sufficiently below the maximum shut-in wellhead pressure or the gas-lift supply pressure to assure actuation of the surface-safety valve. The low-pressure shut-in sensor(s) shall be set no lower than 10 percent of 35 kPa (5 psi), whichever is greater, below the lowest operating pressure of the line in which it is installed.

b. If a well flows directly to the pipeline before separation, the flowline and valves from the well located upstream of, and including, the header inlet valve(s) shall have a working pressure equal to or greater than the maximum shut-in pressure of the well, unless the flowline is protected by one of the following:

(1) A relief valve which vents into the platform flare scrubber or some other location approved by the District Supervisor.

(2) An additional automatic shutdown valve controlled by an independent high-pressure sensor. The platform flare scrubber shall be designed to handle, without liquid-hydrocarbon carryover to the flare, the maximum-anticipated flow of liquid-hydrocarbons which may be relieved to the vessel.

5.1.3 *Pressure Sensors.* Pressure sensors may be of the automatic- or nonautomatic-reset type. When the automatic-reset types are used, a nonautomatic-reset relay shall be installed. All pressure sensors shall be equipped to permit testing with an external pressure source.

5.1.4 *Emergency Shutdown System.* The manually operated ESD valve shall be quick-opening and nonrestricted to enable the rapid actuation of the shutdown system. ESD stations may utilize a loop of breakable synthetic tubing in lieu of a valve only at the boat landing.

On an emergency shutdown, the subsurface-safety valve (SSSV) shall close in not more than 2 minutes after the shut-in signal has closed the surface safety valve (SSV). Design delayed closure time greater than 2 minutes shall be justified by the lessee based on the individual well's mechanical/production characteristics and approved by the District Supervisor.

Electro-pneumatic systems shall meet the corresponding design and functional requirements as those which apply to pneumatic systems.

A schematic of the ESD system which indicates the control functions of all safety devices shall be maintained on the platform or nearest offshore field office.

5.1.5 *Engine Exhausts.* Engine exhausts shall be equipped to comply with the insulation and personnel-protection requirements of API RP 14C, Section 4.2c(4). Exhaust piping from diesel engines shall be equipped with spark arrestors.

5.1.6 *Glycol-Dehydration Units.* A pressure relief system or an adequate vent shall be installed on the glycol regenerator, or at a location approved by the District Supervisor, which will prevent overpressurization of all glycol-dehydration units. The set pressure of the pressure-relief system shall be determined by the lessee and approved by the District Supervisor. The discharge of the relief valve shall be vented in a nonhazardous manner. The glycol-dehydration unit shall be properly maintained to prevent overpressurization of the unit.

5.1.7 *Gas Compressors.*

a. *Existing Compressor Installations.* Each compressor installation existing as of the effective date of this Order shall be equipped with the following protective equipment:

(1) A Level Safety High (LSH) and a Pressure Safety Valve (PSV) to protect each interstage and suction scrubber.

(2) A pressure Safety High (PSH) and a Pressure Safety Low (PSL) on the suction scrubber and discharge line. A PSH and a PSL shall also be installed on each interstage scrubber unless the compressor is protected by a Temperature Safety High (TSH) shutdown control on the compressor cylinders.

(3) A Level Safety Low (LSL) to protect each interstage and suction scrubber, unless fluid dump is through a choke restriction to another pressure vessel.

(4) Compressor installations which are installed in a building, room, or compartment are excluded from the requirements of API RP 14C, Subsection A8.3b, "Flow Safety Devices (FSV)," and Subsection A8.3d, "Shutdown Devices (SDV)," which require that these devices be located outside of the building.

b. *New Compressor Installations.* Each compressor installed after the effective date of this Order shall be quipped with the following protective equipment:

(1) A PSH, a PSL, a PSV, and an LSH to protect each interstage and suction scrubber.

(2) An LSL to protect each interstage and suction scrubber, unless the fluid is dumped through a choke restriction to another pressure vessel. An LSL shut-in control(s) installed in interstage and suction scrubber(s) may be designed to actuate the automatic shutdown valve(s) (SDV's) installed in the scrubber dump line(s).

(3) A TSH on each compressor cylinder or other components as applicable.

(4) In addition to the provisions of API RP 14C, Subsection A8.3, PSH and PSL shut-in sensors and LSH shut-in controls protecting compressor suction and interstage scrubbers shall be designed to actuate automatic SDV's located in each compressor suction and fuel gas line so that the compressor unit and the associated vessels can be isolated from all input sources.

All automatic SDV's installed in compressor suction and fuel gas piping shall also be actuated by the shutdown of the prime mover.

c. *Small Compressor Installations.* Compressor installations of 745 kilowatts (1,000 horspower) or less are excluded from those requirements of API RP 14C, A8.3d, which provide for installation of a blowdown valve (BDV) on the discharge line.

5.1.8 *Firefighting Systems.* Firefighting systems installed after the effective date of this Order shall

conform to: (1) Subsection 5.2, "Fire Water Systems," of "API Recommended Practice for Fire Prevention and Control on Open Type Offshore Production Platforms," API RP 14G, First Edition, September 1978, or (2) subsequent revisions which the Chief, Conservation Division, has approved for use, and (3) the additional requirements of this subparagraph.

A firewater system consisting of rigid pipe with firehose stations shall be installed. The firewater system shall be installed to provide needed protection in all areas where production-handling equipment is located. A fixed water-spray system shall be installed in enclosed well-bay areas where hydrocarbon vapors may accumulate.

Acceptable pump drivers include diesel engines, natural gas engines, and electric motors. Fuel or power shall be available for at least 30 minutes of run-time during platform shut-in time. If necessary, an alternate fuel supply shall be installed to provide for this pump-operating time unless an alternate firefighting system has been approved by the District Supervsor. Existing firefighting systems shall be reworked to conform to these run-time requirements on or before January 1, 1981.

A firefighting system using chemicals may be used or may be required in lieu of a water system if the District Supervisor determines that the use of a chemical system provides equivalent fire protection control. A diagram of the firefighting system showing the location of all firefighting equipment shall be posted in a prominent place on the platform or structure.

5.1.9 *Fire and Gas Detection System.*

a. Fire (flame, heat, or smoke) sensors shall be used in all enclosed high-hazard areas. Gas sensors shall be used in all inadequately ventilated, enclosed, high-hazard areas. Adequate ventilation is as defined in API RP 14C, Appendix C, paragraph C1.3b.

b. All detection systems shall be capable of continuous monitoring. Fire detection systems and portions of combustible gas detection systems related to the higher gas concentration levels shall be of the manual-reset type. Combustible gas detection systems related to the lower gas concentration level may be of the automatic-reset type.

c. A fuel gas odorant or an automatic gas-detection and alarm system are required in enclosed, continuously manned areas of the facility.

d. The District Supervisor may require a gas detector or alarm in any potentially hazardous area.

e. Fire detection systems shall be of an approved type, designed and installed in accordance with the National Fire Protection Association Standard for Automatic Fire Detectors, No. 72E, 1974, or subsequent revisions which the Chief, Conservation Division, has approved for use. Gas detection systems shall be of an approved type, designed and installed in accordance with sections 9.1 and 9.2 of "API Recommended Practice For Design and Installation of Electrical Systems for Offshore Production Platforms," API RP 14F, First Edition July 1978, or subsequent revisions which the Chief, Conservation Division, has approved for use.

5.1.10 *Electrical Equipment.* The following requirements shall be applicable to all electrical equipment and systems:

a. All engines with ignition systems shall be equipped with a low-tension ignition system of a low-fire-hazard type and shall be designed and maintained to miminize the release of sufficient electrical energy to cause ignition of an external, combustible mixture.

b. All electrical generators, motors, and lighting systems shall be installed, protected, and maintained in accordance with the edition of the National Electrical Code and API RP 500B in effect at the time of approval.

c. At the time of approval, wiring methods shall conform to the National Electrical Code, 1978 Edition, or to the Institute of Electrical and Electronic Engineers (IEEE) "Recommended Practice for Electric Installation on Shipboard," IEEE Std. 45–1977, or subsequent revisions which the Chief, Conservation Division, has approved for use. Each conductor of a wire, a cable, or a bus bar shall be made of copper on all new installations constructed after the effective date of this Order.

d. The elementary electrical schematic of the platform safety-shutdown system required by subparagraph 4.4e(2) shall be maintained on the platform or structure. This schematic shall indicate the control functions of all electrically actuated safety devices.

e. Maintenance of these systems shall be by personnel who are familiar with the construction and operation of the equipment and the hazards involved.

5.1.11 *Erosion.* A program of erosion control shall be in effect for wells or fields having a history of sand production. The erosion-control program may include sand probes, X-ray, ultrasonic, or other satisfactory monitoring methods. An annual report, by lease, indicating the wells which have erosion-control programs in effect and the results of the programs shall be submitted by the first of December to the USGS Conservation Manager in the appropriate Regional Office.

5.2 *General Platform Operations.*

a. Surface- or subsurface-safety devices shall not be bypassed or blocked out of service unless they are temporarily out of service for startup, maintenance, or testing procedures. Only the minimum number of safety devices necessary for the operation shall be taken out of service. Personnel shall monitor the bypassed or blocked-out functions. Any surface- or subsurface-safety device which is temporarily out of service shall be flagged.

b. When wells are disconnected from producing facilities and blind-flanged or equipped with a tubing plug, compliance is not required with the provisions of API RP 14C or this Order concerning:

(1) Installation of automatic fail-close SSV on wellhead assemblies.

(2) Installation of the PSH and the PSL shut-in sensors downstream of the choke in flowlines from wells.

(3) Installation of flow safety valves (FSV's) in header individual flowlines.

c. When pressure or atmospheric vessels are positively isolated from production facilities (for example, inlet valve locked closed or inlet line blind-flanged) and are to remain isolated for an extended period of time, safety device compliance is not required with API RP 14C or this Order.

d. All open-ended lines connected to producing facilities shall be plugged or blind-flanged, except those lines designed to be open-ended, such as flare or vent lines.

5.3 *Simultaneous Platform Operations.* Prior to conducting activities simultaneously with production operations which could increase the possibility of occurrence of undesirable events, such as harm to personnel or to the environment or damage to equipment, a "General Plan for Conducting Simultaneous Operations" in a producing field shall be filed for approval with the District Supervisor. This plan shall be modified and updated by supplemental plans when actual simultaneous operations are scheduled which are significantly different from those covered in the General Plan. Activities requiring these plans are drilling, completion, workover, wireline, pumpdown, and major construction operations.

5.3.1 *General Plan.* The "General Plan for Conducting Simultaneous Operations" shall include:

a. A narrative description of operations.

b. Procedures for the mitigation of potentially undesirable events including:

(1) The guidelines the lessee will follow to assure coordination and control of simultaneous activities.

(2) The identity of the person having overall responsibility at the site for the safety of platform operations.

5.3.2 *Supplemental Plan.* The "Supplemental Plan for Conducting Simultaneous Operations" shall include:

a. A floor plan of each platform deck indicating critical areas of simultaneous activities.

b. An outline of any additional safety measures that are required for simultaneous operations.

c. Specification of any added or special equipment or procedural conditions imposed when simultaneous activities are in progress.

5.4. *Welding and Burning Practices and Procedures.* The following requirements are applicable to any welding or burning practice or procedure performed on:

a. An offshore mobile-drilling unit during the drilling mode.

b. A mobile workover unit during any drilling, completion, recompletion, remedial, repair, stimulation, or other workover activity.

c. A platform, structure, artificial island, or other installation during any drilling, completion, workover, or production operation.

d. A platform, structure, artificial island, or other installation which contains a well open to a hydrocarbon-bearing zone.

For the purpose of this Order, the terms "welding" and "burning" are defined to include arc or acetylene cutting and arc or acetylene welding.

All offshore welding and burning shall be minimized by onshore fabrication when feasible.

5.4.1 *General Welding, Burning, and Hot Tapping Plan.*

Gulf of Mexico and Gulf of Alaska: Each lessee shall file for approval by the District Supervisor a "Welding, Burning, and Hot Tapping Safe Practices and Procedures Plan." The plan shall include the qualification standards or requirements for personnel and the methods by which the lessee will assure that only personnel meeting such standards or requirements are utilized. A copy of this plan shall be available in the field area. Any person designated as a welding supervisor shall be thoroughly familiar with this plan. An approved plan is required prior to the conduct of any welding, burning or hot tapping operation. An existing approved plan which does not include a hot tapping plan shall be revised or supplemented to include an approved plan prior to the conduct of a hot tapping operation. All welding and burning equipment shall be inspected prior to beginning any welding or burning. Welding machines located on production or process platforms shall be equipped with spark arrestors and drip pans. Welding leads shall be completely insulated and in good condition; oxygen and acetylene bottles secured in a safe place; and hoses leak-free and equipped with proper fittings, gauges, and regulators.

Pacific and Atlantic: Each lessee shall file for approval by the District Supervisor a "Welding, Burning, and Hot Tapping Safe Practices and Procedures Plan." The plan shall include the qualification standards or requirements for personnel and the methods by which the lessee will assure that only personnel meeting such standards or requirements are utilized. A copy of this plan shall be available in the field area. Any person designated as a welding supervisor shall be thoroughly familiar with this plan. An approved plan is required prior to the conduct of any welding, burning, or hot tapping operation. An existing approved plan which does not include a hot tapping plan shall be revised or supplemented to include an approved plan prior to the conduct of a hot tapping operation. Plans shall be filed for existing platforms and operating mobile drilling units, which do not have approved plans, within 90 days of the effective date of this Order. All welding and burning equipment shall be inspected prior to beginning any welding or burning. Welding machines located on production or process platforms shall be equipped with spark arrestors and drip pans. Welding leads shall be completely insulated and in good condition; oxygen and acetylene bottles secured in a safe place; and hoses leak-free an equipped with proper fittings, gauges, and regulators.

5.4.2 *Designated Safe-Welding and Burning Areas.* The lessee shall establish, if feasible, and so designate areas on the platform determined to be safe-welding areas pursuant to the National Fire Protection Association Bulletin "Cutting and Welding Processes," No. 51 B, 1976, or subsequent revision which the Chief, Conservation Division, has approved for use. Approval for the use of such areas shall be obtained from the District Supervisor. These designated areas shall be identified in the General Plan and a drawing showing the location of these areas shall be maintained on the facility. Welding or burning performed in any other areas shall be performed in compliance with the procedures set forth in subparagraph 5.4.3.

