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federal register

Friday
January 25, 1980

Highlights

6079 **Red Cross Month, 1980** Presidential proclamation

6189 **Improving Police Services: The Impact of Socio-Economic Trends** Justice announces competitive applications; apply by 3-28-80

6176 **Public Health Traineeships** HEW/PHS/HRA announces competitive applications; apply by 3-3-80

6104 **Declassification of and Public Access to National Security Information** GSA/NARS issues regulations to extend the expiration date of FPMR Temporary Regulation B-3; effective 1-25-80, expiration date 3-1-80

6314 **Nutrients** HEW/FDA establishes policy for nutrient fortification of foods; effective 2-25-80 (Part V of this issue)

6326, 6331, 6333 **Medicaid** HEW/HCFA/SSA issues regulations on fiscal disallowance for erroneous payment in aid to families with dependent children; effective 1-25-80 and 10-1-80 (3 documents) (Part VI of this issue)

6338 **Geological and Geophysical Explorations of the Outer Continential Shelf** Interior/GS issues regulations to incorporate required modifications; effective 3-25-80 (Part VII of this issue)

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6088 **Taxes** Treasury/IRS removes verbatim statutory sections from regulations; effective 1–25–80

6165 **Federal Home Loan Bank Board** FHLBB issues interpretations relating to recent temporary statutory preemption of state usury laws; 12–28–79

6159 **Premanufacture Notice** EPA requires any person who intends to manufacture or import a new chemical substance to submit a PMN

6115 **Foreign Investment in Agriculture Land** USDA/ASCS proposes to amend regulations accompanying interpretation of term "combination"; comments by 3–25–80

6133 **Soil and Water Resources Conservation** USDA/Sec'y advises the public of the availability for review; comments by 3–28–80

6088 **Mobile Home Loans** HUD issues regulations permitting increases in loans; effective 1–25–80

6120 **Labeling Standards** HEW/FDA proposes to amend biological product standards regulation concerning placement and prominence of the product's name; comments by 3–25–80

6252 **FD&C Red No. 2** HEW/FDA denies petition for permanent listing as a color additive; effective 4–24–80 (Part II of this issue)

6165 **Broadcast Stations** FCC revises financial qualifications for station modification applicants; effective 1–25–80

6081 **Peanuts** USDA/ASCS issues regulations setting forth rules for assessment of marketing quota penalties; effective 1–25–80

6227 **Sunshine Act Meetings**

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6276 **Part III, IRLG**
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Presidential Documents

Title 3—

The President

Proclamation 4717 of January 23, 1980

Red Cross Month, 1980

By the President of the United States of America

A Proclamation

For nearly a century now, the American Red Cross has been an expression of the brotherhood of man. Its humanitarian efforts transcend not only geographical boundaries but also those of political ideology. This past year our Red Cross could be found at work among the hundreds of thousands of Cambodians who sought refuge from hunger and disease in Thai refugee camps. Similarly, it provided aid, through the International Red Cross, to the civilian population of strife-torn Nicaragua and it brought assistance to the "boat people" of Southeast Asia.

Here at home, the Red Cross mobilized a vast relief program along the Gulf Coast to help the thousands of our fellow citizens whose homes were destroyed or damaged by a series of hurricanes. In so doing it strained its financial resources, expending in a three-month period a budget meant to last for a year.

In addition to easing the suffering of disaster victims, the Red Cross provides more than one-half of our need for blood; teaches us first aid, water safety, and proper care of the ill and injured; and comes to the aid of the men and women in our armed forces and of veterans and their families.

The month of March is traditionally observed as Red Cross Month. It is a time to honor those who make this precious humanitarian work possible: the Red Cross volunteer, our neighbor.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America and Honorary Chairman of the American National Red Cross, do hereby designate March 1980 as Red Cross Month. I urge all Americans to "Help Keep Red Cross Ready" by giving generous support to their local Red Cross Chapter.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of January, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 80-2553
Filed 1-23-80; 4:08 pm]
Billing code 3195-01-M

Editorial Note: The President's memorandum dated Jan. 23, 1980, on Red Cross Month, is printed in the Weekly Compilation of Presidential Documents (Vol. 16, No. 4).

Rules and Regulations

Federal Register
Vol. 45, No. 18
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 729

[Amdt. 2]

Acreage Allotments, Marketing Quotas, and Poundage Quotas for 1978 and Subsequent Crops of Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: These regulations set forth the rules for assessment of marketing quota penalties at a reduced rate when it is determined that a producer unintentionally or unknowingly marketed peanuts as quota peanuts in excess of the farm's poundage quota. The county ASC committee will determine if the excess marketings were unintentional or unknowingly made. These regulations also provide the amount of quota a producer may carry over as undermarketings into the following year.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Paul P. Kume, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013 (202) 447–4695.

SUPPLEMENTARY INFORMATION: A notice that the Department was preparing to make determinations with respect to these provisions was published in the **Federal Register** on October 5, 1979 (44 FR 57416). The comment period expired on November 5, 1979; however, all written comments received were considered. There were 90 written responses: 48 from peanut growers; 10 from sheller and grower association representatives; 19 from members of Congress; 5 from State and county ASC committees; 4 from State farm organizations; 2 from national farm organizations; 1 from the First National Bank of Birmingham and 1 from the North Carolina Agricultural Extension Service. The following is a summary of the comments received:

Penalty for unintentional error: 48 commentators. Three Commentators agreed with the penalty of 2.1 cents per pound for 1978 and 4.2 cents per pound for 1979 for unintentional errors in peanut marketings. Two commentators agreed with the 1978 rate of 2.1 cents per pound. Fourteen commentators recommended no penalty for 1978 and 1979 and authority be given to the Secretary to reduce the penalty rate to zero for honest errors. Twenty-three individuals recommended no penalty for honest errors in 1978. Two commentators recommended that the 1978 rate be the difference between the contract price and the quota support level or the difference between the additional loan support level and the quota support level. Two commentators recommended that the 1978 rate of 2.1 cents per pound remain the same for all years. One commentator stated that the proposed rates were too high and one recommended more flexibility be given to the county ASC committees if a penalty is to be imposed for honest errors.

Undermarketings: 73 commentators. One commentator agreed with limiting the amount a producer may carry over as undermarketings into the following year. Sixty-nine commentators recommended that producers be permitted to carryover undermarketings from year to year without any restrictions. Two commentators recommended undermarketings be permitted to be carried forward from the immediate 2 successive years instead of just the immediate preceding year. One commentator recommended that the change in undermarketings be made effective for the 1980 crop.

After considering the comments received and the applicable provisions of the Agricultural Adjustment Act of 1983, as amended, the following determinations are being made.

1. *Penalty for unintentional errors.* Section 359 of the Food and Agriculture Act of 1977 was amended on July 7, 1979 (Pub. L. 96–31) to authorize the Secretary to issue regulations to reduce the amount of penalty (120 percent of the support price for quota peanuts) if the Secretary determines that the excess marketings were done unintentionally or unknowingly and that a reduction in the amount of penalty would not impair the effective operation of the price support program for peanuts. In hearings before the Subcommittee on Oilseeds and Rice of the House Agriculture Committee, the Department offered testimony in favor of the bill stating that the authority provided by the bill in the assessment of penalties was desirable in order to provide fair and equitable treatment to producers and handlers. The Department also stated that it expected to issue regulations to establish penalties for excess marketings because of unintentional errors at such a level that would deter violations.

No objections were made to the Department's views. The proposed penalty rates published in the October 5, 1979 **Federal Register,** would absorb any gain a grower might realize by marketing quota peanuts in excess of the effective farm poundage quota and deter violations. After consideration of the comments received and the above legislative history, it has been determined that the penalty rate for unintentional errors for 1978 shall be 10 percent of the quota support rate which is $42 per ton or 2.1 cents per pound and for 1979 the rate shall be 20 percent of the quota support rate which is $84 per ton or 4.2 cents per pound.

2. *Undermarketings.* Section 358(o) of the Food and Agriculture Act of 1977 provided a "disaster" provision in the new two-tiered peanut adjustment program as follows:

> For each farm, a farm poundage quota shall be established by the Secretary for each marketing year equal to the farm base production poundage multiplied by a factor determined by the Secretary, such that the total of all farm poundage quotas will equal the national poundage quota for each marketing year. The poundage quota as determined, beginning with the 1979 crop for any farm, shall be increased by the number of pounds by which marketings of quota peanuts from the farm during the immediately preceding marketing year were less than the farm poundage quota: *Provided,* That total marketings shall not exceed actual production from the farm acreage allotment: *Provided further,* That the grower must have planted in such preceding marketing year that part of the farm allotment estimated on the

basis of the farm yield to be sufficient to produce the total farm poundage quota: *Provided further,* That if the total of all such increases in individual farm poundage quotas exceed 10 per centum of the national poundage quota for the marketing year, the Secretary shall adjust such increases so that the total of all increases does not exceed 10 per centum of the national poundage quota.

Current regulations provide that undermarketings be computed based upon the effective farm poundage quota which would include undermarketings carried over from the previous crop years. This causes a "pyramiding" effect with respect to the poundage quota and section 358(o) has been interpreted not to permit this type of continued carryover or "pyramiding" of undermarketings.

The first sentence of section 358(o) quoted above established an annual farm poundage quota for each farm and the second sentence provides for a temporary one year increase in such quota by the amount of undermarketings of quota peanuts from the production of the "immediately preceding marketing year." There is no indication in the statutory language that the temporary increase in the annual quota resulting from the carryover of undermarketings is to be cumulative.

Such a position with respect to the carryover of undermarketings is confirmed by the substance of the three provisos, all marketings in any given year may not exceed the actual production from the farm acreage allotment for that year. Such a limitation is inconsistent with the concept of "pyramiding," since adding the undermarketings for several years would probably result in excessively large total farm poundage quotas. The actual production of peanuts from the farm acreage allotment would probably be insufficient to cover this quota, and as a result, undermarketings would continue to be carried forward.

Similarly, it is implicit in the second proviso of section 358(o) that growers are expected to plant a sufficient amount of peanuts in each marketing year to produce the total farm poundage quota. Such an expectation is not consistent with the concept of "pyramiding," since the accumulation of carryover quota would produce situations in which the grower would have insufficient acreage (within the acreage allotment) to produce the necessary volume of peanuts to meet the cumulative total farm poundage quota in any one year.

Finally, the third proviso in section 358(o) is a limitation on the overall amount of the national carryover of poundage quota for each marketing year. If "pyramiding" were contemplated, such a limitation would not have been provided since its application would result in inequities in the case of producers who were not involved in undermarketing situations until after the ceiling was reached as the result of the "pyramiding" of undermarketings of other producers in prior marketing years.

Accordingly, it has been determined that the regulations governing the carryover of undermarketings will be adopted as published in the **Federal Register** on October 5, 1979.

Final Rule

Effective for the 1978 and subsequent crop of peanuts, the regulations in 7 CFR Part 729 are amended to read as follows:

(1) Section 729.3(ll)(1) is revised to read as follows:

§ 729.3 Definitions.

* * * * *

(ll) *Undermarketings* (1) *Actual undermarketings.* The pounds by which the effective farm poundage quota (minus any undermarketings from the preceding year which were added to such quota) exceeds the larger of (i) the total production of segregation 1 peanuts on the farm or (ii) the total amount of quota peanuts which are marketed from the farm.

* * * * *

(2) Section 729.46 is amended by adding a new paragraph (d) which reads as follows:

§ 729.46 Penalty rate.

* * * * *

(d) *Penalty for unintentional error.* The penalty rate for the (i) 1978 crop of peanuts shall be 10 percent of the basic support price for quota peanuts which is determined to be $42 per ton or 2.1 cents per pound, (ii) 1979 crop of peanuts shall be 20 percent of the basic support price for quota peanuts which is determined to be $84 per ton or 4.2 cents per pound.

(3) Section 729.47(a)(1) is revised to read as follows:

§ 729.47 Peanuts on which penalty is due.

(a) * * *

(1) The quantity of peanuts which is marketed or considered to be marketed from a farm for domestic edible use in excess of the effective farm poundage quota for the farm: *Provided,* That if the marketing of quota peanuts for which a penalty is to be assessed was done unintentionally or unknowingly by the producer and/or handler, the penalty shall be assessed at a reduced rate provided for in § 729.46(d), upon a determination by the county ASC committee that the error in excess marketing was unknowingly or unintentionally made and that a reduction in the amount of penalty would not impair the effective operation of the price support program for peanuts. The provisions of this subparagraph shall be applicable only to producers or handlers who made a good faith effort to comply fully with the terms and conditions of the program and review of the assessment of such penalties shall be handled in accordance with Part 711 of this chapter.

* * * * *

(Secs. 301, 358, 358a, 359, 361–368, 373, 375, 377, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 81 Stat. 658, 55 Stat. 90, as amended, 70 Stat. 206, as amended (7 U.S.C. 1301, 1358, 1358a, 805, 806, 91 Stat. 944) (7 U.S.C. 1358, 1358a, 1359, 1373, 1377); and Sec. 359, 93 Stat. 81 (7 U.S.C. 1359 note).)

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Paul P. Kume (ASCS) 202–447–4695.

Signed at Washington, D.C. on January 21, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-2491 Filed 1-24-80; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 236]

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 January 27–February 2, 1980. 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: January 27, 1980.

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 January 22, 1980, 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 apprised of such provisions and the effective time.

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

§ 910.536 Lemon Regulation 236.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period January 27, 1980, through February 2, 1980, is established at 200,000 cartons.

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

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

Dated: January 23, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-2748 Filed 1-24-80; 12:09 pm]

Animal and Plant Health Inspection Service

9 CFR Part 79

Scrapies in Sheep; Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine a portion of Tulsa County in Oklahoma because of the existence of vectors of scrapie in such area. Therefore, in order to prevent the dissemination of scrapie it is necessary to quarantine this area.

EFFECTIVE DATE: January 18, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. J. R. Pitcher, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8321.

SUPLEMENTARY INFORMATION: This amendment quarantines a portion of Tulsa County in Oklahoma because of the existence of vectors of scrapie in such area. The restrictions pertaining to the interstate movement of sheep from quarantined areas, contained in 9 CFR Part 79, as amended, apply to the quarantined area.

Section 1 of the Act of March 3, 1905, as amended, (21 U.S.C. 123), authorizes the Secretary of Agriculture to quarantine any State, Territory, or the District of Columbia or any portion thereof, when he determines that any animals and/or live poultry in such area are affected with any contagious, infectious, or communicable disease of livestock or poultry, or that the contagion of any such disease exist in such area or that vectors which may disseminate the disease exist in such area. Consequently, § 79.2 is revised to better reflect this statutory authority.

Accordingly, Part 79, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of sheep because of scrapie, is hereby amended in the following respect:

Section 79.2, is revised to read as follows:

§ 79.2 Notice of quarantine.

(a) Notice is hereby given that the contagion or vectors of scrapie, a contagious, infectious and communicable disease, exist in the following areas or that sheep affected with scrapie exist in the following areas, and, therefore, the following areas are hereby quarantined because of said disease:

(1) The premises of Duane Smith, Route 1, Box 332A, Bixby, Tulsa County, Oklahoma, S½ of the SW¼ of the NW¼ of Sec. 32, T. 17 N., R. 14 E.

(Sec. 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; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment imposes certain further restrictions necessary to prevent the interstate spread of scrapie in sheep from such area and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to this Department.

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

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 79. 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 January 1980.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-2280 Filed 1-24-80; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 507

[Docket No. ERA-R-78-19E]

Powerplant and Industrial Fuel Use Act of 1978; Deferral of Reports Required Under 10 CFR Part 507

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Deferral of Deadline for Filing Certain Reports.

SUMMARY: On May 8, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy issued interim rules which would exclude certain fuels from the terms "natural gas" and "petroleum" for purposes of the Powerplant and Industrial Fuel Use Act. (Part 507, Fuel Classification and Reporting Requirement; 44 FR 29016, May 17, 1979). Incorporated in Part 507 are several reporting requirements due January 30 and 31, 1980, relating to natural gas and petroleum which are considered to be commercially unmarketable (§§ 507.6 and 507.7) and natural gas produced from small wells and used by powerplants (§ 507.5).

We believe that it would be in the public interest to defer filing the reports pursuant to 10 CFR Parts 507.5, 507.6 and 507.7 for such time as is necessary to gain experience in implementing the remaining provisions of Part 507. Such reports will be deferred until further notice is published in the Federal Register.

DATES: The January 30 and 31, 1980 deadlines for filing the appropriate reports pursuant to Part 507 are deferred until further notice.

FOR FURTHER INFORMATION CONTACT: John Dean (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3322-H, Washington, D.C. 20461 (202) 634-6526.

Issued in Washington, D.C. January 19, 1980

F. Scott Bush,

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

[FR Doc. 80-2427 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 182, 184 and 186

[Docket No. 78N-0013]

Sulfuric Acid and Ammonium, Calcium, Potassium, and Sodium Sulfates; Affirmation of Gras Status

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that sulfuric acid and ammonium, calcium, and potassium sulfates are generally recognized as safe (GRAS) as direct human food ingredients. The agency also affirms that sodium sulfate is GRAS as an indirect human food ingredient. The safety of these ingredients has been evaluated under the agency's comprehensive safety review.

EFFECTIVE DATE: February 25, 1980.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 28, 1978 (43 FR 12874), FDA proposed to affirm that sulfuric acid and ammonium, calcium, potassium, and sodium sulfates are GRAS when used as direct and/or indirect human food ingredients. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on sulfates, a mutagenic evaluation report on potassium sulfate, which was not available at the time the proposal was published, and the report of the Select Committee on GRAS Substances (the Select Committee) have been made available for public review in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing the above actions, the FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for sulfuric acid and ammonium, calcium, potassium, and sodium sulfates for other than the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of the sanction so that the safety of any prior-sanctioned uses could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of sulfuric acid and ammonium, calcium, potassium, and sodium sulfates approved by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181), if the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to FDA. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert the sanction at any future time.

No reports of prior-sanctioned uses for sulfuric acid and ammonium, calcium, potassium, and sodium sulfates were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for use of sulfuric acid or ammonium, calcium, potassium, and sodium sulfates under conditions different from those set forth in this regulation has been waived.

One comment was submitted in response to the FDA proposal on sulfuric acid and ammonium, calcium, potassium, and sodium sulfates. The comment requested that sodium sulfate be listed under Part 184 as a GRAS substance for direct food use on the grounds that its toxicity is similar to the toxicity of sodium chloride, and it is currently used in the manufacture of starch and in caramel production. To support GRAS status further, the comment stated that sodium sulfate also occurs naturally in foods. The comment more specifically requested GRAS affirmation for sodium sulfate as a processing aid in the chemical modification of food starch by propylene oxide. Sodium sulfate is used to inhibit swelling of the starch granules during chemical modification and is allegedly the safest, most effective, and most economical agent for this purpose. The comment was concerned that if this use of sodium sulfate does not receive GRAS affirmation, then any residual sodium sulfate remaining in food starch after chemical modification would be an unapproved food additive.

FDA agrees with the comment that, because direct food uses of sodium sulfate were not addressed in the proposal, the regulatory status of sodium sulfate as a processing aid in starch modification needs to be clarified. An existing FDA food additive regulation (§ 172.892 (21 CFR 172.892)) deals with a starch modification process employing phosphorus oxychloride, propylene,

propylene oxide, and sodium sulfate. That process (§ 172.892(f)) involves the use of sodium sulfate at levels up to 5 percent, followed by thorough washing of the modified starch product to remove residues of sodium sulfate and other reaction ingredients. At the time FDA approved the propylene oxide-phosphorus oxychloride procedure, it considered the use of sodium sulfate in that procedure to be GRAS and thus not a food additive use. Sodium sulfate was not listed specifically in § 172.892(e) because, at the time that regulation was published, FDA policy was to list only food additives in food additive regulations, not substances whose use was considered to be GRAS. FDA still considers sodium sulfate, when used in the chemical modification of food starch by propylene oxide authorized in § 172.892(f), to be GRAS and, thus, not a food additive. Rather than formally list this restricted direct food use of sodium sulfate in the GRAS regulations at this time, the agency plans to cover this and other unlisted direct food uses of sodium sulfate in the forthcoming cyclic review of direct food additives.

In its original proposal, FDA proposed to establish food-grade specifications for the indirect use of sodium sulfate. Since then, however, the agency has reconsidered the necessity for imposing food-grade specifications on indirect GRAS substances, such as sodium sulfate. The agency has concluded that, as a general rule, food-grade specifications are not necessary to ensure the safety of an indirect GRAS substance, provided the substance is of a purity suitable for its intended use in accordance with § 170.30(h)(1). This conclusion is based on the fact that indirect uses generally result in extremely low levels of consumer exposure to the additive and correspondingly low levels of exposure to any impurities that may be present. If food-grade specifications are found necessary in a particular case to ensure the safety of an indirect GRAS ingredient, the agency will include them in the regulation. In the case of sodium sulfate, FDA concludes that specifications are not necessary. Therefore, the final regulation governing the use of sodium sulfate as an indirect GRAS ingredient has been modified in proposed § 186.1797(b) by removing the specifications. The agency intends to publish a proposal in the near future to amend its procedural regulations in Part 186 to reflect this new policy regarding specifications for indirect GRAS substances.

Consistent with its traditional practice, FDA proposed originally to establish separate regulations for sulfuric acid and calcium sulfate in Parts 184 and 186 to govern their direct and indirect GRAS uses, respectively. Under § 184.1(a), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without there being a separate listing in Part 186. In light of § 184.1(a), FDA has reconsidered its traditional practice of establishing separate listings in Part 186 for substances it affirms as GRAS for direct use in Part 184 and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless it is necessary based on safety considerations to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA will not promulgate § 186.1095 and 186.1230 as originally proposed. The indirect uses of sulfuric acid and calcium sulfate proposed for inclusion in §§ 186.1095 and 186.1230 are authorized under §§ 184.1095 and 184.1230, respectively, and § 184.1(a).

The agency also has determined that an indirect substance whose GRAS status for indirect use is based on its affirmation as GRAS in Part 184 need not comply, as a general rule, with the purity specifications made applicable to the direct use of the substance in the Part 184 regulation, as long as it is of a purity suitable for its intended indirect use in accordance with § 170.30(h)(1). This conclusion is based on the fact that indirect uses generally result in extremely low levels of consumer exposure to the additive and correspondingly low levels of exposure to any impurities that may be present. As noted in the preceding paragraph, however, if specific purity specifications for the indirect use of a GRAS substance are necessary based on safety considerations, a regulation establishing such specifications will be promulgated in Part 186. In the case of sulfuric acid and calcium sulfate, no specific purity specifications are necessary for their indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA will publish a proposal in the near future to amend its procedural regulations in Parts 184 and 186 to reflect clearly the current policies.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 182, 184, and 186 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.70 [Amended]

a. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by deleting the entry for "Sodium sulfate."

§ 182.90 [Amended]

b. In § 182.90 *Substances migrating to food from paper and paperboard products* by deleting the entries for "Calcium sulfate," "Sodium sulfate," and "Sulfuric acid."

§§ 182.1095, 182.1143, 182.1643, and 182.5230 [Deleted]

c. By deleting § 182.1095 *Sulfuric acid,* § 182.1143 *Ammonium sulfate,* § 182.1643 *Potassium sulfate,* and § 182.5230 *Calcium sulfate.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new §§ 184.1095, 184.1143, 184.1230, and 184.1643, to read as follows:

§ 184.1095 Sulfuric acid.

(a) Sulfuric acid (H_2SO_4, CAS Reg. No. 7664–93–9), also known as oil of vitriol, is a clear, colorless, oily liquid. It is prepared by reacting sulfur dioxide (SO_2) with oxygen and mixing the resultant sulfur trioxide (SO_3) with water, or by reacting nitric oxide (NO) with sulfur dioxide and water.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972),[1] which is incorporated by reference.

(c) The ingredient is used as a pH control agent as defined in § 170.3(o)(23) of this chapter and processing aid as defined in § 170.3(o)(24) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, of 0.014 percent for alcoholic beverages as defined in § 170.3(n)(2) of this chapter and 0.0003 percent for cheeses as defined in § 170.3(n)(5) of this chapter.

(e) Prior sanctions for this ingredient different from the uses established in

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

this section do not exist or have been waived.

§ 184.1143 Ammonium sulfate.

(a) Ammonium sulfate ($(NH_4)_2SO_4$, CAS Reg. No. 7783–20–2) occurs naturally and consists of colorless or white, odorless crystals or granules. It is prepared by the neutralization of sulfuric acid and with ammonium hydroxide.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d. Ed. (1972) as amended by the first supplement (1974),[1] which are incorporated by reference.

(c) The ingredient is used as a dough strengthener as defined in § 170.3(o)(6) of this chapter, firming agent as defined in § 170.3(o)(10) of this chapter, and processing aid as defined in § 170.3(o)(24) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, of 0.15 percent for baked goods as defined in § 170.3(n)(1) of this chapter and 0.1 percent for gelatins and puddings as defined in § 170.1(n)(22) of this chapter.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1230 Calcium sulfate.

(a) Calcium sulfate ($CaSO_4$, CAS Reg. No. 778–18–9 or $CaSO_4 \cdot 2H_2O$, CAS Reg. No. 10101–41–4), also known as plaster of Paris, anhydrite, and gypsum, occurs naturally and exists as a fine, white to slightly yellow-white odorless powder. The anhydrous form is prepared by complete dehydration of gypsum, below 300° C, in an electric oven.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972) as amended by the first supplement (1974),[1] which are incorporated by reference.

(c) The ingredient is used as an anticaking agent as defined in § 170.3(o)(1) of this chapter, color and coloring adjunct as defined in § 170.3(o)(4) of this chapter, dough strengthener as defined in § 170.3(o)(6) of this chapter, drying agent as defined in § 170.3(o)(7) of this chapter, firming agent as defined in § 170.3(o)(10) of this chapter, flour treating agent as defined in § 170.3(o)(13) of this chapter, formulation aid as defined in § 170.3(o)(14) of this chapter, leavening agent as defined in § 170.3(o)(17) of this chapter, nutrient supplement as defined in § 170.3(o)(20) of this chapter, pH control agent as defined in § 170.3(o)(23) of this chapter, processing aid as defined in § 170.3(o)(24) of this chapter, stabilizer and thickener as defined in § 170.3(o)(28) of this chapter, synergist as defined in § 170.3(o)(31) of this chapter, and texturizer as defined in § 170.3(o)(32) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, of 1.3 percent for baked goods as defined in § 170.3(n)(1) of this chapter, 3.0 percent for confections and frostings as defined in § 170.3(n)(9) of this chapter, 0.5 percent for frozen dairy desserts and mixes as defined in § 170.3(n)(20) of this chapter, 0.4 percent for gelatins and puddings as defined in § 170.3(n)(22) of this chapter, 0.5 percent for grain products and pastas as defined in § 170.3(n)(23) of this chapter, 0.35 percent for processed vegetables as defined in § 170.3(n)(36) of this chapter, and 0.07 percent or less for all other food categories.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1643 Potassium sulfate.

(a) Potassium sulfate (K_2SO_4, CAS Reg. No. 7778–80–5) occurs naturally and consists of colorless or white crystals or crystalline powder having a bitter, saline taste. It is prepared by the neutralization of sulfuric acid with potassium hydroxide or potassium carbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972) as amended by the first supplement (1974),[1] which are incorporated by reference.

(c) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, of 0.015 percent for nonalcoholic beverages as defined in § 170.3(n)(3) of this chapter.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. Part 186 is amended by adding new § 186.1797 to read as follows:

§ 186.1797 Sodium sulfate.

(a) Sodium sulfate (Na_2SO_4, CAS Reg. No. 7757–82–6), also known as Glauber's salt, occurs naturally and exists as colorless crystals or as a fine, white crystalline powder. It is prepared by the neutralization of sulfuric acid with sodium hydroxide.

(b) The ingredient is used as a constituent of paper and paperboard used for food packaging, and cotton and cotton fabric used for dry food packaging.

(c) The ingredient is used at levels not to exceed good manufacturing practice in accordance with § 186.1(b)(1).

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation is effective February 25, 1980.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: January 16, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

Note.—Incorporations by reference were approved by the Director of the Office of the Federal Register on July 10, 1973, and June 27, 1977, and are on file in the Federal Register Library.

[FR Doc. 80–2037 Filed 1–24–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Levamisole Hydrochloride Effervescent Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Cyanamid Agricultural de Puerto Rico, Inc., providing for safe and effective use of levamisole hydrochloride effervescent tablets in swine drinking water for treating nematode infections.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV–138), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Cyanamid Agricultural de Puerto Rico, Inc. (CAPRI), Manati, PR 00701, is the sponsor of an NADA (107–085) filed by

American Cyanamid Co. The application provides for use of levamisole hydrochloride effervescent tablets in swine drinking water for treating large roundworm, nodular worm, lungworm, and intestinal threadworm infections. The basic data supporting this use of the drug are contained in CAPRI's NADA 45–513 for levamisole hydrochloride soluble powder. Provisions for use of the powder are codified in 21 CFR 520.1242a. Additional data generated for NADA 107–085 have demonstrated swine acceptability of the tablet-solution and its bioequivalency to the soluble powder-solution. The regulations are amended to provide for use of the new dosage form.

Approval may be granted for a new dosage form without a complete review of the underlying data if the new dosage form does not involve a change in the route of administration, does not require increased dosage, does not introduce variables expected to affect the safety of residues left by the drug, and is demonstrated to be bioequivalent to the approved product. These conditions have been met by CAPRI in this application. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy, issued in the **Federal Register** of December 23, 1977 (42 FR 64367), the approval of this NADA has been treated as would an approval of a Category II supplement and did not require reevaluation of the safety and effectiveness data in related NADA 45–513.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is available for public examination at the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new § 520.1242e to read as follows:

§ 520.1242e Levamisole hydrochloride effervescent tablets.

(a) *Specifications.* Each tablet contains 907 milligrams of levamisole hydrochloride.

(b) *Sponsor.* See No. 043781 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.350 of this chapter.

(d) *Conditions of use.* It is used for swine as follows:

(1) *Amount.* The equivalent of 8 milligrams of levamisole hydrochloride per kilogram of body weight, as a single dose.

(2) *Indications for use.* See § 520.1242a(f)(3)(ii).

(3) *Limitations.* Withholding water from pigs before treatment is not necessary. Add one tablet for each 2½ gallons of water; mix thoroughly. Allow 1 gallon of medicated water for each 100 pounds body weight of pigs to be treated. No other source of water should be offered. After pigs have consumed medicated water, resume use of regular water. Pigs maintained under conditions of constant worm exposure may require re-treatment within 4 to 5 weeks. Consult your veterinarian before administering to sick swine. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism. Do not administer within 72 hours of slaughter for food.

Effective date. This regulation is effective January 25, 1980.

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

Dated: January 11, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80–2041 Filed 1–24–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Products Co., providing for safe and effective use of a 10-gram-per-pound tylosin premix for making cattle feeds.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., 740 South Alabama St., Indianapolis, IN 46206, holds approval for an NADA (12–491) providing for use of a 10-gram-per-pound tylosin (as tylosin phosphate) premix for manufacturing feeds for broiler chickens, chickens, laying hens, replacement hens, and swine. Elanco submitted a supplemental NADA providing for use of the premix in manufacturing beef cattle feed in addition to the preceding uses. This use is already provided for in § 558.625(f)(1)(i) (21 CFR 558.625(f)(1)(i)). The regulation is amended to reflect approval of this supplement.

This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy, issued in the **Federal Register** of December 23, 1977 (42 FR 64367), the approval of this supplemental NADA did not require reevaluation of the safety and effectiveness data in NADA 12–491.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information supporting approval of this application is available for public examination at the office of the Hearing Clerk (HFA–305), Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b)(1) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(1) To 000986: 10 and 40 grams per pound, paragraph (f)(1) (i) through (vi) of this section; 100 grams per pound, paragraph (f)(1) (ii) through (vi) of this section.

* * * * *

Effective date. This regulation is effective January 25, 1980.

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

Dated: January 17, 1980.

Terence Harvey,

Acting Director, Bureau Veterinary Medicine.

[FR Doc. 80-2227 Filed 1-24-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-80-762]

Property Improvement and Mobile Home Loans

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

ACTION: Final rule.

SUMMARY: This rule permits the following increases: (1) On a single-wide mobile home, the maximum loan amount is increased from $16,000 to $18,000 and the maximum maturity period remains the same; (2) On a double-wide mobile home, the maximum loan amount is increased from $24,000 to $27,000 and the maximum maturity period remains the same. The subject increases regarding mobile home loan amounts were authorized by Sec. 313 of the Housing and Community Development Amendments of 1979.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Title I Insured and 312 Loan Servicing Division, Room 9172, 451 7th Street, S.W., Washington, D.C. 20410. (202) 755-6880. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The subject increases regarding mobile home loan amounts were authorized by Sec. 313 of the Housing and Community Development Amendments of 1979.

The Secretary has determined that, in light of the current economic situation, it is urgent that the benefits afforded by these increases be made available as soon as possible. Publishing a notice of proposed rulemaking and giving the public an opportunity to comment on these increases would cause a substantial delay in making the benefits available. Therefore, the Secretary finds that notice and public procedure on these increases would be contrary to the public interest. Since this rule relieves restrictions contained in the present regulations, it is not necessary to delay the effective date of the rule for the 30-day period provided in 5 U.S.C. § 533(d). Accordingly, this rule will become effective upon publication in the **Federal Register.**

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding is available in the Office of the Rules Docket Clerk at the above cited address.

Accordingly, 24 CFR Part 201 is amended by revising § 201.530(a) as follows:

§ 201.530 Maximum loan amount.

(a) Basic limitation. The mobile home loan proceeds shall not exceed the lesser of $18,000 ($27,000 where the mobile home is composed of two or more modules) * * *

* * * * *

(Authority: Section 7(d) 79 Stat. 670 (12 U.S.C. 3535(d); Section 2, 48 Stat. (12 U.S.C. 1703) as amended.)

Issued at Washington, D.C., January 16, 1980.

Morton A. Baruch,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-2523 Filed 1-24-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 15, 16, 20, 25, 31, 36, 41, 44, 45, 46, 47, 48, 49, 53, 144, 145, 154, 301 and 400

[T.D. 7665]

Removal of Statutory Sections From Title 26 of the Code of Federal Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document removes from Title 26 of the Code of Federal Regulations those regulation sections which recite verbatim provisions of the Internal Revenue Code of 1954. The purpose of this document is to complete the process, initiated about 2 years ago, of removing Internal Revenue Code provisions from Title 26 of the Code of Federal Regulations. The reproduction of Code provisions in Title 26 is considered to be unnecessary and their removal will significantly reduce the volume of Internal Revenue Service regulations. No substantive change in the rules is intended by this document. Certain conforming changes to other sections of the regulations, made necessary by this removal of Code provisions, are also made.

DATE: These amendments to the regulations are effective January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Jonathan P. Marget of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3651 (not a toll-free number).