5.4.3. *Undesignated Welding and Burning Areas.* All welding or burning which cannot be done in an approved safe-welding area shall be performed in compliance with the procedures outlined below.

a. Prior to the commencement of any welding or burning operation on a structure, the lessee's designated person-in-charge at the installation shall personally inspect the qualifications of the welder or welders to assure that they are properly qualified in accordance with the lessee-approved qualification standards or requirements for welders. The designated person-in-charge and the welders shall personally inspect the work area for potential fire and explosion hazards. After it has been determined that it is safe to proceed with the welding or burning operation, the designated person-in-charge shall issue a written authorization for the work.

b. During all welding and burning operations, one or more persons shall be designated as a Fire Watch. Persons assigned as a Fire Watch shall have no other duties while actual welding or burning operations are in progress. If welding is to be done in an area which is not equipped with a gas detector, the Fire Watch shall also maintain a continuous surveillance with a portable gas detector during welding.

c. Prior to any welding or burning operation, the Fire Watch shall have in his possession firefighting equipment in a usable condition. At the end of the welding operation, the equipment shall be returned to a usable condition.

d. No welding, other than approved hot tapping, shall be done on piping, containers, tanks, or other vessels which have contained a flammable substance unless the contents have been rendered inert and determined to be safe for welding or burning by the designated person-in-charge.

e. If drilling, workover, or wireline operations are in progress on the platform, welding operations in other than approved safe-welding areas shall not be conducted unless the well(s) where these operations are in progress contain noncombustible fluids and the entry of formation hydrocarbons into the wellbore is precluded. All other provisions of this section shall also be applicable.

f. If welding or burning operations are conducted in the well-bay or production area, all producing wells shall be shut in at the surface-safety valve.

5.5 *Safety Device Testing.* The safety-system devices which are required by this order shall be tested by the lessee at the interval specified below or more frequently if operating conditions warrant.

Testing shall be in accordance with API RP 14C, appendix D, and the following:

a. All PSV's shall be tested for operation at least once every 12 months. These valves shall be either bench-tested or equipped to permit testing with an external pressure source.

b. All Pressure Sensors-High/Low (PSHL) shall be tested at least once each calendar month, but at no time shall more than 6 weeks elapse between tests.

c. All SSV's shall be tested for operation and for leakage at least once each calendar month, but at no time shall more than 6 weeks elapse between tests. The SSV's shall be tested for operation in accordance with the test procedure specified in API RP 14C, appendix D, section D4, table D2, subsection L, and tested for leakage in accordance with subsection M. If the valve does not operate properly or any fluid flow is observed in step 3 of the leakage test, the valve shall be repaired or replaced.

d. All flowline FSV's shall be checked for leakage at least once each calendar month, but at no time shall more than 6 weeks elapse between tests. The FSV's shall be tested for leakage in accordance with the test procedure specified in API RP 14C, appendix D, section D4, table D2, subsection D. If the leakage measured in step 6 exceeds a liquid flow of 400 cc/min or a gas flow of 7 dm^3/sec (15 cubic ft/min), the FSV's shall be repaired or replaced.

e. All LSH and LSL controls shall be tested at least once each calendar month, but at not time shall more than 6 weeks elapse between tests. These tests shall be conducted by raising and lowering the liquid level across the level-control detector.

f. All automatic inlet SDV's which are actuated by a sensor on a vessel or a compressor shall be tested for operation at least once each calendar month, but at no time shall more than 6 weeks elapse between tests.

g. All SDV's located in liquid-discharge lines and actuated by vessel low-level sensors shall be tested for operation once each calendar month, but at no time shall more than 6 weeks elapse between tests.

h. The TSH shutdown controls installed on existing compressors in lieu of a PSH and PSL on interstage scrubbers shall be tested every 6 months and repaired or replaces as necessary.

i. All pumps for firewater systems shall be inspected and test-operated weekly.

j. All fire (flame, heat, or smoke) and gas detection systems shall be tested for operation and recalibrated every 6 months.

k. The lessee shall notify the District Supervisor when the lessee is ready to conduct a preproduction test and inspection of the integrated safety system. The lessee shall also notify the District Supervisory upon commencement of production in order that a post-production test and inspection of the integrated system may be conducted.

5.6 *Records.* The lessee shall maintain records for a minimum period of 5 years for each surface-safety device installed. These records shall be maintained in the neartest offshore filed office for a minimum period of 2 years. (If the lessee has no such offshore field office, then the records shall be kept in the nearest onshore field office). The records may then be transferred to the onshore field office for the remaining 3 years of the 5-year retention period. These records shall be available for review by any authorized representative of the U.S. Geological Survey (USGS). The records shall show the present status and history of each deivce, including dates and details of installation, inspection, testing, repairing, adjustments, and reinstallation.

5.6.1 *Surface-Safety Valve and Associated Actuator Records.* Records for subsurface-safety valves and associated actuators which require compliance with paragraph 2 shall contain additional information showing verification of:

a. The devices having been manufactured in accordance with the quality assurance requirements of ANSI/ASME–SPPE–1 (formerly ANSI/ASME–OCS–1) as required by paragraph 2.

b. The completion and return of the receiving report to the manufacturer as required by ANSI/ASME–SPPE–1.

c. The completion and submission of all failure reports required by paragraph 6 and all investigation reports required by paragraphs OE–2529 and OE–2670 of ANSI/ASME–SPPE–1.

5.7 *Safety Device Training.*

Gulf of Mexico: Personnel engaged in installing, inspecting, testing, and maintaining these safety devices are required to be qualified under a program as recommended by "API Recommended Practice for Qualification Programs for Offshore Production Personnel Who Work With Anti-Pollution Safety Devices," API RP T–2, revised October 1975, or subsequent revisions which the Chief, Conservation Division, has approved for use.

Documented evidence of the qualification of individuals performing these functions shall be maintained in the field area.

Manufacturers' representatives need not be qualified in accordance with API RP T–2 if they are working on equipment supplied by their company, provided they have received training and are qualified by the manufacturer to install, service, or repair the specific safety device or safety system, and if they are directly supervised by an API RP T–2 qualified person who is capable of evaluating the impact of the work on the total system.

On-the-job trainees working with safety devices shall be directly supervised by a qualified person.

Pacific, Gulf of Alaska, and Atlantic: Before January 1, 1982, the lessee shall ensure that all personnel engaged in installing, inspecting, testing, and maintaining these safety devices will have been qualified under a program as recommended by "API Recommended Practice for Qualification Programs for Offshore Production Personnel Who Work With Anti-Pollution Safety Devices," API RP T–2, revised October 1975, or subsequent revisions which the Chief, Conservation Division, has approved for use.

Documented evidence of the qualifications of individuals performing these functions shall be maintained in the field area.

Manufacturers' representatives need not be qualified in accordance with API RP T–2 if they are working on equipment supplied by their company, provided they have received training and are qualified by the manufacturer to install, service, or repair the specific safety device or safety system, and if they are directly supervised by an API RP T–2 qualified person who is capable of evaluating the impact of the work on the total system.

On-the-job trainees working with safety devices shall be directly supervised by a qualified person.

Before January 1, 1981, the lessee shall submit an application for approval to the Chief, Conservation Division, describing the training to be conducted and the methods the lessee will utilize. The application shall include:

a. A designation of the lessee's representative who is responsible for training and coordinating training matters with the USGS.

b. The categories of personnel to be qualified.

c. The training organizations and courses to be utilized.

d. The method for ensuring the qualifications of third-party personnel.

e. The method for determining when additional training or requalification is required and the method for obtaining this training and requalification.

f. The method of monitoring operations to ensure that only qualified personnel perform certain functions.

g. The method of maintaining documented evidence of qualification at the work site.

6. *Failure and Inventory Reporting System (FIRS).* The USGS has established a safety and pollution-prevention device Failure and Inventory Reporting System (FIRS), to enhance the reliability and safety of operations in the OCS. This system applies to offshore structures, including satellites and jackets, which produce or process hydrocarbons and includes the attendant portions of hydrocarbon pipelines, when physically located on the structure. When the devices specified herein are used as a part of the production safety and pollution-prevention system, the lessee shall:

a. Submit an initial inventory and periodic updates in accordance with the procedures described in subparagraph 6.1.3.

b. Report all device failures which occur. The report content and format shall be in accordance with the procedures described in subparagraph 6.1.4.

c. If the method of data submitted as described in subparagraph 6.1.1 is USGS Form 9–1994 and Form 9–1995, the lessee shall submit the original of the form to the USGS and retain the two copies.

Inventory and failure data required by this Order shall be submitted to the USGS Conservation Manager in the appropriate Regional Office.

6.1 *Data and Reporting Requirements.*

6.1.1 *Format.* Inventory and failure data shall be submitted in a format containing the same information that is in the Safety Device Inventory Report (Form 9–1994) and the Safety Device Failure Report (Form 9–1995), and as outlined in the respective User's Instruction Booklets. Copies of the forms and booklets may be obtained from the USGS Conservation Manager in the appropriate Regional Office.

The specific method of submitting the required data may be selected from the following:

a. USGS Forms 9–1994 and 9–1995, using a standard coding convention (e.g., all letters capitalized, Z, I, letter O, number 0).

b. ADP card decks of standard 80-column cards.

c. Magnetic tapes which are 9-track, 800 BPI, unlabeled, blocking cannot exceed 1,040 characters, odd parity, single gap (i.e., compatible with IBM equipment EBCDIC).

Regardless of which method is used for submitting the inventory and failure data, a cover letter forwarding the data to the USGS shall contain the signature of the person initiating/approving the information contained therein.

When form 9–1995 is used, the form shall contain a signature in the lower right corner of the person initiating/approving the report.

6.1.2 *Device Coverage.* Inventory and failure reports are to be submitted on the safety and pollution-prevention devices on offshore structures, including satellites and jackets, which produce or process hydrocarbons, and the hydrocarbon pipelines thereon. These reports shall be submitted on the following devices:

a. Blowdown Valve (BDV).
b. Burner Flame Detector (BSL).
c. Check Valve (FSV).
d. Combustible Gas Detector (ASH).
e. Emergency Shutdown Valve (ESD).
f. Level Sensor: High (LSH), Low (LSL), Hi/Lo (LSHL).
g. Pressure Sensor: High (PSH), Low (PSL), Hi/Lo (PSHL).
h. Relief Valve (PSV).
i. Shutdown Valve (SDV).
j. Subsurface-Safety Valve (SSSV).
k. Surface-Safety Valve (SSV).
l. Temperature Sensor: High (TSH), Low (TSL), Hi/Lo (TSHL).
m. Valve Actuator on the shutdown valve, the blowdown valve, the surface-safety valve (VA).

6.1.3 *Device Inventory Reporting.*

6.1.3.1 *Initial Inventory.*

a. For platforms in existence at the time this Order becomes effective, a complete inventory of the active safety and pollution-prevention devices shall be submitted no later than 6 months after the effective date of this Order.

b. For platforms completed after this Order becomes effective, a complete inventory of the active safety and pollution-prevention devices shall be submitted no later than 1 month after the initial platform production date.

6.1.3.2 *Inventory Updates.* An updating of or addition/deletion to the latest inventory shall be submitted on a monthly basis so as to maintain a current and accurate data base. The inventory will be updated by using the contents of the Safety Device Inventory Report (Form 9–1994) and the Safety Device Failure Report (Form 9–1995), as described in the FIRS Instruction Booklet.

Inventory updating due to the addition, deletion, or chargeout of a devise is accomplished *by the lessee* reporting all of the data required on the Safety Device Inventory Report (9–1994).

Whenever a device fails and is either replaced with a new device or "fixed" and put back into service, the inventory shall be updated to reflect this change. Inventory updating, due to the failure of a device, will be performed *by the USGS,* using the contents of the Safety Device Failure report (Form 9–1995).

Inventory updating information shall be received no later than 30 days following the month in which the device change was made.

6.1.3.3 *Inventory-Reporting Methods.* Inventory data shall be reported either on the Safety Device Inventory Reporting forms (Form 9–1994), punched cards, or magnetic tapes. The reports shall contain all of the required information in the standard format as described in subparagrpah 6.1.1.

6.1.3.4 *Inventory Verification.* The device inventory shall be verified by the lessee to ensure that the inventory data base is maintained on a current basis and that changes are being incorporated as they occur. The verification shall be accomplished no more frequently than once each 6-month period. When verification is required, the USGS will provide the lessee with a copy of the information on record, in the lessee's selected reporting format. The lessee shall review the information and either submit a letter stating that the information is correct, or make the appropriate corrections to the information provided by the USGS. The letter or appropriate corrections shall be received no later than 30 days following the month in which the inventory information which is to be verified was forwarded to the lessee.

6.1.3.5 *Inventory-Reporting Deviation.* A lessee may submit an inventory, update, or verification report differing from that described in subparagraph 6.1.3 when authorized by the USGS.

6.1.4 *Device Failure Reporting.*

6.1.4.1 *Failure-Data submittal*

The failure data, as defined in subparagraph 6.1.4.3, shall be received no later than 30 days following the month in which the failure was detected. This data must contain all of the required information and be submitted in the standard format either on Safety Device Failure Report forms (Form 9–1995), punched cards, or magnetic tape, as previously described in subparagraph 6.1.1. Information on the failed device must match that previously submitted in inventory reporting. A formal failure analysis is not required by this Order, but each failed device shall undergo sufficient test/disassembly to establish the basic cause(s) of the failure.

6.1.4.2 *Failure-Data Verification.* After receipt of the complete failure data from the lessees, the USGS will make a printout of all failures by manufacturer, model, and reported cause. Each manufacturer listed will be furnished a copy of the printout containing the reported failures of his devices only. If he disagrees with the reported failure causes, he is invited to

investigate the questioned causes in coordination with the reporting lessee and provide a coordinated reply within 6 weeks after receipt of the printout. If no reply is received within that time period, the originally reported causes will be considered to be correct, and the data will be evaluated accordingly.

6.1.4.3. *Failure Definition.* The safety and pollution-prevention device Failure and Inventory Reporting System does not differentiate between a malfunction and a failure. For the purpose of this program, a failure is defined as the inability of a device to perform its designed function within specified limits. A device is considered to have failed if it does not operate properly (perform its function) as required within the specified tests' tolerances. Examples of device failures are included in FIRS instruction Booklet.

A failure report is not required for:

a. Adjustments made within specified tolerances.

b. Adjustments required due to changes in operating conditions.

6.2. *Records.* The lessee shall maintain FIRS data records for a minimum period of 5 years. Equipment failure records shall be maintained in the nearest offshore fieldoffice for a minimum period of 2 years. (If the lessee has no such offshore field office, then the records shall be kept in the nearest onshore field office.) The records may then be transferred to the onshore filed office for the remaining 3 years of the 5-year retention period. The records shall be available for review by any authorized representative of the USGS.

7. *Crane Operations.* Cranes shall be operated and maintained to ensure the safety of facility operations in accordance with the provisions of "API Recommended Practice for Operations and Maintenance of Offshore Cranes," API RP 2D, October 1972, or subsequent revisions which the Chief, Conservation Division, has approved for use. Records of inspection, testing, maintenance, and crane operators qualified in accordance with the provisions of API RP 2D shall be kept in the field area for a period of 2 years.