DRAFTING INFORMATION: The principal author of this document was Jonathan P. Marget of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service participated in developing this document.

Adoption of Amendments to the Regulations

Accordingly, amendments to the regulations (26 CFR) are hereby adopted as set forth below:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The following sections are deleted from 26 CFR, Part 1: §§ 1.1, 1.2, 1.3, 1.4, 1.11, 1.21, 1.31, 1.32, 1.33, 1.34, 1.35, 1.36, 1.37, 1.38, 1.39, 1.40, 1.44, 1.45, 1.46, 1.47, 1.48, 1.49, 1.50, 1.50A, 1.50B, 1.51, 1.61, 1.71, 1.72, 1.73, 1.74, 1.75, 1.76, 1.77, 1.78, 1.79, 1.82, 1.101, 1.102, 1.103, 1.104, 1.105, 1.106, 1.107, 1.108(a), 1.108(b), 1.109, 1.110, 1.111, 1.112, 1.113, 1.114, 1.115, 1.116, 1.117, 1.118, 1.119, 1.120, 1.121, 1.123, 1.124, 1.141, 1.142, 1.143, 1.144, 1.145, 1.151, 1.152, 1.153, 1.161, 1.162, 1.163, 1.164, 1.166, 1.167(a), 1.167(b), 1.167(c), 1.167(d), 1.167(e), 1.167(f), 1.167(g), 1.167(h), 1.167(i), 1.167(j), 1.167(*l*), 1.167(m), 1.168, 1.169, 1.170, 1.170A, 1.171, 1.172, 1.173, 1.174, 1.175, 1.176, 1.177, 1.178, 1.179, 1.180, 1.182, 1.183, 1.185, 1.186, 1.187, 1.211, 1.212, 1.213, 1.214, 1.214A, 1.215, 1.216, 1.217, 1.218, 1.241, 1.242, 1.243, 1.244, 1.245, 1.246, 1.247, 1.248, 1.249, 1.250, 1.261, 1.262, 1.263(a), 1.263(b), 1.263(c), 1.263(d), 1.263(e), 1.263(f), 1.264, 1.265, 1.266, 1.267(a), 1.267(b), 1.267(c), 1.267(d), 1.268, 1.269, 1.270, 1.271, 1.272, 1.273, 1.274, 1.275, 1.276, 1.278, 1.279, 1.281, 1.301, 1.302, 1.303, 1.304, 1.305, 1.307, 1.311, 1.312, 1.316, 1.317, 1.318, 1.331, 1.332, 1.333, 1.334, 1.336, 1.337, 1.338, 1.341, 1.342, 1.346, 1.351, 1.355, 1.357, 1.361, 1.362, 1.363, 1.367, 1.368, 1.381(a), 1.381(b), 1.381(c)(1), 1.381(c)(2), 1.381(c)(3), 1.381(c)(4), 1.381(c)(5), 1.381(c)(6), 1.381(c)(7), 1.381(c)(8), 1.381(c)(9), 1.381(c)(10), 1.381(c)(11), 1.381(c)(12), 1.381(c)(13), 1.381(c)(14), 1.381(c)(15), 1.381(c)(16), 1.381(c)(17),

1.381(c)(18), 1.381(c)(19), 1.381(c)(20), 1.381(c)(21), 1.381(c)(22), 1.381(c)(23), 1.381(c)(24), 1.381(d), 1.382(a), 1.382(b), 1.382(c), 1.383, 1.402(a), 1.402(b), 1.402(c), 1.402(d), 1.402(e), 1.403(a), 1.403(b), 1.404(f), 1.405, 1.421, 1.422, 1.423, 1.424, 1.425, 1.441, 1.442, 1.443, 1.446, 1.454, 1.455, 1.456, 1.461, 1.471, 1.472, 1.481, 1.482, 1.483, 1.501(a), 1.501(b), 1.501(c)(1), 1.501(c)(2), 1.501(c)(3), 1.501(c)(4), 1.501(c)(5), 1.501(c)(6), 1.501(c)(7), 1.501(c)(8), 1.501(c)(9), 1.501(c)(10), 1.501(c)(11), 1.501(c)(12), 1.501(c)(13), 1.501(c)(14), 1.501(c)(15), 1.501(c)(16), 1.501(c)(17), 1.501(c)(18), 1.501(c)(19), 1.501(d), 1.501(e), 1.502, 1.503(a), 1.503(b), 1.503(c), 1.503(d), 1.503(e), 1.503(f), 1.507, 1.508, 1.509(a), 1.509(b), 1.509(c), 1.509(d), 1.509(e), 1.511, 1.512(a), 1.512(b), 1.512(c), 1.513, 1.514(a), 1.514(b), 1.514(c), 1.514(d), 1.514(e), 1.514(f), 1.514(g), 1.514(h), 1.515, 1.521, 1.522, 1.526, 1.531, 1.532, 1.533, 1.534, 1.535, 1.536, 1.537, 1.541, 1.542, 1.543, 1.544, 1.545, 1.546, 1.547, 1.551, 1.552, 1.553, 1.554, 1.555, 1.556, 1.557, 1.558, 1.561, 1.562, 1.563, 1.564, 1.565, 1.581, 1.582, 1.583, 1.584, 1.586, 1.591, 1.592, 1.594, 1.595, 1.596, 1.601, 1.611, 1.612, 1.613, 1.614, 1.615, 1.616, 1.617, 1.621, 1.631, 1.632, 1.636, 1.638, 1.641(a), 1.641(b), 1.642(a)(1), 1.642(a)(2), 1.642(a)(3), 1.642(b), 1.642(c), 1.642(d), 1.642(e), 1.642(f), 1.642(g), 1.642(h), 1.642(i), 1.643(a), 1.643(b), 1.643(c), 1.643(d), 1.651(a), 1.651(b), 1.652(a), 1.652(b), 1.652(c), 1.661(a), 1.661(b), 1.661(c), 1.662(a), 1.662(b), 1.662(c), 1.663(a), 1.663(b), 1.663(c), 1.664, 1.665(a)A, 1.665(b)A, 1.665(c)A, 1.665(d)A, 1.665(e)A, 1.665(f)A, 1.665(g)A, 1.665(a), 1.665(b), 1.665(c), 1.665(d), 1.665(e), 1.666(a)A, 1.666(b)A, 1.666(c)A, 1.666(d)A, 1.666(a), 1.666(b), 1.666(c), 1.667, 1.667(a)A, 1.667(b)A, 1.668(a)A, 1.668(b)A, 1.668(a), 1.668(b), 1.669(a)A, 1.669(b)A, 1.669(c)A, 1.669(d)A, 1.669(e)A, 1.669(f)A, 1.669(a), 1.669(b), 1.671, 1.672(a), 1.672(b), 1.672(c), 1.672(d), 1.673(a), 1.673(b), 1.673(c), 1.673(d), 1.674(a), 1.674(b), 1.674(c), 1.674(d), 1.675, 1.676(a), 1.676(b), 1.677(a), 1.677(b), 1.678(a), 1.678(b), 1.678(c), 1.678(d), 1.681(a), 1.681(b), 1.682(a), 1.682(b), 1.682(c), 1.683, 1.691(a), 1.691(b), 1.691(c), 1.691(d), 1.691(e), 1.691(f), 1.701, 1.702, 1.703, 1.704, 1.705, 1.706, 1.707, 1.708, 1.721, 1.722, 1.723, 1.731, 1.732, 1.733, 1.734, 1.735, 1.736, 1.741, 1.742, 1.743, 1.751, 1.752, 1.753, 1.754, 1.755, 1.761, 1.771, 1.801, 1.802, 1.803, 1.804, 1.805, 1.806, 1.807, 1.809, 1.810, 1.811, 1.812, 1.813, 1.815, 1.816, 1.817, 1.818, 1.819, 1.820, 1.821, 1.822, 1.823, 1.824, 1.825, 1.826, 1.831, 1.832, 1.841, 1.842, 1.843, 1.851, 1.852, 1.853, 1.854, 1.855, 1.856, 1.857, 1.858, 1.863, 1.864, 1.871A, 1.871, 1.872, 1.873, 1.874, 1.875, 1.876, 1.877, 1.878, 1.881, 1.882, 1.883, 1.884, 1.892, 1.893, 1.894, 1.895, 1.896, 1.902, 1.903, 1.904, 1.905, 1.911, 1.912, 1.921, 1.922, 1.931, 1.932, 1.933, 1.934, 1.935, 1.941, 1.942, 1.943, 1.951, 1.952, 1.953, 1.954, 1.955, 1.956, 1.957, 1.958, 1.959, 1.960, 1.961, 1.962, 1.963, 1.964, 1.970, 1.971, 1.972, 1.981, 1.991, 1.992, 1.993, 1.994, 1.995, 1.996, 1.997, 1.1001, 1.1002, 1.1011, 1.1012, 1.1013, 1.1014, 1.1015, 1.1016, 1.1017, 1.1018, 1.1019, 1.1020, 1.1021, 1.1022, 1.1031(a), 1.1031(b), 1.1031(c), 1.1031(d), 1.1031(e), 1.1032, 1.1033(a), 1.1033(b), 1.1033(c), 1.1033(d), 1.1033(e), 1.1033(f), 1.1033(g), 1.1033(h), 1.1034, 1.1035, 1.1036, 1.1037, 1.1038, 1.1039, 1.1051, 1.1052, 1.1053, 1.1054, 1.1055, 1.1056, 1.1071, 1.1081, 1.1082, 1.1083, 1.1091, 1.1101, 1.1102, 1.1103, 1.1201, 1.1202, 1.1212, 1.1221, 1.1222, 1.1223, 1.1231, 1.1232, 1.1233, 1.1234, 1.1235, 1.1236, 1.1237, 1.1238, 1.1240, 1.1241, 1.1242, 1.1243, 1.1244(a), 1.1244(b), 1.1244(c), 1.1244(d), 1.1244(e), 1.1245, 1.1247, 1.1248, 1.1249, 1.1250, 1.1251, 1.1252, 1.1301, 1.1302, 1.1303, 1.1304, 1.1305, 1.1311(a), 1.1311(b), 1.1312, 1.1313(a), 1.1313(b)–(c), 1.1314(a), 1.1314(b), 1.1314(c), 1.1314(d)–(e), 1.1315, 1.1321, 1.1331, 1.1332, 1.1333, 1.1334, 1.1335, 1.1336, 1.1337, 1.1341, 1.1342, 1.1346, 1.1347, 1.1348, 1.1361, 1.1371, 1.1372, 1.1374, 1.1375, 1.1376, 1.1377, 1.1378, 1.1381, 1.1382, 1.1383, 1.1385, 1.1388, 1.1401, 1.1402(a), 1.1402(b), 1.1402(c), 1.1402(d), 1.1402(e), 1.1402(f), 1.1402(g), 1.1402(h), 1.1403, 1.1441, 1.1442, 1.1443, 1.1451, 1.1461, 1.1462, 1.1463, 1.1464, 1.1465, 1.1471, 1.1481, 1.1491, 1.1492, 1.1493, 1.1494, 1.1501, 1.1503, 1.1504, 1.1505, 1.1551, 1.1552, 1.1562, 1.1563, 1.1564, 1.6001, 1.6012, 1.6013, 1.6014, 1.6015(a), 1.6015(b), 1.6015(d), 1.6015(e), 1.6015(f), 1.6015(g), 1.6015(h), 1.6015(i), 1.6015(j), 1.6016, 1.6017, 1.6031, 1.6032, 1.6034, 1.6035, 1.6036, 1.6037, 1.6038, 1.6039, 1.6041, 1.6042, 1.6043, 1.6044, 1.6045, 1.6046, 1.6049, 1.6050, 1.6052, 1.6056, 1.6061, 1.6062, 1.6063, 1.6065, 1.6071, 1.6073, 1.6074, 1.6102, 1.6151, 1.6152, 1.6153, 1.6154, 1.6161, 1.6162, 1.6164, 1.6165, 1.6302, 1.6411, 1.6414, 1.6425, 1.6428, 1.6655, and 1.7476.

PART 15—TEMPORARY INCOME TAX REGULATIONS RELATING TO EXPLORATION EXPENDITURES IN THE CASE OF MINING

§ 15.1 [Deleted]

Par. 2. Section 15.1 is deleted.

PART 16—TEMPORARY REGULATIONS UNDER THE REVENUE ACT OF 1962

§ 16.3 [Deleted]

Par. 3. Section 16.3 is deleted.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Par. 4. Section 20.0–1(c) is revised to read as follows:

§ 20.0–1 Introduction.

* * * * *

(c) *Arrangement and numbering.* Each section of the regulations in this part (other than this section and § 20.0–2) is designated by a number composed of the part number followed by a decimal point (20.); the section of the Internal Revenue Code which it interprets; a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 2012 of the Code are designated § 20.2012–1.

Par. 5. Sections 20.2001, 20.2002, 20.2011, 20.2012, 20.2013, 20.2014, 20.2015, 20.2016, 20.2031, 20.2032, 20.2033, 20.2034, 20.2035, 20.2036, 20.2037, 20.2038, 20.2040, 20.2041, 20.2042, 20.2043, 20.2044, 20.2051, 20.2052, 20.2053, 20.2054, 20.2055, 20.2056(a), 20.2056(b), 20.2056(c), 20.2056(d), 20.2056(e), 20.2101, 20.2102, 20.2103, 20.2104, 20.2105, 20.2106, 20.2107, 20.2108, 20.2201, 20.2202, 20.2203, 20.2204, 20.2205, 20.2206, 20.2207, 20.2208, 20.2209, 20.6001, 20.6011, 20.6018, 20.6036, 20.6061, 20.6065, 20.6071, 20.6075, 20.6081, 20.6091, 20.6151, 20.6161, 20.6163, 20.6165, 20.6166, 20.6314, 20.6322, 20.6323, 20.6324, 20.6325, 20.6601, 20.6905, 20.7101, and 20.7404 are deleted.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 6. Section 25.0–1(d) is revised to read as follows:

§ 25.0–1 Introduction.

* * * * *

(d) *Arrangement and numbering.* Each section of the regulations in this part (other than this section) is designated by a number composed of the part number followed by a decimal point (25.); the section of the Internal Revenue code which it interprets; a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 2521 of the Code are designated § 25.2521–1.

Par. 7. Sections 25.2501, 25.2502, 25.2503, 25.2504, 25.2511, 25.2512, 25.2513, 25.2514, 25.2515, 25.2516, 25.2521, 25.2522(a), 25.2522(b), 25.2522(c), 25.2522(d), 25.2523(a), 25.2523(b), 25.2523(c), 25.2523(d), 25.2523(e), 25.2523(f), 25.2524, 25.6001, 25.6011, 25.6019, 25.6061, 25.6065, 25.6075, 25.6081,

25.6091, 25.6151, 25.6161, 25.6165, 25.6321, 25.6322, 25.6323, 25.6324, 25.6601, 25.6905, and 25.7101 are deleted.

PART 31—EMPLOYMENT TAXES; APPLICABLE ON OR AFTER JANUARY 1, 1955

Par. 8. The following sections are deleted: §§ 31.3101, 31.3102, 31.3111, 31.3112, 31.3113, 31.3121(a), 31.3121(a)(1), 31.3121(a)(2), 31.3121(a)(3), 31.3121(a)(4), 31.3121(a)(5), 31.3121(a)(6), 31.3121(a)(7), 31.3121(a)(8), 31.3121(a)(9), 31.3121(a)(10), 31.3121(a)(11), 31.3121(a)(12), 31.3121(a)(13), 31.3121(a)(14), 31.3121(a)(15), 31.3121(b), 31.3121(b)(1), 31.3121(b)(2), 31.3121(b)(3), 31.3121(b)(4), 31.3121(b)(5), 31.3121(b)(6), 31.3121(b)(7), 31.3121(b)(8), 31.3121(b)(9), 31.3121(b)(10), 31.3121(b)(11), 31.3121(b)(12), 31.3121(b)(13), 31.3121(b)(14), 31.3121(b)(15), 31.3121(b)(16), 31.3121(b)(17), 31.3121(b)(18), 31.3121(b)(19), 31.3121(c), 31.3121(d), 31.3121(e), 31.3121(f), 31.3121(g), 31.3121(h), 31.3121(i), 31.3121(j), 31.3121(k), 31.3121(*l*), 31.3121(m), 31.3121(n), 31.3121(o), 31.3121(p), 31.3121(q), 31.3121(r), 31.3122, 31.3123, 31.3124, 31.3125, 31.3126, 31.3201, 31.3202, 31.3211, 31.3212, 31.3221, 31.3231(a), 31.3231(b), 31.3231(c), 31.3231(d), 31.3231(e), 31.3231(f), 31.3231(g), 31.3232, 31.3233, 31.3301, 31.3302(a), 31.3302(b), 31.3302(c), 31.3302(d), 31.3302(e), 31.3303, 31.3304, 31.3305, 31.3306(a), 31.3306(b), 31.3306(b)(1), 31.3306(b)(2), 31.3306(b)(3), 31.3306(b)(4), 31.3306(b)(5), 31.3306(b)(6), 31.3306(b)(7), 31.3306(b)(8), 31.3306(b)(9), 31.3306(b)(10), 31.3306(c), 31.3306(c)(1), 31.3306(c)(2), 31.3306(c)(3), 31.3306(c)(4), 31.3306(c)(5), 31.3306(c)(6), 31.3306(c)(7), 31.3306(c)(8), 31.3306(c)(9), 31.3306(c)(10), 31.3306(c)(11), 31.3306(c)(12), 31.3306(c)(13), 31.3306(c)(14), 31.3306(c)(15), 31.3306(c)(16), 31.3306(c)(17), 31.3306(c)(18), 31.3306(d), 31.3306(e), 31.3306(f), 31.3306(g), 31.3306(h), 31.3306(i), 31.3306(j) 31.3306(k), 31.3306(*l*), 31.3306(m), 31.3306(n), 31.3307, 31.3308, 31.3309, 31.3401(a), 31.3401(a)(1), 31.3401(a)(2), 31.3401(a)(3), 31.3401(a)(4), 31.3401(a)(5), 31.3401(a)(6), 31.3401(a)(6)A, 31.3401(a)(7), 31.3401(a)(8)(A), 31.3401(a)(8)(B), 31.3401(a)(8)(C), 31.3401(a)(9), 31.3401(a)(10), 31.3401(a)(11), 31.3401(a)(12), 31.3401(a)(13), 31.3401(a)(14), 31.3401(a)(15), 31.3401(a)(16), 31.3401(b), 31.3401(c), 31.3401(d), 31.3401(e), 31.3401(f), 31.3402(a), 31.3402(b), 31.3402(c), 31.3402(d), 31.3402(e), 31.3402(f)(1), 31.3402(f)(2), 31.3402(f)(3), 31.3402(f)(4), 31.3402(f)(5), 31.3402(f)(6), 31.3402(g), 31.3402(h)(1), 31.3402(h)(2), 31.3402(h)(3), 31.3402(h)(4), 31.3402(i), 31.3402(j), 31.3402(k), 31.3402(*l*), 31.3402(m), 31.3402(n), 31.3402(o), 31.3402(p), 31.3403, 31.3404, 31.3501, 31.3502, 31.3503, 31.3504, 31.3505, 31.6001, 31.6011(a), 31.6011(b), 31.6051, 31.6053, 31.6061, 31.6065(a), 31.6071(a), 31.6081(a), 31.6091, 31.6101, 31.6109, 31.6151, 31.6157, 31.6161(a)(1), 31.6201(b), 31.6205, 31.6302(b), 31.6302(c), 31.6317, 31.6402(a), 31.6404(a), 31.6413(a), 31.6413(b), 31.6413(c), 31.6413(d), 31.6414, 31.6513(e), 31.6601(k), 31.6652, 31.6674, 31.6682, and 31.7805.

PART 36—CONTRACT COVERAGE OF EMPLOYEES OF FOREIGN SUBSIDIARIES

§ 36.3121 [Amended]

Par. 9. Section 36.3121(l)–O(c) is revised by deleting the third sentence thereof which reads: "Each section of the regulations is preceded by the provision of the Code which it interprets."

Par. 10. Sections 36.3121(*l*)(1), 36.3121(*l*)(2), 36.3121(*l*)(3), 36.3121(*l*)(4), 36.3121(*l*)(5), 36.3121(*l*)(6), 36.3121(*l*)(7), 36.3121(*l*)(8), 36.3121(*l*)(9), and 36.3121(*l*)(10) are deleted.

PART 41—EXCISE TAX ON USE OF CERTAIN HIGHWAY MOTOR VEHICLES

Par. 11. Section 41.0–1(c) is revised to read as follows:

§ 41.0–1 Introduction.

* * * * *

(c) *Arrangement and numbering.* Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (41.); the section of the Internal Revenue Code which it interprets; a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4481 of the Code are designated § 41.4481–1, § 41.4481–2, and § 41.4481–3.

Par. 12. Sections 41.4483, 41.4484, 41.6001, 41.6011(a), 41.6071(a), 41.6081(a), 41.6091, 41.6101, 41.6109, 41.6151(a), 41.6156, 41.6161(a)–(1), 41.6302(b), 41.7701, and 41.7805 are deleted.

PART 44—TAXES ON WAGERING; EFFECTIVE JANUARY 1, 1955

Par. 13. Section 44.0–1(c) is revised to read as follows:

§ 44.0–1 Introduction.

* * * * *

(c) *Arrangement and numbering.* Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (44.); the section of the Internal Revenue Code which it interprets; a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4401 of the Code are designated § 44.4401–1, § 44.4401–2, and § 44.4401–3.

Par. 14. Sections 44.4401, 44.4402, 44.4403, 44.4404, 44.4405, 44.4411, 44.4412, 44.4413, 44.4414, 44.4421, 44.4422, 44.4423, 44.4901, 44.4902, 44.4904, 44.4905, 44.4906, 44.6001, 44.6011(a), 44.6071, 44.6091, 44.6151, 44.6419, 44.7262, 44.7272, 44.7701, and 44.7805 are deleted.

PART 45—MISCELLANEOUS STAMP TAXES

Par. 15. Section 45.0–1(c) is revised to read as follows:

§ 45.0–1 Introduction.

* * * * *

(c) *Arrangement and numbering.* Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (45.); the section of the Internal Revenue Code which it interprets, a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4901 of the Code are designated § 45.4901–1.

Par. 16. Sections 45.4461, 45.4462, 45.4463, 45.4464, 45.4591, 45.4592(a), 45.4593(a), 45.4801, 45.4802, 45.4803, 45.4804, 45.4805, 45.4806, 45.4811, 45.4812, 45.4813, 45.4814, 45.4815(a), 45.4815(b), 45.4816, 45.4817, 45.4818, 45.4819, 45.4821, 45.4822, 45.4826, 45.4831, 45.4832, 45.4833, 45.4834, 45.4836, 45.4841, 45.4842, 45.4846, 45.4851, 45.4852, 45.4853, 45.4854, 45.4861, 45.4862, 45.4863, 45.4864, 45.4865, 45.4871, 45.4872, 45.4873, 45.4874, 45.4875, 45.4876, 45.4877, 45.4901, 45.4902, 45.4903, 45.4904, 45.4905, 45.4906, 45.4907, 45.6001, 45.6061, 45.6065, 45.6071, 45.6081(a), 45.6091, 45.6101, 45.6109, 45.6151, 45.6161(a)(1), 45.6804, 45.6805, 45.6806, 45.7011, 45.7208, 45.7209, 45.7233, 45.7234, 45.7235, 45.7236, 45.7239, 45.7263, 45.7264, 45.7265, 45.7266, 45.7267, 45.7271, 45.7272, 45.7273, 45.7274, 45.7303, 45.7326(a), 45.7328, 45.7492, 45.7493, 45.7510, 45.7641, 45.7701, and 45.7805 are deleted.

PART 46—REGULATIONS RELATING TO MISCELLANEOUS EXCISE TAXES PAYABLE BY RETURN

Par. 17. Section 46.0–1(c) is revised to read as follows:

§ 46.0-1 Introduction.

* * * * *

(c) *Arrangement and numbering.* Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (46.); the section of the Internal Revenue Code which it interprets, a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4371 of the Code are designated § 46.4371–0, § 46.4371–1, and § 46.4371–2.

Par. 18. Sections 46.4371, 46.4372, 46.4373, 46.4374, 46.4375, 46.4501, 46.4502, 46.4503, 46.4504, 46.4881, 46.4882, 46.4883, 46.4884, 46.4885, 46.4886, 46.6001, 46.6011(a), 46.6061, 46.6065, 46.6071(a), 46.6081(a), 46.6091, 46.6101, 46.6109, 46.6151, 46.6161(a)(1), 46.6302(b), 46.6302(c), 46.6402(a), 46.6404(a), 46.6412(d), 46.6417, 46.6418, 46.6511(e), 46.7420, 46.7654, 46.7701, and 46.7805 are deleted.

PART 47—DOCUMENTARY STAMP TAXES

Par. 19. Section 47.0–1(c) is revised to read as follows:

§ 47.0-1 Introduction.

* * * * *

(c) *Arrangement and numbering.* Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (47.); the section of the Internal Revenue Code which it interprets; a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4371 of the Code are designated § 47.4371–0, § 47.4371–1, and § 47.4371–2.

Par. 20. Sections 47.4301, 47.4302, 47.4303, 47.4304, 47.4305, 47.4311, 47.4312, 47.4313, 47.4314, 47.4315, 47.4321, 47.4322, 47.4323, 47.4324, 47.4331, 47.4332, 47.4333, 47.4341, 47.4342, 47.4343, 47.4344, 47.4345, 47.4346, 47.4351, 47.4352, 47.4353, 47.4354, 47.4361, 47.4362, 47.4363, 47.4371, 47.4372, 47.4373, 47.4374, 47.4375, 47.4381, 47.4382, 47.4383, 47.4384, 47.6001, 47.6801, 47.6802, 47.6804, 47.6805, 47.7208, 47.7209, 47.7270, 47.7271, 47.7701, and 47.7805 are deleted.

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

§§ 48.4218 and 48.4219 [Deleted]

Par. 21. Sections 48.4218 and 48.4219 are deleted.

PART 49—FACILITIES AND SERVICES EXCISE TAXES

Par. 22. Section 49.0–1(c) is revised to read as follows:

§ 49.0-1 Introduction.

* * * * *

(c) *Arrangement and numbering.* Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (49.); the section of the Internal Revenue Code which it interprets, a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4261 of the Code are designated § 49.4261–1, § 49.4261–2, § 49.4261–3, § 49.4261–4, § 49.4261–5, § 49.4261–6, § 49.4261–7, § 49.4261–8, § 49.4261–9, and § 49.4261–10.

Par. 23. Sections 49.4241, 49.4242, 49.4243, 49.4251, 49.4252, 49.4253, 49.4254, 49.4261, 49.4262(a), 49.4262(b), 49.4262(c), 49.4263, 49.4264(a), 49.4264(b), 49.4264(c), 49.4264(d), 49.4264(e), 49.6264(f), 49.4286, 49.4287, 49.6011(a), 49.6071(a), 49.6091, 49.6109, 49.6151, and 49.6302(c) are deleted.

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Par. 24. Sections 53.4941(a), 53.4941(b), 53.4941(c), 53.4941(d), 53.4941(e), 53.4942, 53.4944, 53.4945, 53.4946, 53.4947, 53.4948, 53.6001, 53.6011, 53.6061, 53.6065, 53.6071, 53.6081, 53.6091, 53.6151, 53.6161, 53.6165, 53.6601, 53.6651, and 53.7101 are deleted.

PART 144—TEMPORARY EXCISE TAX REGULATIONS RELATING TO TAX ON TIRES AND TUBES DELIVERED TO MANUFACTURER'S RETAIL OUTLET (26 CFR Part 144)

§ 144.1 [Deleted]

Par. 25. Section 144.1 is deleted.

PART 145—TEMPORARY REGULATIONS IN CONNECTION WITH THE EXCISE TAX REDUCTION ACT OF 1965

§§ 145.3 and 145.4 [Deleted]

Par. 26. Sections 145.3 and 145.4 are deleted.

PART 154—TEMPORARY REGULATIONS IN CONNECTION WITH THE AIRPORT AND AIRWAY REVENUE ACT OF 1970

§§ 154.1–154.4 [Deleted]

Par. 27. Sections 154.1, 154.2, 154.3 and 154.4 are deleted.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 28. The following sections are deleted: §§ 301.6001, 301.6011, 301.6012, 301.6013, 301.6014, 301.6015, 301.6016, 301.6017, 301.6018, 301.6019, 301.6020, 301.6021, 301.6031, 301.6032, 301.6033, 301.6034, 301.6035, 301.6036, 301.6037, 301.6038, 301.6039, 301.6040, 301.6041, 301.6042, 301.6043, 301.6044, 301.6045, 301.6046, 301.6047, 301.6048, 301.6049, 301.6050, 301.6051, 301.6052, 301.6061, 301.6062, 301.6063, 301.6064, 301.6065, 301.6071, 301.6073, 301.6074, 301.6075, 301.6081, 301.6091, 301.6096, 301.6101, 301.6102, 301.6103(a), 301.6103(b), 301.6103(c), 301.6103(d), 301.6103(e), 301.6103(f), 301.6104, 301.6105, 301.6106, 301.6108, 301.6109, 301.6111, 301.6151, 301.6152, 301.6153, 301.6154, 301.6155, 301.6156, 301.6157, 301.6161, 301.6162, 301.6163, 301.6164, 301.6165, 301.6166, 301.6201, 301.6202, 301.6203, 301.6204, 301.6205, 301.6206, 301.6207, 301.6211, 301.6212, 301.6213, 301.6214, 301.6215, 301.6216, 301.6301, 301.6302, 301.6303, 301.6304, 301.6311, 301.6312, 301.6313, 301.6314, 301.6315, 301.6316, 301.6317, 301.6321, 301.6322, 301.6323(a), 301.6323(b), 301.6323(c), 301.6323(d), 301.6323(e), 301.6323(f), 301.6323(g), 301.6323(h), 301.6323(i), 301.6324, 301.6325, 301.6326, 301.6331, 301.6332, 301.6333, 301.6334, 301.6335, 301.6336, 301.6337, 301.6338, 301.6339, 301.6340, 301.6341, 301.6342, 301.6343, 301.6344, 301.6401, 301.6402, 301.6403, 301.6404, 301.6405, 301.6406, 301.6407, 301.6411, 301.6412, 301.6413, 301.6414, 301.6415, 301.6416, 301.6417, 301.6418, 301.6419, 301.6420, 301.6421, 301.6422, 301.6423, 301.6425, 301.6501(a), 301.6501(b), 301.6501(c), 301.6501(d), 301.6501(e), 301.6501(f), 301.6501(h), 301.6501(i), 301.6501(j), 301.6501(k), 301.6501(l), 301.6501(m), 301.6501(o), 301.6502, 301.6503(a), 301.6503(b), 301.6503(c), 301.6503(d), 301.6503(e), 301.6503(f), 301.6503(g), 301.6504, 301.6511(a), 301.6511(b), 301.6511(c), 301.6511(d), 301.6511(e), 301.6511(f), 301.6512, 301.6513, 301.6514(a), 301.6514(b), 301.6515, 301.6521, 301.6531, 301.6532, 301.6533, 301.6601, 301.6602, 301.6611, 301.6612, 301.6621, 301.6651, 301.6652, 301.6653, 301.6654, 301.6655, 301.6656, 301.6657, 301.6658, 301.6659, 301.6671, 301.6672, 301.6673, 301.6674, 301.6675, 301.6676, 301.6678, 301.6679, 301.6682, 301.6684, 301.6685, 301.6688, 301.6801, 301.6802, 301.6803, 301.6804, 301.6805, 301.6806, 301.6807, 301.6808, 301.6851, 301.6861, 301.6862, 301.6863, 301.6864, 301.6871(a), 301.6871(b), 301.6872, 301.6873, 301.6901, 301.6902, 301.6903, 301.6904, 301.6905, 301.7001, 301.7011, 301.7012, 301.7101, 301.7102, 301.7103, 301.7121, 301.7122, 301.7123, 301.7201,

301.7202, 301.7203, 301.7204, 301.7205, 301.7206, 301.7207, 301.7208, 301.7209, 301.7210, 301.7211, 301.7212, 301.7213, 301.7214, 301.7215, 301.7216, 301.7231, 301.7232, 301.7233, 301.7234, 301.7235, 301.7236, 301.7237, 301.7238, 301.7239, 301.7240, 301.7261, 301.7262, 301.7263, 301.7264, 301.7265, 301.7266, 301.7267, 301.7268, 301.7269, 301.7270, 301.7271, 301.7272, 301.7273, 301.7274, 301.7275, 301.7301, 301.7302, 301.7303, 301.7304, 301.7321, 301.7322, 301.7323, 301.7324, 301.7325, 301.7326, 301.7327, 301.7328, 301.7329, 301.7341, 301.7342, 301.7343, 301.7344, 301.7401, 301.7402, 301.7403, 301.7404, 301.7405, 301.7406, 301.7407, 301.7421, 301.7422, 301.7423, 301.7424, 301.7425, 301.7426, 301.7427, 301.7441, 301.7442, 301.7443, 301.7444, 301.7445, 301.7446, 301.7447, 301.7448, 301.7451, 301.7452, 301.7453, 301.7454, 301.7455, 301.7456, 301.7457, 301.7458, 301.7459, 301.7460, 301.7461, 301.7462, 301.7463, 301.7471, 301.7472, 301.7473, 301.7474, 301.7476, 301.7481, 301.7482, 301.7483, 301.7484, 301.7485, 301.7486, 301.7487, 301.7491, 301.7492, 301.7493, 301.7501, 301.7502, 301.7503, 301.7504, 301.7505, 301.7506, 301.7507, 301.7508, 301.7509, 301.7510, 301.7512, 301.7513, 301.7514, 301.7515, 301.7516, 301.7601, 301.7602, 301.7603, 301.7604, 301.7605, 301.7606, 301.7607, 301.7609, 301.7621, 301.7622, 301.7623, 301.7641, 301.7651, 301.7652, 301.7653, 301.7654, 301.7655, 301.7701, 301.7801, 301.7802, 301.7803, 301.7804, 301.7805, 301.7806, 301.7807, 301.7808, 301.7809, 301.7810, 301.7851, and 301.7852.

PART 400—TEMPORARY REGULATIONS UNDER THE FEDERAL TAX LIEN ACT OF 1966

§§ 400.1–400.5 [Deleted]

Par. 29. Sections 400.1, 400.2, 400.3, 400.4, and 400.5 are deleted.

This Treasury decision removes recitations of provisions of the Internal Revenue Code of 1954 from Title 26 of the Code of Federal Regulations and makes necessary conforming changes in the regulations to reflect this action. Because this Treasury decision does not change any existing rules, it is found unnecessary to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: January 8, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-2361 Filed 1-24-80; 8:45am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 511

Wage Order Procedure for Puerto Rico, the Virgin Islands, and American Samoa; Compensation of Committee Members

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document increases from $130 to $146 a day the per diem allowance to which members of industry committees in Puerto Rico, the Virgin Islands and American Samoa are entitled. The industry committees, whose members include representatives of employees, employers and public as appointed by the Secretary of Labor, meet periodically to review the wage rates in various industries and to recommend wage increases where appropriate. The Committees meet pursuant to the Fair Labor Standards Act, which authorizes the establishment of minimum wage rates in Puerto Rico, the Virgin Islands and American Samoa which are lower than the mainland minimum wage rate.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Josephine C. Stein, Labor Economist, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–3028, Washington, DC 20210, 202–523–7642.

SUPPLEMENTARY INFORMATION: It is the standard practice to adjust compensation for Industry Committee members in accordance with changes in General Schedule salary rates. The purpose of this amendment is to increase the compensation of each member of an industry committee from $130 to $146 for each day spent in the work of the committee. It accords with changes in General Schedule salary rates effective October 7, 1979, for regular employees of the U.S. Department of Labor.

As this amendment concerns only a rule of agency practice, and is not substantive notice of proposed rule making, opportunity for public participation and delay in effective date are not required by 5 U.S.C. 553. It does not appear that such participation or delay would serve a useful purpose. Accordingly, this revision shall be effective immediately.

This document was prepared under the direction and control of the Administrator, Wage and Hour Division.

Pursuant to authority in section 5 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, as amended; 29 U.S.C. 205) and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp. p. 1004), I hereby revise 29 CFR 511.4 to read as follows:

§ 511.4 Compensation of committee members.

Each member of an industry committee will be allowed a per diem of $146 for each day actually spent in the work of committee, and will, in addition, be reimbursed for necessary transportation and other expense incident to traveling in accordance with Standard Government Travel Regulations then in effect. All travel expenses will be paid on travel vouchers certified by the Administrator or his authorized representative. Any other necessary expenses which are incidental to the work of the committee may be incurred by the committee upon approval of, and shall be paid upon certification of the Administrator or his authorized representative.

(Sec. 5, 52 Stat. 1062, as amended; 29 U.S.C. 205)

Signed at Washington, D.C. this 18th day of January, 1980.

C. Lamar Johnson,

Deputy Administrator, Wage and Hour Division.

[FR Doc. 80-2326 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1398-6]

Approval and Promulgation of Implementation Plans; Kentucky: Approval of 1979 Ozone Revisions

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces its approval of the State Implementation Plan (SIP) revisions which the Kentucky Department of Natural REsources and Environmental Protection submitted pursuant to requirements of Part D of

Title I of the Clean Air Act, as amended in 1977, for ozone nonattainment areas. EPA's approval is given on condition that certain deficiencies be corrected by June 1980. If the deficiencies are not corrected by June 1980, EPA will then disapprove the affected portions of the revisions.

DATE: These actions are effective January 25, 1980.

ADDRESSES: Copies of the materials submitted by Kentucky and the comments received in response to the proposal notice of November 15, 1979 (44 FR 65781), may be examined during normal business hours at the following locations:

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

Library Environmental Protection Agency Region IV 345 Courtland Street, NE., Atlanta, Georgia 30308

FOR FURTHER INFORMATION CONTACT: Barry Gilbert, EPA, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30308, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION:

Background

In the November 15, 1979, **Federal Register** (44 FR 65781) EPA proposed approval of the Kentucky SIP revisions for the following areas designated nonattainment for ozone:

A. Northern Kentucky (Cincinnati Area)—Boone, Kenton, and Campbell Counties
B. Daviess County
C. Fayette County
D. Henderson County
E. Jefferson County
F. McCracken County
G. Boyd County

EPA on November 2, 1979 (44 FR 63104), redesignated Daviess and McCracken Counties attainment. Revisions for the remaining areas were submitted for EPA's approval on June 29, 1979.

The Kentucky revisions have been reviewed by EPA in light of the Clean Air Act (CAA), EPA regulations, and additional guidance materials. The criteria utilized in this review were detailed in the **Federal Register** on April 4, 1979 (44 FR 20372), and need not be repeated in detail here. Supplements to the April 4 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53716), and November 23, 1979 (44 FR 67182); these involve, among other things, conditional approval.

EPA is conditionally approving the revisions since the deficiencies are minor and the Commonwealth has provided assurance that it will submit corrections by the June 1980 deadline specified (June 30 for I/M legislation, June 1 for other corrections needed).

A discussion of conditional approval and its practical effect appears in supplements to the General Preamble, 44 FR 38583 (July 2, 1979) and November 23, 1979 (44 FR 67182). The conditional approval requires the Commonwealth to submit additional materials by the deadline specified in today's notice. EPA will follow the procedures described below when determining if the Commonwealth has satisfied the conditions.

1. If the Commonwealth submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the Commonwealth's submission to determine if the condition is fully met. After review is complete, a **Federal Register** notice will be published proposing or taking final action either to find the condition has been met and approve the plan, or to find the condition has not been met, withdraw the conditional approval and disapprove the plan. If the plan is disapproved the Section 110(a)(2)(I) restrictions on construction will be in effect.

3. If the Commonwealth fails to submit in a timely manner the required materials needed to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(I) restrictions on growth are in effect.

In addition to the implementation plan revisions for the nonattainment areas required under Part D of Title I of the CAA, the Commonwealth's submittal contains changes related to other portions of the CAA, including changes in the New Source Performance Standard (NSPS) regulations, regulations concerning prevention of significant deterioration, and other emission standards. Thus, Kentucky has identified other measures necessary to provide for attainment before the end of 1987. These topics will be dealt with in a separate **Federal Register** notice.

General Discussion

Section 172(b) of the CAA contains the requirements for nonattainment State Implementation Plans. The following is a listing of these requirements accompanied by a discussion of the contents and adequacies of the Kentucky submittals.

172(b)(1) (SIP provision shall) be adopted by the State (or promulgated by the Administrator under Section 110(c)) after reasonable notice and public hearing;

Public hearings were held throughout the Commonwealth on the adopted material following 30 days public notice. Public hearings were conducted January 9, 10, and 17, April 16, and June 7, 1979. These SIP provisions were adopted by the Commonwealth on June 6 and 29, 1979, and by the Jefferson County Board on June 18, 1979.

172(b)(2) (SIP provision shall) provide for the implementation of all reasonably available control measures as expeditiously as practicable;

For discussion of reasonably available control measures including Reasonable Available Control Technology (RACT) see the discussion after Section 172(b)(3) below.

172(b)(3) (SIP provisions shall) require, in the interim, reasonable further progress (as defined in Section 171(I)) including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology;

The plan provides for volatile organic compounds (VOC) reductions from major VOC sources in Kentucky to which Control Techniques Guidelines (CTGs) apply. This reduction represents reasonable further progress (RFP) towards attaining and maintaining the National Ambient Air Quality Standards (NAAQS). RFP for ozone nonattainment areas requires reductions from stationary and mobile sources sufficient to attain the primary NAAQS on or before December 31, 1982, in all areas except Louisville and Northern Kentucky. The Commonwealth has requested an extension to the end of 1987 for meeting the ozone and carbon monoxide NAAQS in Louisville (Jefferson Co.) and the ozone NAAQS in Northern Kentucky (Boone, Kenton and Campbell Counties). Therefore, a mandatory inspection and maintenance (I/M) program for motor vehicles, other transportation control measures, and a new source review program consistent with Section 172(b)(11) must be implemented. As a requirement for the extension to 1987, the SIP must include:

A. An adequate inspection and maintenance program for motor vehicles. This must include the following:

"Inspection/Maintenance" (I/M) as it is used in Section 172(b)(11)(B), refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M

programs include passenger cars, although other classes may be included as well.

Operation of noncomplying vehicles is prohibited. This is most effectively accomplished by requiring proof of compliance in order to purchase license plates or to register a vehicle. In certain cases, a windshield sticker system can be used, much like many motor vehicle safety inspection programs. Section 172 of the Clean Air Act requires that State Implementation Plans for States which include non-attainment areas must meet certain criteria. For areas which demonstrate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982, despite the implementation of all reasonably available measures, an extension to 1987 will be granted. In such cases Section 172(b)(11)(B) requires that: "the plan provisions shall establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program * * *"

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M, and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Both of these notices are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking 44 FR 20372, n 6. Although the July 17, 1978, guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

- *Legal Authority.* States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the inspection/maintenance program. (Section 172(b)(10).)
- *Commitment.* The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172(b)(10).)
- *Resources.* The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(7).)
- *Schedule.* A specific schedule to establish the I/M program must be included in the State Implementation Plan. (Section 172(b)(11)(B).) Interim milestones are specified in the July 17, 1978, memorandum in accordance with the general requirement of 40 CFR 51.15(c).
- *Program Effectiveness.* As set forth in the July 17, 1978 guidance memorandum, the I/M program must achieve a 25% reduction in passenger car exhaust emissions of hydrocarbons and a 25% reduction for carbon monoxide. This reduction is measured by comparing the levels of emission projected to December 31, 1987, with and without the I/M program. This policy is based on Section 172(b)(2) which states that "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures * * *"

Specific detailed requirements of these five provisions are discussed below.

To be acceptable, I/M authority must be adequate to implement and effectively enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision making to an appropriate regulatory body. For example, a state department of environmental protection or department of transportation may be charged with implementing the program, selecting the type of test procedure as well as the type of program to be used, and adopting all necessary rules and regulations. I/M legal authority must be included with any plan revision which must include I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a state legislature has had no opportunity to consider enabling legislation.

Written evidence is also required to establish that the appropriate governmental bodies are "committed to implement and enforce the appropriate elements of the plan." (Section 172(b)(10).) Under Section 172(b)(7), supporting commitments for the necessary financial and manpower resources are also required.

A specific schedule to establish an inspection/maintenance program is required. (Section 172(b)(11)(B).) The July 17, 1978, guidance memorandum established as EPA policy the key milestones for the implementation of the various I/M programs. These milestones meet the general SIP requirement for compliance schedules as governed by 40 CFR 51.15(c). That section requires that increments of progress be contained in compliance schedules of over one year in length.

To be acceptable, an I/M program must achieve the requisite 25% reductions in both hydrocarbon (HC) and carbon monoxide (CO) exhaust emissions from passenger cars by the end of calendar year 1987. The Act mandates "Implementation of all reasonably available control as expeditiously as practicable." Section 172(b)(2). At the time of passage of the Clean Air Act Amendments of 1977, several inspection/maintenance programs were already operating, including mandatory programs in New Jersey and Arizona operating at about a 20% stringency. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet had not undergone I/M before initial testing.

Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the program.) Depending on program type (private garage or centralized inspection) a mandatory I/M program may be implemented as late as December 31, 1982 and the attainment date may be as late as December 31, 1987. Based on an implementation date of December 31, 1982 and a 20% stringency factor, EPA predicts the reductions of both CO and HC exhaust emissions of 25% can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20% stringency factors, it is EPA policy to use a 25% emission reduction as the criterion to determine compliance of the I/M portion with Section 172(b)(2)). (See Jefferson County (Louisville) for discussion of the above points)

B. A program for selecting a package of transportation control measures (and any other necessary measures) to attain the emission reductions target ascribed in the SIP. The package should include an adopted schedule for expeditious implementation of currently planned reasonable transportation control measures, and schedules for analysis and adoption of additional transportation control (and other necessary) measures (Ref. CAA Section 110(a)(3)(D), Section 172(b)(2), (7), (10), and (11)(C)).

C. A commitment to establish, expand, or improve public transportation needs as expeditiously as practicable, including a commitment to use necessary federal grants and State and local funds (Ref. CAA, Section 110(a)(3)(D), and Section 172(b)(2)).

Jefferson County (Louisville): The Commonwealth has calculated that a 39% reduction in hydrocarbon emissions is needed to meet the ozone standard. It has applied and adopted all reasonably available control measures and made a proper demonstration that the standard cannot be attained by December, 1982. The Commonwealth has requested and

EPA is approving an extension to 1987 to attain the ozone NAAQS.

The requirements for this extension are stated above and in the discussion of Section 172(b)(11) requirements. The Commonwealth has submitted in the SIP an opinion from the Attorney General of the Commonwealth regarding its legal authority to implement and enforce I/M and the ability under Kentucky law of local governments to adopt authority to implement and enforce I/M. Since efforts to adopt legal authority to implement and enforce a mandatory I/M program at the local level have not been successful, the Commonwealth has assumed the responsibility for implementing the program. In the SIP, the Commonwealth made a commitment to implementing an I/M program by including a schedule of future actions which would lead to implementation of the program by December 31, 1982, and a commitment to use the I/M program to obtain the emission reductions necessary to attain and maintain the ambient standards by 1987. This commitment satisfies the requirement for a commitment to a 25% reduction in hydrocarbon and carbon monoxide exhaust emissions by 1987. However, upon review of the SIP, it was found that the I/M legal authority does not exist. Therefore, to assure themselves and EPA of adequate legal authority, legislative action by the Kentucky Legislature will be required. In response to the deficiency, the Governor of Kentucky on June 29, 1979, committed the Commonwealth to attempt to pass enabling legislation in the regular 1980 General Assembly session. Because the deadline for certification of adequate legal authority was July 1, 1979, for the SIP to be conditionally approved an extension of the deadline is necessary.

In order for the Governor's request to be granted, it must be demonstrated that the legislature had inadequate opportunity to consider the needed legal authority. In a letter dated November 2, 1979, the Secretary of the Kentucky Department of Natural Resources and Environmental Protection reaffirmed the Governor's request for an extension and indicated that the legislative session of 1980 will be the first session at which the Kentucky Legislature can consider legislative action.

It should be noted that the last time that the General Assembly met in regular session was in January-March, 1978. At that time, the Agriculture and Natural Resources Committee tabled enabling I/M legislation, because it was not known at that time if any areas in the Commonwealth would require an I/M program. The Secretary in his letter stated that Kentucky meets only every other year so that the next opportunity for legislative consideration is 1980. While there was a special session called by the Lieutenant Governor from January 8–February 14, 1979, to consider budgetary action, the Secretary pointed out that no legislative action was considered.

Therefore, EPA believes that there has been inadequate opportunity for the Kentucky legislature to consider necessary legal authority for I/M, and grants an extension for certification of adequate legal authority to June 30, 1980. EPA also conditionally approves the I/M portion of the SIP, conditioned on the certification of adequate legal authority by June 30, 1980. Should new legal authority change the characteristics of the program in the SIP, the SIP should be revised accordingly.

If the Commonwealth does not certify adequate I/M legal authority, the SIP will be disapproved and the Commonwealth will be liable to growth restrictions and funding limitations contained in the CAA. EPA reviewed the Transportation Control Plan (TCP) according to the requirements listed in the CAA and found that the submittal adequately addresses all of those issues except for the following:

1. In Appendix F (Kentuckian Regional Planning and Development Agency (KIPDA), p. 74–78) certain transportation control measures (TCM's) are identified as "adopted but not yet implemented". Each of these TCM projects must include commitments from the appropriate agencies for implementation and enforcement. Schedules for initiation and completion or implementation of the measures must be contained in the SIP.

2. The appropriate agency(ies) must examine the air quality benefits from all projects in the long-term as well as short-term to insure that a project will continue to have air quality benefits throughout its lifetime. EPA will accept for inclusion in the SIP only those measures meeting this criterion. EPA also requires that the projected emission reductions must be verified through the annual reporting requirements related to the Reasonable Further Progress Curve.

3. Section 108(f) requires EPA to publish and make available information documents on transportation control measures that are reasonably available for implementation in order to reduce emissions from transportation sources. EPA considers all Section 108(f) measures to be reasonably available. The Commonwealth submission lacks a commitment to justify a decision not to implement any measures found reasonably available but difficult to implement. The submittal does not contain the schedule for analysis of packages of *all* the Section 108(f) measures with a commitment to implement expeditiously the measures that are found feasible for implementation.

Boone, Kenton and Campbell Counties (Northern Kentucky): The Commonwealth has calculated that a 49% reduction in VOC emissions is needed to meet the ozone standard. They have applied all reasonable available measures and made a proper demonstration that the standard cannot be attained by December 1982. The Commonwealth has requested and EPA is granting an extension to 1987 to attain the ozone NAAQS. The requirements for this extension are stated in the General Discussion section of this notice. The comments relating to the mandatory I/M program for Jefferson County also apply to these counties. EPA's review of the Northern Kentucky area's TCP has revealed the following deficiencies:

1. In Table 7–4 of Appendix G (Ohio-Kentucky-Indiana Report), certain transportation control measures are identified for implementation during 1980–1983. EPA requirements concerning measures contained in a TCP include the following:

a. A commitment must be made from the responsible agency(ies) to the enforcement of measures where appropriate.

b. The appropriate agency(ies) must examine the air quality benefits from all TCM projects in the long-term as well as short-term to insure that such project will continue to have air quality benefits throughout its lifetime. EPA will accept for inclusion into the SIP only those measures meeting this criterion. EPA also requires that the projected emissions reductions must be verified through the annual reporting requirements related to the Reasonable Further Progress Curve.

2. The SIP (Appendix G) did not contain a commitment to justify the infeasibility of any Section 108 alternative measures not adopted. Ohio-Kentucky-Indiana Regional Council of Governments (OKI) has replied to an EPA comment stating that this decision will be justified by the studies. EPA finds this commitment to be sufficient provided that the studies are based upon the procedures and criteria for the analysis of alternatives outlined in the June 1978 *EPA/DOT Transportation Air Quality Planning Guidelines* and are subject to the planning procedures called for in the Section 174 of the CAA.

3. Table 7–5 of Appendix G listed completion dates for the study of the Section 108 measures going beyond the

June 30, 1980, deadline. OKI has indicated that this deficiency will be addressed through its Section 175 work program which includes the schedule for the analysis of alternative measures to be done by June 30, 1980.

4. In Appendix G certain public transit oriented TCM projects are listed for implementation through the FY 1979 Transit Operating Subsidy and other funding sources. These TCM projects must include dates for initial and final construction (where appropriate) along with commitments from the appropriate agencies to implement and enforce them.

Boyd, Fayette, and Henderson Counties: These ozone nonattainment areas are all classified as non-urban, with metropolitan areas having less than 200,000 population. A demonstration of attainment is not required for non-urban areas. The SIP includes a VOC inventory and regulations that require control of major stationary VOC sources for which Control Techniques Guidelines (CTG) have been published. Additional sufficient reductions in emissions will be obtained through the Federal Motor Vehicle Control Program.

Daviess and McCracken Counties: These two counties were designated nonattainment due to the more stringent (0.08 ppm) NAAQS in effect at the time of designation. Ambient monitoring data for ozone indicates these areas have not experienced violations of the revised (0.12 ppm) NAAQS. EPA redesignated these areas as attainment on November 2, 1979 (44 FR 63104).

General Ozone Conclusions

Several counties in Kentucky were designated nonattainment for ozone. As discussed under the Ozone Control Strategy in the General Preamble of April 4, 1979 (44 FR 41255), EPA requires only that RACT requirements for VOC sources covered by CTGs be adopted. The Commonwealth of Kentucky has responded and has adopted RACT regulations for all sources covered by CTGs (applicable Statewide except in attainment areas) which EPA had issued by January 1978, and committed to adopt additional RACT categories as they are developed by EPA. For categories covered by CTGs of sources controlled by presently adopted regulations which contain compliance schedules include:

(1) Surface coating including, (a) coil coating, (b) paper coating, (c) fabric and vinyl coating and (d) can coating; (2) metal furniture coating; (3) large appliance surface coating; (4) petroleum liquid storage; (5) bulk gasoline plants; (6) bulk gasoline terminals; (7) gasoline dispensing facility (Stage I); (8) solvent metal cleaning; (9) cutback asphalt; (10) automobile and light duty truck manufacturing; (11) magnet wire coating; and (12) petroleum refinery sources.

The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the Commonwealth regulations are not supported by the information in the CTGs, and the Commonwealth must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTGs. EPA's review of the Kentucky revisions revealed a number of deficiencies related to attainment of the ozone NAAQS in addition to those related to transportation control measures.

Regulations 401 KAR 59:095 and 61:045 apply to new and existing oil-effluent water separators. Sources which handle petroleum products with a Reid vapor pressure less than 0.5 PSIA are exempt from the Kentucky regulations. This exemption must be removed or justified. In addition the Commonwelath may show that the emissions from the stated exemptions differ no more than five (5) percent from expected emission reductions resulting from CTG recommended RACT control of oil-effluent water separators in refineries. The Commonwealth also has the option of proving that it would not be economically justifiable to control sources of the size that would be exempted under the regulation.

EPA is conditionally approving the SIP revision for the following nonattainment areas because of deficiencies in the ozone portion of the plan:

1. Jefferson County (Louisville) is deficient due to inadequacies in the transportation control portion of the SIP (see Jefferson Co.) and VOC regulations which are listed above.

2. Boone, Kenton and Campbell Counties (Northern Ky.) are deficient due to inadequacies in their transportation control portion of the SIP as addressed above (see discussion for Boone, Kenton, and Campbell Counties).

3. Boyd County is deficient due to VOC regulation inadequacies listed above.

In the remaining nonattainment counties the Commonwealth has certified there are no sources to which the VOC regulations listed above apply.

172(b)(4) (SIP provisions shall) include a comprehensive, accurate, current inventory of actual emissions from all sources (as provided by rule of the Administrator) of each such pollutant for each such area which is revised and resubmitted as frequently as may be necessary to assure that the requirements of paragraph (3) are met and to assess the need for additional reductions to assure attainment of each standard by the date required under subsection (a);

Appropriate comprehensive emissions inventories for ozone (the inventory is for hydrocarbons which react with sunlight to form ozone) have been submitted. Future reporting requirements for updating these inventories annually are included. EPA approves this portion of the plan.

172(b)(5) (SIP provisions shall) expressly identify and quantify the emissions, if any, of any such pollutant which will be allowed to result from the construction and operation of major new or modified stationary sources for each such area;

Identification and quantification of emissions from major new or modified sources have been provided through an accommodative SIP. The mechanism for tracking these reductions and allowing growth in nonattainment areas is provided in the Kentucky Air Pollution Control Regulations. EPA approves this portion of the plan.

172(b)(6) (SIP provisions shall) require permits for the construction and operation of new or modified major stationary sources in accordance with Section 173 (relating to permit requirements);

The Commonwealth requires permits for the construction and operation of new or modified major stationary sources in accordance with Section 173 (Kentucky Regulation 401 KAR 50:035 and 401 KAR 51). In particular, Kentucky will utilize an "offset" policy that will ensure reasonable further progress. The State's definitions of "lowest achievable emission rate" and of "owner or operator" of a proposed new or modified source are consistent with Section 173 (2) and (3), respectively, and the permit requirements include a provision that the owner must demonstrate that sources owned or operated by it (or by any entity controlling it) are in compliance (or on a schedule for compliance) with all applicable emission limitations and standards under the Act. EPA, therefore, fully approves this portion of the plan.

172(b)(7) (SIP provisions shall) identify and commit the financial and manpower resources necessary to carry out the plan provisions required by this subsection;

The Commonwealth has identified and committed adequate financial and manpower resources necessary to carry out the provisions of this SIP revision. In Chapter XI—(Resources) of the SIP, the

Commonwealth projected the amount of manpower and funding which will be expended to carry out the requirements of the SIP. EPA approves this portion of the plan.

172(b)(8) (SIP provisions shall) contain emission limitations, schedules of compliance and other such measures as may be necessary to meet the requirements of this section;

This revision package contains the necessary emission limitations and schedules of compliance for stationary sources of VOC where appropriate. These provisions are contained in Appendix I, *Air Pollution Control Regulations*, (June 6, 1979) of the Commonwealth of Kentucky, Department of Natural Resources and Environmental Protection, as necessary emission limits to attain the NAAQS in all areas of Kentucky. The Commonwealth submitted Appendix N, *Air Pollution Control District of Jefferson County Regulations* (as amended June 13, 1979), to be also effective in Jefferson County with certain exceptions. Only provisions relating to the ozone plan are being considered in this notice.

Certain regulations of Appendix N were not included in the official submittal, however. These are as follows:

1. Regulation 3.04, Ambient Air Quality Standards; Section 1, Primary Standards, (d)(i), Photochemical Oxidants; Section 2, Secondary Standards, (d), Photochemical Oxidants; and, (h), Hydrogen Sulfide.

2. Regulation 4, Emergency Episodes.

3. Regulation 6, Existing Affected Facilities, 04, Control of Objectionable Odors in the Ambient Air.

4. Regulation 6, Existing Affected Facilities, 05, Control of Fugitive Particulate Emissions; Section 2, Standard of Fugitive Particulate Matter, (c), concerning an opacity limit, and Section 3 through Section 11, concerning unpaved roads and unpaved parking areas, earth moving activities, etc.

5. Regulation 6, Existing Affected Facilities, 17, Standard of Performance for Existing Automobile and Light Duty Truck Surface Coating Activities.

6. Regulation 6, Existing Affected Facilities, 22, Standard of Performance for Existing Volatile Organic Materials Loading Facilities.

7. Regulation 7, New Affected Facilities, 03, Control of Objectionable Odors in the Ambient Air.

8. Regulation 7, New Affected Facilities, 04, Control of Fugitive Particulate Emissions; Section 2, Standard for Particulate Matter, (c), concerning unpaved roads and unpaved parking areas, earth moving activities, etc.

9. Regulation 7, New Affected Facilities, 22, Standards of Performance for New Volatile Organic Materials Loading Facilities.

Appendix N to the SIP also states, "Those portions of the regulations which are legally adopted by the Air Pollution Control District of Jefferson County (APCDJC) and which are at least as stringent as the State regulations applicable to Jefferson County, are made a part of this State Implementation Plan as Appendix N. If the Kentucky Department for Natural Resources and Environmental Protection determines that provisions of the local regulations are not as stringent as State regulations the Department for the Natural Resources and Environmental Protection will enforce the State regulations (Appendix I) applicable to Jefferson County which would, by law, preempt the local regulations in such situations. Moreover, if the APCDJC fails to implement any provisions of the SIP applicable to Jefferson County the DNREP will enforce the State regulations applicable to Jefferson County". The following APCDJC regulations were determined by the Commonwealth to be less stringent than DNREP regulations (Appendix I) and are also not submitted as part of the SIP:

1. Regulation 2, Permit Requirements, 02, Registration and Minor Source Exemption; Section 2, Exemptions, exempts some sources from registration which are not exempted by the DNREP regulation 401 KAR 50:030.

2. Regulation 4, Emergency Episodes, 02, Episode Criteria, Section 2, Air Pollution Alerts, (b), Pollutant Alert Levels, does not have an alert level for NO_2 as contained in DNREP regulation 401 KAR 55:010.

3. Regulation 6, Existing Affected Facilities, 05, Control of Fugitive Particulate Emissions; Section 2, Standard for Fugitive Particulate Matter, paragraph (a) and Regulation 7, New Affected Facilities, 04, Control of Fugitive Particulate Emissions; Section 2, Standard for Particulate Matter, paragraph (a) do not prohibit the discharge of fugitive dust beyond the property line as required by DNREP regulation 401 KAR 63:010.

4. Regulation 6, Existing Affected Facilities, 09, Standard of Performance for Existing Process Operations; Section 3(c), Standard for Particulate Matter, contains an exemption which is not contained in DNREP regulation 401 KAR 61:020.

5. Regulation 6, Existing Affected Facilities, 11, Standard of Performance for Existing Iron and Steel Plants; Section 3, Standard for Particulate Matter, for emissions and opacity for steel plants other than basic oxygen process furnaces are less stringent than DNREP regulation 401 KAR 61:075.

6. Regulation 6, Existing Affected Facilities, 11, Standard of Performance for Existing Iron and Steel Plants, does not contain testing and monitoring procedures as are contained in DNREP regulation 401 KAR 61:075.

7. Regulation 7, New Affected Facilities 05, Control of Open Burning; Section 2, Prohibition of Open Burning, paragraph (e), does not contain an opacity standard for flares as required DNREP regulation 401 KAR 63:015.

EPA approves, except where otherwise noted herein, the regulations of the DNREP for the entire Commonwealth. These regulations (Appendix I) were submitted by DNREP and reviewed by EPA and demonstrate the attainment and maintenance of the NAAQS as expeditiously as practicable. Also approved for Jefferson County, except where otherwise noted herein, are those portions of the regulations of the APCDJC which have been officially submitted as part of the plan. These regulations (Appendix N) are at least as stringent as the DNREP regulations. This is because any local (APCDJC) regulations which are less stringent are preempted by DNREP regulations. Since the DNREP regulations are sufficient and the local regulations are at least as stringent, the local regulations are also sufficient. EPA will enforce both sets of regulations since they both now become part of the SIP. In effect this means that EPA will enforce the stricter of the State and local regulations applicable in Jefferson County since compliance with the stricter limit assures compliance with the other limit. EPA approves this portion of the SIP relating to Section 172(b)(8), except for those related portions contained in the discussion under Section 172(b)(3).

Various regulations submitted in the plan allow the DNREP to modify requirements contained in the SIP. The regulations are contained in Appendix I, *Air Pollution Control Regulations*, and pertain to variances, alternative emission reduction options (bubble concept), RACT determinations on a site specific basis, etc. A few specific examples are found within regulations 401 KAR 50:055, 51:015, 59:010, 59:180, 61:015, 61:056, 61:085, and 61:090. If a regulation is modified by the DNREP, the new regulation is considered a revision of the plan and must be submitted for approval by EPA.

172(b)(9) (SIP provisions shall) contain evidence of public, local government, and

State legislative involvement and consultation in accordance with Section 174 (relating to planning procedures) and include (A) an identification and analysis of the air quality, health, welfare, economic energy and social effects of the plan provisions required by this subsection and of the alternatives considered by the State, and (b) a summary of the public comment on such analysis;

Consultation with the public, local governments and Commonwealth legislative involvement is evidenced by information presented in Chapter 12 of the SIP. The Commonwealth's analysis of the air quality, health, welfare, economic, energy, and social effects determines that the impact of the SIP will be beneficial, and EPA approves this portion of the SIP.

172(b)(10) (SIP provisions shall) include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable documents, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan;

In the Commonwealth of Kentucky, the Division of Air Pollution Control of the Department of Natural Resources and Environmental Protection has full statutory authority for enforcing the SIP revisions submitted except for I/M. The Department adopted on June 6, and 29, 1979, the necessary regulatory portion of the SIP submitted. Timetables for compliance with I/M requirements are addressed in Section 172(b) (3) and (8). EPA approves this portion of the SIP except for I/M legal authority (see discussion under Section 172(b)(3) above).

172(b)(11) (SIP provisions shall) in the case of plans which make a demonstration pursuant to paragraph (2) of subsection (a),

(A) establish a program which requires, prior to issuance of any permit for construction or modification of a major emitting facility, an analysis, of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed sources significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(B) Establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program; and

(C) Idenfity other measures necessary to provide for attainment of the applicable national ambient air quality standard not later than December 31, 1987.

Paragraph (11) of subsection 172(b) applies to the Northern Kentucky (Cincinnati) nonattainment area for ozone and the Louisville nonattainment area for carbon monoxide and ozone. The alternatives analysis for new sources required by subparagraph (A) above has been submitted in the SIP for both areas as a revision to the State's permitting regulation (401 KAR 51.050).

The schedule for the implementation of an I/M program for both areas has been included in the SIP. For necessary legal authority see the discussion in Section 172(b)(3). EPA approves this portion of the plan except for those related portions which are proposed to be conditionally approved under Section 172(b)(3).

The Section 172(b)(11)(C) requirement for identification of additional measures necessary to attain national ambient standards, is addressed in the discussion of Section 172(b)(3), concerning additional transportation control measures.

Comments

Comment: One comment received asserts that if the SIP were approved, Kentucky, like many other States which the commenter believes clearly contribute to unhealthful levels of ozone pollution throughout the nation, would be freed from the duty to prepare and implement control strategies designed to reduce ambient ozone pollution to acceptable levels. If this plan is approved, according to the commenter, New Jersey and other northeastern States, which have been properly designated as "nonattainment" areas for ozone, will bear an undue burden of ozone control due to the transport of uncontrolled pollution into their territories if Kentucky and other States do not enact comprehensive ozone control programs.

Specifically, the commenter states that Kentucky's SIP, to the extent that it does not require RACT Statewide for all existing sources of hydrocarbon emissions, Lowest Achievable Emission Rate (LAER) and offsets for major new sources of Volatile Organic Compounds, as well as the implementation of reasonably available transportation control measures, including a comprehensive inspection and maintenance program to reduce pollution from mobile sources, does not meet the standards of Section 110 and Part D of the Clean Air Act as amended.

Response: EPA does not agree with the assertions made in this comment and each is addressed in turn.

Reasonable Available Control Technology: The State has adopted regulations for all categories covered in the first series of CTG documents (see Page 65787 of the November 15, 1979, **Federal Register**) and has also committed to adopting regulations for all additional CTG documents as they are published.

The regulations have been applied Statewide with the exception of two counties. The State has demonstrated by its plan that the ozone standard will be attained in Kentucky. In addition, the commenter argues as it did in objecting to the Administrator's ozone nonattainment area designations that entire States should be designated nonattainment, thereby, requiring Part D SIP revisions Statewide. The Administrator considered all of the commenters objections to the designations and responded in the document entitled, "Technical Support Document for Agency Policy Concerning Designations of Attainment, Unclassifiable and Nonattainment Areas for Ozone" (January, 1979). Availability of this document was announced in the February 1, 1979, **Federal Register** (44 FR 6395). This document and the Administrator's response to these comments are incorporated herein by reference.

LAER and Offset Requirements for New Sources: The Commonwealth's accommodative SIP, through control of sources in unclassified areas, with potential emissions of 100 tons per year, has provided sufficient offsets for the State's new growth. The Commonwealth also requires permits for the construction and operation of new or modified major stationary sources in accordance with Section 173 of the CAA. Lowest Achievable Emission Rate (LAER) controls are required on new or modified major sources that impact a nonattainment area (Regulations 401 KAR 50:035 and 401 KAR 51).

Transportation Control Measures Including I/M: Kentucky will implement a motor vehicle inspection and maintenance program and certain other Transportation Control Measures (TCMs). Therefore, Kentucky's current efforts including TCMs will benefit and not harm downwind States in their efforts to achieve the ozone standards.

Comment: One Commenter stated that the SIP should not require RACT for VOC sources in unclassifed areas. He stated that such SIP regulations are not authorized by the Kentucky statutes because the Commonwealth statute only allows regulation of "air pollution", that statute does not allow regulations which are more stringent than required under the Clean Air Act, and because the regulations conflict with various aspects of the Kentucky Constitution.

Response: The Kentucky statutory definition of "air pollution" is:

* * * the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property.

EPA believes that this definition of "air pollution" is sufficiently general to justify regulations requiring RACT for VOC sources in unclassified areas.