"API Specification for Offshore Cranes," API Specification 2C, February 1972, or subsequent revisions which the Chief, Conservation Division, has approved for use shall be used as a guideline for the selection of cranes.

8. *Employee Orientation and Motivation Programs for Personnel Working Offshore.* The lessee shall make a planned, continuing effort to eliminate accidents due to human error. This effort shall include the training of personnel in their functions. A program to achieve safe and pollution-free operations shall be established. This program shall include instructions in the provisions of "API Recommended Practice Orientation Program for Personnel Going Offshore for the First Time," API RP T-1, January 1974, or subsequent revisions which the Chief, Conservation Division, has approved for use. "API Employee Motivation Programs for Safety and Prevention of Pollution in Offshore Operations," API Bulletin T-5, September 1974, or subsequent revisions which the Chief, Conservation Division, has approved for use shall be used as a guide in developing employee safety and pollution-prevention motivation programs.

9. *Requirements for Drilling Rigs.*

9.1 *Fixed Structures.* The following requirements contained in this Order are applicable to drilling rigs on fixed structures:

a. Paragraph 1, "Use of Best Available and Safest Technologies (BAST)."

b. Subparagraph 5.1.10, "Electrical Equipment."

c. Subparagraph 5.4, "Welding Practices and Procedures."

d. Paragraph 8, "Employee Orientation and Motivation Programs for Personnel Working Offshore."

9.2 *Mobile Drilling Units.* The following requirements contained in this Order are applicable to drilling rigs on mobile drilling units:

a. Paragraph 1, "Use of Best Available and Safest Technologies (BAST)."

b. Subparagraph 5.4, "Welding Practices and Procedures."

c. Paragraph 8, "Employees Orientation and Motivation Programs for Personnel Working Offshore."

10. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Approved:

Don E. Kash,

Chief, Conservation Division.

OCS Order No. 7

Subparagraph 1.1.1, 1.1.4, 1.2.1

Comments. Two commenters felt that the disposal of muds, cuttings, or produced water into the ocean should be prohibited. The concern was how this disposal affected the quality of the water and the organisms depending upon it.

Discussion. This suggestion was not adopted. The USGS feels that these products can be disposed of properly through stringent EPA disposal standards. Proposed lease stipulations prohibit disposal in water less than 10 meters due to inadequate circulation. In deeper waters, each lease is considered separately, and disposal practices are closely monitored to insure that sensitive areas will not be damaged.

Subparagraph 1.1.3

Comments. Several commenters objected to the requirement for a closed sump on platforms and structures since modern technology has produced many types of open-ended sumps that will adequately prevent the discharge of oil.

Discussion. The USGS agrees that properly designed open sumps will prevent oil discharge and has changed the subparagraph to allow for the use of all properly designed and maintained sumps. The revised language also allows for the continued use of existing sumps as long as they are proven effective in preventing the discharge of oil.

Comments. One commenter recommended that the offshore disposal of contaminants from sumps should be prohibited.

Discussion. The Order prohibits disposal of any substance that will cause pollution. Contaminants from sumps will be treated accordingly as provided in lease stipulations and the authority of the District Supervisor.

Comments. Two commenters thought that the words "by subparagraph 1.1.3(a)" should be replaced with "to prevent the discharge of oil," because drilling units do not encounter the volumes of hydrocarbons that platforms do and should not need to meet all of the platform requirements.

Discussion. The suggestion was not adopted. It is the policy of the OCSLA Amendments to provide for pollution control on all offshore units. The revised subparagraph allows for the use of open sumps that prevent oil discharge and thus gives more flexibility for pollution control on all units.

Subparagraphs 1.1.3a and 1.1.3b

Comments. One commenter suggested that the original subparagraph 1.1.3a(2), *Existing Installations,* should be deleted. The commenter stated "* * * existing installations are exempted from compliance with the new requirements under 30(b) of the amended OCSLA."

Discussion. This suggestion was not adopted. This commenter made a similar comment on subparagraph 3.1 of this Order and several subparagraphs of OCS Orders Nos. 2 and 5. Refer to the discussion of subparagraphs 2.2 for OCS Order No. 2.

Subparagraph 1.1.3 was revised and restructured in response to other comments. The phrase "After the effective date of this Order," was added to subparagraphs 1.1.3a and 1.1.3b. Subparagraph 1.1.3a covers existing

installations by requring that "Improperly designed, operated, or maintained sump piles which do not prevent the discharge of oil into OCS waters shall be replaced as required by the District Supervisor."

Subparagraph 1.2.3

Comments. Several commenters thought that reporting requirements of equipment disposed into the ocean should be limited to those that may pose a hazard to navigation and fishing.

Discussion. It is the responsibility of the U.S. Coast Guard to determine which submerged objects present potential hazards, therefore, all equipment that enters the ocean should be reported.

Subparagraph 2.2.1

Comments. One commenter thought that a daily inspection of lease areas was not adequate for pollution detection. The suggestion was to provide for a systematic continuous monitoring system to detect spills and discharges.

Discussion. This suggestion was not adopted. The USGS feels that daily inspection procedures are adequate, especially when employing air surveillance. Special sensors that shut down production operations in the event of malfunction are required in accordance with Order No. 5. No effective equipment *that is economically feasible* has been developed for monitoring pollution around platforms.

Subparagrah 2.2

Comments. Several commenters thought that inspections of unattended facilities should be conducted "frequently" instead of "daily."

Discussion. The District Supervisor may prescribe other intervals in the event of adverse conditions. The daily requirement is necessary to uphold the best possible pollution control.

Comments. One commenter suggested changing the word "immediately" to the phrase "as soon as practicable."

Discussion. The intent of the word "immediately" is to perform repairs with the least possible delay, and the word will be retained to provide for the best possible pollution prevention. Departures may be granted in the event of extreme circumstances.

Subparagraph 3.1

Comments. One commenter was uncertain whether this section allowed for the use of organized pollution-control companies.

Discussion. The intent of this subparagraph does allow for these companies since the equipment "shall be available to each lessee * * * at a location approved by the Supervisor."

Comments. One commenter suggested that subparagraph 3.1 should be "* * * rewritten so as to make it clear that existing installations are exempted from compliance with new requirements."

Discussion. This suggestion was not adopted for the same reasons as stated in the discussion of subparagraph 2.2 of OCS Order No. 2.

Subpargraph 4.1

Comments. One commenter suggested that the language provide for drills to be conducted by pollution-control equipment contractors. This procedure would avoid unnecessary repetitive training for each rig and would combine efforts in a more economical manner.

Discussion. The USGS agrees with this rationale and has adopted language that allows the contractor to conduct drills. The responsibility for the drills still lies with the lessee.

Comments. No comments received.

Discussion. The subparagraph did not specify any requirement for the frequency of the drills; therefore, language was added to require drills to be conducted at least once every 12 months.

Comments. One commenter suggested that the time schedule of drills should be contingent upon weather and drilling activities.

Discussion. Application can be made for time flexibility due to unforeseen events in the schedule submitted to the Supervisor.

Paragraph 5

Comments. It was questioned whether the USGS has the authority to approve the use of chemical agents or other activities instead of the U.S. Coast Guard.

Discussion. This authority is granted to USGS pursuant to the Memorandum of Understanding between the USGS and the U.S. Coast Guard dated August 16, 1971.

U.S. Department of the Interior, Geological Survey Conservation Division

OCS Order No. 7—Effective January 1, 1980

Pollution Prevention and Control

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10, 250.11, and in accordance with 30 CFR 250.43. The lessee shall comply with the following requirements:

1. *Pollution Prevention.* During the exploration, development, production, and transportation of oil and gas, the lessee shall prevent pollution of the ocean. Furthermore, by the disposal of waste materials into the ocean, the lessee shall not create conditions which will adversely affect the public health, life, property, aquatic life, wildlife, recreation, navigation, commercial fishing, or other uses of the ocean.

1.1 *Liquid Disposal.*

1.1.1 *Drilling-Mud Components.* The lessee shall submit as a part of the Application for Permit to Drill (Form 9–331 C), a detailed list of drilling-mud components including the common chemical or chemical trade name of each component, a list of the drilling-mud additives anticipated for use in meeting special drilling requirements, and the proposed method of drilling-mud disposal. The disposal of drilling mud is subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended. Approval of the method of drilling-mud disposal into the ocean shall be obtained from the District Supervisor; each request will be decided on a case-by-case basis.

1.1.2 *Hydrocarbon-Handling Equipment.* All hydrocarbon-handling equipment for testing and production such as separators, tanks, and treaters shall be designed and operated to prevent pollution. Maintenance or repairs which are necessary to prevent pollution of the ocean shall be undertaken immediately.

1.1.3 *Curbs, Gutters, and Drains for Fixed Platforms or Structures and Mobile Drilling Units.*

a. *Fixed Platforms or Structures.* After the effective date of this Order, curbs, gutters, drip pans, and drains shall be installed in all deck areas in a manner necessary to collect all contaminants and piped to a properly designed, operated, and maintained sump system which will automatically maintain the oil at a level sufficient to prevent discharge of oil into OCS waters. Sump piles shall not be used as a processing device to treat or skim liquids, but shall be used to collect treated produced water, treated sand, liquids from drip pans and deck drains, and as a final trap for hydrocarbon liquids in the event of equipment upsets. Improperly designed, operated, or maintained sump piles which do not prevent the discharge of oil into OCS waters shall be replaced as required by the District Supervisor.

b. *Mobile Drilling Units.* After the effective date of this Order, curbs, gutters, and drains which collect contaminants associated with the drilling operation on a mobile drilling unit shall be installed as required by subparagraph 1.1.3a.

Curbs, gutters, and drains which collect contaminants not associated

with the drilling operation are subject to regulation by the U.S. Coast Guard.

1.1.4 *Discharges from Fixed Platforms or Structures and Mobile Drilling Units.* Discharges from fixed platforms or structures and mobile drilling units, including sanitary waste, produced water, drilling mud, and deck drainage, are subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended.

1.2 *Solid Material Disposal.*

1.2.1 *Well Solids.* The disposal of drill cuttings, sand, and other well solids containing oil is subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended. Approval of the method of disposal of drill cuttings, sand, and other well solids shall be obtained from the District Supervisor.

1.2.2 T3Containers. Containers and other similar solid waste materials shall not be disposed of into the ocean.

1.2.3 T3Equipment. Disposal of equipment into the ocean is prohibited except under emergency conditions. The location and description of any equipment disposed of into the ocean shall be reported to the District Supervisor and to the U.S. Coast Guard in accordance with paragraph 4 of OCS Order No. 1.

2. *Personnel, Inspection, and Reports.*

2.1 T3Personnel. The lessee's personnel shall be instructed in the techniques of equipment maintenance and operation for the prevention of pollution. Contractor personnel providing services offshore shall be informed in writing, prior to executing contracts, of the lessee's obligations to prevent pollution and of the provisions of this Order.

2.2 T3Pollution Inspections.

2.2.1 T3Manned Facilities. Manned drilling and production facilities shall be inspected daily to determine if pollution is occurring. Maintenance or repairs which are necessary to prevent pollution of the ocean waters shall be undertaken and performed immediately.

2.2.2 T3Unattended Facilities. Unattended facilities, including those equipped with remote control and monitoring systems, shall be inspected daily or at intervals prescribed by the District Supervisor to determine if pollution is occurring. Necessary maintenance or repairs shall be made immmediately.

2.3 T3Pollution Reports. All spills of oil and liquid pollutants shall be reported orally to the District Supervisor and shall be confirmed in writing. All reports shall include the cause, location, volume of spill, and action taken. Reports of spills of more than 5.0 cubic meters (31.5 barrels) shall include information on the sea state, meteorological conditions, size, and appearance of slick. All spills of oil and liquid pollutants shall also be reported in accordance with the procedure contained in 33 CFR 153.203.

2.3.1 T3Spills. Spills shall be reported orally within the following time limits:

a. Within 12 hours, if spills are 1.0 cubic meters (6.3 barrels) or less.

b. Without delay, if spills are more than 1.0 cubic meters (6.3 barrels).

2.3.2 *Observed Malfunctions.* Lessees shall notify each other of observed pollution resulting from another's operation.

3. *Pollution-Control Equipment and Materials and Oil Spill Contingency Plans.* The lessee shall submit a description of procedures, personnel, and equipment that will be used in reporting, cleanup, and prevention of the spread of any pollution resulting from an oil spill which might occur during exploration or development activities. The following subparagraphs describe the minimum requirements for pollution-control equipment and procedures.

3.1 *Equipment and Materials.* Pollution-control equipment and materials shall be maintained by, or shall be available to, each lessee at an offshore location or at a location approved by the Supervisor. The equipment shall include containment blooms, skimming apparatus, cleanup materials, chemical agents and other items needed for the existing climatic conditions, and shall be available prior to the commencement of drilling and production operations. The equipment and materials shall be inspected monthly and maintained in a state of readiness for use. The results of the inspections shall be recorded and maintained at the site.

3.2 *Oil Spill Contingency Plans.* The lessee shall submit an Oil Spill Contingency Plan for approval by the Supervisor, with or prior to submitting an Exploration Plan or a Development and Production Plan. Oil Spill Contingency Plans shall be reviewed annually. All modifications of the Oil Spill Contingency Plan and the results from the review of the plan shall be submitted to the Supervisor for approval. The Oil Spill Contingency Plan shall contain the following:

a. Provisions to assure that full resource capability is known and can be committed during an oil spill, including the identification and inventory of applicable equipment, materials, and supplies which are available locally and regionally, both committed and uncommitted, and the time required for deployment of the equipment.

b. Provisions for varying degrees of response effort depending on the severity of the oil spill.

c. Provisions for identifying and protecting areas of special biological senstivity.

d. Establishment of procedures for the purpose of early detection and timely notification of an oil spill including a current list of names, telephone numbers, and addresses of the responsible persons and alternates on call to receive notification of an oil spill, and the names, telephone numbers, and addresses of regulatory organizations and agencies to be notified when an oil spill is discovered.

e. Provisions for well-defined and specific actions to be taken after discovery and notification of an oil spill, including:

(1) Specification of an oil spill response operating team consisting of trained, prepared, and available operating personnel.

(2) Predesignation of an oil spill response coordinator who is charged with the responsibility and is delegated commensurate authority for directing and coordinating response operations.

(3) A preplanned location for an oil spill response operations center and a reliable communications system for directing the coordinated overall response operations.

(4) Provisions for disposal of recovered spill materials.

4. *Drills and Training.*

4.1 *Drills.* Drills for familiarization with pollution-control equipment and operational procedures shall be the lessee's responsibility and shall be held at least once every 12 months by the lessee or a contractor serving the lessee. The personnel identified as the oil spill response operating team in the Contingency Plan shall participate in these drills. The drills shall be realistic and shall include deployment of equipment. A time schedule with a list of equipment to be deployed shall be submitted to the Supervisor for approval. The drill schedule shall provide sufficient advance notice to allow U.S. Geological Survey personnel to witness any of the drills. Drills shall be recorded, and the records shall be made available to U.S. Geological Survey personnel. Where drill performance and results are deemed inadequate, the Supervisor may require an increase in the frequency or a change in the location of the drills until satisfactory results are achieved.