However, the Kentucky statute does not limit regulatory authority to regulations dealing with "air pollution". It also enables the DNREP to develop a comprehensive program for the management of air resources (K.R.S. 224.033(4)) and provides that the Kentucky General Assembly finds it necessary to maintain a reasonable degree of air purity now and in the future (K.R.S. 224.320), among other authority. These sections also provide a basis for regulations requiring RACT for VOC sources in unclassified areas.

The second point this commenter makes is that the Kentucky statute does not allow regulations which are more stringent than required under the Clean Air Act and thus does not allow the SIP to require RACT for VOC sources in unclassified areas. As addressed in the General Preamble to all Clean Air Act, Part D, SIP revisions (44 FR 20372 to 20375, April 4, 1978), a State plan for attaining national ambient standards within the State as expeditiously as practicable is mandatory under Section 172(a) of the CAA.

A portion of the strategy to meet the mandatory "as expeditiously as practicable" requirement provides that for SIPs with attainment dates after 1982, RACT must be applied in urbanized areas to all sources covered by the CTGs, and in rural areas to all major sources covered by CTGs Id., at 20376. Kentucky has met this requirement. Another portion of the mandatory strategy requires one or both of two strategies to be used. The first is to require offsets for major new sources or modifications. The second is to allow emissions from major sources or modifications to be accommodated by the emissions growth allowance (the extent to which SIP-required emissions reductions are ahead of the reasonable further progress schedule for the area), Id., at 20378. Kentucky has chosen this latter approach, which is an alternative strategy of a mandatory requirement. EPA, therefore, takes the position that the Kentucky regulations requiring RACT for VOC sources in unclassified areas, is not more stringent than mandatory Clean Air Act requirements and thus does not violate the Kentucky statute.

The third contention made by this commenter is that for several reasons the complained of regulations conflict with the Kentucky Constitution. This contention is also the subject of a lawsuit brought by the commenter in the Franklin Circuit Court in Kentucky. Unless there is a final decision to the contrary, EPA assumes that these Kentucky regulations do not offend the Kentucky Constitution.

The CAA requires RACT for VOC sources in nonattainment areas and the Kentucy regulations substantially satisfy this requirement. Kentucky has decided to require these regulations on VOC sources in unclassified areas as well. The CAA, under Section 116, specifically allows the State to adopt stricter requirements than those required by the CAA. Therefore, the Kentucky submission is adequate for approval under Part D and any questions as to the Commonwealth's authority to apply these regulations to unclassifiable areas is a matter for State judicial determination.

Comments: A national environmental group made several comments which are summarized below with EPA's responses:

Comment 1: I/M-The commenter feels the implementation schedule is too slow to be "expeditious as practicable."

Response: The State legislature of Kentucky has not had an adequate opportunity to consider necessary enabling legislation because they only meet bi-annually. The 1980 session will be the first opportunity to consider legislation. Further, as discussed in 172 (b)(3) above EPA has granted an extension to Kentucky.

Since they are proposing to implement a centralized program, which requires more time than a decentralized program, and do not have existing legal authority, the December 1982 date for implementing a centralized I/M program will be expeditious as practicable".

Comment 2: I/M-The commenter feels the RFP curve needs to be adjusted to reflect reductions occurring in conjunction with implementation date of I/M program.

Response: EPA agrees with the above comment and will monitor the annual reporting of the RFP to assure reductions will take place before emissions reduction credits are claimed. Further, when the 1982 SIP revisions are submitted, EPA will assure that the RFP curve is corrected.

Comment 3: TCM-The commenter feels the assessment of the transportation needs of Jefferson County as pertains to public transportation is inadequate.

Response: EPA policy, as stated in the General Preamble (44 FR 20375 April 4, 1979) and in the Assistant Administrator's July 28, 1978, memorandum on Public Transportation requirements, is that the SIP must contain a commitment from the appropriate agency(s) to establish, expand, or improve public transportation measures to meet basic transportation needs as expeditiously as practicable. This commitment is contained in the Kentucky SIP on pages 53–66.

Comment 4: TCM-The commenter feels that Kentucky's commitment and schedule for the study and implementation of TCMs is inadequate.

Response: EPA policy requires evidence of projects contained in an urban non-attainment area's Annual Element of their Transportation Improvement Program which have air quality benefits to be included in the SIP along with an implementation schedule for these projects. Under Jefferson County, EPA has identified the deficiencies in the Kentucky SIP on the above matters with the exception of the funding and schedule for the analysis of alternatives which is to be addressed through KIPDA's Section 175 grant work program.

Comment: Another commenter was concerned about the **Federal Register** notice of proposed rulemaking language on regulations set forth in Appendix N (enacted by the Jefferson County Agency, APCDJC). That notice stated that the Appendix N SIP regulations were supplemental to the State (DNREP) regulations, were not essential to the control strategy, and thus were not reviewed by EPA. That notice continued with the statement that EPA would enforce the stricter of the (State and local) regulations (applicable) in Jefferson County. The commenter then urged EPA not to enforce the local regulations since they were not essential to achieve CAA standards.

Response: Section 116 of the CAA essentially states that nothing in the CAA precludes a State or locality from adopting an air emission standard or limitation or air pollution abatement requirement, that is more stringent than an EPA requirement under Section 110, 111, or 112 of the CAA. Thus, EPA may not disapprove a requirement submitted as a SIP revision on the basis that the requirement may be more stringent than necessary (and thus not "essential" or mandatory) under the Clean Air Act. Since the local APCDJC Appendix N SIP revisions are at least as stringent as the approvable DNREP regulations for

Jefferson County, the Appendix N regulations relating to ozone are also approved under the SIP. Further, as approved portions of the SIP, they are both enforceable by EPA.

Comment: One commenter stated that the Kentucky exemption of "temporary emission sources" from the offset requirements should not be approved by EPA.

Response: That exemption, found in 401 KAR 51:050, Section 5(2), is also contained in Section IV.B. of the EPA Offset Policy. See 44 FR 3274, 3284 (January 16, 1979). Since Part D SIPs need only meet certain requirements of that Offset Policy (See 44 FR 20372, 20379 (April 4, 1979)), the Kentucky exemption is acceptable as not less stringent than the Offset Policy.

Comment: One commenter stated that the Kentucky provision (401 KAR 51:050, Section 3), limiting offset requirement applicability to sources with allowable emissions above specified minimum levels, should be deleted. Deletion of the similar applicability cutoff in the EPA Offset Policy was proposed in 44 FR 51924 (September 5, 1979).

Response: The proposed deletion of that requirement was the result of the (first) decision in *Alabama Power* v. *Costle*, 606 F.2.d. 1068 (5th Cir. 1979). Since the effect of that opinion has presently been stayed, the Kentucky regulation is presently approvable. Changes will be required in all SIPs after EPA regulatory revisions resulting from *Alabama Power* have been finalized.

Comment: One commenter submitted comments concerning Kentucky's "bubble policy."

Response: The Kentucky bubble policy is not now part of the federally approved SIP. Furthermore, a bubble policy is not required by Part D of the Act. EPA, therefore, will provide a notice and opportunity for comment when Kentucky submits a particular alternative reduction (bubble) to EPA as a SIP revision.

One commenter stated that EPA must ensure that legally enforceable measures are in effect during the period of a conditional approval to prevent the issuance of a permit not strictly conforming to Section 173 of the Act. EPA does not agree. EPA has conditionally approved Kentucky's new source review program because the defects in the program are relatively minor and the program as a whole substantially meets the requirements of Section 173 of the Act. For these same reasons, any permits issued under Kentucky's new source review program, at least while the conditional approval remains in effect, are not defective.

National Comments and Responses

Comment and Response: One commenter submitted extensive comments which it requested be considered part of the record for each State plan. Each of the points raised by the commenter and EPA's response follow. Although some of the issues raised are not relevant to provisions in Kentucky's submission, EPA is notifying the public of its response to these comments at this time.

1. The commenter asked that comments it has previously submitted on the Emission Offset Interpretative Ruling as revised on January 16, 1979 (44 FR 3274), be incorporated by reference as part of their comments on each State plan. EPA will respond to those comments in its response to comments on the Offset Ruling.

2. The commenter objected to general policy guidance issued by EPA, on grounds that EPA's guidance is more stringent than required by the CAA. Such a general comment concerning EPA's guidance is not relevant to EPA's decision to approve or disapprove a SIP revision since that decision rests on whether the revision satisfies the requirements of Section 110(a)(2). However, EPA has considered the comment and concluded that its guidance conforms to the statutory requirements.

3. The commenter noted that the recent court decision on EPA's regulations for prevention of significant deterioration (PSD) of air quality affects EPA's new source review (NSR) requirements for Part D plans as well. (The decision is *Alabama Power Co.* v. *Costle*, 13 ERC 1225 (D.C. Cir., June 18, 1979). In the commenter's view, the court's rulings on the definition of "source", "modification," and "potential to emit", should apply to Part D as well as PSD programs. In addition, the commenter believes that the court decision precludes EPA from requiring Part D review of sources located in designated clean areas.

The preamble to the Emission Offset Interpretative Ruling, as revised January 16, 1979, explains that the interpretations in the Ruling of the terms "source," "major modification," and "potential to emit," and the areas in which NSR applies, govern State plans under Part D. (44 FR 3275 col. 3 through 3276 col. 1, January 16, 1979.) In proposed rules published in the **Federal Register** on September 5, 1979, (44 FR 51924), EPA explained its views on how the *Alabama Power* decision affects NSR requirements for State Part D plans. The September 5, 1979 proposal addressed some of the issues raised by the commenter. To the extent necessary, EPA will respond in greater detail to the commenters' concerns in its response to comments on the September 5, 1979, proposal and/or its response to comments on the Offset Ruling.

As part of the September 5, 1979, proposal, EPA proposed regulations for Part D plans in Section 40 CFR 51.18(j). EPA also proposed, for now, to approve a SIP revision if it satisfies either existing EPA requirements, or the proposed regulations. Prior to promulgation of final regulations, EPA proposed to approve State-submitted relaxations of previously-submitted SIPs, so long as the revised SIP meets all proposed EPA requirements. To the extent EPA's final regulations are more stringent than the existing or proposed requirements, States will have nine months, as provided in Section 406(d) of the CAA, to submit revisions after EPA promulgates the final regulations. Since the Kentucky NSR program satisfies existing [or proposed] requirements for Part D, it is now being approved.

In some instances, EPA's approval of a State's NSR provisions, as revised to be consistent with EPA's proposed or final regulations, may create the need for the State to revise its growth projections and provide for additional emission reductions. States will be allowed additional time for such revisions after the new NSR provisions are approved by EPA.

4. The commenter questioned EPA's alternative emission reduction options policy (the "bubble" policy). As the commenter noted, EPA has set forth its proposed bubble policy in a separate **Federal Register** publication, 44 FR 3720 (January 18, 1979). EPA will respond to the comments on the "bubble" approach in the final "bubble" policy statement.

5. The commenter questioned EPA's requirement for a demonstration that application of all reasonably available control measures (RACM) would not result in attainment any faster than application of less than all RACM. In EPA's view, the statutory deadline is that date by which attainment can be achieved as expeditiously as practicable. If application of all RACM results in attainment more expeditiously than application of less than all RACM, the statutory deadline is the earlier date. While there is no requirement to apply more RACM than is necessary for attainment, there is a requirement to apply controls which will ensure attainment as soon as possible. Consequently, the State must select the mix of control measures that will achieve the standards most expeditiously, as well as assure reasonable further progress.

The commenter also suggested that all RACM may not be "practicable." By definition, RACM are only those measure which are reasonable. If a measure is impractical, it would not constitute a reasonably available control measure.

6. The commenter found the discussion in the General Preamble of RACT for VOC sources covered by CTGs to be confusing in that it appeared to equate RACT with the guidance in the CTGs. EPA did not intend to equate RACT with the CTGs.

The CTGs provide recommendations to the States for determining RACT, and serve as a "presumptive norm" for RACT, but are not intended to define RACT. Although EPA believes its earlier guidance was clear on this point, the Agency has issued a supplement to the General Preamble clarifying the role of the CTGs in plan development. See 44 FR 53761 (September 17, 1979).

7. The commenter suggested that the revision of the ozone standard justified an extension of the schedule for submission of Part D plans. This issue has been addressed in the General Preamble, 44 FR 20377 (April 4, 1979).

8. The commenter questioned EPA's authority to require States to consider transfers of technology from one source type to another as part of LAER determinations. EPA's response to this comment will be included in its response to comments on the revised Emission Offset Interpretative Ruling.

9. The commenter suggested that if a State fails to submit a Part D plan, or the submitted plan is disapproved, EPA must promulgate a plan under Section 110(c), which may include restrictions on construction as provided in Section 110(a)(2)(I). In the commenter's view the Section 110(a)(2)(I) restrictions cannot be imposed without such a federal promulgation.

EPA has promulgated regulations which impose restrictions on construction on any nonattainment area for which a State fails to submit an approvable Part D plan. *See* 44 FR 38583 (July 2, 1979). Section 110(a)(2)(I) does not require a complete federally-promulgated SIP before the restrictions may go into effect.

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

Response: To be fully approved under Section 110(a)(2) of the CAA, a State plan must satisfy the requirements for State boards and permit fees for all areas, including nonattainment areas. Several States have adopted provisions satisfying these requirements, and EPA is working with other States to assist them in developing the required programs. However, EPA does not believe these programs are needed to satisfy the requirements of Part D. Congress placed neither the permit fee not the State board provision in Part D.

While legislative history states that these provisions should apply in nonattainment areas, there is no legislative history indicating that they should be treated as Part D requirements. Therefore, EPA does not believe that failure to satisfy these requirements is grounds for conditional approval under Part D, or for application of the construction restriction under Section 110(a)2)(I) of the CAA.

Attainment Dates

The 1978 edition of 40 CFR Part 52 lists in the subpart for Kentucky the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the CAA. For each nonattainment area where a revised plan provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on Kentucky's attainment date chart in 40 CFR Part 52. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 CAA Amendments remain obligated to comply with those requirements, as well as with the new Section 172 plan requirements.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

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

To implement Congress' intention that sources remain subject to preexisting plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 CAA Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment. (See General Preamble for Proposed Rulemaking, 44 FR 20373–74, April 4, 1979.)

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

Reference should be made to the 1978 edition of Title 40 of the Code of Federal Regulations (40 CFR 52.926) to determine the applicable deadline for attainment under Section 110(a)(2)(A) of the CAA.

Actions

The Administrator approves Kentucky's 1979 revision for ozone nonattainment areas on the condition that deficiencies noted in transportation control measures and volatile organic compound regulations be corrected by June 1, 1980, and that certification of adequate legal authority to implement I/M be submitted by June 30, 1980. These actions are effective immediately. EPA finds good cause to make this conditional approval immediately effective, because the Clean Air Act restricts new construction where plans are not approved after June 30, 1979.

Making the conditional approval immediately effective will terminate the restriction as soon as possible and they impose no requirement that is not already in effect at the State level.

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.

(Secs. 110, 172, Clean Air Act (42 U.S.C. 7410, 7502))

Dated: January 21, 1980.

Douglas M. Costle,

Administrator.

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

Subpart S—Kentucky

1. Section 52.920 is amended by adding a subparagraph (12) to paragraph (c) as follows:

§ 52.920 Identification of plan.

* * * * *

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

* * * * *

(12) 1979 revisions for Part D requirements for ozone nonattainment areas, submitted on June 29, 1979, by the Kentucky Department for Natural Resources and Environmental Protection.

2. Section 52.922 is amended by assigning the paragraph designation "(a)" to the existing section and by adding paragraphs (b) and (c). As amended, § 52.922 reads as follows:

§ 52.922 Extensions.

(a) The Administrator hereby extends for two years the attainment date for the primary standards for sulfur oxides in the Kentucky portion of the Louisville Interstate Region.

(b) The Administrator hereby extends until December 31, 1987, the attainment date for the national standards for ozone in Jefferson County.

(c) The Administrator hereby extends until December 31, 1987, the attainment date for the national standards for ozone in Boone, Campbell, and Kenton Counties.

3. Section 52.923 is revised to reads as follows:

§ 52.923 Approval status.

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

4. Section 52.926 is revised to read as follows:

§ 52.926 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. The dates reflect the information presented in Kentucky's ozone plan, except where noted.

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Appalachian Intrastate	c	*c*	b	b	b	b	b
Bluegrass Intrastate:							
a. Fayette County†	a	*c*	b	b	b	b	*g*
b. Rest of AQCR	a	*c*	b	b	b	b	b
Evansville (Indiana)-Owensboro-Henderson (Kentucky) Interstate:							
a. Henderson County†	c	*c*	a	e	b	b	*g*
b. Rest of AQCR	c	*c*	a	e	b	b	b
Huntington (West Virginia)—Ashland (Kentucky)—Portsmouth-Ironton (Ohio) Interstate:							
a. Boyd County†	c	*c*	b	b	b	b	*g*
b. Rest of AQCR	c	*c*	b	b	b	b	b
Louisville Interstate†	c	*c*	e	e	b	*d*	h
Metropolitan Cincinnati Interstate:							
a. Boone, Campbell, and Kenton Counties†	c	*c*	a	d	b	*d*	h
b. Rest of AQCR	c	*c*	a	*d*	b	*d*	c
North Central Kentucky Intrastate	a	*c*	b	b	b	b	b
Paducah (Kentucky)—Cairo (Illinois) Interstate	c	*c*	a	f	b	b	b
South Central Kentucky Intrastate	b	b	b	b	b	b	b

a. Air quality levels presently below primary standards or area is unclassifiable.
b. Air quality levels presently below secondary standards or area is unclassifiable.
c. April 1975.
d. July 1975.
e. July 1977.
f. July 1978.
g. December 31, 1982.
h. December 31, 1987.

†See 81.318 of this chapter.

NOTE.—Dates or footnotes in italics are prescribed by the Administrator because the plan did not provide a specific date or the dates provided were not acceptable. Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.926 (1978 edition).

5. A new § 52.930 is added as follows:

§ 52.930 Control strategy: Ozone.

(a) *Part D—conditional approval*—(1) *Jefferson County nonattainment area.* The 1979 ozone revisions for this area are approved on condition that the following be submitted:

(i) By June 30, 1980, certification of adequate legal authority to implement a vehicle inspection and maintenance program.

(ii) By June 1, 1980.

(*a*) Schedules and commitments for the implementation and enforcement of transportation control measures specified in Appendix F of the plan.

(*b*) Demonstration that all transportation control measures of Appendix F of the plan will have continued air quality benefits.

(*c*) Schedules for the analysis of alternative transportation control measures considered pursuant to Section 108(f) of the Clean Air Act and a commitment to implement those measures found reasonably available. The SIP must also contain a commitment to justify any decisions not to implement measures found to be unreasonable.

(iii) By June 1, 1980: revision of regulations 401 KAR 59:095 and 61:045 to remove the exemption, for oil-effluent water separators, of petroleum products with a Reid vapor pressure less than 0.5 psia; or, show that emissions from the stated exemptions differ no more than five (5) percent from expected emission reductions resulting from CTG

recommended RACT control of oil-effluent water separators in refineries; or, demonstration that it is not economically justifiable to control sources of the size exempted under these regulations.

(2) *Boone, Campbell, and Kenton Counties nonattainment area.* The 1979 ozone revisions for this area are approved on condition that the following be submitted:

(i) By June 30, 1980, certification of adequate legal authority to implement a vehicle inspection and maintenance program.

(ii) By June 1, 1980,

(*a*) Schedules and commitments for the implementation and enforcement of transportation control measures specified in Appendix G of the plan as funded under the FY 79 Transit Operating Subsidy and other funding sources.

(*b*) Commitments to the enforcement of measures specified in Appendix G of the plan for implementation during 1980–1983.

(*c*) Demonstration that all transportation control measures specified in Appendix G of the plan for implementation during 1980–1983 will have air quality benefits throughout their lifetime.

(*d*) Demonstration, in the studies of alternative transportation control measures pursuant to Section 108(f) of the Clean Air Act, that the studies are consistent with the procedures and criteria contained in the *EPA/DOT Transportation Air Quality Planning Guidelines.*

(*e*) Commitment to justify the decision not to implement measures found infeasible pursuant to the analysis required under (*d*).

(3) *Boyd County nonattainment area.* The 1979 ozone revisions for this area are approved on condition that the following be submitted by June 30, 1980: revision of regulations 401 KAR 59:095 and 61:045 to remove the exemption, for oil-effluent water separators, of petroleum products with a Reid vapor pressure less than 0.5 psia; or, show that emissions from the stated exemptions differ no more than five (5) percent from expected emission reductions resulting from CTG recommended RACT control of oil-effluent water separators in refineries; or, demonstration that it is not economically justifiable to control sources of the size exempted under these regulations.

[FR Doc. 80-2437 Filed 1-24-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 81

[FRL 13973; Docket No. OAQPS-79-09]

National Visibility Goal for Federal Class I Areas; Identification of Mandatory Class I Federal Areas Where Visibility Is an Important Value; Correction

AGENCY: U.S. Environmental Protection Agency.

ACTION: Correction to final rule.

SUMMARY: On November 30, 1979 at 44 FR 69122, the Environmental Protection Agency promulgated a list of 156 mandatory class I Federal areas identified as having visibility as an important value. There were several minor errors found in the listing. The purpose of this notice is to correct those errors.

FOR FURTHER INFORMATION CONTACT: Johnnie L. Pearson, Standards Implementation Branch, Control Programs Development Division, Office of Air Quality Planning and Standards, Environmental Protection Agency (MD-15), Research Triangle Park, North Carolina 27711. Phone: (919) 541-5497.

Dated: January 17, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

Part 81 of Chapter I of Title 40 appearing on page 69126 is corrected as follows:

1. Section 81.417 is corrected by changing USDE-FS to USDA-FS as follows:

§ 81.417 Montana.

* * * * *

Mission Mountains Wild	73,877	93-632	USDA-FS

2. Section 81.428 is corrected by changing superscript a to superscript b and vice versa, by changing USDA-NPS to USDA-FS, and by changing, in the footnote, 3932 to 3832 as follows.

§ 81.428 Tennessee.

* * * * *

Great Smoky Mountains NP[b]	241,207	69-268	USDI-NPS
Joyce Kilmer-Slickrock Wild[a]	3832	93-622	USDA-FS

[a] Joyce Kilmer Slickrock Wilderness 14,033 acres overall, of which 10,201 acres are in North Carolina, and 3,832 acres are in Tennessee.

[b] Great Smoky Mountains National Park, 514,758 acres overall, of which 273,551 acres are in North Carolina, and 241,207 acres in Tennessee.

[FR Doc. 80-2406 Filed 1-24-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[PP 7E2008/R229; FRL 1399-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Dimethyl (2,2,2-Trichloro-1-Hydroxyethyl) Phosphonate

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

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate on birdsfoot trefoil hay at 90 parts per million (ppm). The amendment was requested by the Interregional Research Project No. 4. This rule establishes a maximum permissible level for residues of the subject insecticide on birdsfoot trefoil hay, including chaff.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/426-0223).

SUPPLEMENTARY INFORMATION: On November 19, 1979, the EPA published a notice of proposed rulemaking in the **Federal Register** (44 FR 66217) in response to a pesticide petition (PP 7E2008) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of New York and Vermont. This petition proposed that 40 CFR 180.198 be amended by the establishment of a tolerance for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on the raw agricultural commodity birdsfoot trefoil hay including its byproduct chaff at 90 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.198 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before February 25, 1980, 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.

Effective on the date of publication in the **Federal Register**, Part 180, Subpart C, § 180.198 is amended by adding a tolerance for residues of dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate on birdsfoot trefoil hay at 90 ppm as set forth below.

Dated: January 21, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Part 180, Subpart C, § 180.198 is revised by editorially reformatting the section into an alphabetized columnar listing and alphabetically inserting birdsfoot trefoil hay at 90 ppm as follows:

§ 180.198 Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate; tolerances for residues.

Tolerances are established for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on the following raw agricultural commodities:

Commodity:	Parts per million
Alfalfa	60
Alfalfa, hay	90
Artichokes	0.1(N)
Bananas (NMT 0.2 ppm will be present after the peel is removed)	2
Barley, forage	50
Barley, grain	0.1(N)
Barley, straw	1
Beans, dried	0.1(N)
Beans, lima (reflecting 0.1 ppm (N) in or on the shelled beans)	12
Beans, lima vine hay	12
Beans, lima vines	12
Beans, snap	0.1(N)
Beans, vines	1
Beets	0.1(N)
Beets, sugar	0.1(N)
Beets, sugar, tops	12
Birdsfoot trefoil, hay	90
Brussels sprouts	0.1(N)
Cabbage	0.1(N)
Carrots	0.1(N)
Cattle, fat	0.1(N)
Cattle, mbyp	0.1(N)
Cattle, meat	0.1(N)
Cauliflower	0.1(N)
Citrus fruit	0.1(N)
Clover	60
Clover, hay	90
Collards	0.1(N)
Corn, fodder	30
Corn, forage	30
Corn, fresh (including sweet K + CWHR)	0.1(N)
Corn, grain	0.1(N)
Cottonseed	0.1(N)
Cowpeas	0.1(N)
Cowpeas, vines	1
Flax, straw	1
Flaxseed	0.1(N)
Goats, fat	0.1(N)
Goats, mbyp	0.1(N)
Goats, meat	0.1(N)
Grass, pasture	60
Grass, pasture, hay	90
Grass, range	240
Grass, range, hay	240
Horses, fat	0.1(N)
Horses, mbyp	0.1(N)
Horses, meat	0.1(N)
Lettuce	0.1(N)
Milk	0.01(N)
Oats, forage	50
Oats, grain	0.1(N)
Oats, straw	1
Peanuts	0.05(N)
Peanuts, vine hay	4
Peanuts, vine hulls	4
Peppers	0.1(N)
Pumpkins	0.1(N)
Safflower seed	0.1(N)
Sheep, fat	0.1(N)
Sheep, mbyp	0.1(N)
Sheep, meat	0.1(N)
Tomatoes	0.1(N)
Wheat, forage	50
Wheat, grain	0.1(N)
Wheat, straw	1

[FR Doc. 80-2436 Filed 1-24-80; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

41 CFR Chapter 101

[FPMR Temp. Reg. B-3, Supp. 1]

Federal Property Management; Declassification of and Public Access to National Security Information

AGENCY: National Archives and Records Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the expiration date of FPMR Temporary Regulation B-3 which concerned the declassification of and public access to national security information to March 1, 1980. Temporary Regulation B-3 was published in the **Federal Register** on March 28, 1979 at 44 FR 18492.

DATES:

Effective date: January 25, 1980.
Expiration date: March 1, 1980.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas, Director, Planning and Analysis Division, Office of the Executive Director, National Archives and Records Service, General Services Administration (NAA), Washington, DC 20408 (202-523-3214).

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

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

In 41 Chapter 101, this temporary regulation is listed in the appendix at the end of Subchapter B.

Note.—Supplement 1 to FPMR Temporary Regulation B-3 is filed with the original document, and its text does not appear in this volume.

[FR Doc. 80-2393 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-26-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 79-880]

Delegation of Authority to the Chief, Common Carrier Bureau

AGENCY: Federal Communications Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission adopts a rule change which extends delegated authority to the Chief, Common Carrier Bureau to act on petitions to suspend and investigate. The Bureau now has delegated authority to act on petitions to reject and petitions to suspend and investigate.

EFFECTIVE DATE: December 19, 1979.

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

FOR FURTHER INFORMATION CONTACT: Ms. Anne Coffey, Common Carrier Bureau, 202-632-6387.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order

Adopted: December 19, 1979.
Released: January 18, 1980.

In the matter of amendment of Part 0 of the Commission's Rules with respect to delegation of authority to the Chief, Common Carrier Bureau.

By the Commission:

1. Under current Commission rules, the Chief, Common Carrier Bureau is, among other things, delegated authority to make determinations regarding the lawfulness of carrier-initiated tariff filings. Included in this panoply of responsibilities is authority to exercise the rejection power conferred by Section 203(d) of the Communications Act, 47 U.S.C. § 203(d), either in response to a petition by any person, or on his own

motion. See, generally, Section 0.91 and 0.291 of the Rules, 47 CFR §§ 0.91 and 0.291. Authority to determine whether a new tariff filing shall be suspended pursuant to Section 204(a) of the Act, however, has been expressly reserved by the Commission. 47 CFR § 0.291(d).

2. Our recent experience with this scheme indicates that in practice interested persons filing petitions to reject such tariffs often simultaneously file petitions to suspend and investigate. In those instances in which the Bureau finds that rejection is not warranted, it must either prepare a separate recommendation for the Commission on the suspension and investigation petition or recommend the joint resolution of the petitions by the Commission. Needless to say, this bifurcation of function has added considerably to Commission administrative burdens and strains our limited resources. At the same time, in cases where only a petition to suspend has been filed, the staff is often required to analyze complex tariff filings on considerably less than the statutory notice period so that its recommendation may then be studied and acted on by the Commission within the maximum ninety days.

3. To remove this inconsistency and alleviate the attendant administrative burden, the Commission has concluded that the Chief, Common Carrier Bureau should also be delegated authority to act on petitions for suspension and investigation of tariff filings, or to take such action on his own motion if warranted. We will therefore amend the Rules by deleting Section 0.291(d).[1] As in other cases, review of Bureau actions on delegated authority will remain subject to Commission review under Section 1.115 of the Rules, 47 CFR § 1.115.

4. Notice and comment are not required prior to enactment of this rule change because it relates to internal Commission organization, procedure, and practice. 5 U.S.C. § 553(b). Since the immediate implementation of these changes will expedite the transaction of public business, compliance with the effective date provisions of the Administrative Procedures Act is also not required. 5 U.S.C. § 553(d).

5. Accordingly, it is ordered, on the Commission's own motion, pursuant to Sections 4(i), 4(j) and 5(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 4(i), 4(j), and 5(d), and Section 553 of the Administrative Procedure Act, 5 U.S.C. 553, that Section 0.291(d) of the Commission's Rules and Regulations, 47 CFR § 0.291, is deleted effective immediately.

§0.291 [Amended]

6. It is further ordered that subsections 0.291 (e) through (h), 47 CFR §§ 0.291 (e) through (h), are redesignated subsections 0.291 (d) through (g) respectively, effective December 19, 1979.

7. It is further ordered that the Secretary shall cause this order to be published in the **Federal Register.**

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note.—Rules changes herein will be covered by The 1980 Edition of Volume I.

[FR Doc. 80-2387 Filed 1-24-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 78-322; RM-3087]

FM Broadcast Station in Sterling, Colo.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a Class C FM channel to Sterling, Colorado, deletes a Class A FM channel there and modifies the license of the Class A station, KSTC–FM, to specify operation as a Class C station. The Class C channel would provide first and second FM and second nighttime aural service to a substantial area and population. A proposal to delete a second Class A channel at Sterling was not adopted in view of an interest expressed in its use.

EFFECTIVE DATE: March 3, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order (Proceeding Terminated)

Adopted: January 16, 1980.

Released: January 21, 1980.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Sterling, Colorado), BC Docket No. 78–322, RM–3087.

By the Chief, Policy and Rules Division:

1. The Commission has under consideration the *Notice of Proposed Rule Making*, adopted September 28, 1978, 43 Fed. Reg. 46876, inviting comments on a proposal to assign FM Channel 284 to Sterling, Colorado, and to delete two Class A channels there in response to a petition filed by KSTC, Inc. ("petitioner"), licensee of Stations KSTC and KSTC–FM (Channel 244A), Sterling, Colorado. Petitioner also asked that its license be modified to specify the new Class C channel (284). In response to the *Notice*, petitioner filed supporting comments reaffirming its intention to file for the Class C channel, if assigned. BBG Enterprises, Incorporated ("BBG") filed comments by letter.[1]

2. In a letter, BBG requests that Channel 288A not be deleted from Sterling because it is preparing an application for its use.[2] BBG states that it takes no position either in support or in opposition to petitioner's request to modify its current assignment by deleting Channel 244A and substituting Channel 284. It states that although the *Notice* suggested the possibility of the substitution of Class C Channel 245 for Channel 288A to avoid intermixture in Sterling, the use of Channel 245 may be limited with respect to transmitter site selection in the vicinity of Sterling. It notes also that the Channel 245 assignment would require changes in one or more existing FM channel assignments. BBG urges that we permit it to proceed on Channel 288A since it is willing to operate in competition with the Class C station proposed for Sterling.

3. Sterling (pop. 10,236), [3], seat of Logan County (pop. 18,852), is located in northeastern Colorado, approximately 175 kilometers (110 miles) northeast of Denver.

4. Channel 284 could be assigned to Sterling in conformity with the minimum distance separation requirements. Nine communities with populations greater

[1] Section 0.291(d) also specifically authorizes the Bureau to defer effective dates of tariff filings for the full 90 day notice period. That authority has been conferred upon the Bureau as an "exception" to our general reservation of authority to suspend. In fact, however, authority to defer is also conferred by Section 0.291 of the Rules, and will remain so even in light of our action here.

[1] The letter was submitted after the expiration of the reply comment date. However, since there were no objections to its acceptance and its consideration would aid the Commission in resolving this proceeding, we have accepted it.

[2] In a letter dated June 12, 1979, BBG informed the Commission that on that date it tendered an application for Channel 288A at Sterling. The application was accepted on October 2, 1979 (BPH–790612 AF). Another application has since been tendered for Channel 288A by Arapahoe County Broadcasting Co. (791115 AC).

[3] Population figures are taken from the 1970 U.S. Census.

than 1,500[4] and having no FM assignments would be precluded as a result of the proposed assignment. However, petitioner has indicated that alternate channels are available for assignment to these communities should the need arise.

5. Petitioner's engineering analysis using *Roanoke Rapids/Anamosa* criteria indicates that the facilities proposed for Channel 284 would provide first FM and second nighttime aural services to 11,086 persons in a 7,400 square kilometer (2,860 square miles) area and a second FM service to 855 persons in a 880 square kilometer (339 square miles) area.

6. In view of the above, the Commission believes the public interest would be served by assigning Channel 284 to Sterling. The proposed Class C station would provide significant first and second FM service to a substantial area and population. Since no other party has expressed an interest in Channel 284, the license of Station KSTC–FM will be modified as proposed.[5] In the *Notice*, we also pointed out that should an interest be shown in operating Channel 288A, we would consider retaining it. Such an interest has been expressed by BBG which also emphasized its willingness to operate a Class A channel in competition with the Class C assigned here in spite of the resulting intermixture situation. Therefore, we shall retain Channel 288A at Sterling. On the other hand, we have decided to delete Channel 244A since Sterling had not been shown to warrant three Channel assignments. In this way, the channel can be made available for use elsewhere.

7. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

8. In view of the foregoing, IT IS ORDERED, That effective March 3, 1980, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, as regards Sterling, Colorado, IS AMENDED as follows:

City	Channel No.
Sterling, Colo	284, 288A

9. It is further ordered, That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license of KSTC, Inc. for station KSTC–FM, Sterling, Colorado, is modified, effective March 3, 1980, to specify operation on Channel 284 instead of Channel 244A. The licensee shall inform the Commission in writing no later than March 3, 1980, of its acceptance of this modification. Station KSTC–FM may continue to operate on Channel 244A for one year from the effective date of this action or until it is ready to operate on Channel 284, whichever is earlier, unless the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 284, the licensee of Station KSTC–FM shall submit to the Commission the technical information normally requested of an applicant for Channel 284.

(b) At least 10 days prior to commencing operation on Channel 284, the licensee of Station KSTC–FM shall submit measurement data required of an applicant for a broadcast license; and

(c) The licensee of Station KSTC–FM shall not commence operation on Channel 284 without prior Commission authorization.

10. It is further ordered, That this proceeding is terminated.

11. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 80-2386 Filed 1-24-80; 8:45 am]

BILLING CODE 6712-01-M

[4] *Nebraska:* Imperial (pop. 1,589) Cozad (4,219), Gothenburg (3,154); *Colorado:* Holyoke (1,640), Wray (1,953), Julesburg (1,653); *Kansas:* Atwood (1,653), Leoti (1,916), St. Francis (1,725).

[5] This procedure is outlined in *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

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47 CFR Part 97

[SS Docket No. 79–22; FCC 80–14

Amateur Radio Service; Telegraphy Examination Credit

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This Report and Order amends the Amateur Radio Service Rules to delete Section 97.25(d). This Section allowed credit for the telegraphy portion of the Amateur Extra Class examination to those who presented proof of having continuously held the Amateur Extra First Class license and its successor licenses. The Commission deleted the Section because it had proved to be obsolete.

EFFECTIVE DATE: August 1, 1980.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Judith St. Ledger-Roty, Rules Division, Private Radio Bureau, (202) 634–2443.

Report and Order

Adopted: January 16, 1980.

Released: January 22, 1980.

By the Commission:

In the matter of deletion of § 97.25(d) from the Amateur Radio Service Rules. SS Docket No. 79–22, RM–3001.

1. On February 14, 1979, the Commission adopted a *Notice of Proposed Rulemaking in Docket No. 79–22*, 70 F.C.C. 2d 1918 (1979), 44 Fed. Reg. 12473 (1979), to consider the deletion of Section 97.25(d) of the Amateur Radio Service Rules. That Section presently provides that: "[a]n applicant for the Amateur Extra Class operator license will be given credit for examination element 1(c) if he so requests and submits evidence of having held the Amateur Extra First Class license, [and] having continuously held its successor license." It was proposed that the effective date for this amendment be set for six months after approval by the Commission in order to give any persons affected one last chance to apply for the Amateur Extra Class license under the current rules.

2. From June 1923 to June 1933, the Department of Commerce and subsequently the Federal Radio Commission issued Amateur Extra First Class operator licenses. The Federal Communications Commission, upon its creation, issued the equivalent license, designating it a "Class A" license, and then later, an "Advanced" license.

3. In 1952, the Commission created the Amateur Extra Class license. To obtain this license, the applicant must successfully complete a written examination testing nine areas of basic, general, intermediate and advanced amateur practice. These written examination requirements are far more stringent than those that were associated with the Amateur Extra First Class license. The telegraphy proficiency requirement for the Amateur Extra First Class license was twenty words per minute; the telegraphy requirement for the Amateur Extra Class license is also twenty words per minute.

4. In recognition of this identical telegraphy requirement, the Commission amended Section 97.25(d) to allow credit for the telegraphy portion of the Amateur Extra Class examination to those who presented proof of having continuously held the Amateur Extra

First Class license and its successor licenses. *Report and Order in Docket No. 19163*, 37 F.C.C. 2d 202 (1972).

5. Section 97.25(d) was adopted in order to eliminate any inequity that mandatory repetition of the telegraphy examination might create for former holders of the Amateur Extra First Class license who have remained active. In the *Notice* released in this docket, the Commission noted that the number of persons seeking examination credit pursuant to this Section has declined to such an extent that it might well be considered obsolete. In fact, the Commission has averaged less than one applicant per year over the last few years. It therefore appears that Section 97.25(d) has fulfilled its purpose and should now be deleted.

6. In response to the Notice proposing deletion of Section 97.25(d), the Commission received only one comment. That participant agreed that Section 97.25(d) should be omitted if it was no longer useful, but requested that we delay the effectiveness of any order for one year so that remaining applicants might have time to study for and take the examination under the current provisions.

7. Section 97.25(d) has been in effect since 1972. Because of the lack of applications for credit, and the apparent lack of interest in this rule, we must assume that those who were eligible have applied for and received credit during the past seven years. It does not appear necessary to delay the effectiveness of the amendment for any more than the six month period originally proposed. Six months should be ample time to study for and take the examination, especially considering that prospective applicants for credit have already had several years for preparation.

8. The Commission also has under consideration a petition for rulemaking, RM–3001, submitted by Mr. Frank Carman of Otis, Oregon. Mr. Carman petitions the Commission to amend its rules to provide that applicants for the Amateur Extra Class license who were licensed amateurs prior to 1925 and currently hold General of Advanced Class licenses be granted credit for the 1 (C), 4 (A) and 4 (B) examination elements.

9. Mr. Carman's petition expresses views similar to those considered and rejected in Docket No. 19163. *Report and Order*, 37 F.C.C. 2d 202 (1972). At that time, we clearly expressed our views with regard to the Amateur Extra Class license, stating that:

> As the highest grade amateur license, the Extra Class signifies that its holder has clearly demonstrated his technical qualifications based on both minimum licensing time and passage of a rigorous examination. Although the Commission realizes that length of licensed operation can be a valuable asset toward establishing one's eligibility for the Extra Class license, this in itself is not considered sufficient basis for determining the amateur's total qualifications. In addition, to allow attainment of the Extra Class license on the basis of age or term of license tenure alone, would, we believe, discourage amateurs from studying toward license achievement in keeping with the Commission's incentive licensing program. 37 F.C.C. 2d at 204.

The Commission is unable to discern any benefit which would accrue to the Amateur Radio Service if this petition were adopted. Rather, we remain of the belief that the only appropriate basis for issuing an amateur operator license is the successful completion of the examination elements designed to establish the qualifications prescribed for a particular class of license.

10. In view of the foregoing, the Commission finds that the amendment to Part 97 of the Amateur Radio Service Rules, as set forth in the Appendix, is in the public interest. Authority for promulgating this amendment is contained in Sections 4(i) and 303 of the Communications Act, as amended.

11. Accordingly, it is ordered that, effective August 1, 1980, Part 97 of the Commission's Rules is amended as set forth in the appendix.

12. It is further ordered, that the petition of Mr. Frank Carman, RM–3001, is denied after due consideration.

13. It is further ordered that this proceeding be terminated.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

1. The Federal Communications Commission amends Chapter 1, Part 97 of the Code of Federal Regulations as follows:

§ 97.25 [Amended]

(a) Paragraph 97.25(d) is deleted, and paragraph 97.25(e) is redesignated as paragraph (d).

[FR Doc. 80–2382 Filed 1–24–80; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1111

[Ex parte No. 282 (Sub-No. 4)]

Acquisition Procedures for Lines of Railroads in Reorganization

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting procedures to govern applications to acquire lines of railroads in reorganization. The procedures are being adopted so that the Commission will have sufficient information to make decisions required by the Milwaukee Railroad Restructuring Act (MRRA). The rules are being made effective immediately. Because of deadlines designated by MRRA, these rules are being adopted without notice and public comment.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg (202) 275–7245.

SUPPLEMENTARY INFORMATION: On November 4, 1979, the Milwaukee Railroad Restructuring Act (MRRA), Pub. L. No. 96–101, 93 Stat. 736 (1979) became law. Under the MRRA the appropriate bankruptcy court may, with Commission approval, authorize the sale or transfer of a line operated by a railroad undergoing reorganization under section 77 of the Bankruptcy Act as of November 4, 1979. This provision therefore covers both the Chicago, Milwaukee, St. Paul and Pacific Railroad Company and the Chicago, Rock Island and Pacific Railroad Company. We must act on any sale or transfer application within the time fixed by the bankruptcy court, but in no more than 180 days from the date the application is filed. We may approve, modify, condition, or disapprove any application, with or without hearing. *See* Section 5(b)(2) and 17(b)(2) of the MRRA.

Because we must act on applications for the sale or transfer of lines of the Milwaukee Road and other bankrupt railroads on an expedited basis, we have developed special procedures. The special procedures also apply to applications concerning joint ownership and use of a bankrupt railroads' properties. These procedures will be codified at 49 CFR Part 1111. They are based in large part on our present Consolidation Procedures (see 49 CFR Part 1111 (1978)), but are modified in order to enable us to act expeditiously under the MRRA.

Section 19 of the MRRA exempts transactions under its provisions from the National Environmental Policy Act; therefore, we are not requiring environmental information for applications filed pursuant to MRRA.

We have reduced the traffic, operational, and financial data required in these applications, and we are requesting that applicants provide specific information in the narratives in explanation and support of the proposed acquisitions. Applicants are encouraged to include verified statements of public and shipper support.

We want each of our decisions to be based on the most complete record available within the time constraints of the MRRA. Members of the public who wish to comment on an application may do so within 30 days of our acceptance of that application. Comments must contain *all* testimony concerning the proposed acquisition and the testimony must be in the form of verified statements.

We shall act on applications for proposed sales and transfers in a timely fashion. We shall consider the application itself; the testimony; and the briefs (if deemed necessary) in reaching a decision. We do not intend to hold hearings in any sale or transfer case involving a bankrupt railroad under the MRRA.

We are adopting these procedures as final rules. The deadlines designated by the MRRA do not afford us sufficient time to request comments on these procedures. The MRRA provides that applications for sales or transfers may be filed at any time after November 4, 1979, and must be decided by this Commission within a maximum 180 days. We find, therefore, that it is impracticable, within the meaning of section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)), for us to request public comments prior to adopting procedures governing applications under the MRRA.

We also find that notice and public comment are unnecessary. The procedures contained in this notice are a distillation of the ICC's existing consolidation procedures. *See Railroad Acquisition, Control, Merger, Consolidation Project, Trackage Rights and Lease Procedures*, 49 CFR Part 1111 (1978). We have reduced the information required to that which is necessary to prepare a decision under the MRRA. In adopting these procedures, we have used our expertise in the areas of rail consolidation and railroad reorganization, and we have considered our responsibilities under the MRRA, 49 U.S.C. § 10901, and 49 U.S.C. § 11344. Furthermore, these procedures are based on our existing regulations, which were adopted after full opportunity for public comment.

In addition to dispensing with the notice and comment procedure, we are dispensing with the normal procedure whereby final rules do not become effective for thirty days, and we are making these rules effective as of this date. We find that there is good cause for doing so within the meaning of section 553(d)(3) of the Administrative Procedure Act (5 U.S.C. 553(d)(3)) in view of the current rail situation in the Midwest and the Congressional intent behind the MRRA.

These regulations are issued under the authority of 49 U.S.C. 10321; sections 5 and 17 of Pub. L. No. 96–101; and 5 U.S.C. 553.

The attached appendix contains the procedures to be followed for the sale or transfer of a bankrupt railroad's lines.

We adopt the regulations set forth in the Appendix.

Decided: January 11, 1980.

By the Commission, Office of Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, and Alexis.

Agatha L. Mergenovich,

Secretary.

Appendix

49 CFR Part 1111 is amended as follows:

1. Present sections 1111.1 to 1111.4 are designated "Subpart A—*Acquisition Procedures for Railroads Not in Reorganization.*"

2. Sections 1111.5 through 1111.19 are reserved.

3. New Subpart B is added to read as follows:

Subpart B—Acquisition Procedures for Lines of Railroads in Reorganization

1111.20 Types of Transactions.
1111.21 Identifying Information.
1111.22 Traffic Data.
1111.23 Operational Data.
1111.24 Financial Information.
1111.25 Procedures.
1111.26 Definitions.

Authority.—49 U.S.C. 10321, sections 5 and 17 of Pub. L. 96–101, and 5 U.S.C. 553.

§ 1111.20 Types of transactions.

Transactions proposed under the Milwaukee Railroad Restructuring Act, Pub. L. No. 96–101, Sections 5(b) and 17(b) are of 2 types: Major and Minor.

(a) A *major* transaction is a sale or transfer which will result in a major market extension.

(b) A *minor* transaction is any sale or transfer which will not result in a major market extension.

§ 1111.21 Identifying information.

(a) *All applications* filed under Pub. L. 96–101, Sections 5(b) and 17(b), shall show in the title the names of the applicants and the nature of the proposed transaction. Beneath the title indicate the name, title, business address, and telephone number of the person(s) to whom correspondence with respect to the application should be addressed. The following information shall be included in *all* applications seriatim:

(1) Summary. A narrative description of the proposed transaction shall serve as an introduction to the application. It shall include appropriate references to supporting exhibits and statements in the application and shall generally discuss the following matters:

(i) A summary of the proposed transaction including the name of applicants.

(ii) The proposed time schedule for consummation of the proposed transaction.

(iii) The purpose sought to be accomplished by the proposed transaction, *e.g.*, operating economies, elimination of excess facilities, extension of markets, improved financial viability.

(iv) The nature and amount of any new securities or other financial arrangements.

(v) A summary of the applicant's public interest justifications in support of the application indicating how the proposed transaction is consistent with the public interest, or why the public convenience and necessity permits issuance of a certificate, with particular regard to:

(A) The financial consideration involved in the proposed transaction, including an explanation of economies, if any, to be effected in buyer's operations, and increases, if any, in buyer's traffic, revenues, earnings available for fixed charges, and net earnings, expected to result from consummation of the proposed transaction.

(B) The effect of the proposed transaction upon adequate rail and other transportation services to the public.

(C) The effect of the increase, if any, of total fixed charges to buyer resulting from the proposed transaction.

(D) The effect of any guaranty or assumption of payment of dividends or fixed charges contemplated by buyer in the proposed transaction.

(E) The effect of the proposed transaction upon buyer's and seller's employees.

(F) The effect of the proposed transaction on the remaining system and operations of the bankrupt carrier.

(vi) Any other supporting or descriptive statements applicant deems material.

(vii) An opinion of counsel of applicant that the transaction described in the application meets the requirements of the law and will be legally authorized and valid, if approved by the Commission and the bankruptcy court, with specific reference to any specifically pertinent provisions of applicant's charter or articles of incorporation.

(2) Identification of applicant carriers.

(i) Indicate the full and correct name of each applicant carrier and business address (street and number, city, State, and zip code).

(ii) Indicate the State or States in which any part of the property of each applicant carrier is situated.

(iii) Map (Exhibit 1). Submit a general or key map indicating clearly, in separate colors, or otherwise, the line or lines of buyer (if any) in their true relation to the lines to be acquired from seller, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the maps accompanying each application, 20 unbound copies of the map shall be filed with the Commission.

(3) Explanation of the transaction.

(i) Describe the nature of the transaction (*e.g.*, purchase, joint purchase, trackage rights, etc.), the significant terms and conditions, and the consideration to be paid (monetary or otherwise).

(ii) Agreement (Exhibit 2). Submit a copy of any contract or other written instrument entered into, and approved by the bankruptcy court, pertaining to the transaction covered by the application.

(iii) Court order (Exhibit 3). Submit a copy of the court order approving the agreement of transfer and its filing with the Commission.

(iv) State whether the property involved in the proposed transaction includes all the property of the seller and, if not, specifically describe what property is included in the proposed transaction.

(v) Describe in detail the principal routes and terminals of the lines involved, the principal points of interchange on the routes, and the amount of main line mileage and branch line mileage involved.

(vi) State whether any governmental financial assistance is involved in the proposed transaction and, if so, the form, amount, source, and application of such financial assistance.

(vii) Labor impact (Exhibit 4). Furnish the following information with respect to impacts on *railway* labor only:

(A) A copy of any agreement or agreements with employee organizations entered into as a result of the proposed transaction.

(B) For all personnel covered by pension plans supplemental to the Railroad Retirement Act, a list of the pension plans currently in effect, indicating whether or not they are funded, the extent of any unfunded liability, and the time required to bring the plans to a fully funded level.

(C) The number, location, craft or class and classification of all positions of the applicant carriers which under the proposed transaction are to be established, consolidated, created or transferred (including the point or points from and to which positions will be transferred).

(D) For each of the changes specified in item (C), the cost and savings to the railroad(s) in effectuating such changes, listed for each of the three years following consummation of the proposed transaction and the amount by craft or class and classification to which such costs and/or savings will be attributed.

(E) The date or dates on which each job abolishment, transfer, consolidation, or creation set forth under item (C) above is to be effectuated and a statement as to whether or not implementing agreements have been negotiated with appropriate labor organizations with respect to such proposed changes.

(F) The annual net change in employment for applicant carriers by craft or class and classification for the last 6 years preceding the filing of the application.

(viii) Energy data (Exhibit 5). Submit information and data with respect to energy consumption prepared in accordance with the ICC *Implementation of the Energy Policy and Conservation Act of 1975*, 49 CFR Part 1106.

(b) All applications proposing *major* transactions, as defined in § 1111.20, shall also include the following information:

(1) Identification of buyer.

(i) If buyer is a corporation indicate:

(A) Date of incorporation [1] and Government, State, or territory of incorporation.

(B) Name and business address of directors.

(C) Name, title and business address of officers.

(D) Name and business address of 10 principal stockholders as of last record date and their respective holdings.

(E) Charter (Exhibit 6). One copy of the charter or articles of incorporation, and the bylaws and amendments thereof, of buyer duly certified by the appropriate public officer.

(ii) If buyer is a partnership indicate:

(A) Date on which partnership was formed, and State and county in which it was formed.

(B) Name and business address of all present partners, including limited or silent partners and their respective interests.

(C) Partnership articles (Exhibit 7). A properly authenticated copy of the articles of partnership, if any.

(iii) If buyer is an association or other form of organization, other than a corporation indicate:

(A) Date of organization and place of organization.

(B) Full description of the nature and objectives of the organization.

(C) Name, title, and business address of officers and directors, or trustees.

(D) Name and business address of applicant's 10 principal stockholders or owners.

(E) Documents of association (Exhibit 8). A properly authenticated copy of articles of association, trust agreement, or other similar documents.

(iv) If buyer is a trustee, receiver, assignee, or a personal representative of the real party in interest, provide:

(A) The name and address of the court, if any, under the direction of which buyer is acting.

(B) The nature of the proceedings, if any, in which buyer was appointed.

(C) With respect to the real party in interest, indicate its full and correct name, business address (street and number, city, State, and zip code), type of entity, and its carrier status.

(D) Court appointment (Exhibit 9). A properly authenticated copy of the order of the court or instrument appointing each trustee, receiver, assignee, or personal representative which is a party to the transaction.

(v) Other authorizing document (Exhibit 10). If paragraphs (b)(1) (i), (ii), (iii), and (iv) of this section are not applicable, indicate identity, structure, statutory or charter powers of buyer, and submit appropriate organizational or authorizing documents, or indicate why none is available or necessary.

[1] If the applicant is incorporated or organized under the laws of, or authorized to operate in, more than one State, territory, or Federal district, give all pertinent facts as to such incorporations, organization, or authorization.

(vi) Corporate chart (Exhibit 11). Submit a corporate chart indicating all relationships between buyer and all affiliates and subsidiaries and also companies controlling buyer directly, indirectly or through another entity (each chart shall indicate the percentage ownership of every company on the chart by any other company on the chart). For each company include a statement indicating (A) any common officers or directors for every entity on the chart (with reference to the Commission decision by docket number and date authorizing the holding of such positions, or an explanation of why such authorization was not required) and (B) whether each company is a non-carrier or carrier (by railroad, motor, or water, including any Commission certificate or permit number, and the docket number of any proceeding pending before the Commission). Such information may be referenced through notes to the chart.

(vii) If buyer is not a carrier, indicate (A) the type of business in which it is engaged, (B) the length of time so engaged, and (C) the particulars of its present and prospective activities which have a relation to transportation subject to 49 U.S.C. Subtitle IV.

(viii) Indicate whether there are any direct or indirect intercorporate or financial relationships at the time the application is filed, not disclosed in response to prior instructions, through holding companies, ownership of securities, or otherwise, between (A) buyer and any carrier or person affiliated with any carrier or (B) a person affiliated with buyer and any carrier or person affiliated with any other carrier. Indicate the nature and extent of such relationships, if they exist, and, if a buyer owns securities of a carrier subject to 49 U.S.C. Subtitle IV, provide the carrier's name, a description of securities, par value of each class of securities held, and the buyer's percentage of total ownership.

(ix) State the amount of acquiring buyer's outstanding capital stock, by classes, and in connection therewith the par value or stated value of each share, its voting rights, if any, the total number of stockholders of record, and the voting rights of all security holders.

(x) Annual reports (Exhibit 12). Submit a properly authenticated copy of the buyer's annual report, *if any*, to stockholders or shareholders for each of the two calendar or fiscal years preceding the filing of the application.

(2) Explanation of the transaction.

(i) Filing resolutions (Exhibit 13). Submit a copy of all resolutions of directors of buyer, authenticated by a proper executive officer, authorizing (A) the proposed transaction and (B) where applicable, the filing of the application with the Commission for its approval and authorization. If the charter or by-laws of the buyer require approval of the stockholders, submit a copy of the resolution of stockholders authorizing the proposed transaction and the filing of the application. All resolutions are to be accompanied by sufficient transcripts of the minutes of meetings of the directors or stockholders of the buyer to show the number of shares entitled to vote, the number of shares voted for and against the resolutions, and the numbers of shares/votes required to adopt the resolution.

(ii) Executing resolutions (Exhibit 14). Submit a copy of all resolutions of stockholders or directors of the buyer, or duly authorized committee thereof, authenticated by a proper executive officer of the applicant, designating by name and for that purpose the executive officer by whom the application is signed and verified, and filed on behalf of the applicant. For purposes of exhibits 13 and 14, in the event the resolutions of stockholders have not been obtained at the time the application is filed then such resolutions shall be obtained as soon as feasible, but not later than the next regularly scheduled stockholders' meeting. A copy of such resolutions shall be filed with the Commission within 30 days following such meeting.

(iii) Other evidence of authorization (Exhibit 15). If the buyer is an organization other than a corporation, submit documentary evidence showing authorization and designation of the individual or individuals signing, verifying, and filing on behalf of the buyer.

§ 1111.22 Traffic data.

The information required in this section should only be filed as part of an application proposing a *major* transaction.

(a) Density charts (Exhibit 16). Gross ton-mile traffic density charts shall be filed for buyer containing a map graphically showing principal lines (those handling 1 million gross ton-miles or more per year) and respective densities, expressed in gross ton-miles per year, in each direction, in segments of such lines between major freight yards and terminals, including major intramodal and intermodal interchange points, using the corporate or political subdivision name of the points shown as well as the railroad station name. The mileage of each segment of line shall be provided, and should be shown on the chart. Data shown in the density chart shall be for the latest available full calendar year preceding the filing of the application.

(b) Carload interchange data (Exhibit 17). Revenue carload interchange data between buyer and connecting line-haul rail carriers or water carriers (deleting intermediate switching railroads, if any) shall be in a table setting forth the gateway involved, each connecting line-haul railroad or water carrier, and for each connecting railroad or water carrier the number of interchange carloads originating on buyer's lines, the number of interchange carloads terminating on buyer's lines, the overhead traffic delivered or received by buyer, and a separate total of overhead traffic and the total cars interchanged. Gateways to be listed shall be those handling 5,000 or more revenue carloads or 5 percent of total revenue carloads annually, whichever is smaller. Where two or more gateways are contiguous or nearly contiguous, they should be totalled (as examples, Dallas-Fort Worth, Minneapolis-St. Paul, Omaha-Council Bluffs, et cetera). If necessary, such grouped gateways may also be shown separately in supporting tables. Data shown in Exhibit 17 shall be for the latest available full calendar year preceding the filing of the application. It shall be organized as shown in the table in the Appendix.

(c) Carload origin and destination (Exhibit 18). An exhibit containing revenue carload origin and destination data for the latest available full calendar year preceding the filing of the application, shall list the following:

(1) Points of origin of 5,000 or more revenue carloads or 5 percent or more of buyer's total originated revenue carloads annually, whichever is smaller, broken down to show originations of local and interline carloads for each point, and

(2) Points of destination of 5,000 or more revenue carloads, or 5 percent or more of buyer's total terminated revenue carloads annually, whichever is smaller, broken down to show terminations of local and interline carloads for each point. This data shall include all of buyer's carloads at each point originated or terminated, as the case may be, by a line-haul, terminal, or switching railroad or by a motor carrier performing pickup or delivery service, *except* where such information would identify a specific shipper(s) or a specific receiver(s).

(3) The information provided in (1) and (2) above should be provided from seller for traffic moving over the line to be sold.

(d) Freight car fleet (Exhibit 19). A summary table shall show the freight car fleet cars owned and leased by buyer

for the latest available full calendar year preceding the filing of the application, the number of box, flat (including rack cars), gondola, open hopper, covered hopper, refrigerator, miscellaneous, and total number of cars owned and leased, and the aggregate capacity of these cars. The same information shall be provided for the seller, including the change expected as the result of the proposed transfer.

(e) Revenue freight traffic (Exhibit 20). A table shall show the buyer's revenue freight traffic, indicating for the latest available full calendar year preceding the filing of the application, (1) the number of local, interline originated, interline terminated, overhead, and total carloads, (2) total revenue tons, (3) revenue ton-miles, and (4) total freight revenue.

(f) Commodity revenue (Exhibit 21). A table shall show commodity group revenue (at the two-digit level of the Standard Transportation Commodity Code) for the buyer's 5 largest revenue producing commodity groups as a percentage of total revenue for the latest available full calendar year preceding the filing of the application, indicating the 5 largest commodity groups, the revenues attributable to each group and the percentage of that group's revenue as it relates to total revenue.

(g) Commodity tonnage (Exhibit 22). For the *commodity groups shown in the table required in (f) above,* a table shall show commodity group tonnage as a percentage of total tonnage, for the latest available full calendar year preceding the filing of the application, indicating the various commodity groups, the tonnage attributable to each group and the percentage of that group's tonnage as it relates to total tonnage.

(h) Market Study. For the buyer, a narrative discussion shall identify the markets which will be affected by the proposed acquisition, the traffic expected to be generated and/or recovered, and the levels of business expected on the line at issue.

§ 1111.23 Operational data.

For *all* transactions: Operating Plan (Exhibit 23). Submit a description of the proposed operating plan to be effectuated upon approval of the transaction. This shall include information projected for the time required to complete rehabilitation, upgrading or other major operational changes following consummation of the proposed transactions, and describe the following with particularity:[2]

(a) Any significant changes in patterns of service.

(b) Traffic level and density on lines proposed for joint operations.

(c) The extent to which deferred maintenance or delayed capital improvements apply to any line of railroad or equipment involved, the Federal Railroad Administration Class level of the line involved, and the schedule for eliminating such deferrals. Include details of buyer's general system rehabilitation, specific rehabilitation relating to the transaction, and upgrading plans including proposed yard and terminal modifications, together with an estimate of anticipated service improvements or operating economies associated with such projects.

(d) Impact on the use of yards or shop facilities and any necessary modifications to yards or terminals.

(e) Impacts on commuter or other passenger service operated over the line being acquired.

(f) Operating economies, which include, but are not limited to, estimated savings.

(g) Any associated discontinuances or abandonments.

§ 1111.24 Financial information.

(a) The following information shall be provided for all *major* transactions:

(1) Balance sheets (Exhibit 24). General balance sheets, for the most recent full calendar year as appropriate, of the following:

(i) Buyer on a corporate entity basis.

(ii) Buyer's parent company on a corporate entity basis.

(iii) Buyer and subsidiaries on a consolidated basis.

(2) *Pro forma* balance sheets (Exhibit 25). Submit a *pro forma* balance sheet statement giving effect to the proposed transaction for the most recent full calendar year.

(i) A procedure utilizing three columns should be followed. The *first* column should show buyer's actual balance sheet on a corporate entity basis for the latest available 12 month period, the *second* column should show the adjustments necessitated by the purchase, and the *third* column is a compilation of the first two columns into a *pro forma* balance sheet.

(ii) If the parent company (if any) of the buyer is affected, a similar balance sheet shall be filed for each.

(iii) All adjustments to these balance sheets shall be supported in footnotes to the appropriate balance sheet.

(iv) A *pro forma* balance sheet shall be submitted for the number of years following consummation necessary to effect the operating plan.

(3) Income statements (Exhibit 26). Income statements, for the most recent full calendar year, as appropriate, of the following:

(i) Buyer on a corporate entity basis.

(ii) Buyer's parent company on a corporate entity basis.

(iii) Buyer and subsidiaries on a consolidated basis.

(4) *Pro forma* income statements (Exhibit 27). Submit a *pro forma* income statement showing buyer's estimate of revenues, expenses, and net income for at least each of the 3 years following consummation of the transaction.

(i) A procedure utilizing three columns should be followed. The *first* column should show buyer's actual income statement on a corporate entity basis for the latest available 12-month period, the *second* column should show the adjustments necessitated by the purchase, and the *third* column is a compilation of the first two columns into a *pro forma* income statement.

(ii) If the parent company (if any) of the buyer is affected, a similar statement shall be filed for each.

(iii) All adjustments to these income statements shall be supported in footnotes to the appropriate income statement.

If the operating plan requires more than three years to be put into effect, the *pro forma* income statement shall be prepared for as many years as necessary to implement fully the operating plan.

(b) The following information shall be provided for all *minor* transactions:

(1) Balance sheets—minor (Exhibit 28). General balance sheets for the latest 6-month period for buyer on corporate entity basis.

(2) Income statements—minor (Exhibit 27). Income statements for the latest 6-month period for buyer on a corporate entity basis.

§ 1111.25 Procedures.

(a) General.

(1) Any document filed with the Commission, including applications, pleadings, etc., shall be promptly furnished to interested persons on request, unless subject to a protective order. At any time, the Commission may require the submission of additional copies of any document previously filed by any party to the proceeding.

(2) The original and 20 copies of all documents shall be filed in *major* proceedings. The original and 10 copies shall be filed in *minor* proceedings.

(3) Each party to a proceeding shall choose a unique acronym of four letters or less for itself. It shall number each document filed in the proceeding consecutively, prefixed by its acronym.

[2] For the purpose of completing this application, buyer is authorized to obtain the data necessary to complete this exhibit from the trustee and/or the directed rail carrier.

(b) Application.

(1) There is a $700 filing fee to file an application with the Commission under these procedures.

(2) Filing.

(i) The original of all applications shall be signed in ink by the buyer and seller. If buyer is a partnership, all partners must sign; and if a corporation, association, or other similar form of organization, the signature should be that of its president, or such other executive officer having knowledge of the matters therein contained and duly designated for that purpose. Applications shall be made under oath and shall contain an appropriate certification (if a corporation, by its secretary) showing that the affiant is duly authorized to verify and file the application. Any person controlling a buyer shall also sign the application.

(ii) The application shall be filed with Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

(iii) Each copy of the application shall conform in all respects to the original and shall be complete in itself except that the signature in the copies may be stamped or typed and the notarial seal may be omitted. In like manner where certified copies of documents are filed with the original application, conformed copies thereof, showing certification in stamped or typewritten form, will be sufficient to accompany the additional copies of the application.

(iv) All applications required to be filed with the Commission or served on designated persons shall include all exhibits, except as otherwise specifically noted.

(v) The buyer or seller shall submit such additional information to support its application as the Commission may require.

(vi) Buyer shall file concurrently with applications under Pub. L. No. 96–101 sections 5(b) and 17(b) all directly related applications, *e.g.*, those seeking authority to construct or abandon rail lines, to issue securities, control motor carriers, obtain terminal operations, acquire trackage rights, etc. All such applications will be considered under the schedule applicable to the initial application.

(vii) Exception to required exhibits. The original and one copy of Exhibit 16 shall be filed with the Commission. Copies shall be maintained at buyer's and seller's headquarters for inspection by interested parties. Buyer and seller must also file with the Commission one copy of a machine readable tape containing only the data shown in Exhibit 16. This tape will be returned to applicants when the Commission issues its decision, and no use of the tape will be made by the Commission other than for the purpose of adjudicating the application.

(3) In all applications, all of the direct testimony of buyer and seller, in the form of verified statements, shall be filed and served with each application.

(4) The application and all exhibits shall be considered part of the evidentiary record upon acceptance. Any portion of an application and exhibits will remain subject to motions to strike. However, no motion need be made to have the application and exhibits admitted to the evidentiary record.

(5) Service. The applicant shall serve a conformed copy of an application filed under these procedures by first class mail upon:

(i) The Governor (or Executive Officer), Public Service Commission, and the Department of Transportation of each State in which any part of the properties of the applicant carriers involved in the proposed transaction is situated;

(ii) The United States Secretary of Transportation (Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, SW, Washington, D.C. 20590);

(iii) The Attorney General of the United States;

(iv) The Federal Trade Commission; and

(v) All parties to the bankruptcy court proceedings.

The application shall contain a certificate of service indicating that all persons so designated have been served a copy of the application.

(6) Application format.

(i) The application shall be in the same sequence as the information is requested in these procedures, and shall be numbered to correspond to the numbering in the procedures.

(ii) If any material required in the application would lend itself to being placed in an appendix, this should be done. The appendix and application shall be tabulated and cross-referenced in an index for ease in locating and referring to the information. The appendices shall be in the same sequence as the information is required by the regulations. The application should be bound, and it may be bound in more than one volume. If an application is more than one volume, the cover of each volume should be in a different color. The pages in each volume should begin with 1, and shall be sequentially numbered.

(iii) If a question arises regarding an interpretation of the information or format to be included in the application, including whether or not a transaction would result in a major market extension, the party may contact the Commission for assistance.

(iv) All filing, service, or other requirements of these procedures must be complied with when filing the application. Copies of the application filed with the Commission shall be marked in red "Special Railroad Acquisition Application" on the transmittal envelope or package.

(7) Acceptance or rejection of an application.

(i) The Commission shall accept a complete application by decision no later than 10 days after the application is filed with the Commission, and shall then publish a notice in the **Federal Register.** A complete application contains all information for all buyers and sellers required by these procedures, except as modified by advance waiver.

(ii) The Commission shall reject an incomplete application by serving a decision no later than 10 days after the application is filed with the Commission. The decision shall give specific reasons why the application was rejected, and specify where the application was incomplete. A revised application may be submitted, incorporating portions of the prior application by reference, and the Commission will determine whether the resubmitted application conforms with all prescribed regulations. The resubmission or refiling of an application shall be considered a de novo filing for the purpose of computation of the time periods, provided that the resubmitted application is accepted.

(c) Response to application.

(1) Written comments.

(i) Written comments in support of or opposition to the proposed transaction must be filed no later than 30 days after an application is accepted.

(ii) Written comments must be verified.