4.2 *Training.* The lessee shall ensure that training classes for familiarization with pollution-control equipment and operational procedures are provided for the oil spill response operating team. The supervisory personnel responsible for directing the oil spill response operations shall receive oil spill control instruction suitable for all seasons. The lessee shall retain course completion certificates or attendance records issued by the organization where the instruction was provided. These records shall be available to any authorized representative of the U.S. Geological Survey upon request.

5. *Spill Control and Removal.* Immediate corrective action shall be taken in all cases where pollution has occurred. Corrective action taken under the lessee's Oil Spill Contingency Plan shall be subject to modification when directed by the Supervisor. The primary juridiction to require corrective action to abate the source of pollution shall remain with the Supervisor, pursuant to the provisions of this Order and the Memorandum of Understanding (MOU) between the Department of Transportation (U.S. Coast Guard) and the Department of the Interior (U.S. Geological Survey), dated August 16, 1971. The use of chemical agents or other additives shall be permitted only after approval by the Supervisor in accordance with Annex X, National Oil and Hazardous Substances Pollution Contingency Plan, and in accordance with the previously mentioned MOU.

6. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Approval:

Don E. Kash,

Chief, Conservation Division.

OCS Order No. 8

Title and Preamble

Comments. No comments received.

Discussion. The title of Outer Continental Shelf (OCS) Order No. 8 was revised by deleting the words "and Associated Equipment" to be consistent with the content of the Order. Provisions for associated production equipment and operations are now contained in OCS Order No. 5.

General Comments

Comments. Two commenters contended that the Department of the Interior or U.S. Geological Survey (USGS) has not complied with the provisions of Executive Order (E.O.) 12044 concerning the analysis of the potential economic impact of the Platform Vertification Program.

Discussion. E.O. 12044 was effective on March 23, 1978, and was not retroactively applicable to rules under revision at that time. OCS Order No. 8 was published for revision in the **Federal Register** on August 25, 1977, and on June 7, 1977, the USGS published notice of intent to develop Platform Structural Verification Standards. When this proposed Standard was published for comment in the **Federal Register** on December 5, 1978, the Department of the Interior determined that a regulatory analysis under E.O. 12044 was not required.

Comments. Four commenters objected to being asked to comment on OCS Order No. 8 without copies of three companion documents referenced in the Order, and one stated that without the complete package "the impact of the program is impractical to quantify."

Discussion. The USGS consideres that the public has been afforded appropriate opportunity to review and comment on all aspects of the Platform Verification Program and on OCS Order No. 8. The three companion documents were published for comment on December 5, 1978, and the period for submittal of comments was extended to March 1, 1979. The various comments that were received have been evaluated, and the first edition of these documents is being printed at this time. There has been little change in the basic content of these documents, except for the materials-requirements section which was changed as a result of detailed input from industry technical representatives.

Comments. Three commenters expressed strong opposition to the Platform Verification Program and revised OCS Order No. 8 because it "will certainly result in increasing the cost * * * due to over-restrictive requirements," "* * * stifling industry growth." "* * * collectively, these items start to become quite burdensome," "* * * an unneccessary duplication of effort and expense and an unneccessary cost burden * * *."

Discussion. Numerous industrial representatives have stated that third-parties for design reviews, fabrication inspectors, and installation operation monitors are now commonly hired. In addition, a National Research Council Marine Board panel, staffed by a broad cross section of experienced industrial, governmental, and academic representatives, concluded that "the proposed third-party verification program for new offshore platforms will enhance the orderly extension of OCS oil and gas activities in an expeditious and efficient way be assuring the public and the Congress of the integrity of the fixed offshore platforms. A secondary benefit will be a more uniform application of current technology." The USGS believes that the revised Order and the Verification Program are vital as our Nation's energy needs require extending the search for oil and gas into frontier OCS areas.

Comments. One commenter suggested a time limit of "10 days to two weeks" be placed on the Supervisor to approve or disapprove plans.

Discussion. This may not be practical in all cases, but when possible, the expeditious handling of all applications, reports, and verification plans will continue to be the USGS policy. Legislative constraints and regulatory directives influence such matters and must be followed.

Comments. Two commenters emphasized the importance of minimizing delay and strongly urged that fabrication be allowed to commence prior to final design approval.

Discussion. The USGS agrees, and appropriate changes have been made in the revised Order.

Comments. One commenter stated that "* * * operators should be permitted to make repairs on a structure without approval being required * * *."

Discussion. The Order requires approval be obtained for *major* modifications and repairs. Furthermore, if certain damage requires immediate repair to assure structural integrity, the Order will in no way jeopardize such a situation while the Supervisor's approval is obtained. Prudent action should be taken under emergency conditions.

Comments. One commenter suggested that, on the effective date of the Order, the USGS should specify what structures are to be included or excluded from the new requirements.

Discussion. The provisions of this Order will not be retroactively effective. It will apply to all new platform applications and major modifications or repairs received in the office of the Supervisor on or after the effective date of the Order. If the Plan of Development/Production has been received, subject to submittal of platform design details, the new Order will not apply.

Paragraph 1

Comments. One commenter considered subparagraph 1.1 to be a major change in scope of the Verification Program; that the Requirements should be restricted to verification only and not to design, fabrication, and installation; and that the Gulf of Mexico is a mature area with no need for these requirements.

Discussion. The USGS does not agree with any of these comments. The primary thrust of the Platform Verification Program has been for platforms to be installed in frontier areas and in deepwater locations, and for platforms of unique design. This has been and remains a basic program concept to be accomplished by the two major elements: substantive (Requirements document) and procedural (OCS Order No. 8). These procedural requirements have been and are now contained in OCS Order No. 8. There is no major change in scope, nor can these requirements be limited to the verification function. The performance standards must be applied to the design, fabrication, and installation activities if the verification process is to be expedited. The proposed Order recognizes the maturity and successful past history of platform operations in the Gulf of Mexico area. Subparagraph 1.3 requires the application of the Verification Program to only certain platforms that meet specified conditions intended to consistently apply the primary thrust of the program to the Gulf of Mexico.

Comments. It was pointed out that the words "the design fabrication and installation" should be deleted from the second and third lines of subparagraph 1.1.

Discussion. The correction was made to clarify the intent of the subparagraph.

Comments. One commenter recommended that single-pile caissons be removed from the "other structure" cateogory.

Discussion. This recommendation is not adopted because a primary USGS responsibility for platform or other structure approval is consideration of and protection of the environment. Therefore, no exceptions can be permitted, particularly to exploratory well structures.

Comments. A number of commenters objected to the inclusion of "repairs of damage" under the approval provisions of this Order in subparagraph 1.2. There is concern that delays in obtaining approval may pose risks and unsafe conditions to equipment, personnel, and the environment.

Discussion. It appears that the significant concern expressed by various commenters was possibly a misunderstanding of the intent of the subparagraph. It was intended to cover *major* repairs of damage to structural members affecting the structural integrity of the platform or other structure. In addition, the last sentence of subparagraph 1.2 was intended to provide for those situations where there was some question as to how to proceed, where a verbal approval may be appropriate for emergency repairs in a timely manner, or whether the condition is or is not determined to be a *major* modification or repair. Minor repairs, such as replacing damaged decking, handrails, stairways, or boat landings, are not intended to be subject to approval by the Supervisor.

Subparagraph 1.2 has been modified to clarify the intent, adopting some of the suggested changes, but retaining the requirement for approval by the Supervisor of major modifications and repairs. In addition, the subparagraph provides for the possibility of emergency repairs proceeding expeditiously with subsequent notification to and approval by the Supervisor.

Comments. Two commenters suggested the deletion of the words "or repairs of damage" from subparagraph 1.3 to remove such operations from the requirements of the Verification Program.

Discussion. We agree with the suggestion and believe that appropriate review can be accomplished under subparagraph 1.2 prior to approval by the Supervisor of major repairs of damage. The subparagraph has been modified accordingly.

Comments. One commenter questioned reference to the Supervisor for Operations Support in the Gulf of Mexico in subparagraph 1.3 and also suggested a rearrangement of the manner and timing of submittal of proposed platform applications.

Discussion. The words "for Operations Support" have been deleted from the Gulf of Mexico subparagraph 1.3 for consistent reference to the appropriate Supervisor as defined in the Preamble of this Notice. Concerning the arrangement of subsections and manner of submittal of applications, the USGS prefers the original format.

Comments. Three commenters expressed concern, confusion, or disagreement with the term "frontier area," especially in the Gulf of Mexico as used in subparagraph 1.3.

Discussion. A "frontier area" on the OCS is one in which there have been little, if any, oil and gas exploratory and development operations, e.g., the entire Atlantic OCS area, the Beaufort Sea, and all deepwater areas. For the Gulf of Mexico, the MAFLA, and South Texas areas, all areas involving 400 feet or greater water depths are considered frontier areas, as well.

Comments. One commenter suggested the substitution of the words "sites subject to" in lieu of "areas of" in the Gulf of Mexico subparagraph 1.3(c).

Discussion. The USGS does not agree with this suggestion due to the nature and distribution of areas of unstable bottom conditions. The platform site selected may be stable but surrounded by or in close proximity to an area of unstable bottom conditions. The lessee must identify the design considerations necessary in areas of general unstable bottom conditions.

Comments. One commenter stated that "The documents listed in subparagraphs 1.4.1, 1.4.2, 1.4.3, and 1.4.4 are shown as First Edition. These first editions should include any changes that are accepted from the comments made by interested parties on the draft documents," and another asked if the documents have been modified to include industry comments.

Discussion. All comments have been analyzed, and the documents will be changed as warranted upon concurrent publication with OCS Order No. 8.

Paragraph 2

Comments. Four commenters expressed disagreement with the words "prior to commencing any such work" due to the possible delays involved and apparently are willing to assume the risk that proposed changes will be approved. They suggested deletion of the words from subparagraph 2.1.

Discussion. The USGS is willing to accept this suggestion in order to minimize delays in the fabrication or installation process; however, the following sentence has been added: "The lessee assumes the risk of making changes or modifications without prior approval of the Supervisor."

Comments. One commenter questioned the certification requirement by a registered professional structural engineer or civil engineer specializing in structural design and suggested that "a certified or recognized naval architect-marine engineering firm would be able to qualify."

Discussion. The USGS insists upon certification by qualified professional personnel experienced in structural design of offshore platforms and other structures covered by this Order. Any naval architect-marine engineering firm having such qualified personnel and experience will be acceptable.

Comments. Two commenters suggested removing the words "or repairs" from subparagraphs 2.3, 2.5, and 3.1.

Discussion. We agree with the suggestion, and the subparagraphs have been modified accordingly.

Comments. Numerous commenters expressed concern about the possible delays that may result from the provision in subparagraph 2.5 requiring design approval "prior to commencing the fabrication."

Discussion. We agree, and the words "prior to commencing the fabrication and obtain approval for the" have been deleted and the word "and" inserted in subparagraph 2.5.

Paragraph 3

Comments. One commenter questioned the required design documentation for approval of "major platforms" as compared to "single-pile caissons and other small well protectors."

Discussion. We agree that less design documentation will be necessary for a single-pile caisson than for a major platform; however, the exact details will have to be determined on a case-by-case basis with the concurrence of the Supervisor.

Comments. One commenter recommended replacing the word "approval" with the word "submittal" in subparagraph 3.2.1 in order to expedite the overall verification process.

Discussion. We agree with the recommendation and subparagraph 3.2.1 has been so modified.

Comments. Four commenters pointed out that "finalized construction drawings" may not be available to be included with the submittal of design documentation.

Discussion. Subparagraph 3.2.1. has been revised to require submittal of design drawings and material specifications for primary load-bearing structural members. The submittal of construction drawings and specifications will be required as a part of the Fabrication Verification Plan (subparagraph 3.3), and finalized as-built drawings are to be retained and made available by the lessee for the functional life of the platform or other structure (paragraph 4, "Records").

Comments. One commenter suggested that material specifications need not be submitted if the platform is designed in accordance with the requirements.

Discussion. We disagree with this suggestion. The characteristics of the materials of construction are a very pertinent design consideration, and their documentation is necessary for a meaningful design review.

Comments. One commenter inquired as to what information is contained in the Plan of Development/Production and if platform design data is included in the Plan.

Discussion. The complete details on submittal of Plans of Development/Production are contained in 30 CFR 250.34 of the OCS Operating Regulations. Platform design documentation is a necessary part of the Plan. This documentation must at least present a preliminary design sufficient to assess the approach proposed and its applicability.

Comments. One commenter strongly questioned "the need for an the advisability of adding" the Universal Transverse Mercator grid system coordinates for platform location data in subparagraph 3.2.1.1 as "an unjustified increase in paperwork and * * * source of confusion."

Discussion. Concern seems to be unfounded as conversion tables and techniques are readily available, and these are generally accepted methods of accurately describing a location. The USGS receives public requests for coordinates of a platform location on each of the systems.

Comments. Two commenters pointed out that complete details may not be available to comply with the requirements of subparagraphs 3.2.1.1.d and c at the time design documentation is submitted.

Discussion. The *General Platform Information* requirements need not all be submitted with the design documentation, and it will be permissible to supplement the application when these details are available.

Comments. Two commenters suggested omitting items "g" and "h" in subparagraph 3.2.1.1 because "g" is redundant and "h" is unclear.

Discussion. We agree that item "g" is redundant as Material Specifications are required by subparagraph 3.2.1.4.c; therefore, it is deleted from subparagraph 3.2.1.1.

We do not think item "h" (Design Standard) is unclear; however, we feel that the objective is obtained by receipt of the documentation required by subparagraph 3.2.1 and the verification process. Therefore, item "h" has also been deleted.

Comments. One commenter suggested that the level of detail and the methodologies to be used regarding information required in the environmental reports which accompany the Plan of Development/Production be clarified and, further, that an explanation be provided as to the relationship of this information to the environmental information required under OCS Order No. 8.

Furthermore, the commenter recommended that the following requirements be included in the environmental information to be submitted in accordance with OCS No. 8:

1. Tests should be conducted to determine the concentration of light hydrocarbons in the seabed and subsurface soils and sediments.

2. Side-scan sonar profiles should be conducted over the sites proposed for structures to determine if geologic (e.g., sand waves) or manmade hazards are present.

Discussion. Discussion of the details and methodologies to be used for information required by 30 CFR 250.34 is beyond the scope of OCS Order No. 8. However, 30 CFR 250.34 requires "a narrative description of the existing environment, with an emphasis on those environmental values that may be affected by the proposed action"; whereas, the requirement for submittal of environmental information under OCS Order No. 8 is for determination of the effects of the environment on the structural integrity of platforms to be installed in OCS waters.

Concerning item 1, subparagraph 3.2.1.3.a requires the type of data submittal which will indicate any existence of light hydrocarbons. Concerning item 2, whereas the use of side-scan sonar is not specifically called for, the identification of sea-floor hazards is required by subparagraphs 3.2.1.3.a, c, and e.

Comments. One commenter suggested that the phrase "* * * wind and gust velocities with relative heights * * *" be replaced with "* * * vertical distribution of wind and gust velocities * * *" in subparagraph 3.2.1.2.a.

Discussion. We agree with this suggestion, and the wording has been modified accordingly.

Comments. One commenter suggested that the word "data" used in subparagraphs 3.2.2.a and 3.2.1.2.c be replaced by the word "criteria."

Discussion. The USGS disagrees with this suggestion. The use of the word "data" in 3.2.1.2.a is considered to be appropriate and corresponds to its use (with accompanying description) in subpararaph 2.1.2 of the Requirements. However, we do agree that the term "loading data" used in subparagraph 3.2.1.2.c should be replaced by the term "derived loads," and that wording has been modified accordingly.

Comments. Two commenters suggested that subparagraph 3.2.1.2.b be deleted in view of the fact that the subject matter contained therein is also contained in subparagraph 3.2.1.3.

Discussion. We agree with this suggestion, and the appropriate modification has been made.

Comments. One commenter suggested that the USGS obtain geophysical and soil-boring information directly from the seismic and drilling contractors.

Discussion. We disagree with this suggestion. The USGS requires the submittal of such information from the lessees.

Comments. One commenter suggested that subparagraph 3.2.1.3.b should be stated in more general terms by ending the sentence after the word "foundation."

Discussion. We agree with this suggestion, and the appropriate modification has been made.

Comments. One commenter suggested that a soil stability analysis will not be necessary in areas where repeated analysis and soil-boring data indicate stable bottom conditions.

Discussion. We agree that the present wording should be clarified to reflect this fact, and subparagraph 3.2.1.3.c has been modified accordingly.

Comments. Two commenters suggested that subparagraph 3.2.1.4.d is unclear and should be clarified or deleted.

Discussion. We agree, and the wording has been shortened and clarified.

Comments. One commenter suggested that the discussion regarding structural fatigue be relocated from subparagraph 3.2.2.b to 3.2.1.4.e.

Discussion. We agree with this suggestion, and the discussion on fatigue has been relocated accordingly.

Comments. One commenter suggested that the wording "* * * where components of high strength steel are subjected to cyclic loading" be inserted after the wording in parentheses at the end of the second sentence in subparagraph 3.2.4.e (Gulf of Mexico).

Discussion. We agree with this suggestion, and the sentence has been modified accordingly.

Comments. Two commenters questioned the necessity of performing a fatigue analysis of platforms for which the use of high-strength steel is limited to only a small percentage of the total structural members.

Discussion. In general, if primary load-bearing structural members are fabricated of high-strength steel for the purpose of using higher allowable cyclic stress levels (higher than those allowed for mild steel), a fatigue analysis will be required for those members.

Comments. One commenter recommended replacing the word "approval" with the word "submittal" in subparagraph 3.2.2 in order to expedite the overall verification process.

Discussion. We agree with this suggestion, and the change in wording has been made.

Comments. One commenter suggested removal of the words "or repairs" from subparagraph 3.2.2 in order to remove such operations from the requirements of the Verification Program.

Discussion. We agree with the suggestion, and the subparagraph has been modified accordingly.

Comments. One commenter suggested deletion of the words "as a part of the plan" in subparagrpah 3.2.2.

Discussion. We disagree with this suggestion and prefer to retain this wording.

Comments. One commenter suggested that whenever the word "plan" is used in subparagrpah 3.2.2, an identification be made as to which "plan" is being referred.

Discussion. We agree with this suggestion, and the appropriate identification has been added.

Comments. One commenter questioned the uniformity of the level of involvement of the CVA's in various projects.

Discussion. The USGS will ensure that a minimum required level of involvement be maintained by all CVA's.

Comments. One commenter suggested that it will be a duplication of effort for the lessee to furnish the qualifications of the CVA, as this information will be obtained and maintained by the Platform Verification Section.

Discussion. A CVA's qualifications may be initially submitted to the USGS either by the CVA directly or through the lessee. The requirement for submission of qualifications addressed by this comment is to ensure that the appropriate personnel on the staff of the CVA will be used and that the qualifications of the CVA have not changed.

Comments. One commenter suggested that the USGS should not require resubmittal of the Verification Plan(s) in the event of the CVA changes.

Discussion. The USGS does not agree with this suggestion.

Comments. One commenter suggested the deletion of the words "or repairs" from subparagraph 3.3 to remove such operations from the requirements of the Verification Program.

Discussion. We agree with the suggestion, and the subparagraph has been modified accordingly.

Comments. Numerous commenters expressed concern about the possible delays that may result from the provision in subparagraph 3.3 requiring the lessee to submit a Fabrication Verification Plan subsequent to approval of the design.

Discussion. We agree, and the word "approval" has been deleted and the word "submittal" inserted in subparagraph 3.3.

Comments. One commenter suggested that we should specify what information is required when submitting the Fabrication Plan.

Discussion. We agree with this suggestion, and subparagraph 3.3 has been modified to incorporate the following: "* * * fabrication drawings and material specification of all the main load carrying members included in the space frame analysis * * *."

Comments. One commenter suggested the deletion of the words "or repairs" from subparagraph 3.4 to remove such operations from the requirements of the Verification Program.

Discussion. We agree with the suggestion, and the subparagraph has been modified accordingly.

Comments. One commenter suggested the deletion of the words "subsequent to the approval of the fabrication" from subparagraph 3.4.

Discussion. We agree with this suggestion, and the subparagraph has been modified to require submittal of the Installation Verification Plan subsequent to the submittal of the Fabrication Verification Plan.

Paragraph 4

Comments. One commenter suggested "* * * it may be desirable to maintain design records for the life of the platform, maintenance of all other records should be limited to 5 years."

Discussion. We do not agree with this suggestion. However, the subparagraph has been modified to incorporate the following: "the as-built structural drawings, the design assumptions and analysis, and a summary of the NDE records."

U.S. Department of the Interior, Geological Survey Conservation Division

OCS Order No. 8—Effective January 1, 1980

Platforms and Structures

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10 and 30 CFR 250.11 and in accordance with 30 CFR 250.18.

1. *Applicability.*

1.1 *New Platforms.* Subsequent to the effective date of this Order, all new fixed or bottom-founded platforms or other structures (e.g., single-pile caissons, ice islands, and gravel islands) shall be designed, fabricated, and installed in accordance with the applicable provisions of the document, entitled "Requirements for Verifying the Structural Integrity of OCS Platforms," and shall require approval under the provisions of this Order.

Where doubt exists as to the applicability of this Order, questions shall be referred to the Supervisor.

1.2 *Major Modifications and Repairs.* Subsequent to the effective date of this Order, major modifications and repairs of damage to all fixed or bottom-founded platforms or other structures shall require approval by the Supervisor. Major modifications are defined as any structural change which materially alters the original plan or any major deviation from operations. Major repairs or damage are defined as operations involving members affecting the structural integrity of a portion of or all of the platform or other structure.

Repairs to primary structural elements may be made to restore an existing permitted condition without prior approval under emergency conditions. The Supervisor shall be notified within 24 hours of the damage and subsequent repairs, and approval shall be obtained.

Where doubt exists as to the applicability of this Order, questions shall be referred to the Supervisor.

1.3 *Platform Verification.*

Pacific, Gulf of Alaska, and Atlantic: All new platforms or other structures, and major modifications to platforms or other structures, shall be subject to review under the requirements of the Platform Verification Program and to the approval of the Supervisor.

Gulf of Mexico: All new platforms or other structures, and major modifications to platforms or other structures which meet any of the following conditions, shall be subject to review under the requirements of the Platform Verification Program and to the approval of the Supervisor:

a. Installed in water depths exceeding 120 meters (400 feet).

b. Having natural periods in excess of 3 seconds.

c. Installed in areas of unstable bottom conditions.

d. Installed in frontier areas.

e. Having configurations and designs which are unique in relation to typical Gulf of Mexico installations.

All new platforms or other structures and major modifications or repairs to platforms or other structures not subject to the requirements of the Platform Verification Program shall be subject to the review and approval of the Supervisor.

1.4 *References.* Other aspects of the Platform Verification Program are described in more detail in the following documents, and these documents shall be considered as references for this Order.

1.4.1 *Operating Procedures for the OCS Platform Verification Program.* The document, entitled "Operating Procedures for the OCS Platform Verification Program," October 1979, describes the elements of the Platform Verification Program, the verification steps, the function of the Platform Verification Section, and the procedures for resolution of disputes; defines standards which shall be met by individuals or organizations in order to be approved as Certified Verification Agents (CVA); and provides instructions to the CVA.

1.4.2 *Requirements for Verifying the Structural Integrity of OCS Platforms.* The document, entitled "Requirements for Verifying the Structural Integrity of OCS Platforms," October 1979, is identified in this Order as "Requirements." It identifies mandatory state-of-the-art performance standards which shall be met in designing, fabricating, and installing platforms or other structures and major modifications to platforms or other structures.

1.4.3 *Appendices to Requirements for Verifying the Structural Integrity of OCS Platforms.* The document, entitled "Appendices to Requirements for Verifying the Structural Integrity of OCS Platforms," October 1979, is identified in this Order as "Appendices." It identifies alternative engineering design procedures which may be utilized, where applicable, to conform to the "Requirements."

1.4.4 *Commentary on Requirements for Verifying the Structural Integrity of OCS Platforms.* The document, entitled "Commentary on Requirements for Verifying the Structural Integrity of OCS Platforms," October 1979, is identified in this Order as "Commentary." It provides an explanation of the basic intent of the "Requirements" and also discusses the "Requirements," the "Appendices," and the current relative development of the state of practice for pertinent parts of both.

2. *Responsibility.*

2.1 *Submission.* All applications for approval under the provisions of this Order shall be submitted to the Supervisor. All significant changes or modifications (i.e., any structural change which materially alters the original plan or any major deviation from operations) to approved applications shall be submitted for approval to the Supervisor. The lessee assumes risk of making changes or modifications without prior approval of the Supervisor. Where doubt exists as to whether a change is significant, questions shall be referred to the Supervisor.

2.2 *Certification.* The lessee shall have detailed structural plans and specifications for new platforms or other structures and major modifications certified by a registered professional structural engineer or civil engineer specializing in structural design. The lessee shall also sign and date the following certification: Lessee certifies that the design of the (structure/modification) has been certified by a registered professional structural engineer or a civil engineer specializing in structural design, and the (structure/modification) will be fabricated, installed, and maintained as described in the application and any approved modification thereto. Certified design and as-built plans and specifications will be on file at ————.

2.3 *Verification.* The lessee shall nominate a CVA(s) in the verification plan and have the design, fabrication, and installation of all platforms or other structures and modifications to platforms or other structures which are subject to review under the requirements of the Platform Verification Program verified by a CVA(s).

2.4 *Approval.* For new platforms or other structures and major modifications thereto subject to review under the requirements of the Platform Verification Program, the lessee shall obtain approval for the design and fabrication from the Supervisor prior to transporting the platform or other structure to the installation site.

2.5 *Notification.* The lessee shall be responsible for notifying the Supervisor at least 1 week prior to transporting the platform or other structure to the installation site.

3. *Submissions.*

3.1 *General.* The lessee shall submit to the Supervisor, in triplicate, all documentation necessary for approval of new platforms or other structures and major modifications in accordance with the provisions of this Order. Listed hereafter is the documentation which shall be submitted; however, more detailed information and data may be required on a case-by-case basis and upon specific request by the Supervisor.

3.2 *Design.*

3.2.1 *Design Documentation.* The lessee shall submit design documentation with or subsequent to the submittal of the Plan of Development/Production or the Plan of Exploration. The design documentation shall include design drawings and material specifications for primary load-bearing members included in the space frame analysis, the certification by the lessee, and the name of the registered professional engineer. In addition, the design documentation shall incorporate the following:

a. General platform information.

b. Environmental and loading information.

c. Foundation information.

d. Structural information.

3.2.1.1 *General Platform Information.* The general platform information shall include the following:

a. Identification data including the platform or structure designation, the lease number, the area name, the block number, and the lessee's name.

b. Location data consisting of longitude and latitude coordinates, Universal Transverse Mercator grid system coordinates, state plane coordinates in the Lambert or Transverse Mercator Projection system, and a plat drawn to a scale of 1 centimeter = 240 meters (1 inch = 2,000 feet) showing surface location and distance from the nearest lease lines.

c. Intended primary use and other intended functions such as planned drilling, production, processing, well protection, compression, pumping or storage facility, or other operations.

d. Personnel facilities, personnel access to living quarters, number and location of boat landings, heliports, cranes, and evacuation routes.

e. Platform or structure details which consist of drawings, plats, front and side elevations of the entire structure, and plan views that clearly illustrate the following: essential parts (i.e., equipment arrangement, number and location of well slots); design loadings of each deck; water depth; nominal size and thickness of all primary load-bearing jacket and deck structural members; nominal size, makeup, thickness, and design penetration of piling.

f. Corrosion protection or durability details which consists of the corrosion-protection method; expected life; and durability criteria for the submerged, splash, and atmospheric zones.

3.2.1.2 *Environmental and Loading Information.* The environmental and loading information shall include the following:

a. Environmental data, which consists of a summary listing of data, as addressed in the "Requirements," that have a bearing on the design, installation, and operation (e.g., wave heights and periods, current, vertical distribution of wind and gust velocities, water depth, storm and astronomical tide data, marine growth, snow and ice effects, and air and sea temperatures).

b. Derived loads which consists of a listing of total design functional loads and loads due to wind, wave, ice, and current forces for longitudinal, transversal, and diagonal approaches.

3.2.1.3 *Foundation Information.* The foundation information shall include the following:

a. Seabed testing results which consist of a brief summary of the major strata encountered at the location of the boring(s) presented in tabular form, a detailed subsurface profile illustrating results of field and laboratory testing, a listing of field and laboratory investigations and tests with a basic summary of resultant determinations, and the identification of properties and conditions of the seabed and the subsoil, and the identification of any manmade hazards or obstructions.

b. Load effects which consist of a description of the effect of the environmental and functional loads on the foundation.

c. A soil stability report including a determination, with supporting information, of the susceptibility or nonsusceptibility of the area to soil movement and, if susceptible to soil movement, an analysis of slope and soil stability.

d. Foundation design criteria which consist of a summary of the design criteria as specified in the "Requirements."

e. Sea floor survey results which consist of a summary of the survey specified in the "Requirements."