(iii) Written comments shall be concurrently served by first class mail on:

(A) The applicants (at each address given in the application),

(B) The United States Secretary of Transportation, and

(C) The Attorney General of the United States.

(iv) Written comments must contain:

(A) The docket number and title of the proceeding.

(B) The name and address of the commenting party.

(C) The name, address, and telephone number of the commenting party's

representative upon whom service shall be made.

(D) The commenting party's position (in support, opposition, or undetermined), and verified statements in support of that position.

(E) A list of conditions and modifications sought.

(v) All persons who file timely written comments shall be a party. In this event, no petition for leave to intervene need by filed.

(2) The Secretary of Transportation and Attorney General of the United States shall file written comments with the Commission within 40 days of the date of acceptance of the application. These comments shall contain the information in (c)(1)(iv) of this section. Copies of these comments shall be concurrently served by first class mail on:

(i) The applicants,

(ii) The parties to the proceeding who have filed written comments, and

(iii) The Attorney General of the United States or Secretary of Transportation (whichever applies).

(d) Replies to Comments

(1) Applicant's verified replies to comments must be filed no later than 70 days after an application is accepted.

(2) If the Commission deems it necessary, a schedule for submission of briefs and replies will be set.

(e) The Commission will conclude the evidentiary proceeding, including requests for additional information, briefs and replies, and issue a final decision by the 180th day after the filing of the application, unless otherwise ordered.

(f) *Waiver or clarification.* (1) Upon petition of a prospective applicant, the Commission may waive or clarify a portion of these procedures, concerning the initial and directly related applications. A petition to waive *all* of the procedures will not be entertained.

(2) Petitions for waiver or clarification must be filed at least 20 days before the application is filed.[3]

(3) No replies to a petition for waiver will be permitted.

(4) All petitions for waiver, clarification or extension shall be ruled upon by the entire Commission.

(5) A petition for waiver or clarification must specify the sections for which waiver or clarification is sought and give the specific reasons why each waiver or clarification is necessary.

[3] At the time of filing with the Office of the Secretary, 5 additional copies of petitions for waiver or clarification should be filed directly with Section of Finance, Office of Proceedings, Interstate Commerce Commission.

§ 1111.26 Definitions.

(a) *Applicant.* The parties initiating a transaction.

(b) *Applicant carriers.* Applicant, all carriers related to the applicant, and all other carriers involved in the transaction.

(c) *Major market extension.* A major market extension includes an end-to-end extension of buyer's routes and services and buyer's participation in additional through routes or joint rates. A major market extension may also significantly increase competition by (1) extending service into a new market or (2) providing significantly more efficient and effective competitive service to a market presently being served. Criteria which can be used to determine if a railroad is proposing to provide a more competitive service to a currently served area include: (1) whether or not a shorter route is involved, (2) if the new route provides faster service, (3) if this route extends into major markets, (4) under what conditions the application is filed, and (5) if the route may make the railroad competitive. *See, Burlington Northern, Inc.—Control & Merger—St. L.*, 354 I.C.C. 616, 617 (1978).

(d) *Railroad.* Any common carrier by railroad as defined in 49 U.S.C. 10102 (17)–(18).

(e) *Buyer.* The buyer is the acquiring entity and all related carriers, in an acquisition.

(f) *Seller.* The seller is the bankrupt railroad.

[FR Doc. 80-2499 Filed 1-24-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 18
Friday, January 25, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 410

Training

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: This document proposes changing the regulations implementing the Government Employees Training Act to provide exceptions to some of the constraints on non-Government training to simplify record keeping tasks when a training program uses both Government and non-Government facilities.

DATE: Comments must be received on or before March 25, 1980.

ADDRESS: Send or deliver written comments to Mr. Frank Masterson, Director, Training Policy Divison, Workforce Effectiveness and Development, Office of Personnel Management, 1900 E Street, NW., Room 7623, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Ms. Constance Guitian, Training Policy Division, (202) 632–7647.

SUPPLEMENTARY INFORMATION: The training law authorizes the President (in 5 U.S.C. 4102(b)) to grant exceptions to provisions of that law and Executive Order 11348 delegated that authority to the Office of Personnel Management. The Office of Personnel Management is exercising its exception authority in simplifying the processing of instances of training which have both Government and non-Government elements.

All training has three elements: who controls the level, nature and content; who conducts the actual training and where the training is conducted. For training that has two Government elements it would no longer be necessary under the proposed exception to: (1) process waivers of the prohibition on training employees through non-Government facilities who have less than one year of current continuous service (5 U.S.C. 4106(a)(2)); (2) record time in training through non-Government facilities toward the limitation of not more than one year of such training in each ten years of an employee's service (5 U.S.C. 4106(a)(3)); (3) monitor the total time employees spend in training through non-Government facilities to be sure that does not exceed 1 percent of staff time in any fiscal year (5 U.S.C. 4106(a)(1)); and (4) execute agreements with employees to continue in the service after completion of training through non-Government facilities (5 U.S.C. 4108(a)).

It will still be necessary (1) to determine the need to utilize a non-Government facility; (2) to meet the requirements for selecting a non-Government facility; (3) to ascertain the suitability of the non-Government facility; and (4) to determine the availability of other qualified employees before training an employee in a non-Government facility.

The reporting requirements for the Central Personnel Data File are not changed in any way by these exceptions for training which has both Government and non-Government elements.

Office of Personnel Management.

Beverly M. Jones,

Issuance Systems Manager.

PART 410—TRAINING

Accordingly, the Office of Personnel Management proposes to add § 410.510 which reads as follows:

§ 410.510 Exceptions to the constraints on the usage of non-Government training.

When training meets two of the following conditions, then the agency is excepted from counting the time spent in such training toward the constraints in 5 U.S.C. 4106(a)(1), 5 U.S.C. 4106(a)(2) and 5 U.S.C. 4106(a)(3) and from the requirement in 5 U.S.C. 4108(a):

(a) Conducted by civilian or military personnel of the Government acting in their official capacities; or

(b) Held on property owned or substantially controlled by (rented by or loaned to) the Government; or

(c) Controlled by the Government in terms of general level, coverage, content and requirements for participation.

(5 U.S.C. 4101 *et seq)*

[FR Doc. 80–2420 Filed 1–24–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 733

Political Participation by United States Government Employees in Shrewsbury Township, N.J.

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: OPM proposes to remove Shrewsbury Township, New Jersey, from the list of communities where Federal employees have been granted a partial exemption from the political activity restrictions of the Hatch Act because it appears that less than a majority of the registered voters in that community are Federally employed.

DATE: Written comments will be considered if received on or before March 25, 1980.

ADDRESS: Submit written comments to Office of the General Counsel, U.S. Office of Personnel Management, Room 5H30, 1900 E Street, N.W., Washington, D.C. 20415. All comments received on this proposed rule will be available for public inspection at the above address on business days between 9:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Stuart D. Rick, 202–632–5524.

SUPPLEMENTARY INFORMATION: The Hatch Act, 5 U.S.C. 7321 *et seq.*, controls the political activity of Federal employees and individuals employed by the District of Columbia. 5 U.S.C. 7324 generally prohibits Government employees from taking an active part in political campaigns. 5 U.S.C. 7327, however, authorizes OPM to prescribe regulations permitting Government employees to participate in political campaigns involving the municipality where they reside if certain conditions are met. For municipalities outside the Washington, D.C. vicinity, one of these conditions is that a majority of the registered voters in the community be employed by the Federal Government.

Earlier this year, a resident of Shrewsbury Township wrote to OPM's General Counsel, alleging that "an overwhelming majority of (the Township's registered) voters are not Federally employed." An attorney from the Office of the General Counsel was disptached to investigate the matter. The investigation included interviews with Township officials, and local Federal agency, military, and post office

personnel, as well as examinations of lists showing the home addresses of employees at the nearby Federal installations. Data gathered during the investigation appear to confirm that the number of Shrewsbury Township's registered voters who are Federally employed is far below the "majority of voters" standard under the Hatch Act for a municipality outside the Washington, D.C. vicinity to be designated in this agency's regulations as an excepted locality.

A copy of this notice will be published in local newspapers serving Shrewsbury Township.

If this proposed rule is adopted, OPM will revise 5 CFR 733.124(b) to remove Shrewsbury Township, New Jersey, from the list of designated municipalities in which Federal Government employees may participate in local elections.

Office of Personnel Management.

Beverely M. Jones,

Issuance System Manager.

[FR Doc. 80-2419 Filed 1-24-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 781

Disclosure of Foreign Investment in Agricultural Land

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: It is proposed to amend the regulation and accompanying interpretation of the term "combination" published in the **Federal Register** on May 18, 1979. The proposed amendment would revise the definition of "significant interest or substantial control" of a legal entity for the purpose of determining whether such entity is a foreign person subject to the reporting requirements of the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3501 *et seq.*), the interpretation of the term "combination" which appears in § 781.2(g)(4)(ii)(D), and, the definition of "agricultural land" in order to exempt owners of small parcels from the reporting requirement. In addition, the amendment supplements the existing reporting procedure by requiring the reporting of several new pieces of information—the date the land reported was acquired or transferred, the amount or value of the purchase price yet to be paid, and the correct estimated value of the land. It is anticipated that this amendment will provide the Department with the type of information needed in order to develop a more accurate analysis concerning the extent of foreign investment in U.S. agricultural land.

DATE: In order to assure consideration, written comments must be received by March 25, 1980.

ADDRESS: Comments should be addressed to: Walter C. Ferguson, Confidential Assistant to the Administrator, Office of the Administrator, ASCS, U.S. Department of Agriculture, Room 218 Administration Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Walter C. Ferguson, Confidential Assistant to the Administrator, Office of the Administrator, ASCS, U.S. Department of Agriculture, Room 218 Administration Building, Washington, D.C. Telephone (202) 447-8165.

SUPPLEMENTARY INFORMATION:

Significant Interest or Substantial Control and "Combination"

As originally published in the **Federal Register** on February 6, 1979, the regulation established five percent as the level of interest constituting "significant interest or substantial control" of a legal entity. An interpretation of § 781.2(g)(4)(ii)(D) of the regulation, published in the **Federal Register** on May 18, 1979, indicated that five percent was an aggregate figure. Thus, for example, entities which had unrelated foreign stockholders each of whom individually owned an interest of less than five percent but all of whom in the aggregate owned an interest of five percent or more were defined as foreign persons subject to the reporting requirements of the Act.

It became clear after publication of the interpretation that its application would require business entities that no one would consider foreign-dominated to file reports. Specifically, large publicly-held U.S. corporations which, because of trading of their stock on foreign as well as U.S. exchanges, had more than five percent total foreign ownership would be considered foreign persons subject to the reporting requirements of the Act even if no single foreigner owned even as much as one percent of the corporation's stock. Such corporations are not treated as foreign under any other federal law. A requirement that they submit reports under the Act could seriously distort the total figures on agricultural foreign investment by including land that could not realistically be considered foreign-owned or subject to foreign control.

The proposed revision would deal with this problem in two ways. It would amend the interpretation of § 781.2(g)(4)(ii)(D) to make clear that the word "combination" refers only to a group of individuals, persons, or governments who are acting in concert. In addition, it would amend the definition of "significant interest or substantial control" in § 781.2(1) by adding a second standard to cover aggregate foreign ownership. Under this additional standard, aggregate interest of twenty percent or more held by unrelated individuals, persons, or governments would be considered "significant interest or substantial control" of a business entity. Thus, under the proposed revision, a legal entity which had unrelated foreign stockholders each of whom individually owned an interest of less than five percent would be defined as a foreign person only if the interests of all such foreign stockholders in the aggregate amounted to an interest of twenty percent or more in the entity.

This approach would be consistent with other federal laws, none of which regards a corporation as foreign unless at least five percent of its stock is owned by a *single* foreign entity or twenty percent is owned by foreigners cumulatively. Commerce Department regulations implementing the International Investment Survey Act (22 U.S.C. 3101-3109) define as "foreign direct investment" the direct or indirect ownership or control by *one* foreign person of ten percent or more of the voting stock of a U.S. corporation. See 15 CFR 806.15(a)(1). The Federal Communications Act prohibits granting of a broadcast license to corporations of which more than twenty percent of the capital stock is owned by foreigners (47 U.S.C. 310(b)). Similarly, the Federal Aviation Act defines as foreign air carriers corporations which are engaged in foreign air transportation and in which foreigners own a voting interest of more than twenty-five percent (49 U.S.C. 1301).

Finally, the Securities and Exchange Act of 1934 requires any persons who owns five percent or more of a class of stock required to be registered with the Securities and Exchange Commission and who acquires additional stock of that class to notify and provide details of the transaction to the issuer of the stock, the exchanges on which the stock is traded, and the Commission (15 U.S.C. 78m(d)(1)). This requirement suggests that Congress considered a five percent interest in a business entity held by a single person to be a significant interest.

The proposed revised definition of "significant interest or substantial control" of a business entity under the Agricultural Foreign Investment Disclosure Act is consistent with the general approach of these other statutes. Its application would yield the information necessary to make a more realistic assessment of the extent of foreign investment in American agricultural land.

Definition of Agricultural Land

At present, all land in excess of one acre used for the production of agricultural, forestry, or timber products must generally be reported. As a result, many individuals holding small amounts of land used for growing trees or agricultural products have filed reports. Since the Department feels that information about such holdings is not of significant value, it is proposed to exempt generally all agricultural, forestry, and timber land not exceeding 10 acres in the aggregate. However, if the products grown on land used for an agricultural purpose are sold and return more than $1,000 in annual gross sales receipts, then such land must be reported even though it is ten acreas or less in size.

In addition to the foregoing, it should be noted that the parameters of agricultural, forestry, or timber production have been further clarified by the parenthetical reference to certain activities set forth in the Standard Industrial Classification Manual. The activities enumerated therein are merely illustrative and in no way exhaustive of the type of activity which may cause land to be classified as reportable.

Proposed Rule

In consideration of the foregoing, it is proposed to amend Part 781 of 7 CFR as follows:

1. Section 781.2 is amended to read as follows:

§ 781.2 Definitions.

* * * * *

(b) *Agricultural land.* Land in the United States which is currently used for, or if idle and its last use within the past five years was for, agricultural, forestry, or timber production (including activities set forth in the Standard Industrial Classification Manual (1972), Division A, exclusive of Industry numbers 0711–0783, 0851, and 0912—animal trapping, game management, hunting carried on as a business enterprise, trapping carried on as a business enterprise and wildlife management), except: (1) in the case of land producing agricultural products, land not exceeding ten acres in the aggregate from which the agricultural products, if sold, return less than $1,000 in annual gross sales receipts; and, (2) in the case of land producing forestry or timber products, land not exceeding ten acres in the aggregate.

* * * * *

(g) *Foreign Person.* * * *

Interpretation

As used in § 781.2(g)(4)(ii)(D), the word "combination" refers to a group of individuals, persons or governments acting in concert.

* * * * *

(1) *Significant interest or Substantial control means:* (1) an interest of five percent or more in a legal entity held by a single individual referred to in paragraph (g)(1), single person referred to in paragraph (g)(2), or single government referred to in paragraph (g)(3); or (2) an interest of twenty percent or more in the aggregate held by individuals referred to in paragraph (g)(1), persons referred to in paragraph (g)(2), or governments referred to in paragraph (g)(3), even though such individuals, persons, or governments may not be acting in concert.

2. Section 781.3 is amended by changing paragraphs (b) and (c) to read as follows:

§ 781.3 Reporting requirements.

* * * * *

(b) * * *

(6) The purchase price paid for, or any other consideration given for, such interest; the value of such purchase price or consideration yet to be given; the current estimated value of the land reported;

* * * * *

(8) when applicable the name, address and relationship of the representative of the foreign person who is completing the ASCS–153 form for the foreign person;

(9) * * *; and

(10) The date the interest in the land was acquired.

(c) * * *

(6) The purchase price paid for, or any other consideration given for, such interest; the value of such purchase price or consideration yet to be given; the current estimated value of the land reported;

* * * * *

(9) When applicable, the name, address and relationship of the representative of the foreign person who is completing the ASCS–153 form for the foreign person;

(10) * * *; and

(11) The date the interest in the land was acquired or transferred.

[Pub. L. 95–460, 92 Stat. 1265; 7 U.S.C. 3502]

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 Walter C. Ferguson, Confidential Assistant to the Administrator, Office of the Administrator, ASCS, U.S. Department of Agriculture, Room 218 Administration Building, P.O. Box 2415, Washington, D.C. 20013.

Signed at Washington, D.C. on January 21, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-2423 Filed 1-24-80; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 430

[Docket No. CAS-RM-79-113]

Energy Conservation Program for Consumer Products; Advance Notice of Proposed Rulemaking and Request for Public Comments Regarding Energy Efficiency Standards for Dishwashers, Television Sets, Clothes Washers, Humidifiers, and Dehumidfiers; Corrections and Extension of Comment Period

AGENCY: Department of Energy.

ACTION: Advance notice of proposed rulemaking and request for public comments; corrections and extension of comment period.

SUMMARY: This document corrects and extends the comment period of an advance notice of proposed rulemaking regarding energy efficiency standards for dishwashers, television sets, clothes washers, humidifiers and dehumidifiers that appeared in the **Federal Register** of December 13, 1979 (44 FR 72276). The comment period is being extended to allow commenters more time to submit data requested in this rulemaking.

DATES: Written comments by April 30, 1980.

ADDRESS: Send comments to: Carol A. Snipes, U.S. Department of Energy, Office of Conservation and Solar Energy, Room 3235, Mail Station 2221C, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376–1651.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, U.S. Department of Energy, Division of Buildings and Community Systems, Consumer Products Efficiency Branch, room 2248, 20 Massachusetts

Avenue, NW., Washington, D.C. 20585, (202) 376-4814.
Carol A. Snipes, (Hearing Procedures), U.S. Department of Energy, Office of Conservation and Solar Energy, Room 3235, Mail Station 2221C, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376-1651.
William J. Dennison, U.S. Department of Energy, Office of General Counsel, Room 3228, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376-4100.

SUPPLEMENTARY INFORMATION: FR Doc. 79-37852 appearing at page 72276 in the **Federal Register** is corrected as follows:

1. The last sentence of column one, page 72280, now reading "Room humidifiers have heaters or other means to evaporate the water used for humidification" is deleted.

2. The first two lines of the second paragraph of column two, page 72280, now reading "Because of the differences in the source of heat for evaporating the water" is changed to read, "Because of the difference in evaporating the water."

3. Paragraph number 19 of column two, page 72282, is deleted and a new paragraph 19 is added to read "19. Design Options—list the features of the design of the model that make it a more energy efficient unit than other models of comparable utility. Refer to Table IV for a listing of the type of design options to be identified."

4. Paragraph number 20 of column two, page 72282 is deleted and a new paragraph 20 is added to read, "20. Enter the estimated "real life" energy savings associated with each design option as the percentage difference between the energy consumption of the model and what the actual or projected energy consumption of the model is or would be if it did not incorporate the design option into its design."

5. The first sentence of paragraph number 21 of column three, page 72282, now reading "21. Product Characteristics—Refer to Table III, Column C" is changed to read, "22. Product Characteristics—Refer to Table IV, Column C."

6. A new paragraph is added at the top of column three, page 72282, to read "21. Enter the energy savings associated with each design option determined in accordance with the DOE test procedures. Quantify this energy savings in terms of a percentage as directed in 20."

Issued in Washington, D.C., January 15, 1980.

T. E. Stelson,

Assistant Secretary, Conservation and Solar Energy.

[FR Doc. 80-2426 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 182, 184, 186

[Docket No. 79N-0095]

Sodium Dithionite and Zinc Dithionite; Proposed Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm the generally recognized as safe (GRAS) status of sodium dithionite (hydrosulfite) as a direct human food ingredient and of zinc dithionite (hydrosulfite) as an indirect human food ingredient. The safety of these ingredients has been evaluated as part of the agency's comprehensive safety review. The proposal would list as GRAS sodium dithionite as a direct food substance and zinc dithionite as an indirect food substance.

DATE: Written comments by March 25, 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: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive safety review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposed regulations initiating this review (see the **Federal Register** of July 26, 1973 (38 FR 20040)). As part of this review, the safety of sodium dithionite (hydrosulfite) and zinc dithionite (hydrosulfite) has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), FDA proposes to affirm the GRAS status of sodium dithionite as a direct human food ingredient and of zinc dithionite as an indirect human food ingredient. The GRAS status of other sulfur-containing substances is considered in proposals on sulfates and sulfiting agents.

FDA notes that the traditional names for these ingredients have been "sodium hydrosulfite" and "zinc hydrosulfite." These names are ambiguous in that they may also be applied to other compounds (see the "Merck Index," 9th Ed., p. 1115). Because these ingredients are salts of dithionous acid, the agency proposes to use the names "sodium dithionite" and "zinc dithionite" in preference to "sodium hydrosulfite" and "zinc hydrosulfite," respectively. This preference accords with the practice of the Chemical Abstracts Service in the naming of these chemical substances.

The dithionites of sodium ($Na_2S_2O_4$) and zinc (ZnS_2O_4) are free-flowing white powders that are extremely soluble in water. In air, especially moist air, both compounds are rapidly oxidized to bisulfites and bisulfates. In dilute solutions, dithionites decompose, with the formation of sulfur dioxide and colloidal sulfur.

Metal dithionites are used commercially as reducing agents in polymerization processes and textile manufacturing, and for bleaching wood pulp, soap, molasses, glue, oils, and fats.

Sodium dithionite solutions have been used to prevent black spot on frozen and ice-stored crustaceans. However, according to information obtained from the National Marine Fisheries Service, Department of Commerce, sodium dithionite is not used on crustaceans consumed in the United States.

Sodium dithionite has unpublished GRAS approval for use as an antioxidant in the brewing of beer in amounts such that no residue of sodium dithionite shall remain in the beer, and subject to a limitation of 25 parts per million (ppm) sulfur dioxide in the finished product (Adjunct, Reference Memorandum, United States Brewers Association, Washington, DC, Industry Circular No. 68-S). Except for this use of sodium dithionite in brewing beer, dithionites have not been approved for use as direct food ingredients.

Both sodium and zinc dithionites are listed (as hydrosulfites) in § 182.90 (21 CFR 182.90) as GRAS substances migrating to food from paper and paperboard products used in food packaging, under a regulation published in the **Federal Register** of June 17, 1961 (26 FR 5421). In addition, both sodium and zinc dithionites are listed (as hydrosulfites) in § 177.2800(d)(5) (21 CFR 177.2800(d)(5)) as substances employed in the production of or added to textiles and textile fibers coming into contact with dry food.

The amount of sodium dithionite that could be ingested as a result of direct use in beer brewing can be estimated from U.S. Department of Commerce data on beer consumption and from FDA field inspection reports on the rate of sodium dithionite usage in breweries. Sodium dithionite is added to beer in a mixture with sodium carbonate and sodium erythorbate. It is estimated that 660,000 pounds of antioxidant mixture were added to beer in 1970, compared

with 464,000 pounds in 1960. These totals correspond to potential per capita (18 years of age and over) consumption rates of 2 grams (g) per year in 1970 and 1.7 g per year in 1960. These estimates of annual poundage and average consumption are upper limits, because sodium dithionite is one of three components of the antioxidant mixture and because dithionites in aqueous solution readily decompose to other sulfur products.

There are currently no data available on the amounts of dithionites present in paper and paperboard good-packaging materials. Therefore, no quantitative estimate of the amount of dithionites migrating into food can now be made. Inasmuch as dithionites act as bleaching agents in the paper-making process, dithionites must undergo oxidation in order to function. Because dithionites and their oxidation products are water soluble, most of them should be removed with the water mechanically removed from the paper. EDA therefore concludes that paper processed in this manner should contain no more than trace amounts of dithionites and their oxidation products and that the expected migration of these substances from packaging materials into food is extremely small.

Dithionites (hydrosulfites) have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. Fifty-six abstracts on dithionites were reviewed, and 19 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (the Select Committee), chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

Oral administration of up to 1 g sodium hydrosulfite per kg body weight to dogs was without any apparent untoward effect, except that in many instances vomiting occurred. Details of the tests were not given. Rats showed no adverse reactions to intravenous injections of 25 to 50 mg per kg sodium hydrosulfite. At 100 mg per kg, labored breathing appeared during the actual injection and persisted for 5 to 10 minutes, followed by recovery. At 150 mg per kg, labored breathing increased markedly with signs of suffocation; however, doses as high as 210 mg per kg, although temporarily incapacitating, were not lethal. An intravenous dose of 240 mg per kg was fatal in 5 minutes. In a second series of tests, rats survived intravenous doses of 125 mg per kg, but succumbed to 150 mg per kg in 7 minutes.

A 10 percent sodium hydrosulfite solution administered at levels of 100 mg per kg by stomach tube was effective in preventing fatal arsenical poisoning in dogs. When given within 10 minutes after administration of a fatal dose of arsenic, 90 percent of the animals survived. No apparent adverse effects resulted from the oral administration of the sodium hydrosulfite solution.

A 5 percent solution of sodium hydrosulfite reduced the rate of natural mutagenesis by more than tenfold in an unstable heredity strain of Bacterium prodigiosum.

No short- or long-term feeding studies or studies of possible carcinogenicity or teratogenicity of the hydrosulfites have come to the attention of the Select Committee, and no reports were found concerning absorption, metabolism, and excretion of these substance. However, since hydrosulfites are converted readily to bisulfite, bisulfate or sulfur dioxide in air or aqueous solution, absorption and metabolism of these compounds would be expected to be similar. The sulfiting agents will be evaluated in a forth-coming report of the Select Committee; evaluation of the sulfates has been completed.

While no specific information on the toxicity of zinc hydrosulfite was available to the Select Committee, a number of other zinc salts, such as zinc carbonate, and zinc sulfate, have been evaluated and found to be without adverse effects in doses approximating 50 mg per kg body with per day. Such doses greatly exceed those that would result from migration of zinc hydrosulfite into foods from paper or paperboard packaging materials.

Qualified scientists of the Select Committee have carefully evaluated all of the available safety information on hydrosulfites (dithionites). In the Select Committee's opinion:

Information on the toxicity of sodium hydrosulfite is extremely limited. Nevertheless, the available data indicate that the oral administration of up to 1 g of the sodium salt per kg body weight does not cause significant harm in dogs, and the intravenous injection of 25 to 50 mg per kg has resulted in no apparent ill effects in rats. These doses are many orders of magnitude greater than those that could result from the consumption of foods packaged in sodium hydrosulfite-containing paper and paperboard packaging materials.

Because zinc compounds, such as the carbonate and sulfate do not elicit adverse effects when administered orally to experimental animals at levels of 50 mg per kg, and sodium hydrosulfite is without apparent adverse effects at equivalent levels, it is reasonable to conclude that zinc hydrosulfite would react similarly.

The Select Committee concludes that there is no evidence in the available information on sodium hydrosulfite and zinc hydrosulfite that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used in food-packaging materials as now practiced or as they might reasonably be expected to be used for such purposes in the future. Based upon its own evaluation of all available information on dithionites, FDA agrees with this conclusion. FDA therefore concludes that no change in the current GRAS status of sodium and zinc dithionites as substances migrating to foods from paper or paperboard products used in food packaging is justified.

The agency has also evaluated the safety of the direct use of sodium dithionite as an antioxidant in beer brewing. The Select Committee report described toxicity studies in which sodium dithionite did not produce significant ill effects in dogs and rats. In addition, sodium dithionite readily decomposes in aqueous solution to sulfate, sulfite, and/or sulfur dioxide and colloidal sulfur. At the levels of use of sodium dithionite in beer, these decomposition products do not pose significant health problems. Therefore, the agency concludes that the existing data and information on sodium dithionite form an adequate basis for affirming the GRAS status of this ingredient as an antioxidant in beer brewing, subject to good manufacturing practice.

In the past, FDA routinely adopted food grade specifications on indirect GRAS substances. The agency has concluded that, as a general rule, food grade specifications are not necessary to assure the safety of an indirect GRAS substance, provided the substance is of a purity suitable for its intended use in accordance with § 170.30(h)(1). This conclusion is based on the fact that indirect uses generally result in extremely low levels of consumer exposure to the additive and correspondingly low levels of exposure to any impurities that may be present. If food grade specifications are found necessary in a particular case to assure the safety of an indirect GRAS ingredient, the agency will include them in the regulation. The agency intends to publish a proposal in the near future to amend its procedural regulations in Part 186 to reflect this new policy regarding specifications for indirect GRAS substances.

In the case of zinc dithionite, FDA concludes that specifications are not necessary. Therefore, the proposed

regulation governing the use of zinc dithionite as an indirect GRAS ingredient does not include food grade specifications.

In the past, when a substance has been listed in Part 182 as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without there being a separate listing in Part 186. In light of § 184.1(a), FDA has reconsidered its traditional practice of establishing separate listings in Part 186 for substances it affirms as GRAS for direct use in Part 184 and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless it is necessary based on safety considerations to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of sodium dithionite. The indirect uses of sodium dithionite are authorized under §§ 184.1(a) and 184.1755.

The agency also has determined that an indirect substance whose GRAS status for indirect use is based on its affirmation as GRAS in Part 184 need not comply, as a general rule, with the purity specifications made applicable to the direct use of the substance in the Part 184 regulations, as long as it is of a purity suitable for its intended indirect use in accordance with § 170.30(h)(1). This conclusion is based on the fact that indirect uses generally result in extremely low levels of consumer exposure to the additive and correspondingly low levels of exposure to any impurities that may be present. As noted above, however, if specific purity specifications for the indirect use of a GRAS substance are necessary based on safety considerations, a regulation establishing such specifications will be promulgated in Part 186. In the case of sodium dithionite, no specific purity specifications are necessary for its indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA will publish a proposal in the near future to amend its procedural regulations in Parts 184 and 186 to reflect clearly the current policies.

Copies of the scientific literature review on dithionites and the report of the Select Committee are available for review at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Hydrosulfites (scientific literature review).	PB-228-551/AS.	A02	$4.00
Hydrosulfites (Select Committee report).	PB-262-665/AS.	A02	4.00

[1] Price subject to change.

This proposed action does not affect the current use of dithionites (hydrosulfites) for pet food or animal feed, nor does it affect the regulated uses in § 177.2800(d)(5).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Parts 182, 184, and 186 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.90 [Amended]

1. In § 182.90 *Substances migrating to food from paper and paperboard products* by deleting "Sodium hydrosulfite" and "Zinc hydrosulfite" from the list of substances.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. By adding new § 184.1755 to read as follows:

§ 184.1755 Sodium dithionite.

(a) Sodium dithionite ($Na_2S_2O_4$, CAS Reg. No. 7775-14-6), also referred to as sodium hydrosulfite and sodium hyposulfite, is a fine white powder that is extremely soluble in water. It is prepared by the reduction of sulfur dioxide with zinc powder followed by alkali treatment or by the reaction of sodium formate, sodium hydroxide, and sulfur dioxide.

(b) Sodium dithionite meets the following specifications:

(1) *Assay.* Not less than 88 percent by the Iodine Method, available upon request from the Food and Drug Administration.[1]

(2) *Limits of impurities.* Arsenic (as As), not more than 1 ppm. Heavy metals less Zn (as Pb), not more than 20 ppm. Zinc (as Zn), not more than 300 ppm. Selenium, not more than 1 ppm.

(c) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter.

(d) The ingredient is used in the manufacture of beer at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum use of 0.002 percent by weight in beer.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. By adding new § 186.1987 to read as follows:

§ 186.1987 Zinc dithionite.

(a) Zinc dithionite (ZnS_2O_4, CAS Reg. No. 7779-86-4), also referred to as zinc hydrosulfite and zinc hyposulfite, is a fine white powder that is extremely soluble in water. It is prepared by the reduction of sulfur dioxide with zinc powder.

(b) The ingredient is used as a constituent of paper and paperboard used for food packaging.

(C) The ingredient is used as levels not to exceed good manufacturing practice in accordance with § 186.1(b)(1).

FDA is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those proposed in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulations proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on the sanction later. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, if such a regulation is determined to be appropriate as a result of submission of proof of an applicable prior sanction in response to this proposal.

Interested persons may, on or before March 25, 1980 submit to the Hearing

[1] Address: Bureau of Foods, GRAS Review Branch (HFF-335) Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall 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 the hours of 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: January 9, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-2379 Filed 1-24-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 610

[Docket No. 79N-0263]

Biological Products; Labeling Standards; Position and Prominence of Proper Name

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the general biological products standards regulation concerning the position and prominence of a manufacturer's logo in relation to the proper name of the product. This action is being taken following a reinterpretation of the regulation concerning the placement and prominence of the proper name of the product.

DATE: Comments by March 25, 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: Richard E. Fisher, Bureau of Biologics (HFB–620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: Section 610.62(a) (21 CFR 610.62(a)) of the biologics regulations requires that the proper name of the product on the package label be placed above any trademark or trade name used to identify the product and be symmetrically arranged with respect to other printing on the label. The prominence required for the proper name serves as a means of immediate recognition of a specific group or category of biological products and assures that all products in this category meet uniform criteria for safety, purity, and potency.

In interpreting and applying this regulation, FDA's Bureau of Biologics (Bureau) has in the past made no distinction between the terms "trade name" and "trademark." These terms were applied interchangeably by the Bureau and were not considered mutually exclusive.

However, the term "trademark," as defined in section 45 of the Trademark Act of 1946 (15 U.S.C. 127) is separate and distinct from the definition and use of the term "trade name." A "trade name" is defined as the name used by a firm to identify its business when engaged in trade or commerce (15 U.S.C. 1127). A "trademark" is defined as any name, symbol, or device used by a firm to identify its goods and products and distinguish them from those manufactured or sold by others (15 U.S.C. 1127). The term "trademark" thus includes the name given to a product by a manufacturer and any logo used to identify the product.

In light of these statutory distinctions, FDA has reevaluated the purpose and intent of § 610.62(a) (21 CFR 610.62(a)), concerning the importance of a product's proper name and its required position and prominence of the package label. FDA concludes that a manufacturer's logo (symbol) may be placed above the proper name of a product, provided it is not more prominent than the proper name. However, all other aspects of the regulation remain unchanged.

Accordingly, FDA is amending § 610.62(a) to permit the placement of a manufacturer's logo above the proper name of the product consistent with other requirements contained in this section.

The agency has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the environment is not required. A copy of the environmental impact assessment is on file with the FDA Hearing Clerk.

Therefore, under provisions of the Federal Food, Drug and Cosmetic Act (secs. 201, 502, 701, 52 Stat. 1040–1042 as amended, 52 Stat. 1050, 52 Stat. 1055–1056 as amended (21 U.S.C. 321, 352, 371)) and of the Public Health Service Act (sec 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 610 be amended by revising § 610.62(a), to read as follows:

§ 610.62 Proper name; package label; legible type.