3.2.1.4 *Structural Information.* The structural information shall include the following:

a. Design life criteria which consist of the identification of the basis of the design life of the structure.

b. Design loading and criteria which consist of a summary description of the design load conditions and design load combinations taking into consideration the worst environmental and operational conditions anticipated over the service life of the platform or structure.

c. Material specifications which consist of a listing and descriptions of the appropriate specifications.

d. Design strength criteria which consist of a description of the method(s) used in design (i.e., elastic, plastic ductility, ultimate).

e. Fatigue assessment details which consist of:

Pacific, Gulf of Alaska, and Atlantic: A summary of the fatigue analysis as specified in the "Requirements." The requirement for fatigue analysis shall be determined on a case-by-case basis. Where doubt exists concerning the requirement for this analysis, questions shall be referred to the Supervisor.

Gulf of Mexico: A summary of the fatigue analysis as specified in the "Requirements." A fatigue analysis shall be performed for each steel template, pile-supported platform with natural periods greater than 3 seconds, and for each structure to be fabricated of high-strength steel (i.e., over 345 MPa (50ksi) minimum yield) where components of high-strength steel are subjected to cyclic loading. The requirement for a fatigue analysis shall be determined on a case-by-case basis for all other platforms or other structures. Where doubt exists concerning the requirements for this analysis, questions shall be referred to the Supervisor.

3.2.2 *Design Verification Plan.* For the new platforms or other structures and for modifications which are subject to review under the requirements of the Platform Verification Program, the lessee shall submit a design verification plan with or subsequent to the submittal of the Plan of Development/Production. The verification plan shall include a short summary which nominates the CVA, states the qualifications of the CVA, describes how the lessee intends to use the CVA, identifies the level of work to be performed by the CVA, and identifies the documents which will be furnished with the platform application. Furthermore, the documentation listed under 3.2.1, as well as computer program decriptions which consist of abstracts of the computer programs used or to be used in various phases of the design process, shall be submitted as a part of the design verification plan.

The design verification plan shall be resubmitted for approval if the CVA changes, if the CVA's qualifications change, or if the level or work to be performed by the CVA changes. However, the summary of technical details need not be resubmitted unless changes are made in the technical details.

3.3 *Fabrication.* For new platforms or other structures and for modifications which are subject to review under the requirements of the Platform Verification Program, the lessee shall submit a fabrication verification plan subsequent to the submittal of the design. The plan shall include a short summary which nominates the CVA, states the qualifications of the CVA, describes how the lessee intends to use the CVA, identifies the level of work to be performed by the CVA, and identifies the documents which will be furnished to the CVA. The plan shall include fabrication drawings and material specifications of all the primary load-bearing members included in the space-frame analysis and a summary description of the following:

a. Structural tolerances.

b. Welding procedures.

c. Fabrication standards.

d. Material quality-control procedures.

e. Methods and extent of Non-Destructive Examinations (NDE) for welds and materials.

f. Quality assurance procedures.

The fabrication verification plan shall be resubmitted for approval if the CVA

changes, if the CVA's qualifications change, or if the level of work to be performed by the CVA changes. However, the summary of technical details need not be resubmitted unless changes are made in the technical details.

3.4 *Installation.* For new platforms or other structures and for modifications subject to review under the requirements of the Platform Verification Program, the lessee shall submit an installation verification plan subsequent to the submittal of the fabrication verification plan. The plan shall include a short summary which nominates the CVA, states the qualifications of the CVA, describes how the lessee intends to use the CVA, identifies the level of work to be performed by the CVA, and identifies the documents which will be furnished to the CVA. The plan shall also include a summary description of the planned marine operations, contingencies considered, alternate courses of action, and a summary description of the inspections to be performed during marine operations, including a graphical identification of areas to be inspected and acceptance/rejection criterion. The installation verification plan shall be resubmittted for approval if the CVA changes, if the CVA's qualifications change, or if the level of work to be performed by the CVA changes. However, the summary of technical details need not be resubmitted unless changes are made in the technical details.

For structures fabricated and installed in place (e.g., ice islands and gravel islands), the fabrication and installation verification plans may be combined.

4. *Records.* The lessee shall compile, retain, and make available for review for the functional life of the platform or other structure that is subject to the provisions of this Order, the as-built structural drawings, the design assumptions and analysis, and a summary of the NDE records.

5. *Departures.* All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.11(b).

Approved:

Don E. Kash,

Chief, Conservation Division.

Operating Procedures for the OCS Platform Vertification Program

Title

Comments. No comments received.

Discussion. None

General Comments

Comments. One commenter expressed strong opposition to the Outer Continental Shelf (OCS) Platform Verification Program (PVP) because it will result in increased cost due to over-restrictive requirements, will delay development of oil and gas resources, and will inhibit efficient operations which have been successful "for more than thirty years."

Discussion. The additional requirements imposed are for those platforms subject to the OCS Platform Verification Program. These platforms will be installed in areas in which the follow-conditions exist: there is little or no past experience upon which to base engineering judgments; platforms may be subjected to loading conditions which were not experienced in the past; platforms could cause significant safety hazards if they collapse or sustain significant structural damage; and they may not be easily evacuated. The U.S. Geological Survey (USGS) was delegated the responsibility and authority to address these concerns by the Secretary of the Department of the Interior in conjunction with the mandated responsibility stated in 30 CFR 250 to prevent stated in 30 CFR 250 to prevent damage to the environment, waste of any natural resource, or injury to life or property. The environmental, economic, and human significance of such a loss justifies the program.

Comments. Three commenters questioned the need for an the applicability of the concept of the Certified Verification Agent.

Discussion. Numerous industry representatives have stated that design reviews by a third party, fabrication inspectors, and installation monitors are now commonly used. In addition, a National Research Council Marine Board panel, staffed by a broad cross section of experienced industrial, governmental, and academic representatives, concluded that "the proposed third-party verification program for new offshore platforms will enhance the orderly extension of OCS oil and gas activities in an expenditious and efficient way be assuring the public and the Congress of the structural integrity of the fixed and botton founded offshore platforms." A secondary benefit will be a more uniform application of current technology and an application of the concept of best and safest technology (BAST) which is identified in the 1978 Amendments to the OCS Lands Act.

Comments. Two commenters contended that the USGS has not complied with the provisions of Executive Order 12044 concerning the analyses of the potential economic impact of the OCS Platform Verfication Program.

Discussion. Executive Order 12044 was effective on March 23, 1978, and was not retroactively applicable to rules under revision at that time. OCS Order No. 8 was published for revision in the **Federal Register** on August 25, 1977, and on June 7, 1977, the USGS published in the **Federal Register** a Notice of Intent to develop Platform Structural Verification Standards. When the Proposed Standard was advertised as available for public comment in the **Federal Register** on December 5, 1978, the Department of the Interior determined that a regulatory analysis made under Executive Order 12044 was not required.

Comments. Two commenters objected to being asked to comment on the Operating Procedures without having the three associated technical documents available for comment as well. The claim was made that these associated technical documents had never been made available for public comment.

Discussion. The USGS considers that the public has been afforded ample opportunity to review and comment on all aspects of the OCS Platform Verification Program. The three associated technical documents were announced in the **Federal Register** on December 5, 1978, as being available for public comment. The comment period ended on March 1, 1979. The numerous comments that were received have been evaluated, and the First Edition of these documents is being printed at this time. There has been little change in the basic content of these documents, except for the Materials Section which was changed as a result of detailed input from industry technical representatives.

Comments. One commenter recommended that the OCS Platform Structural Verification Program is expanded to include mobile drilling units when immobilized and used as production platforms.

Discussion. This eventuality has been addressed in OCS Order No. 2, subparagraph 2.2. In the meantime, work and responsibility in this area are currently the subjects of discussions and lead to the development of a Memorandum of Understanding with the U.S. Coast Guard.

Comments. One commenter recommended that the OCS Platform Structural Verification Program be expanded to include subsea completion facilities.

Discussion. The USGS considers subsea completion facilities to be mechanical equipment and not

structures. The organization and expertise of the Platform Verification Section and potential Certified Verification Agents cannot adequately address the subsea complettion facility. However, pertinent environmental and geophysical engineering concerns can be addressed on an as-needed basis when requested by the Supervisor.

Comments. One commenter recommended that either the term "Area Supervisor" or the term "Supervisor" be used consistently throughout the Operating Procedures.

Discussion. The USGS agrees, and appropriate changes have been made in the revised Operating Procedures.

Comments. Two commenters expressed the need to perform repairs to damaged principal structural elements as expeditiously as possible without seeking preliminary additional approvals.

Discussion. We agree. The Operating Procedures have been revised to delete references to repairs from the requirements of the OCS Platform Verification Program. We believe that an appropriate review can be accomplished at the specific request of the Supervisor and prior to approval being given, in accordance with 30 CFR 250.18, by the Supervisor.

Comments. Two commenters suggested that a time limit be placed on the Supervisor for approval or disapproval of the various phases of work.

Discussion. This may not be practical in all cases, but, when possible, the expeditious handling of all applications, reports, and verification plans will continue to be the policy of the USGS. Legislative constraints and regulatory directives influence such matters and must be followed. However, to mitigate the potential for delays, it is recommended that the Certified Verification Agent(s) be involved early in the project and that preliminary discussions with the Platform Verification Section (PVS) be held at the beginning of each phase of work and not just upon completion.

Comments. Four commenters emphasized the importance of minimizing delays and strongly urged that each phase of work be allowed to commence prior to final approval of the preliminary phase of work.

Discussion. The USGS agrees that this is a potential source of delay; however, changes are not necessary to the Operating Procedures. It is emphasized that the lessee is responsible for ensuring that the required reports, documentation, and information are supplied to the Supervisor in order to provide for an adequate review prior to approval or disapproval. Any modifications or changes which may be required for approval shall be the responsibility of the lessee.

Preface

Comments. One commenter was concerned that, based on his experience in the North Sea, procedures of this type do not accomodate innovation. The commenter recommended that a procedure be incorporated to make possible a preliminary approval of an alternative design approach.

Discussion. The USGS had this same concern when developing the OCS Platform Verification Program (PVP). By having the review of the Plan of Development/Production as the first formalized step in the PVP, innovative approaches will get early consideration. In addition, for innovative approaches, early involvement of the Certified Verification Agent (CVA) and the Platform Verification Section (PVS) in the design phase, at the request of the lessee, is recommended and will ensure a common understanding of the proposed approach during the preliminary stages of work and before an extensive amount of time is spent on the design. The PVP is flexible enough to incorporate the same preliminary review procedure for the fabrication and the installation phases of work.

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Comments. No comments received.
Discussion. None.

I. Introduction

Comments. No comments received.
Discussion. None.

II. Verification Steps

Comments. No comments received.
Discussion. None.

II.A. Identification of Responsible Parties

Comments. Five commenters recommended the insertion of the Installation Contractor in the list of parties directly involved in the verification process.

Discussion. The USGS agrees, and appropriate changes have been made in the revised Operating Procedures.

Comments. One commenter recommended the deletion of the discussion of the Environmental Data and Information Management System (EDIMS).

Discussion. The USGS does not agree with the deletion. Although the EDIMS discussion is provided for information only and is not regulatory in nature, the concept of a computer-based, engineering information management system is an integral part of the OCS Platform Verification Program. EDIMS will assist in attaining the mandated requirement in the 1978 Amendments to the OCS Lands Act to utilize the BAST in the development of OCS resources. EDIMS can be used as a common starting point in the discussion of the adequacy of design and installation approaches and will aid in collecting and making available engineering information useful in the expeditious and safe development of OCS resources.

II.B. Responsibilites

Comments. Three commenters indicated that the first sentence of paragraph II.B.1 appeared to be incomplete and confusing.

Discussion. The USGS agrees, and appropriate changes have been made in the revised Operating Procedures.

Comments. One commenter was concerned that a Certified Verification Agent (CVA) may be approved and hired for one phase of the verification process or some combination of phases. It was felt that this could lead to difficulties indefining the "borderlines of responsibilities" and could increase the workload.

Discussion. The USGS does not agree. It is considered essential to allow a CVA to be used for one phase of the work, or for some combination of phases, to ensure that there is a choice of firms with expertise in that phase of the work. Although it will be important to identify "borderlines of responsibility" and to prevent interference and duplication, the problems which could be encountered are far outweighed by the positive aspects of this arrangement.

Comments. One commenter indicated concern that, although the Certified Verification Agent(s) is under contract to and responsible to the lessee, he submits his reports directly to the Supervisor. It was recommended that all reports be submitted to the lessee and that the lessee provide copies to the Supervisor.

Discussion. The USGS does not agree. The concept of the CVA was considered a more acceptable and flexible alternative to having the USGS build a large technical staff to perform the same work. As a result of budgetary limitations, it was not considered possible for the USGS to hire and maintain a staff of experts and provide the same degree of flexibility as can be done through the use of the CVA concept. However, the CVA concept also has inherent problems which must be addressed. One of the main problems is how to assure the CVA's objectivity and independent judgment. It is felt that

by having the CVA's submit their reports directly to the Supervisor, rather than through the lessee, the CVA's will feel more independent in their statements and actions and will, therefore, provide better engineering judgments.

Comments. One commenter recommended deletion of the indicated responsibility of BOMOGO to coordinate the establishment and operation of the Environmental Data and Information Management System (EDIMS).

Discussion. The USGS does not agree with the deletion of this stated responsibility; however, it does agree to rephrase the stated responsibility to provide a better indication of responsibility. As was stated earlier in response to a comment on paragraph II.A, the concept of a computer-based, engineering information management system is an important feature of the OCS Platform Verification Program and conforms to the mandated requirement in the 1978 Amendments to the OCS Lands Act to utilize BAST.

III. Disputes Procedures

Comments. One commenter stated that, since the Certified Verification Agent is hired by the lessee, the word of the lessee should be considered final in any dispute with the CVA. Therefore, arbitration by the Platform Verification Section (PVS) is not necessary and should be deleted.

Discussion. The USGS does not agree. As was stated earlier in response to a comment on paragraph II.B, the concept of the CVA has been made an essential feature of the OCS Platform Verification Program in lieu of the USGS hiring a large technical staff. Should a problem arise which results in a dispute between the lessee and the CVA, this disputes procedure would be essential to prevent the CVA from losing his objectivity and independent judgment.

Comments. One commenter stated that, since the Certified Verification Agent (CVA) is hired by and is responsible to the lessee, the CVA should not have any disputes with the Platform Verification Section, and no arbitration would be necessary.

Discussion. The USGS does not agree. The Certified Verification Agent (CVA) is not responsible only to the lessee even though the CVA is hired by the lessee. The CVA is responsible to the lessee and to the USGS to provide an independent, third-party review of a particular phase of the work. Since there is no single engineering solution to any problem, and one solution may be considered better by one expert and not by another expert, it is considered essential that a procedure be included that will allow for the arbitration of disagreements and the mitigation of resultant delays.

IV. Certified Verification Agent Criteria

Comments. One commenter was of the opinion that only certifying agencies presently used by the marine industry should be CVA's.

Discussion. The USGS does not agree. It is not the intention of the USGS to limit the list of CVA's to certifying agents or agencies presently used by the marine industry. The USGS hopes to be able to develop a list of approved CVA's which will include both small and large private firms and existing certifying agencies to ensure that the best expertise is available. For this reason, a firm may be used as a CVA in one phase of the work or in some combination of the phases of work.

Comments. One commenter was concerned that the qualification standards for Certified Verification Agents (CVA's) is overly strict and could cause delays arising out of problems in securing a CVA.

Discussion. The USGS does not agree. The qualifications are essential to ensure that experienced, qualified individuals and organizations can become CVA's. However, the CVA concept will be continually monitored by the Platform Verification Section to ensure that minor problems do not cause significant delays in lease development.

Comments. One commenter was concerned that the list of CVA's will be limited to only firms with specific experience in particular areas and that firms with related experience would not be acceptable. A revision to paragraph IV.B was submitted for consideration.

Discussion. The USGS does not wish to prevent qualified firms from becoming CVA's. The proposed revision has been reviewed and will be incorporated in the Operation Procedures.

Comments. One commenter was concerned that firms that normally design, fabricate, or install offshore oil and gas platforms could not maintain their objectivity as a CVA for a particular platform without conflict of interest. It was recommended to limit selection of CVA's to organizations "whose primary function is third-party verification."

Discussion. The USGS does not agree. In order to ensure that the best expertise is available to be utilized in the CVA function, it is imperative that firms not be prevented from becoming CVA's on the basis of their having designed, fabricated, or installed platforms. The potential for conflict of interest must be dealt with on a case-by-case basis.

Comments. One commenter was concerned that the CVA qualifications enumerated "do not indicate a minimum degree of professional competency" and recommended some type of written or oral test be required.

Discussion. The USGS does not agree. Since the work to be performed may vary widely, a written or oral test would not be a valid or equal method of evaluation. Evaluations must be made on a case-by-case basis and weighted to ensure that technically competent firms, professional integrity, and past experience are major factors. However, interviews will be utilized as appropriate.

Comments. One commenter was concerned that general language which restricts firms to acting only as CVA's for a particular platform is ambiguous and could be misconstrued.

Discussion. The USGS agrees, and appropriate changes have been made to the Operating Procedures.

V. Instructions to CVA

Comments. One commenter was concerned that the instructions to CVA's for the fabrication phase of the work were not detailed enough. The need to be more definitive concerning the frequency of inspection was experessed to ensure that frequent disassembling and rebuilding of major portions of the structure do not occur.

Discussion. The USGS agrees that this is a potential problem but does not believe that it can be adequately addressed in the Operating Procedures. This must be a consideration of the lessee in deciding when to involve the CVA in the fabrication phase of the work and also in preparing the contract with the CVA. Decisions of this nature can only be made on a case-by-case basis.

Comments. One commenter was confused as to whether the inspection contractors normally employed for fabrication by an operator can be used as a CVA.

Discussion. If a firm or agent meets the required qualification of a CVA and is approved by the USGS, they may be used as a CVA. Ambiguous language in paragraph IV.B which may have caused the confusion has been changed.

Comments. Three commenters emphasized that the lessee should also receive copies of reports submitted to the USGS by the CVA.

Discussion. The USGS agrees, and appropriate changes have been made to the Operating Procedures. The number of copies and the required submission date to the lessee have not been specified since these requirements would be a part of a contractual

agreement and may vary on a case-by-case basis.

V.A. Instructions—Design Phase

Comments. One commenter was concerned that the design verification for complex structures could not be completed within the specified 6 weeks after completion of the design.

Discussion. The USGS does not agree. The lessee is responsible for involving the CVA as early as possible. With proper scheduling, this problem should not arise.

V.B. Instructions—Fabrication Phase

Comments. One commenter recommended that the list of typical fabrication items to be verified be changed to include "welder and welding procedure qualification and identification."

Discussion. The USGS agrees, and appropriate changes have been made to the Operating Procedures.

Comments. One commenter was concerned that the CVA could believe that he is authorized to shut down the job if approval for design changes are not obtained.

Discussion. The USGS agrees, and appropriate changes have been made to the Operating Procedures.

V.C. Instructions—Installation Phase

Comments. Six commenters questioned the need for the CVA to witness the transportation to the site and recommended deletion of this requirement.

Discussion. The USGS agrees, and appropriate changes have been made.

Comments. One commenter questioned the worth of visual examinations of structural elements during installation and recommended that the USGS require more sophisticated techniques to be used.

Discussion. The USGS does not agree. An initial inspection will ensure that no significant damage that affects the structural integrity of a platform has occurred. The nature of this initial inspection is such that a visual examination by trained divers with television monitoring is completely adequate for its intended purpose. Since this inspection would be done shortly after installation, marine growth would not be a problem and more advanced Nondestructive Examination (NDE) techniques do not appear to be appropriate except to establish a baseline against which future inspection results could be compared.

Operating Procedures for the OCS Platform Verification Program

(Prepared by the U.S. Geological Survey, Conservation Division, Branch of Marine Oil and Gas Operations)

October 1979.

Preface

This document is intended to describe general requirements and operating procedures for the Platform Verification Program concerning the structural integrity of fixed and/or bottom-founded new platforms or other structures, and major modifications or repairs to such structures, associated with oil and gas on the Outer Continental Shelf (OCS) of the United States. The Platform Verification Program is intended to provide maximum assurance for structural integrity while at the same time:

- Assuring both the Government and industry that OCS resource development may proceed in a safe manner within reasonable time frames;
- Incorporating sufficient flexibility to accommodate a variety of designs and methods of installation for all OCS Areas; and
- Accommodating and encouraging new technology.
- Other aspects of the Platform Verification Program are described further and in more detail in the following documents:
- OCS Order No. 8.
- Requirements for Verifying the Structural Integrity of OCS Platforms (hereafter referred to as "Requirements").
- Appendices to Requirements for Verifying the Structural Integrity of OCS Platforms (hereafter referred to as "Appendices").
- Commentary on Requirements for Verifying the Structural Integrity of OCS Platforms (hereafter referred to as "Commentary").

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I. Introduction

The U.S. Geological Survey (USGS) has been delegated authority by the Secretary of the Interior to regulate oil and gas operations on leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.). This authority includes responsibilities relating to prevention of waste and the conservation of natural resources. The manifestation of this responsibility which is addressed by the Platform Verification Program involves ensuring that offshore oil and gas platforms and other structures have a high probability of surviving the environmental and operational conditions to which they may be exposed.

The Platform Verification Program is a mandatory program which makes available to the appropriate Area Oil and Gas Supervisor the technical resources necessary to evaluate the structural adequacy of fixed or bottom-founded platforms or other structures and major modifications thereto.

II. Verification Steps

The platform verification process will be initiated by submission of a Plan of Development/Production or a Plan of Exploration by the lessee to the Supervisor and, for a major modification, by submission of an application of the proposed action by the lessee to the Supervisor.

The process for a new platform or other structure will be performed in four steps associated with the Supervisor's approval of the following items:

- Plan of Development/Production or Plan of Exploration.
- Platform Design.
- Platform Fabrication.
- Platform Installation.

For a major modification to a platform or other structure, the process may be performed in three steps associated with the Supervisor's approval of one or all of the following items and in a manner similar to that for a new platform or other structure:

- Design.
- Fabrication.
- Installation.

Installation is defined to include all marine operations relative to installation, from load-out to final field erection.

A. Identification of Responsible Parties

The following parties are directly involved in the verification process:

- Lessee.
- Supervisor.
- Platform Verification Section (PVS).
- Certified Verification Agent/Agents (CVA).
- Design Contractor.
- Fabrication Contractor.
- Installation Contractor.
- Branch of Marine Oil and Gas Operations, Conservation Division (BOMOGO).

Additionally, an Environmental Data and Information Management System (EDIMS) is planned for future development by the USGS. EDIMS will be a computer-based information system which is primarily designed to provide environmental, geologic, and geotechnical information for baseline purposes and to support engineering review of platform proposals by the PVS as well as any other USGS organizational units which have a need for such data. EDIMS will also be made available to all parties involved in the verification process. The system will initially be based upon publicly available data but may eventually incorporate proprietary data requiring appropriate controls.

B. Responsibilities

1. *General.* The responsibility for the structural adequacy of a particular platform lies with the lessee. The CVA, the design contractor, the fabrication contractor, and the installation contractor will be hired by, and will be directly responsible to, the lessee to assure that the proposed platform or other structure meets the requirements of the lessee and the "Requirements" of the USGS.

2. *Lessee.* The lessee is responsible for the following:

a. To meet the requirements of OCS Order No. 8.

b. To nominate and to hire an approved CVA for the design, fabrication, and installation phases, or some combination of these verification phases.

3. *CVA.* The CVA is responsible for the following:

a. To obtain USGS approval as a CVA.

b. To provide an independent review of the design, fabrication, and/or installation phases.

c. To maintain their objectivity without conflict of interest and applicable individual or staff technical capability for each platform project.

d. To submit to the lessee copies of the CVA verification report and recommendations.

e. To submit to the Supervisor three copies of the final CVA verification report and recommendations.

f. To review changes affecting the particular phase of the verification process within his scope of responsibility.

g. To explain the final CVA verification report and recommendation, as necessary.

4. *Supervisor.* The Supervisor is responsible for the review and approval of all operations on an OCS lease by the lessee. Under this program, the activities will be covered by a Plan of Development/Production or a Plan of Exploration, and the Supervisor will be responsible for the following:

a. To approve or disapprove the final design of the platform or other structure and the verification plans considering the recommendations of the PVS.

b. To receive and distribute all submissions by the lessee and the CVA.

5. *PVS.* The PVS acts as a technical advisor to the supervisor and is responsible for the following:

a. To certify, monitor, and evaluate CVA's.

b. To review and evaluate, as necessary, portions of Plans of Development/Production or Plans of Exploration pertinent to the structural aspects of platforms and other structures subject to the Platform Verification Program.

c. To make recommendations in writing to the Supervisor concerning the design, fabrication, and installation of proposed platforms and other structures pursuant to OCS Order No. 8.

d. To enter into discussions or disputes, as necessary, for various phases of the verification process.

e. To evaluate and accept or reject all CVA recommendations.

6. *BOMOGO.* The BOMOGO, acting as staff advisor to the Chief, Conservation Division, is responsible for the following:

a. To coordinate and administer the establishment and operation of EDIMS.

b. To enter into discussions or disputes, as necessary, for various phases of the verification process.

III. Disputes Procedures

Disputes that arise during any phase of the verification process will be arbitrated by the USGS. Formal request for arbitration of a dispute shall be made by one of the disputing parties to the designated arbitrator.

A. Lessee vs. CVA

Disputes between the lessee and the CVA concerning the Platform Verification Program will be arbitrated by the PVS.

B. Lessee vs. PVS

Disputes between the lessee and the PVS concerning the Platform Verification Program will be arbitrated by the Supervisor.

C. CVA vs. PVS

Disputes between the CVA and the PVS will be arbitrated by the Chief, Conservation Division.

D. Other

All other disputes, or disputes that cannot be satisfactorily resolved as indicated above, will be arbitrated in accordance with 30 CFR 250.81.

IV. Certified Verification Agent Criteria

Pursuant to the provisions of OCS Order No. 8, the USGS will maintain a list of Certified Verification Agents (CVA) to be utilized for the design review of proposed platforms and the monitoring of the fabrication and installation processes. CVA's will be qualified by the Platform Verification Section (PVS).

A. Application for Certification

Individuals or organizations may apply directly to the PVS for certification or may be nominated by a lessee planning to utilize the services of an individual or organization with respect to a particular platform proposal. The qualifications of the individual or organization must be submitted in detail for review by PVS personnel.

B. Qualification Standards

CVA's will be selected on the basis of technical competence and experience in offshore engineering, objectivity without conflict of interest, and ability to apply USGS requirements and to operate within limits of USGS inspection procedures.

The submittal of qualifications should include the following:

1. Previous appropriate experience in third-party verification, quality assurance, or actual performance of the design, fabrication, and/or installation of offshore oil and gas platforms or other marine structures.

2. Technical capabilities of individual or staff and primary staff to be associated with CVA functions.

3. Size and type of organization or corporation and financial status.

4. In-house availability of, or ready access to, appropriate technology, such as computer programs and hardware, and testing materials and equipment.

5. Ability to perform regionally or nationally, considering current commitments.

6. Previous experience with USGS requirements and procedures. (Such experience is desirable but not mandatory.)

Any individual or organization may be certified for any or all of the three phases of concern, namely, design, fabrication, and installation. Pertinent experience and capability will be required for each phase. For the design phase, the design review must be conducted by, or under the direct supervision of, an experienced registered professional civil and/or structural engineer. In order to maintain objectivity and to operate as an unbiased technical reviewer, individuals or organizations acting as CVA's for a particular platform shall not function in any capacity other than that of a CVA for that specific platform. After submittal of the above qualifications and after approval by the PVS, an appropriate certification will be issued to the agent. The review by PVS personnel may involve a visit to the CVA applicant's office or facility to check the applicant's capacity to perform the CVA's functions.

The PVS will periodically spot check the CVA's activities, staff, and facilities to assure adherence to USGS instructions, requirements, and procedures. Unexplainable or unacceptable deviations may result in withdrawal of approval as CVA by the PVS.

C. Recertification

Initial certification as CVA will remain in effect for 2 years unless otherwise revoked by the PVS. Recertification will be considered upon receipt of a written request from the CVA at any time within 90 days prior to the expiration of the initial or the extended period. The request shall confirm the CVA's capabilities and shall note any changes from the original application. However, once a certification has expired, it is not renewable without reapplication in accordance with paragraphs A and B above. Extensions may be approved for an additional period of 2 years.

If certification is revoked or expires, a reapplication may be submitted for a temporary period only to cover continuing work on a specific platform.

V. Instructions to CVA

A. Design Phase

As soon as possible after the CVA has been selected by the lessee and approved by the PVS, the CVA shall obtain from the lessee all documents required to facilitate the design review.

The CVA shall conduct the design verification to insure that the proposed platform has been designed to withstand the maximum environmental and functional load conditions anticipated during the service life of the platform at the proposed location.

The CVA shall utilize the applicable provisions of the USGS "Requirements" and good engineering practice in conducting an independent assessment of the adequacy of all proposed planning criteria, environmental data, load determinations, stress analyses, material designations, soil and foundation conditions, safety factors, and other pertinent parameters of the proposed platform design.

All data provided to the CVA must be handled by the CVA in the strictest of confidence. The proprietary nature of the lessee's platform design shall be honored, and the CVA shall neither copy and disseminate the data nor utilize information acquired in another competitive venture.