(a) *Position.* The proper name of the product on the package label shall be placed above any trademark or trade name identifying the product and symmetrically arranged with respect to other printing on the label, except that a manufacturer may elect to place the firm's logo (i.e., symbol or device, exclusive of the trade name or commercial name used to identify and distinguish the firm from other manufacturers) above the proper name of the product: Provided, however, the logo shall neither immediately precede nor be in any way more prominent than the proper name of the product.

* * * * * * *

Interested persons may, on or before March 25, 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. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: January 16, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 2038 Filed 1-24-80; 8:45 am]

BILLING CODE 4110-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL 1397-4]

Discretionary Authority; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: On November 27, 1979, a proposal was published (44 FR 67675) concerning discretionary authority of State and local agency officials. The proposal clarifies the requirement that plan revisions be submitted when the provisions of a State Implementation Plan (SIP) are being modified. More specifically, it clarifies that this requirement applies to those cases in which the SIP provisions stipulate that a director of a State or local agency may use discretionary authority in approving alternative methods or approaches for carrying out the provisions of the SIP. Comments received during the regular comment period which ended on December 28, 1979, indicate that interested parties needed more time to respond. This notice hereby extends the comment period on the proposal until February 25, 1980.

DATES: Comments must be submitted on or before February 25, 1980.

ADDRESSES: Written comment should be sent to Robert M. Schell, Chief, Plans Analysis Section, Control Programs Operations Branch (MD–15), Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

FOR FURTHER INFORMATION CONTACT: Robert M. Schell, telephone (919) 541–5365.

Dated: January 18, 1980.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80-2381 Filed 1-24-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1398-7]

Approval and Promulgation of Missouri; State Implementation Plan (SIP)

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking.

SUMMARY: On July 2, 1979, the State of Missouri submitted a SIP revision to comply with the requirements of Part D of the 1977 Clean Air Act Amendments. Included with the submission were variances for the Union Electric Company Labadie power plant, River Cement Company, and the Monsanto Company Queeny Plant K-Street boiler. The variances granted by the Missouri Air Conservation Commission (MACC) require these plants to comply with revised Rule 10 CSR 10–5.090. In addition to the opacity requirement, the Labadie power plant is required to come into compliance with the mass emission rate contained in Rule 10 CSR 10–5.030. These rules require existing sources in the St. Louis Air Quality Control Region (AQCR) to meet an opacity limit of 20 percent and coal-fired indirect heating sources to meet 0.12 lb/million BTU heat input. Rule 10 CSR 10–5.030 and Rule 10 CSR 10–5.090 were proposed to be approved by the Environmental Protection Agency (EPA) on October 25, 1979, at 44 FR 61384.

The variances granted by the MACC limit these plants to that required under the opacity regulation prior to its revision.

The Labadie and River Cement plants are located in areas which are designated attainment for total suspended particulate matter (TSP) at 40 CFR Part 81. The Monsanto Queeny plant is in a TSP primary nonattainment area. Emissions from these three plants are found to have no impact on reasonable further progress (RFP) in the St. Louis TSP nonattainment area. The EPA believes the variances (compliance schedules) will not prevent or interfere with attainment or maintenance of the TSP standards in the nonattainment area, and will not consume any PSD increment in the attainment areas.

The purpose of this notice is to advise the public that the EPA proposes to approve these variances and to solicit comments on this proposed action.

DATES: Comments must be received on or before February 25, 1980.

ADDRESS: Comments should be sent to William A. Spratlin, Jr., Chief, Air Support Branch, Environmental Protection Agency, Region VII, 324 E. 11th Street, Kansas City, Missouri 64106. Copies of the state submission and the EPA proposed evaluation are available at the above address. They are also available at the following locations: Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; and Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65102.

FOR FURTHER INFORMATION CONTACT: Robert J. Chanslor at 816–374–3791 (FTS 758–3791).

SUPPLEMENTARY INFORMATION: 1. *Union Electric Company's Labadie Power Plant.* Under the terms of the variance (compliance schedule) the Labadie plant is required to meet TSP limits of 0.18 lb/million BTU and 40 percent opacity. These limits are the same as required by Rule 10 CSR 10–5.030 and 10 CSR 10–5.090 prior to revision by the State of Missouri. Thus, there will be no increase in TSP emission, nor will any PSD increment be used in the attainment area. The EPA believes there will be no additional impact on the St. Louis nonattainment area because no increased emissions are allowed during the term of the variance.

The revised Missouri SIP for the St. Louis nonattainment area demonstrates reasonable further progress considering emissions from the Labadie power plant. Modeling of the Labadie particulate emissions at the 0.18 lb. per million BTU rate allowed by the compliance schedule predicts a second maximum 24-hour impact of 1.50 ug/m^3 and a second maximum annual impact of 0.12 ug/m^3 on the St. Louis nonattainment area. Continued TSP emissions at the rate allowed under the variance will not prevent an RFP demonstration and will not prevent attainment or maintenance of the primary TSP standard in the St. Louis nonattainment area.

Regulations found at 40 CFR 51.4(a)(1) require that the states hold public hearings prior to adoption of any SIP revision. Advance public notice of such hearings of at least 30 days is required by 40 CFR 51.4(b). The state satisfied the advance notice requirement as evidenced by publishers affidavits. The hearing held on June 20, 1979, is evidenced by a copy of the hearing transcript. The state is required by 40 CFR 51.6(d) to submit SIP revisions within 60 days of the adoption of the revision. The July 2, 1979, submittal date satisfies this requirement.

The Labadie compliance schedule requires that construction contracts be awarded by May 1, 1980; onsite construction commence by May 1, 1981; and construction be completed by November 1, 1982, on Unit 2 controls. Unit 3 control system construction is to be completed by January 1983. Construction of Unit 1 controls is to be complete in September 1983, and Unit 4 by November 1, 1983. Final compliance for Unit 2 is March 1, 1983; Unit 3 is May 1, 1983; Unit 1 is January 1, 1984; and Unit 4 is March 1, 1984. This schedule allows more time for compliance than is usually expected. The company explains that because of space constraints at the plant site that more in-dept planning is necessary to assure proper design, configuration, and location of the control system.

The space constraints arise because the existing emission controls are located near the company property line. Because of the limited space, care must be exercised to prevent encroachment upon the adjoining property during and after construction. Likewise, precipitator design must consider the available space. Vertical precipitators are being

considered because of the increased size required to handle the TPS emissions.

The EPA believes that because of the problems peculiar to this plant, the schedule is as expeditious as practicable.

2. *River Cement Company.* The River Cement Company is located in Jefferson County, Missouri. Jefferson County is part of the St. Louis AQCR which is attainment for total suspended particulate matter. The variance (compliance schedule) is necessary to allow the company to design and construct control equipment to meet the 20 percent opacity limit of Missouri Rule 10 CSR 10–5.090.

Missouri Rule 10 CSR 10–5.090 was revised to 20 percent opacity from 40 percent. Revised Rule 10 CSR 10–5.090 was proposed for approval by the EPA on October 25, 1979, (44 FR 61384).

The compliance schedule requires that contracts be awarded by September 1, 1979; construction commence by May 1, 1980; construction be completed by May 31, 1981; and demonstration of final compliance by June 30, 1981. The EPA believes this schedule is as expeditious as practicable.

The variance was issued by the MACC after a public hearing on June 20, 1979. The public hearing satisfies the requirements of 40 CFR 51.4(a)(1). The advance notice of the hearing satisfies the requirements of 40 CFR 51.4(b).

The EPA believes the variance will not interfere with attainment or maintenance of the TSP standards in the St. Louis nonattainment area.

3. *Monsanto Company's Queeny Plant K-Street Boiler.* The Queeny plant is located in the St. Louis TSP nonattainment area. The State of Missouri submitted a plan to attain the primary TSP standard on July 2, 1979. This plan contains a demonstration of reasonable further progress (RFP) which EPA proposed to approve on October 25, 1979, at 44 FR 61384. The emissions from the K-Street boiler are included in the RFP demonstration.

The variance (compliance schedule) for the K-Street boiler was adopted by the MACC on September 20, 1978, after a public hearing on the same date. The public hearing satisfies the requirements of 40 CFR 51.4(a)(1) and the advanced notice of the hearing satisfies the requirements of 40 CFR 51.4(b). The submittal does not satisfy the 60-day requirement of 40 CFR 51.6(d). This variance was submitted as part of the Part D plan revision as part of the RFP demonstration for the St. Louis TSP nonattainment area; thus, the EPA believes this deficiency should not affect approvability.

The schedule approved by the MACC requires that a final control plan be adopted by the Monsanto Company by April 30, 1979. Contracts are to be awarded by September 30, 1979; construction is to commence by June 30, 1980; and construction is to be completed by September 30, 1981. The incremental dates of April 30 and September 30, 1979, have been met based on information supplied by the Missouri Department of Natural Resources. Final compliance is to be demonstrated by December 31, 1981. The EPA generally considers three years to be adequate time for installation of new control systems on existing sources. The EPA believes the schedule granted for the K-Street boiler to be as expeditious as practicable. In addition the final compliance date is one year earlier than the Part D mandatory attainment date for the primary TSP standard.

The variance allows no increased emissions above that required by Missouri Rule 10 CSR 10–5.090 prior to the date this rule was revised (July 1, 1978). The old rule required existing sources in the St. Louis AQCR to meet 40 percent opacity. On December 31, 1981, the source is required to meet a 20 percent opacity limit.

PROPOSED ACTION: The EPA proposes to approve the variances (compliance schedules) adopted by the MACC for the Union Electric Company's Labadie plant, River Cement Company, and the Monsanto Company's Queeny Plant K-Street boiler.

This notice is published to invite the public to comment on whether the proposed compliance schedules should be approved as part of the Missouri SIP.

These variances were submitted to the EPA on July 2, 1979, as part of the Part D SIP revision. A Notice of Availability of the Part D plan revision was published in the **Federal Register** on July 2, 1979, (44 FR 43490) at which time the public was invited to review the revised Missouri SIP. With the publication of the Notice of Availability and the 30-day comment period allowed on this proposed rulemaking, more than 60 days will have been allowed for public inspection and comment on the Missouri SIP revision. The EPA believes this proposed action is noncomplex and that 30 days are adequate for public review and comment.

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.

This notice of proposed rulemaking is issued under the authority of section 110 of the Clean Air Act as amended.

Dated: January 10, 1980.

Kathleen Q. Camin,

Regional Administrator.

[FR Doc. 80-2487 Filed 1-24-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

46 CFR Chapter IV

[Docket No. 79-36]

Self-Policing of Independent Liner Operators; Discontinuance of Proceeding

AGENCY: Federal Maritime Commission.

ACTION: Discontinuance of Proceeding.

SUMMARY: This proceeding was instituted by advance notice of proposed rulemaking published April 16, 1979 (44 FR 22487). Public comment was requested on whether to adopt rules requiring independent ocean carriers to participate in self-policing programs and if so the appropriate nature, scope and feasibility of a policing requirement. Upon consideration of comments received we have determined not to promulgate a proposed rule at this time. Accordingly, proceedings in this matter are hereby discontinued.

FOR FURTHER INFORMATION CONTACT: Secretary, Federal Maritime Commission, Room 11101, Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: None.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-2488 Filed 1-24-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-11; RM-3149]

FM Broadcast Station in Effingham, Ill.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes the assignment of Channel 249A to Effingham, Illinois, as its second FM channel in response to a petition submitted by Olen M. Evans. A list of communities precluded by the proposal is included.

DATES: Comments must be filed on or before March 17, 1980. Reply comments must be filed on or before April 7, 1980.

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

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

SUPPLEMENTARY INFORMATION:

Adopted: January 16, 1980.

Released: January 21, 1980.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Effingham, Illinois) BC Docket No. 80-11, RM-3149.

By the Chief, Policy and Rules Division:

1. Olen M. Evans ("petitioner") has filed a petition for rule making [1] proposing the assignment of Channel 249A to Effingham, Illinois, as that community's second FM channel. The assignment is opposed by Effingham Broadcasting Company ("EBC"), licensee of both the existing Class B facility there, WCRC(FM), and the community's only AM station, WCRA.[2] EBC contends such an assignment would violate the Commission's policy against intermixture of different classes of FM facilities in the same community, and would preclude assignment of Channel 249A to several smaller communities in the area presently lacking local aural service. These points are considered in paragraphs 3 and 4, respectively.

2. Effingham (1970 pop. 9,458) is the seat of Effingham County (1970 pop. 24,608) and is located 120 kilometers (75 miles) southeast of Springfield, Illinois, at the intersection of Interstate 57 and 70. The heavy interstate traffic on these highways has generated both transport-service industries in Effingham and encouraged growth of manufacturing industries attracted by the convenience of distribution, according to petitioner. The city's population is estimated to have grown 14 percent since 1970. Petitioner notes the lack of diversity in the ownership of local media, with both local radio stations being owned by the publisher of the local daily newspaper.

3. Petitioner has expressed his willingness to construct and operate on Channel 249A if authorized, even though he would have to compete with EBC's existing Class B facility. The Commission's general policy is to permit such intermixture of classes of FM assignments where there is a willingness to compete and no other Class B channels are available (as is the case here).[3]

4. The record indicates that ten communities which presently have no local aural service and with populations greater than 1,000 would be precluded from using Channel 249A by its assignment at Effingham, including one county seat of over 3,000 population (Newton). While Effingham is a substantially larger community than any of those precluded, it does have existing fulltime service.[4] The petition does not establish whether these precluded communities would be able to utilize alternative FM assignments, nor do we have an indication of interest in such service from any of the communities mentioned. Accordingly, petitioner should determine the availability of alternate channels for assignment to those communities of over 1,000 population, and which presently lack aural service. Analysis by Commission staff indicates the following communities meet these criteria:

Newton* 3,024 (Jasper 10,741)
Louisville* 1,020 (Clay 14,735)
Teutopolis 1,249 (Effingham 24,608)
Altamont 1, 929 (Effingham 24,608)
St. Elmo 1,676 (Fayette 20,752)
Witt 1,040 (Montgomery 30,260)
Nolomis 2,532 (Montgomery 30,260)
Morrisonville 1,178 (Christian 35,948)
Kincaid 1,424 (Christian 35,948)
Edinburg 1,153 (Christian 35,948)
* County Seat

The Commission expects any parties considering the establishment of broadcast facilities in these communities to evidence their interest to the Commission by comments in this proceeding.

5. Based on petitioner's showing of Effingham's need for additional service, we believe the public interest would be served by proposing to assign the channel. Accordingly, we invite comment on petitioner's proposal to amend the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) for the following community:

City	Channel No.	
	Present	Proposed
Effingham, Ill.	239	239, 249A

6. The Commission's 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.

Notes.—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 March 17, 1980, and reply comments on or before April 7, 1980.

8. For further information concerning this proceeding, contact Mark N. Lipp, 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 written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Attachment: Appendix.

Appendix

1. Pursuant to authority found in Sections 49(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 PURPOSED 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

[1] Public Notice of the petition was given on July 18, 1978, Report No. 1134.

[2] The Champaign News Gazette, licensee of WDWS(FM) in Champaign, Illinois, filed comments urging that any assignment of the proposed channel be restricted to the mileage separation proposed by petitioner, 68.87 miles. The Commission's Rules, however, clearly establish a mileage separation standard of 65 miles for the protection of the first adjacent channel involved here and since no special circumstances have been offered, we see no reason to impose a different standard here.

[3] The Commission's action in *Tupelo, Mississippi*, 42 FCC 2d 884 (1973), deferring such an intermixed assignment did not arise, as urged by EBC, from intermixture concerns but rather from the desire to assure that nearby precluded communities facing a lack of local service would have an adequate opportunity to express interest in an alternative use of the assignment.

[4] Even so, the pattern of media ownership in Effingham may provide additional support for the assignment even if it alone does not dictate making the assignment.

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 person 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. 80-2384 Filed 1-24-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-13; RM-3173]

Television Broadcast Stations in Butte, Bozeman, and Anaconda, Mont.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes the reassignment of reserved VHF television Channel 7 from Butte, Montana, to Bozeman, Montana, as a first local commercial television assignment. Also proposed is the reassignment of Channel 2 from Anaconda, Montana, to Butte, Montana, for noncommercial educational use. These proposals are in response to a petition filed by Robert Cooper.

DATES: Comments must be filed on or before March 17, 1980. Reply comments must be filed on or before April 7, 1980.

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

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

SUPPLEMENTARY INFORMATION:

Adopted: January 16, 1980.

Released: January 21, 1980.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Butte, Bozeman and Anaconda, Montana), BC Docket No. 80-13, RM-3173.

By the Chief, Policy and Rules Division:

1. Before the Commission is a petition for rule making filed by Robert Cooper ("petitioner"), which seeks amendment of Section 73.606(b) of the Commission's Rules (the Television Table of Assignments) by the reassignment of Channel *7 from Butte, Montana, for commercial use at Bozeman, Montana, as that community's first local television service. To avoid the absence of a reserved allocation at Butte, petitioner also suggests that Channel 2, now allocated to Anaconda, Montana, can be shifted to Butte, and still provide service to Anaconda if activated. Several parties filed comments opposing the proposal in whole or on a conditional basis, though some commenters apparently did not realize Butte would not be left without a reserved assignment. For the reasons set forth in greater detail below, we have concluded that this proposal warrants further consideration in a rule making proceeding, as it holds out the prospect of a local television service for Bozeman with no adverse impact on the chances for noncommercial television in the State.

2. Bozeman (pop. 18,670), seat of Gallatin County (pop. 32,505),[1] is located in southeast Montana approximately 75 kilometers (45 miles) north of the Wyoming border and some 115 kilometers (70 miles) east of Butte. It presently has only an inactive noncommercial channel (*9) allocated to it, and receives no Grade A service from outside the community. Bozeman has three commercial radio stations and one noncommercial station. Butte (pop. 23,368), largest city of Silver Bow County (pop. 41,981), presently has four allocated commercial television channels and a single noncommercial assignment, Channel *7. Two of the four commercial allocations are in use; the other two are inactive UHF frequencies.

3. Petitioner notes that Gallatin County and Bozeman have grown steadily since, as well as before, the 1960 Census. In particular, Bozeman has grown by over 50% since 1940 while Butte's population has steadily declined in the same period. Bozeman is the site of the oldest and largest unit of Montana's higher education system, Montana State University ("MSU"), with a 1977 enrollment of 9,800. Apart from the University and retail business in the city, the surrounding county is primarily based on an agricultural economy, with some light manufacturing. Petitioner compares the steady decline in Butte's population with Bozeman's growth, and notes that the Commission's second highest television allocation priority, expressed in our *Sixth Report and Order*, 41 FCC 148 (1952), is the provision of at least one local television service to each community. Cooper concludes that the fair and equitable allocation of frequencies mandated by Section 307(b) of the Communications Act requires a more reasonable apportionment of available frequencies than one which allocates four commercial channels to a town of 23,368 while leaving a growing community of 18,670 entirely without assignments.

4. Oppositions [2] to the proposal were submitted by Garryowen Corporation, licensee of Stations KXLF-TV, Butte, Montana, KPAX-TV, Missoula, Montana, KTVQ(TV), Billings, Montana, and KRTV(TV), Great Falls, Montana; by Fred L. Gerber, Head of the Department of Film and Television at MSU; by the Governor of Montana, Thomas L. Judge; by the Rocky Mountain Corporation for Public Broadcasting ("RMCPB"); and by the Public Broadcasting Service ("PBS"). The PBS opposition is explicitly restricted to any proposal which would leave Butte without a reserved allocation; because we propose to replace Channel *7 with Channel *2 in Butte we will not discuss the PBS

[1] Population figures are taken from the 1970 U.S. Census.

[2] RMCPB's opposition was filed several weeks late and petitioner moved to strike it from the record. Because petitioner responded to the merits of the pleading, however, no prejudice has resulted and the opposition will be accepted in the interest of a full record. Petitioner also moved to dismiss Garryowen's opposition comments because they were filed late. Again, because petitioner responded to the merits of Garryowen's opposition, no one will be prejudiced by its acceptance in the interest of a full record.

opposition further. We do recognize that recent developments in satellite transmission of PBS programming may assist the development of noncommercial television service in rural states such as Montana, and believe that earlier setbacks in establishing such service in Montana do not warrant diminished concern for noncommercial reservations there.

5. Garryowen contends that Butte Channel *7 was to have been the keystone of these earlier, unsuccessful efforts to establish a state noncommercial television network, and should not be removed as long as such possibilities remain. In this it is joined by a letter from Montana's Governor, Thomas L. Judge, who wishes to preserve the option of noncommercial television as there is still some interest in such facilities within the State (which presently has no noncommercial service).[3] Mr. Gerber of MSU opposes the shift on essentially similar grounds: while noncommercial television is not yet a reality in Montana, the Butte assignment remains central to ongoing efforts toward such a system, and was to have been the original program origination site for an effort which failed in 1974 when the State legislature withdrew funding. We find no obstacle to the proposed assignment changes in these contentions, which assume Butte will be deprived of any noncommercial assignment, as we propose to replace Channel *7 with a reserved Channel *2 from Anaconda.

6. Garryowen further asserts that the Anaconda shift is an unrealistic response to such concerns, because activation of Channel *2 at Butte would cause interference to translators and to the Livingston, Montana, cable system headend. A suggested replacement of Anaconda's Channel 2 with Channel 10 from Helena is criticized as inappropriate because there is a high power translator already using that frequency in Helena, and translator service is the only off-air service presently available in some Montana communities. Garryowen contends this warrants a departure from the Commission's usual consideration of such services as secondary to television originating stations, and suggests the use of a UHF frequency in Bozeman as an alternative. Petitioner states in reply that the affected Park County translators are 103 and 140 miles from Butte, and notes the opposition is unsupported by specific references or any technical information. Cooper adds through an engineering exhibit that interference to the Livingston cable headend is unlikely, and that CARS microwave service is available as an alternative.[4]

7. We find these arguments insufficient to preclude further consideration of the Cooper proposal. Garryowen has not demonstrated that the potential tradeoff between existing translator services and a new local service is different in kind from similar issues raised in other rural areas with considerable established translator service—assuming for the moment that the posited conflict cannot be resolved through other means, such as different relay technology for the translators. Garryowen does not assert that the arguably affected services have no available alternatives. Under Section 74.702(c)(3) of the Commission's Rules, changes in the Television Table of Assignments are made without regard to translator service, and there are no extraordinary circumstances here which might warrant a different approach toward providing local television service to an underserved community in order to protect secondary services. The Helena translator will not be affected in any event because we do not presently propose to remove Channel 10 from that community for assignment to Anaconda.

8. For its part, RMCPB urges that it is important to retain the Butte noncommercial assignment for possible use by a State system, and contends that petitioner has not attempted to find an alternative commercial channel for Bozeman. Cooper responds that he did search for an available commercial VHF channel, without success. If we were to pursue a UHF frequency as a commercial alternative in a State presently lacking any UHF service whatever, we do not believe such an alternative to be particularly attractive. We would not expect the State's first UHF operation to succeed in a relatively small community.[5] Rather, because the potential for noncommercial service to Butte and the State at large can be preserved unchanged by the shift of Channel 2 from Anaconda, this proposal should be considered further in the context of a rule making proceeding.

9. Accordingly, pursuant to Section 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communciations Act of 1934, as amended, and Section 0.281 of the Commission's Rules, IT IS PROPOSED TO AMEND the Television Table of Assignments (Section 73.606(b) of the Commission's Rules) as follows with respect to the communities listed below:

City	Channel No.	
	Present	Proposed
Anaconda, Mont.	2+ —	
Bozeman, Mont.	*9	7 —, *9
Butte, Mont.	4, 6+, *7—, 18, 24	*2+, 4, 6+, 18, 24

10. Because the communities are within 250 miles of the Canadian border, Canadian concurrence in the proposed assignment changes is required.

11. The Commission's 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.

12. Interested parties may file comments on or before March 17, 1980, and reply comments on or before April 7, 1980.

13. For further information concerning this proceeding, contact Mark N. Lipp, 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 it 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 written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Attachment: Appendix.

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 TV Table of Assignments, Section 73.606(b) of

[3] Petitioner submitted a supplement to its petition on Sept. 6, 1978, purporting to demonstrate a shift in the Governor's position on his proposal. We discern no substantial change in the Governor's stance (which in any event did not address the prospect of Channel *2 as a replacement), but we will not exclude the supplement from the record as urged by Garryowen. Petitioner might have referred it to the Commission more promptly, but the later statement adds nothing to the Governor's position on this matter.

[4] Potential alternatives for providing translator services were recently expanded by Commission action authorizing use of FM microwave relay stations. *Report and Order: Amendment of Part 74 (F) and (G) and Part 78(B)*, 67 FCC 2d 209 (1978).

[5] Garryowen asked leave to file a response to petitioner's reply comments, asserting they misstated Garryowen's opposition pleading. We accepted Garryowen's response; it contains only a reiteration of its position that Bozeman is an "ideal" site for a UHF facility.

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. 80-2383 Filed 1-24-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-12; RM-3399]

Television Broadcast Station in Portland, Oreg.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a UHF television channel to Portland, Oregon, in response to a petition filed by Cascade Video, Inc. The proposal would provide for a sixth commercial television station in Portland.

DATES: Comments must be filed on or before March 17, 1980. Reply comments must be filed on or before April 7, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 16, 1980.

Released: January 21, 1980.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Portland, Oregon), BC Docket No. 80-12, RM-3399.

1. Before the Commission is a petition for rule making [1] submitted by Cascade Video, Inc. ("petitioner"). The petition seeks amendment of Section 73. 606(b) of the Commission's Rules, the Television Table of Assignments, by assigning UHF television Channel 40 to Portland, Oregon. Petitioner filed supporting comments.

2. Portland (pop. 379,967),[2] seat of Multnomah County (pop. 554,668), is located in northwest Oregon, near the Washington Border. Portland is currently assigned 5 commercial channels: Channel 2 (KATU), Channel 6 (KOIN-TV), Channel 8 (KGW-TV), Channel 12 (KPTV) and Channel 24 (4 applications pending),[3] and two noncommercial educational channels: Channel *10 (KOAP) and Channel *30 (unoccupied and unapplied for).

3. Petitioner states that the population for the Portland SMSA has shown a steady growth pattern since 1960, indicating an increase of 22.5% between 1960-70, and adds that the growth is expected to continue. It notes that a similar growth has been evidenced in the economic trends of the area, with wholesale trade increasing by 46% between 1972-1977, and the Portland labor force growing an estimated 4% in 1977 alone. Petitioner claims that the area that would be served by the proposed assignment includes three counties in Oregon (Multnomah, Clackmas, and Washington) and one county in Washington (Clark). In support of its petition, it has submitted detailed population and demographic data in order to demonstrate the need for additional commercial channel at Portland.

4. Since Portland is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 40 at Portland, Oregon, requires coordination with the Canadian Government before it can be adopted.

5. Comments are invited on the following proposal to amend Section 73.606(b) of the Television Table of Assignments, with regard to the city of Portland, Oregon:

City	Channel No.	
	Present	Proposed
Portland, Oreg	2, 6+, 8-, *10, 12, 24+, *30	2, 6+, 8-, *10, 12, 24+, *30, 40-

6. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements is contained in the attached Appendix and 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 March 17, 1980, and reply comments on or before April 7, 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 it 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.

[1] Public Notice of the petition was given on July 11, 1979, Rept. No. 1183.

[2] Population figures are taken from the 1970 U.S. Census.

[3] Pending applications on Channel 24 were filed by Channel 24, Christian Television, Inc. (BPCT-5128), Tavitac Corporation (BPCT-5200), both proposing regular service, and National Subscription Television of Portland, Inc. (BPCT-5201) and Broadcast Associates, Inc. (BPCT-5202), both proposing subscription television service.

An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

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 TV Table of Assignments, Section 73.606(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. 80-2385 Filed 1-24-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1060 and 1082

[Ex Parte No. 372]

Notice to Shippers of Freight Refused or Unclaimed at Destination

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing public comments in this proceeding.

SUMMARY: By this notice, the Commission is extending the time for filing comments in this proceeding for 90 days. The extension is being granted in response to requests filed by interested persons.

DATES: Comments in this proceeding are now due on or before April 27, 1980.

ADDRESS: Send comments and 15 copies, if possible, to: Secretary, Interstate Commerce Commission, Room 5356, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley, (202) 275-7348.

SUPPLEMENTARY INFORMATION: This proceeding was instituted by notice published in the **Federal Register** on December 12, 1979, at 44 FR 71849. Comments of interested persons were due on or before January 28, 1980. The Shippers National Freight Claim Council, Inc., has requested a 60-day extension of the time for filing comments in order to permit its members to review and approve a position at their regularly scheduled meeting on March 10, 1980. The American Trucking Associations, Inc., has requested a 90-day extension to allow its members to consider the proposed rules at their annual regional meetings during the months of March and April, 1980.

A 90-day extension appears to be warranted to permit interested parties to thoroughly consider the proposed rules and to ensure the development of an adequate record.

DECIDED: January 15, 1980.

By the Commission, George M. Chandler, Acting Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2545 Filed 1-24-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

Pacific Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of Public Hearings.

SUMMARY: The Pacific Fishery Management Council and the National Marine Fisheries Service will hold public hearings for the purpose of receiving public comments on the proposed 1980 Amendment to the "Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California Commencing in 1978," and the associated Draft Environmental Impact Statement and Regulatory Analysis.

DATES: Written comments from members of the public on the 1980 salmon plan amendment and associated documents may be submitted to the addresses listed below no later than March 9, 1980.

Individuals or organizations wishing to comment on the 1980 Amendment to the salmon fishery management plan, the supplemental environmental impact statement, and the regulatory analysis may do so at public hearings to be held as follows:

February 18, 1980—Twin Falls, Idaho
February 19, 1980—Sacramento, California
February 20, 1980—Astoria, Oregon
February 21, 1980—North Bend, Oregon
February 22, 1980—Seattle, Washington
February 22, 1980—Eureka, California

All of the above hearings will start at *7:30 p.m.* and adjourn at or about *11 p.m.* The hearings will be tape recorded and an official transcript of the proceedings will be on file and available for review at the Pacific Council and Northwest Regional Office of the National Marine Fisheries Service, (addresses shown below). A written summary will be prepared on each hearing.

ADDRESS: Send comments to: Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201 or: Donald R. Johnson, Director, Northwest

Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109.

HEARING LOCATIONS:

February 19, 1980—Little Tree Inn, 1357 Blue Lakes Blvd. No., Twin Falls, Idaho.
February 19, 1980—State Resources Bldg. Auditorium, 1416 Ninth St., Sacramento, California.
February 20, 1980—Astoria Middle School Auditorium, 1100 Klaskanine, Astoria, Oregon.
February 21, 1980—Pony Village Lodge, Virginia Ave., North Bend, Oregon.
February 22, 1980—Williamsburg Rm., Olympic Hotel, 4th and Seneca, Seattle, Washington.
February 22, 1980—Colonnada Rm., Eureka Inn, 7th and F Streets, Eureka, California.

FOR FURTHER INFORMATION CONTACT: Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, (503) 221–6352 or Donald R. Johnson, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109, (206) 442–7575.

SUPPLEMENTARY INFORMATION: The hearings will deal with the proposed management options for the 1980 ocean commercial and ocean recreational salmon fisheries off the coasts of Washington, Oregon, and California.

Spawning escapement and stock assessment data indicate that many of the 1980 salmon runs will be depressed, particularly for California chinook and Washington and Oregon coastal coho stocks, where record low runs are predicted.

The proposed management options range from more restrictive measures to measures that are less restrictive than those imposed on the ocean salmon fisheries in 1979. The management options address the resource problems and include possible changes in areas, seasons, and recreational bag limits, as well as provide for quotas and in-season management for both the commercial and recreational fisheries. Other portions of the 1979 regulations, such as minimum size limits and barbless hook requirements, etc., are recommended without change for the 1980 season.

The management alternatives developed provide a range of measures for dealing with the needs of the resource while fulfilling Indian treaty obligations and maintaining the economic viability of the fisheries. Since none of the proposed management options are mutually exclusive, the eventual impact of any particular option will depend upon the package of management measures finally selected.

The "Plan for Managing the 1980 Salmon Fisheries off the Coast of California, Oregon and Washington," which includes an assessment of the 1979 season as well as proposed management options for 1980, will be printed and mailed to all individuals and organizations who are currently on the Council's salmon plan mailing list by the beginning of the 45-day comment period on January 25. A limited number of copies will also be available at the public hearings.

Date: January 22, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-2536 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 18
Friday, January 25, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Advisory Council on Maternal, Infant and Fetal Nutrition

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Council meeting:

Name: National Advisory Council on Maternal, Infant and Fetal Nutrition.
Date and time: 9:00 a.m., February 11–13, 1980.
Place: Bank of America Building, 555 California Street, Room 2715, San Francisco, California 94103.
Purpose of meeting: The Council will continue its study of the Special Supplemental Food Program for Women, Infants and Children (WIC) and the Commodity Supplemental Food Program (CSFP), and will discuss a wide range of matters concerning the operations of these two programs.
Proposed agenda: The agenda will include discussion time for the following issues: WIC Program proposed income eligibility requirements; the WIC Program food packages; and CSFP regulations. The results from the edit committee meeting for the 1980 Council's report to the President and Congress will also be discussed. This meeting will be open to the public. As time permits, members of the public may participate in the meeting.

Persons wishing additional information about this meeting should contact Lindy Dahnk, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–8421.

Dated: January 18, 1980

Carol Tucker Foreman,

Assistant Secretary, for Food and Consumer Services.

[FR Doc. 80–2114 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–30–M

Forest Service

Forest Land and Resource Management Plan; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969 and 36 CFR 219.7, pertaining to National Forest System Land and Resource Management Planniung, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for the Forest Plan for the Wasatch-Cache National Forest.

A range of alternatives will be considered and evaluated. The selected alternative will guide the management of the Forest, establish management standards and guideline, allocate uses to specific areas of land, and will determine the resource management practices to be used. Early in the environmental analysis, Federal, State, and local agencies, organizations, and individuals who may be interested in or affected by the decision will be invited to participate in the scoping process, which includes; (a) Identification of those issues to be addressed: (b) identification of those issues to be analyzed in depth: and (c) eliminate from detailed study the issues which are not significant, or which have been covered by prior environmental review.

To accomplish this scoping effort, the Wasatch-Cache Forest will publish and announcement in appropriate newspapers and send information packets to and solicit comments from Federal, State, and local agencies; permittees and contractors; a cross-sectoin of user groups; and individuals and organizations who have expressed an interest in National Forest management in the past. The information packet will include: (a) A preliminary list of issues and concerns; (b) scoping criteria that will be used by the Wasatch-Cache Forest to screen issues and drop those that are not significant; and (c) a list of criteria that will be usd by the Wasatch-Cache Forest to rank issues and concerns according to their relative importance.

Written comments and suggestions about this process are encouraged. To be most useful, they should be sent to the Forest Supervisor, Chandler P. St. John, Wasatch-Cache Forest, 8226 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, before March 3, 1980.