Interim reports shall be submitted by the CVA, as necessary, to the Supervisor and the lessee. A final report shall be prepared which summarizes the material reviewed by the CVA, his findings, and his recommendation that the Supervisor either accept, request modifications, or reject the proposed design. In addition, the report shall include particulars of how, by whom, and when the independent review was conducted and any special comments considered necessary.

The design verification for a specific platform should be completed and the final report submitted to the lessee and, in triplicate, to the Supervisor within 6 weeks of the receipt of design data or approval to act as a CVA, whichever is later.

B. Fabrication Phase

As soon as possible after the CVA has been selected by the lessee and approved by the PVS, the CVA shall obtain from the lessee all data, schedules, material specifications, welding requirements, and testing procedures required to facilitate the fabrication process review and monitoring.

The CVA shall monitor the fabrication of the platform to verify that it has been built in accordance with the approved design plans and specifications and in accordance with the fabrication plan. Periodic onsite inspections shall be made while fabrication is in progress. The following are typical of the fabrication items to be verified:

1. Quality control by: (a) lessee (b) builder.
2. Fabrication site facilities.
3. Material quality and identification methods.
4. Specified fabrication procedures and adherence to same.
5. Welder and welding procedure qualification and identification.
6. Structural tolerance specified and adherence to same.
7. NDE requirements and evaluation results of the specified examinations.
8. Destructive testing requirements and results.
9. Repair procedures.
10. Installation of corrosion protection systems and splash zone protection.
11. Erection procedures (to ensure that overstressing of members does not occur).
12. Alignment procedures.
13. Dimensional check of the overall structure.
14. Status of quality control records at various stages of fabrication.

The CVA shall utilize the applicable provisions of the USGS "Requirements" and good engineering practice in conducting an independent assessment of the adequacy of the fabrication of the platform. Interim reports shall be submitted by the CVA, as necessary, to the Supervisor and the lessee. If the CVA finds that fabrication procedures are changed or design specifications are modified, both the lessee and the Supervisor shall be informed. This may require submittal of additional applications for approval to the Supervisor of design or fabrication plan changes. A final report shall be prepared by the CVA covering the adequacy of the entire fabrication phase; giving details on how, by whom, and when the independent monitoring activities were conducted; and any special comments considered necessary. The final report shall describe the CVA's activities during the verification process, summarize his findings, and contain his confirmation (or denial) of compliance with the design specs and the approved fabrication plan. The report shall be submitted to the lessee and, in triplicate, to the Supervisor immediately after completion of the fabrication of the platform.

C. Installation Phase

As soon as possible after the CVA has been selected by the lessee and approved by the PVS, the CVA shall obtain from the lessee all drawings, data, schedules, and equipment, barge, and support vessel plans required to facilitate the monitoring of installation activities.

The CVA shall witness the load-out of the platform from the fabrication site, shall review the towing records and conduct an onsite survey after

transportation to the proposed location, shall witness the actual installation of the platform, and shall verify that the platform has been installed at the proposed location in accordance with the approved design and the Installation Plan.

The CVA shall utilize the applicable provisions of the USGS "Requirements" and good engineering practice in conducting an independent assessment of the adequacy of the installation activities. The following are typical parts of the overall process to be verified:

1. Load-out and initial flotation operations (if any).
2. Towing operations to the specified location.
3. Launching and uprighting operations.
4. Submergence operations.
5. Pile installation.
6. Final deck and/or component installation.

The CVA, in observing the installation activities, shall spotcheck equipment, procedures, and recordkeeping, as necessary, to determine compliance with the USGS "Requirements" and the approved plans, and shall immediately report to the Supervisor and the lessee any discrepancies or damage to structural members. Approval for modified installation procedures or for major deviation from approved installation procedures shall be obtained from the Supervisor. The Supervisor shall be notified of damage to, and repair of, primary structural members. Interim reports shall be submitted by the CVA, as necessary, to the Supervisor and the lessee.

A final report shall be prepared by the CVA covering the adequacy of the entire installation phase; giving details on how, by whom, and when the independent monitoring activities were conducted; and giving any special comments considered necessary. The final report shall describe the CVA's activities during the verification process, summarize the findings, and contain a confirmation (or denial) of compliance with the approved Installation Plan. The report shall be submitted to the lessee and, in triplicate, to the Supervisor within 2 weeks of completion of the installation of the platform.

OCS Order No. 12

Paragraph 1

Comments. One commenter felt that the new requirement to identify all public information is confusing and not consistent with the current practice of only identifying confidential information. It was suggested that the current system be retained.

Discussion. This suggestion was not adopted. In order to maintain confidentiality of certain information, this new system will insure that only those items marked "Public Information" will be made available. All other information will be held confidential.

Paragraph 2

Comments. One commenter questioned the words "It has been determined" and asked on what basis the USGS made such a determination. There was concern as to the operator's competitiveness after release of certain information.

Discussion. The basis for such a determination that certain data shall be made available is in accordance with the Freedom of Information Act, the OCSLA Amendments of 1978, and the Department of the Interior regulations contained in 30 CFR Part 250. Definitions of confidential and public information are found in 30 CFR 250.2, "Definitions," and 250.3, "Data and information to be made available to the public." The USGS believes that the term "It has been determined" is vague and subject to interpretation, and in order to avoid confusion, the words have been deleted from the introductory sentence of paragraph 2 and subparagraph 2.10.

Subparagraph 2.1

Comments. No comments received.

Discussion. Nonproprietary well status information must be reported in accordance with 30 CFR 250.93, *Monthly report of operations.* The remarks column is often used to make proprietary explanatory statements. The subparagraph was revised to require the lessee to delete such proprietary information from the public information copy.

Subparagraphs 2.2.2 and 2.2.3

Comments. It was suggested that "Item 26, Type Electric and Other Logs Run" should be exempt from public inspection after commencement of production since certain geological and geophysical data are exempt from disclosure under the Freedom of Information Act.

Discussion. This suggestion was not adopted. The USGS believes that revealing the kinds of logs run will not destroy an operator's competitiveness. It is the policy of the Department of the Interior to make records available to the greatest extent possible according to 43 CFR 2.13(d) which implements the Freedom of Information Act. In addition, lease stipulations require that certain geological and geophysical information are subject to public inspection according to 30 CFR 250.3, "Data and information to be made available to the public."

Comments. One commenter was concerned that the release of shallow seismic data for public inspection would destroy the operator's competitiveness since this information can have significance for geology at greater depths.

Discussion. The USGS feels that shallow seismic data will not harm the operator's competitiveness since the information is extremely theoretical and, without deeper seismic work, is virtually useless for deep stratigraphic interpretation. In the event of reasonable claim of certain confidential information, the Supervisor can grant exemptions from public scrutiny as stated in this subparagraph.

Subparagraph 2.11

Comments. One commenter suggested that confidential and proprietary information should not be made available upon the expiration of the lease if "there is unleased federal or state owned acreage in the immediate vicinity of the expired lease." This could result in competitors' access to information acquired at lessee's expense.

Discussion. The request is contrary to the language of 30 CFR 250.3, "Data and information to be made available to the public." This regulation requires release of all information in a certain length of time or as long as the lease remains in effect, *whichever is less.* This means all information is available at least by the expiration of the lease. Subparagraph 2.11 reflects this thought.

Paragraph 3

Comments. No comments received.

Discussion. The introduction to paragraph 3 was revised to include the caveat "Except as provided in 30 CFR 250.3, 250.4, and 252.7, the release of this data is subject to the following restrictions." This caveat is necessary to reflect revisions in the 30 CFR 250 and 252 regulations which were published in the **Federal Register,** Vol. 44, No. 209, on October 26, 1979, and Vol. 44, No. 153, on August 7, 1979.

Subparagraph 3.2

Comments. No comments received.

Discussion. In order to be consistent with 30 CFR 250.3, "Data and information to be made available to the public," the USGS adopted the language of the regulation regarding geological

and geophysical data in sections 3.2(a) and 3.2(b).

U.S. Department of the Interior, Geological Survey Conservation Division

OCS Order No. 12 Effective January 1, 1980

Public Inspection of Records

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10, 250.11, and in accordance with 30 CFR 250.3, 250.34, 252.6, and 43 CFR Part 2. Requests for information made under the Freedom of Information Act, 5 U.S.C. § 552, will be governed by the provisions of 43 CFR Part 2 (40 FR 7304, February 19, 1975).

1. *Filing of Reports.* All reports on Forms 9–152, 9–330, 9–331, 9–331 C, 9–1869, 9–1870, and the forms used to report the results of multipoint back-pressure tests shall be filed by the lessee in accordance with the following:

a. All reports submitted on these forms shall include a copy with the words "Public Information" shown on the lower right-hand corner. This copy of the form shall be made available for public inspection.

b. All items on the form not marked "Public Information" shall be completed in full, and such forms and all attachments thereto shall not be available for public inspection.

c. The copy marked "Public Information" shall be completed in full except that the items described in subparagraphs 2.1 through 2.4 below, and the attachments relating to such items, may be excluded.

2. *Availability of Records.* The following records pertaining to leases and wells in the Outer Continental Shelf (OCS) and submitted under 30 CFR 250 shall be made available for public inspection, as specified below, in the Area Office:

2.1 *Form 9–152—Monthly Report of Operations.* All information contained on this form shall be available except proprietary information which may be included in the remarks column. The lessee shall delete such proprietary data from the public information copy.

2.2 *Form 9–330—Well—Completion or Recompletion Report and Log.*

2.2.1 *Prior to Commencement.* Prior to commencement of production, all information contained on this form shall be available except:

a. Item 1a, Type of Well.

b. Item 4, Location of Well, at top production interval and at total depth.

c. Item 22, If Multiple Completion, how many.

d. Item 24, Producing Interval.

e. Item 26, Type Electric and Other Logs Run.

f. Item 28, Casing Record.

g. Item 29, Liner Record.

h. Item 30, Tubing Record.

i. Item 31, Perforation Record.

j. Item 32, Acid, Shot, Fracture, Cement Squeeze, Etc.

k. Item 33, Production.

l. Item 37, Summary of Porous Zones.

m. Item 38, Geologic Markers.

2.2.2 *After Commencement of Production.* After commencement of production, all information shall be available except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers.

2.2.3 *5 Years' Elapsed Time.* If production has not commenced after an elapsed time of 5 years from the date of filing Form 9–330 as required in 30 CFR 250.38(b), excluding the total time that operations and production are suspended by direction of the Secretary of the Interior, or his duly authorized representative, and further excluding the total time that operations and production are stopped or prohibited by Court Order, all information contained on this form shall be available except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers. Within 90 days prior to the end of the 5-year period, exclusive of exceptions noted above, the lessee shall file a Form 9–330 containing all information requested on the form except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers, to be made available for public inspection. Objections to the release of such information may be submitted with the completed Form 9–330.

2.3 *Form 9–331—Sundry Notices and Reports on Wells.*

2.3.1 *"Request for Approval to."* When used as a "Request for Approval to:" conduct operations, all information contained on this form shall be available except Item 4, Location of Well, at top production interval and at total depth, and Item 17, Describe Proposed or Completed Operations.

2.3.2 *"Subsequent Report of."* When used as a "Subsequent Report of:" operations, and after commencement of production, all information contained in this form shall be available, except information contained in Item 17 pertaining to subsurface locations and measured and true vertical depths for all markers and zones not placed on production.

2.4 *Form 9–331 C—Application for Permit to Drill, Deepen, or Plug Back.* All information contained on this form and the location plat attached thereto shall be available except Item 4, Location of Well at Proposed Production Zone, and Item 23, Proposed Casing and Cementing Program.

2.5 *Form 9–1869—Quarterly Oil Well Test Report.* All information contained on this form shall be available.

2.6 *Form 9–1870—Semiannual Gas Well Test Report.* All information contained on this form shall be available.

2.7 *Multipoint Back Pressure Test Report.* All information contained in this report shall be available.

2.8 *Sales of Lease Production.* Information contained on the monthly U.S. Geological Survey computer printout showing sales volumes, value, and royalty on production of oil, condensate, gas, and liquid products by lease shall be made available.

2.9 *Availability of Inspection Records.* All accident-investigation reports, pollution-incident reports, facilities-inspection data, and records of enforcement actions are also available for public inspection.

2.10 *Availability of Data and Information Submitted by Lessees.* Certain information submitted by lessees, as a result of OCS Orders and OCS Notices to Lessees and Operators, is nonproprietary in nature, or release of such information is necessary for the proper development of the lease. This information will be made available for public inspection, except for those portions which the lessee shall designate, with the Supervisor's approval, as trade secrets and commercial or financial information which is privileged or confidential. The available information will include:

a. Notices of support activity.

b. Oceanographic and meteorological data collected from drilling units and production facilities during the period of operations.

c. Results of site surveys required prior to drilling or placement of platforms or structures, such as shallow geologic hazards surveys, archaeological/cultural resource surveys, or other surveys related to the placement of platforms or structures.

d. Drawings, maximum environmental design criteria, and rated capability data of mobile drilling units and structures.

e. Oil Spill Contingency Plans.

f. Critical Operations and Curtailment Plans.

g. Other data required under 30 CFR 250.34.

2.11 *Expired Leases. All information is available upon the expiration of a lease.*

e. *Information Exempt from Public Inspection.* The information in subparagraphs 2.1 through 2.4 which has been restricted from public inspection is

clasified as geological and geophysical data. Except as provided in 30 CFR 250.3, 250.4, and 252.7, the release of this data is subject to the following restrictions:

3.1 *Leases Issued Prior to June 11, 1976.* For leases issued prior to June 11, 1976, the classified data is exempt from disclosure under exemption No. (9) of the Freedom of Information Act [5 U.S.C. § 552(b)(9) and 43 CFR 2.13 subsection (c), *Statutory Exemptions,* (9)].

3.2 *Leases Issued After June 11, 1976.* For leases issued after June 11, 1976, the classified data is available in accordance with 30 CFR 250.3, *Data and information to be made available to the public,* as follows:

a. Geophysical data, processed geophysical information, and interpreted geological and geophysical information shall not be available for public inspection, except as provided in 2.10c, without consent of the lessee as long as the lease remains in effect or for a period of 10 years after the date of submission, whichever is less, unless the Supervisor, with the aproval of the Director, determines that earlier release of this information is necessary for proper development of the field or area.

b. Geological data and analyzed geological information shall not be made available for public inspection without the consent of the lessee as long as the lease remains in effect or for a period of 2 years after the date of submission, whichever is less, unless the Supervisor, with the approval of the Director, determines that earlier release of such information is necessary for the proper development of the field or area. In accordance with 30 CFR 250.38, *Well Records,* data and well records shall be transmitted to the Supervisor upon request or, if not requested, within 30 days following completion of suspension of any well. For the purpose of orderly release of data, in all cases the date of submission will be considered to be 30 days following such completion or suspension.

4. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b)

Approved:

Don E. Kash,

Chief, Conservation Division.

[FR Doc. 79-39290 Filed 12-20-79; 8:45 am]

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