Additional public participation will be encouraged throughtout the process. Specifically, the public will be asked to: (a) Review the decision criteria; (b) formulate alternatives; and (c) review the Draft Environmental Impact Statement.

The estimated date for distribution of the Draft Environmental Impact Statement is December 1981. Following a three-month public review period, a final Environmental Impact Statement will be prepared and distributed in approximately June 1982.

For further information about the planning or documents relevent to the planning process, contact: Neil Hunsaker, Wasatch-Cache Forest 125 South State Street, Salt Lake City, Utah 84138 (phone: 801 524–5188).

Dated: January 15, 1980.

Vern Hamre,

Regional Forester.

[FR Doc. 80–2373 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–11–M

Rural Electrification Administration

Tri-State Generation and Transmission Association, Inc.; Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $12,931,000 to Tri-State Generation and Transmission Association, Inc., of Thornton, Colorado. These loan funds will be used for Yampa Project deficiencies and additional coal supplies for the Craig Station.

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 of the guaranteed loan funds from Mr. Willaim Mickey, Manager, Tri-State Generation and

Transmission Association, Inc., 12076 Grant Street, Thornton, Colorado 80241.

In order to be considered, proposals must be submitted February 25, 1980 to Mr. Mickey. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Tri-State Generation and Transmission Association, Inc., 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 18th day of January, 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80–2170 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–15–M

Kansas Electric Power Cooperative, Inc.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 STAT. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $322,528,000 to Kansas Electric Power Cooperative, Inc., of Topeka, Kansas. These funds will be used to finance a 17 percent undivided interest in the 1,150 MW nuclear Wolf Creek Generating Station, Unit No. 1, located near Burlington, Kansas, and related equipment and headquarters facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Charles Ross, Executive Vice President, Kansas Electric Power Cooperative, Inc., P.O. Box 4267, Topeka, Kansas 66604.

In order to be considered, proposals must be submitted on or before February 25, 1980, to Mr. Ross. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Kansas Electric Power Cooperative, Inc., 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 18th day of January, 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80–2394 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–15–M

Soil Conservation Service

Authorization for Watershed Planning

Concerned State Conservationists of the Soil Conservation Service have been authorized to provide planning assistance to local organizations for the indicated watersheds. The State Conservationists may proceed with investigations and surveys as necessary to develop watershed plans under authority of the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and in accordance with requirements of the National Environmental Policy Act of 1969, Pub. L. 91–190.

Persons interested in these projects may contact the State Conservationists listed below:

Brandywine Creek Watershed, Broome County, New York

Dyke Creek Watershed, Allegany County, New York

State Conservationist—Robert L. Hilliard, Soil Conservation Service, U.S. Courthouse and Federal Building, Room 771, 100 S. Clinton Street, Syracuse, New York 13260; 315/423–5493

Snake River Watershed, Marshall, Pennington and Polk Counties, Minnesota

State Conservationist—Harry M. Major, Soil Conservation Service, 200 Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota 55101; 612/725–7675

Moss Neck Watershed, Robeson County, North Carolina State Conservationist—Jesse L. Hicks, Soil Conservation Service, 310 New Bern Avenue, Federal Building, Room 544, P.O. Box 27307, Raleigh, North Carolina 27611; 919/755–4165

Dated: January 18, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program.)

Joseph W. Haas,

Assistant Administrator for Water Resources.

[FR Doc. 80–2447 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–16–M

City Park Public School Critical Area Treatment RC&D Measure, Arkansas; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Maurice J. Spears, State Conservationist, Soil Conservation Service, 5029 Federal Building, 700 West Capitol Avenue, Little Rock, Arkansas 72203, telephone 501–378–5445.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the City Park School Critical Area Treatment RC&D Measure, Drew County, Arkansas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Maurice J. Spears, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include the use of shaping, grading, sprigging, sodding, placement of topsoil, fertilizing, irrigation, and the installation of diversions to reduce or control the critically eroding areas.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Maurice J. Spears, State Conservationist, Soil Conservation Service, 5029 Federal Building, 700 West Capitol Avenue, Little Rock, Arkansas 72203, telephone 501–378–5445. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are

available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 25, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Dated: January 17, 1980.

Edward E. Thomas,

Assistant Administrator for Land Resources.

[FR Doc. 80–2444 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–16–M

Grove Creek Flood Prevention RC&D Measure, Montana; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Van K Haderlie, State Conservationist, Soil Conservation Service, Federal Building, Tracy and Babcock Streets, Bozeman, Montana, telephone 406–587–5271.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Grove Creek Flood Prevention RC&D Measure, Silver Bow County, Montana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Van K Haderlie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood prevention. The planned works of improvement include a closed conduit, small dikes, road crossings, a drop structure, and sediment basins.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Van K Haderlie, State Conservationist, Soil Conservation Service, Federal Building, Tracy and Babcock Streets, Bozeman, Montana, telephone 406–587–5271. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address:

Implementation of the proposal will not be initiated until February 25, 1980.

Dated: January 17, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Edward E. Thomas,

Assistant Administrator for Land Resources.

[FR Doc. 80–2443 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–16–M

John's Creek Watershed, Ga.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue (P.O.Box 832), Athens, Georgia 30603, telephone 404–546–2273.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the John's Creek Watershed, Floyd, Walker, and Gordon Counties, Georgia.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Dwight M. Treadway, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The watershed was planned in 1967 and 1968 and approved for operations in 1969. None of the planned structural measures, consisting of 14 miles of channel modification, four single-purpose floodwater retarding structures, and one multipurpose structure for flood prevention and recreational development, have been installed. The sponsoring local organizations made the decision not to implement the project.

The finding of no significant impact has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue (P.O. Box 832), Athens, Georgia 30603, telephone 404–546–2273. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 25, 1980.

Dated: January 18, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83–566, 16 U.S.C. 1001–1008.)

Joseph W. Hass,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 80–2441 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–16–M

Marla Bay—Zephyr Heights Critical Area Treatment RC&D Measure, Nevada; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Francis C. H. Lum, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, California 95616, telephone 916–758–2200.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Marla Bay-Zephyr Heights Critical Area Treatment RC&D Measure, Douglas County, Nevada.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Francis C. H. Lum, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the reduction of erosion and sedimentation. The planned works of improvement include shaping, seeding, fertilizing, and

mulching of approximately four acres. Rock walls (1650 lineal feet) and gabions (5340 lineal feet) will be installed along eroding cut slopes to stabilize the embankment toe; 12,020 lineal feet of curb and gutter will be installed along roads; 520 lineal feet of drainage way will be rocklined; and 200 lineal feet of culvert will be installed under roads.

The Notice of Finding No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Francis C. H. Lum, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, California 95616, telephone 916–758–2200. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 25, 1980.

Dated: January 17, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Edward E. Thomas,

Assistant Administrator for Land Resources.

[FR Doc. 2446 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–16–M

Northwest Hardeeville Flood Prevention R.C. & D. Measure, South Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. George E. Huey, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina 29201, telephone 803–765–5684.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Northwest Hardeeville Flood Prevention RC&D Measure, Jasper County, South Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George E. Huey, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood prevention. The planned works of improvement include action to reduce flooding and improve water conveyance for the built-up area.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George E. Huey, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina 29201, telephone 803–765–5684. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 25, 1980.

Dated: January 17, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Edward E. Thomas,

Assistant Administrator for Land Resources.

[FR Doc. 80–2445 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–16–M

Stevens Brook Watershed, Maine; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Eddie L. Wood, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine 04473, telephone 207–866–2132.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Stevens Brook Watershed, Cumberland and Oxford Counties, Maine.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Eddie L. Wood, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The watershed project, which included a combination of land treatment and structural measures, will not be completed and will not contribute to soil and water conservation, watershed protection or flood prevention of the area.

The finding of no significant impact has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Eddie L. Wood, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine 04473, telephone 207–866–2132. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 25, 1980.

Date: January 18, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83–566, 16 U.S.C. 1001–1008.)

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Services.

[FR Doc. 80–2442 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–16–M

Town Fork Creek Watershed, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, 310 New Bern Avenue, Room 552, Federal Office Building, Raleigh, North Carolina 27611, telephone number (919) 755–4210.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500);

and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Town Fork Creek Watershed, Stokes and Forsyth Counties, North Carolina.

The environmental evaluation for this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The proposed action requires that the original plan be supplemented. The original plan called for installing conservation land treatment and flood prevention measures within the watershed area. All planned land treatment measures have been installed. Structural works to be installed consist of four structures for flood prevention.

The finding of no significant impact has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. Basic data developed during the environmental evaluation is on file and may be reviewed by interested parties at the Soil Conservation Service, 310 New Bern Avenue, Room 552, Federal Office Building, Raleigh, North Carolina 27611, telephone number (919) 755–4210. A limited number of copies of the environmental evaluation are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 25, 1980.

Dated: January 14, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008.)

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 80-2448 Filed 1-24-80; 8:45 am]

BILLING CODE 3410-16-M

Office of the Secretary

Soil and Water Resources Conservation Act of 1977 (RCA)

AGENCY: U.S. Department of Agriculture.

ACTION: Notice of Availability and Request for Comment.

SUMMARY: The Soil and Water Resources Conservation Act of 1977 (RCA), Public Law 95–192 directs the Department of Agriculture to: (1) Appraise soil, water, and related resources and their capability and limitations to meet current and projected demands; (2) Develop a conservation program setting forth the direction of the Department's future soil and water conservation efforts; (3) Ensure public participation in decisions on the appraisal and program; and (4) Transmit the appraisal and program to the President for submission to the Congress.

This action advises the public of the availability for review on January 28, 1980, of the following draft documents: (1) Appraisal 1980—Parts I and II; (2) Program Report and Environmental Impact Statement 1980; and (3) a Summary of the Appraisal, Parts I and II, and the Program Report.

The Department requests comments, suggestions, and other information on the draft documents from the public to be considered in making decisions on the final RCA appraisal and program. Comments should be sent to: RCA—Response Analysis Center, U.S. Department of Agriculture, P.O. Box 888, Athens, Georgia 30603.

DATES: Comments must be postmarked no later than March 28, 1980, and received at the RCA—Response Analysis Center no later than April 10, 1980, to be considered in decisions on the RCA.

ADDRESSES: The draft documents are available for review on the premises of local offices of the Agricultural Stabilization and Conservation Service and the Soil Conservation Service. The location and phone number of the nearest offices may be found in the local telephone directory listed under U.S. Government, Department of Agriculture.

Single copies of the draft documents may be obtained either from one of the State Conservationists of the Soil Conservation Service or from the RCA Manager as listed below:

William B. Lingle, Wright Building, 138 South Gay Street, P.O. Box 311, ALABAMA, Auburn 36830, Phone: 534–4535 Federal Telecommunications System (FTS) 205–821–8070 Commercial (CML).

Weymeth E. Long, Suite 129, Professional Bldg., 2221 E. Northern Lights Blvd., ALASKA, Anchorage 99504, Phone: 907–276–4246 (FTS & CML).

Thomas G. Rockenbaugh, 230 N. 1st Avenue, 3008 Federal Building, ARIZONA, Phoenix 85025, Phone: 602–261–6711 (FTS & CML).

Maurice J. Spears, Federal Building, Room 5029, 700 West Capitol Street, P.O. Box 2323, ARKANSAS, Little Rock 72203, Phone: 740–5445 (FTS) 501–378–5445 (CML).

Francis C. H. Lum, 2828 Chiles Road, CALIFORNIA, Davis 95616, Phone: 916–758–2200 (FTS & CML).

Robert Halstead, 2490 West 26th Avenue, P.O. Box 17107, COLORADO, Denver 80217, Phone: 327–4275 (FTS), 303–837–4275 (CML).

Jack G. Davis, Mansfield Professional Park, Route 44A, CONNECTICUT, Storrs 06268, Phone 244–2547/2548 (FTS), 203–429–9361/9362 (CML).

Otis D. Fincher, Treadway Towers, Suite 2–4, 9 East Loockerman Street, DELAWARE, Dover 19901, Phone: 487–5148 (FTS), 302–678–0750 (CML).

William E. Austin, Federal Building, P.O. Box 1208, FLORIDA, Gainesville 32602, Phone: 946–3871 (FTS), 904–377–8732 (CML).

Dwight M. Treadway, Federal Building, 355 E. Hancock Avenue, P.O. Box 832, GEORGIA, Athens 30603, Phone: 250–2275 (FTS), 404–546–2274 (CML).

Jack P. Kanalz, 300 Ala Moana Blvd., Room 4316, Federal Bldg., P.O. Box 5004, HAWAII, Honolulu 96850, Phone: 808–546–3165 (FTS & CML)

Amos I. Garrison, Jr., Room 345, 304 North 8th Street, IDAHO, Boise 83702, Phone: 554–1601 (FTS), 208–384–1601 (CML).

Warren J. Fitzgerald, Federal Building, 200 W. Church Street, P.O. Box 678, ILLINOIS, Champaign 61820, Phone: 958–5265 (FTS), 217–398–5265.

Buell M. Ferguson, Atkinson Square-West, Suite 2200, 5610 Crawfordsville Road, INDIANA, Indianapolis 46224, Phone: 331–6515 (FTS), 317–269–3785 (CML).

William J. Brune, 693 Federal Building, 210 Walnut Street, IOWA, Des Moines 50309, Phone: 515–862–4260 (FTS & CML).

John W. Tippie, 760 South Broadway, P.O. Box 600, KANSAS, Salina 67401, Phone: 752–2911 (FTS), 913–825–9535 (CML).

Glen E. Murray, 333 Waller Avenue, KENTUCKY, Lexington 40504, Phone: 355–2749 (FTS), 606–233–2749 (CML).

Alton Mangum, 3737 Government Street, P.O. Box 1630, LOUISIANA, Alexandria 71301, Phone: 497–6611 (FTS), 318–448–3421 (CML).

Eddie L. Wood, Jr., USDA Building, University of Maine, MAINE, Orono 04473, Phone: 833–7393 (FTS), 207–866–2132/2133 (CML).

Gerald R. Calhoun, Room 522, Hartwick Building, 4321 Hartwick Road, MARYLAND, College Park 20740, Phone: 301–344–4180 (FTS & CML).

Benjamin Isgur, 29 Cottage Street, MASSACHUSETTS, Amherst 01002, Phone: 413–549–0650 (FTS & CML).

Arthur H. Cratty, Room 101, 1405 South Harrison Road, MICHIGAN, East Lansing 48823, Phone: 374–4242 (FTS), 517–372–1910 (CML).

Harry M. Major, 200 Federal Bldg. & U.S. Courthouse, 316 North Robert Street, MINNESOTA, St. Paul 55101, Phone: 612–725–7675 (FTS & CML).

Chester F. Bellard, Suite 1321, Federal Bldg., 100 West Capitol Street, MISSISSIPPI, Jackson 39201, Phone: 490–4335 (FTS), 601–969–4330 (CML).

Kenneth G. McManus, 555 Vandiver Drive, MISSOURI, Columbia 65201, Phone: 276–3145 (FTS), 314–442–2271 (CML).

Van K. Haderlie, Federal Building, P.O. Box 970, MONTANA, Bozeman 59715, Phone: 585–4322 (FTS), 406–587–5271 (CML).

Benny Martin, Federal Building, U.S. Courthouse, Room 345, NEBRASKA, Lincoln 68508, Phone: 541–5300 (FTS), 402–471–5301 (CML).
Gerald C. Thola, Room 308, U.S. Post Office Building, P.O. Box 4850, NEVADA, Reno 89505, Phone: 470–5304 (FTS), 702–784–5304 (CML).
Donald C. Burbank, Federal Building, NEW HAMPSHIRE, Durham 03824, Phone: 834–0505 (FTS), 603–868–7581 (CML).
Plater T. Campbell, 1307 Hamilton Street, P.O. Box 219, NEW JERSEY, Somerset 08873, Phone: 342–5225 (FTS), 201–246–1205 (CML).
Albert W. Hamelstrom, 517 Gold Avenue, SW, P.O. Box 2007, NEW MEXICO, Albuquerque 87103, Phone: 474–2173 (FTS), 505–766–2173 (CML).
Robert L. Hilliard, U.S. Courthouse & Federal Bldg., 100 S. Clinton Street, Room 771, NEW YORK, Syracuse 13260, Phone: 950–5494 (FTS), 315–423–5493 (CML).
Jesse L. Hicks, 310 New Bern Ave., Federal Bldg., Rm. 544, P.O. Box 27307, NORTH CAROLINA, Raleigh 27611, Phone: 672–4210 (FTS), 919–755–4165 (CML).
J. Michael Nethery, Rosser Avenue & Third Street, Federal Building, P.O. Box 1458, NORTH DAKOTA, Bismarck 58501, Phone: 783–4421 (FTS), 701–255–4011 (CML).
Robert R. Shaw, Room 522, 200 North High Street, OHIO, Columbus 43215, Phone: 943–6962 (FTS), 614–469–6785 (CML).
Roland E. Willis, Agriculture Building, Farm Road & Brumley Street, OKLAHOMA, Stillwater 74074, Phone: 728–4360 (FTS), 405–624–4360 (CML).
Guy W. Nutt, Federal Office Building, 16th Floor, 1220 S.W. 3rd Avenue, OREGON, Portland 97209, Phone: 423–2751 (FTS), 503–221–2751 (CML).
Graham R. Munkittrick, Federal Bldg. & Courthouse, Box 985 Federal Square Station, PENNSYLVANIA, Harrisburg 17108, Phone: 590–2202 (FTS), 717–782–4403 (CML).
I. R. Emmanuelli, Caribbean Area, Federal Office Bldg., Rm. 633, 6th Floor, PUERTO RICO, San Juan 00918, Mailing address: GPO Box 4868, PUERTO RICO, San Juan 00936, Phone: 809–753–4206.
Donald M. McArthur, 46 Quaker Lane, RHODE ISLAND, West Warwick 02893, Phone: 401–828–1300 (FTS).
George E. Huey, 1835 Assembly Street, Room 950, SOUTH CAROLINA, Columbia 29201, Phone: 677–5681 (FTS), 803–765–5681 (CML).
Robert D. Swenson, Federal Building, 200 4th Street, S.W., P.O. Box 1357, SOUTH DAKOTA, Huron 57350, Phone: 782–2333 (FTS), 605–352–8651 (CML).
Donald C. Bivens, 675 U.S. Courthouse, TENNESSEE, Nashville 37203, Phone: 852–5471 (FTS), 615–749–5471 (CML).
George C. Marks, W. R. Poage Federal Building, 101 S. Main Street, P.O. Box 648, TEXAS, Temple 76501, Phone: 736–1214 (FTS), 817–773–1711 (CML).
George McMillan, 4012 Federal Building, 125 South State Street, UTAH, Salt Lake City 84138, Phone: 588–5050 (FTS), 801–524–5051 (CML).
Coy A. Garrett, 1 Burlington Square, Suite 205, VERMONT, Burlington 05401, Phone: 832–6794 (FTS), 802–862–6501 (CML).
Manly Wilder, Federal Bldg., Room 9201, 400 N. 8th Street, P.O. Box 10026, VIRGINIA, Richmond 23240, Phone: 925–2457 (FTS), 804–782–2457.
Lynn A. Brown, 360 U.S. Courthouse, W. 920 Riverside Avenue, WASHINGTON, Spokane 99201, Phone: 439–3711 (FTS), 509–456–3711 (CML).
Craig M. Right, 75 HIgh Street, P.O. Box 865, WEST VIRGINIA, Morgantown 26505, Phone: 923–7151 (FTS), 304–599–7151 (CML).
Jerome C. Hytry, 4601 Hammersley Road, WISCONSIN, Madison 53711, Phone: 364–5351 (FTS), 608–252–5351 (CML).
Frank S. Dickson, Jr., Federal Office Building, P.O. Box 2440, WYOMING, Casper 82601, Phone: 328–5201 (FTS), 307–265–5550.

FOR FURTHER INFORMATION CONTACT: Ernest V. Todd, RCA Manager, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, Telephone (202) 447–2771.

SUPPLEMENTARY INFORMATION: Pursuant to the Soil and Water Resources Conservation Act of 1977 (RCA), Public Law 95–192, the U.S. Department of Agriculture (USDA) has appraised the Nation's soil, water, and related resources, and has prepared four draft documents for public review and comment during the process of developing a national soil and water conservation program.

The first draft document, Appraisal 1980—Part I, was made public September 4, 1979 (44 FR page 49286, Wednesday, August 22, 1979). It includes information on the quantity and quality of soil and water resources and presents information on current soil, water, and related resource conditions, major uses of nonfederal land, laws dealing with soil and water conservation, and the impact of technology on agricultural production and conservation.

The second RCA draft document, Appraisal 1980—Part II, presents an analysis of the future demands on the Nation's nonfederal soil, water, and related resources to the year 2030. Projected economic, social, and technological conditions form the basis for determining the potential impacts on the Nation's resources of alternative levels of agricultural production. Alternative levels of resource conservation are analyzed. Data on trends in rural land ownership, and the contributions of State and local programs to soil and water conservation are also discussed.

In the third RCA draft document, the Program Report and Environmental Impact Statement 1980, seven alternative strategies for program development are outlined. Each strategy reflects a particular set of actions that could be undertaken by USDA to meet specific soil and water conservation objectives.

The fourth RCA draft document summarizes Appraisal Part I and II, and the Program Report.

Individuals, organizations, and agencies are encouraged to send written comments to the RCA-Response Analysis Center. Comments should be as specific as possible. USDA will consider all comments on the draft documents in decisionmaking on the final appraisal and program report.

Meetings

The U.S. Department of Agriculture will hold public meetings at 18 locations during the public review period. Individuals, organizations, and agencies are invited to attend one of the regional public meetings and make their views known regarding the content of the draft documents and their implications for USDA's future soil and water conservation program. Written or oral presentations will be accepted between 2 p.m. and 5 p.m., and 7:30 p.m. and 10 p.m. on the dates and at the places as follows:

Date		Location	Meeting site
1980 February			
	19	Lexington, Ky.	E.S. Good Barn Building, University of Kentucky Campus, Commonwealth Drive & Farm Road.
		Chicago, Ill.	O'Hare Ramada Inn, Mannheim and Higgins Road, Des Plaines, Illinois.
		Boston, Mass.	J. W. McCormack Court House, and Post Office, Conference, Room 208.
		Billings, Mont.	Holiday Inn West, I-90 West Exit and Mullowney Lane.
	20	Atlanta, Ga.	Stadium Hotel, 450 Capitol Avenue, SE.
		Washington, D.C.	Jefferson Auditorium, Room 1072, South Agriculture Building, Independence Avenue and 12th Street, SW.
	21	Jackson, Miss.	Metro Ramada Inn, 1525 Ellis Avenue.
		Fargo, N.D.	Oak Manor Motel, Intersection of Interstate 94 and U.S. 81.
		Roanoke, Va.	Salem-Roanoke Valley, Civic Center, Salem, Virginia.
		Spokane, Wash.	Holiday Inn, Downtown, I-90 at Division Street.
	25	Fresno, Calif.	Hacienda Motel, 2550 West Clinton.
		Lancaster, Pa.	Treadway Inn, 222 Eden Road.
	26	Des Moines, Iowa	Hyatt House Hotel, 6215 Fleur Drive.
		Dallas-Fort Worth, Tex.	Rodeway Inn, Highway 360 at 6 Flags Road, Arlington, Texas.

Date	Location	Meeting site
February		
27	Albuquerque, N. Mex.	Albuquerque Hilton Inn, 1901 University NE.
	Salt Lake City, Utah...	Salt Palace, Suite A.
28	Grand Island, Neb.....	Interstate Holiday Inn No. 2, Intersection of I-80 & South Highway 281.
	Raleigh, N.C.....	Jane S. McKimmon Center, North Carolina State University, Corner of Gorman Street & Western Blvd.

Those who want to make a statement at one of the 18 public meetings may pre-register or register at the meeting. To pre-register, contact Edward P. Cook, RCA Public Participation Leader, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, telephone (202) 447–5810 between 8 a.m. and 4:30 p.m., Monday through Friday. Those who have signed up will have first opportunity to speak. People coming to the meeting may register, upon arrival, to speak and will be taken in the order of registration.

It may be necessary to limit the time available to individual speakers, depending on the number of people who want to make a statement. If it becomes necessary to limit the speaking time, full statements may be submitted for inclusion in the record. Statements may be given to the chairperson of the meeting or sent directly to the RCA-Response Analysis Center, postmarked no later than March 28, 1980.

(Public Law 95–192 Stat. 1407, 16 U.S.C. 2001 et seq. November 18, 1977)

Dated: January 22, 1980.

Ned D. Bayley,

Acting Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 80–2552 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit

On December 12, 1979, Notice was published in the **Federal Register** (44 FR 71856), that an application had been filed with the National Marine Fisheries Service by Dr. Daniel P. Costa, Physiological Research Laboratory, Scripps Institution of Oceanography, La Jolla, California 92093, for a permit to take 25 northern elephant seals (*Mirounga augustirostris*) for the purpose of scientific research.

Notice is hereby given that on January 16, 1980, and as authorized by the provisions of the Marine Mammal Protections Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to conduct physiological studies on 25 northern elephant seals subject to certain conditions set forth therein.

This Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Date: January 16, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80–2537 Filed 1–24–80; 8:45 am]

BILLING CODE 3510–22–M

Modification of Permits

Notice is hereby given that, pursuant to the provisions of §§ 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 124 issued to Alaska Department of Fish and Game, Subport Building, Juneau, Alaska 99801 on January 23, 1976 (41 FR 4843) as modified on March 21, 1978 (43 FR 11730), and Permit No. 34 issued on July 19, 1974 (39 FR 27932), as modified on December 4, 1975 (40 FR 56701), March 19, 1976 (41 FR 11594), and March 21, 1978 (43 FR 11730), are further modified in the following manner:

1. Permit No. 34

Section B–5 has been changed to read, "This Permit is valid with respect to the taking authorized herein, until December 31, 1980."

2. Permit No. 124

Section B–3 has been changed to read, "This Permit is valid with respect to the taking authorized hereunder, until December 31, 1980."

These modifications are effective on the date of publication of this notice in the **Federal Register** (January 25, 1980).

The Permits as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, Northwest, Washington, D.C.; and

Regional Director, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Dated: January 21, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80–2538 Filed 1–24–80; 8:45 am]

BILLING CODE 3510–22–M

Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), has established a Scientific and Statistical Committee (SSC) which will meet to discuss: management plans, Council research needs, and other fishery management matters.

DATES: The meeting will convene on Thursday, March 6, 1980, at 9 a.m. and will adjourn at approximately 2 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.

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: January 22, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80–2540 Filed 1–24–80; 8:45 am]

BILLING CODE 3510–22–M

South Atlantic Fishery Management Council's Inter-Council Swordfish Steering Committee and Advisory Panel and Scientific and Statistical Committee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), has established an Inter-Council Swordfish Steering Committee, an Advisory Panel (AP), and a Scientific and Statistical Committee (SSC), which will hold joint and separate meetings. The Inter-Council Swordfish Steering Committee and AP will meet to review the contractor's draft final report on the descriptive phase of the fishery and discuss setting objectives to be obtained by managing the fishery. The SSC will meet to review the draft swordfish

fishery descriptive phase final report and discuss and prioritize research needs for the South Atlantic area.

DATES: The Inter-Council Swordfish Steering Committee and AP meeting will convene on Monday, February 11, 1980, at 10 a.m. and will adjourn at 5:30 p.m., reconvene on Tuesday, February 12, 1980, at 8 a.m. and will adjourn at 3 p.m. The SSC meeting will convene on Thursday, February 7, 1980, at 10 a.m. and will adjourn at 5 p.m., reconvene on Friday, February 8, 1980, at 9 a.m., and will adjourn at 12 noon. The meetings are open to the public.

ADDRESS: The Inter-Council Swordfish Steering Committee and AP meeting will take place at the Sheraton Inn-Airport, 1325 Virginia Avenue, Atlanta, Georgia. The SSC meeting will take place at Council Headquarters, 1 Southpark Circle, Suite No. 306, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Date: January 22, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-2539 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

[Dept. Administrative Order No. 203-17; Transmittal No. 340]

Personal Property Claims of Department of Commerce Personnel; Responsibilities for Administrative Settlement

This order effective December 27, 1979 supersedes the material appearing at 31 FR 8837 of June 24, 1966.

Section 1. Purpose. .01 This Order prescribes guidelines, implementing instructions, and responsibilities for administrative settlement and payment of claims for not more than $15,000 against the United States made by an employee of the Department of Commerce for damage to, or loss of, personal property incident to his or her service.

.02 This revision: consolidates Department Administrative Orders 203–17 and 203–22; deletes the requirement for the Secretary to submit a report of claims settled each fiscal year; increases the maximum settlement allowance for any claim to $15,000 (Section 7.); and updates the general language of this Order.

Section 2. Definitions. For purposes of this Order:

a. "Agency" means the Department of Commerce, but does not include any contractor with the United States;

b. "Employee" means a civilian officer or employee of the Department of Commerce or a member of the uniformed services under the jurisdiction of the Department of Commerce;

c. "Uniformed service" means the commissioned officers of the National Oceanic and Atmospheric Administration; and

d. "Settle" means consider, ascetain, adjust, determine, and dispose of any claim, whether by full or partial allowance or disallowance.

e. "Claimant" means the persons identified in Section 6. of this Order.

Section 3. Legal Authority. The Act of August 31, 1964, Public Law 88–558, 78 Stat. 767, as amended, (31 U.S.C. 240 *et seq.*) (the Military Personnel and Civilian Employees' Claims Act of 1964, hereinafter, the "Act"), provides that subject to any policies the President may prescribe, and under such regulations as the Secretary may prescribe, the Secretary or a designee may settle and pay an allowable claim against the United States for not more than $15,000 made by an employee of the Department or a survivor for damage to, or loss of, personal property incident to the employee's service.

Section 4. Settlement Authority. .01 The following officials are authorized as claims officers to settle any pay claims under the Act and any amendments thereto.

a. Heads of operating units; and

b. Assistant Secretary for Administration for the Office of the Secretary and for the Offices of the Federal Cochairmen of the Regional Action Planning Commissions.

.02 The authority set forth in subparagraphs a. and b., above, may be redelegated to one or more employees who shall be designated in writing as claims officers.

.03 No claim shall be settled for more than $5,000 without the prior review of the Assistant General Counsel for Administration. All claims shall receive legal review before settlement, as provided in Appendix A to this Order.

Section 5. Policy. The general purpose of the authority provided by the Act (Section 3. of this Order) is to make possible administrative settlement and payment of meritorious claims, in lieu of settlement and payment of claims by private relief bills. The general purpose, more specifically, is to make it possible for Government agencies, subject to the requirements contained in the Act, to reimbursement employees, not for any and all damage to, or loss of, personal property which they may experience, but only for unusual and unforeseen loss of or damage to personal property which is not covered by insurance, indemnity, or other contracts and which is sustained by employees, *through no fault of their own,* as an incident of their employment under circumstances in which it is only fair that the Government as their employer should make up the loss (see Section 11 of this Order for procedures involving insurance, indemnity or contract recovery from third parties).

Section 6. Claimants. .01 A claim may be filed by an employee or his or her duly authorized representative. If the employee is deceased, a claim nay be filed by the employee's (a) spouse, (b) children, (c) father or mother, or both, or (d) brothers or sisters, or both. Upon submission of a proper claim by a survivor, settlement and payment will be made to survivors in the order named.

.02 No payment will be made to a survivor who has submitted a claim if higher precedence survivors have not been notified. It is incumbent upon the claims officer to notify higher precedence survivors that a claim has been filed for an alleged loss suffered by the deceased employee. A reasonable period of time should be permitted higher precedence survivors to respond to the notification.

.03 Within any class of survivors listed in paragraph .01 of this section, only those among the class who are claimants will be paid in a portion amount of the total amount payable.

.04 Department of Commerce employees who are covered by the terms of a participating agency agreement with another agency, e.g., AID, shall submit their claim to that other agency.

Section 7. Statutory Provisions. .01 A claim is allowable under the Act only if it meets *all* of the following conditions:

a. It arose after the effective date of the Act (August 31, 1964);

b. The damage to, or loss of, personal property was incident to the employee's service;

c. The claim is presented in writing within two years after it accrues, except that if the claim accrues in time of war or in time of armed conflict in which any armed force of the United States is engaged or if such a war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not later than two years after that cause

ceases to exist, or two years after the war or armed conflict is terminated, whichever is earlier;

d. If the loss or damage occurred at quarters occupied by the claimant within the fifty States or the District of Columbia, such quarters must have been assigned to him or otherwise provided in kind by the United States;

e. The loss or damage was not caused wholly or partly by the negligent wilful, or wrongful act of the employee or other claimant, or the agent or employee of either of them. The claimant must affirmatively demonstrate to the satisfaction of the Department that this essential requirement is fulfilled;

f. The claim is substantiated as set forth in Section 10. of this Order; and

g. The possession of the property by the employee is determined to have been reasonable, useful, or proper under the attendant circumstances at the time of the loss or damage.

.02 The maximum allowance on any claim is $15,000, and property may be replaced in kind at the option of the Government. The claimant must furnish satisfactory proof of the value of the property.

.03 The settlement of a claim under the provisions of the Act and implementing Department of Commerce orders shall be final and conclusive.

.04 No more than 10 per centum of the amount paid in settlement of each individual claim submitted and settled under the authority of this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim and the same shall be unlawful, any contract to the contrary notwithstanding. As provided in the Act, any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Section 8. Administrative Policy—Allowable Claims. Section 5. of this Order sets forth the general policy basis for the Act. The requirements contained in the Act for allowable claims are enumerated in Section 7. of this Order. Examples of types of damages and losses of personal property which, subject to those requirements, would be allowable are:

a. Losses or damages when employees were compelled by circumstances to evacuate from the transportation in which they were traveling on official business.

b. Losses suffered by employees through theft of personally owned hand tools used on the job and stored at the place of their employment provided by the Government.

c. Loss of or damage to personal belongings while stored in Government buildings caused by natural disasters, fire, water, or wind.

d. Losses or damages suffered by employees stationed at a remote location due to damage caused by natural disaster.

e. Losses or damages as a direct result of extraordinary risks to which the employee or the property has necessarily been subjected in the performance of official duties, such as in connection with a civil disturbance, public disorder, or public disaster, or efforts to save Government property or human life where the situation was such that the employee could have saved his or her own property had he or she not so acted.

f. Abandonment or destruction of property by reason of a military emergency or by order of superior authority.

g. Losses or damages due to unpredictable behavior of animals.

h. Losses or damages occurring in shipments provided by the Government, e.g., via Government vessels, Government charter of commercial vessels, or by Government bills of lading on commercial vessels, including storage, on-loading, and off-loading incident thereto.

i. Loss of or damage to personal and household goods (including motor vehicles and trailers) moved or shipped incident to the requirements of the employee's Government service, subject to Section 9. of this Order.

j. Losses or damages where property is used for the benefit of the Government at the direction or with the approval of superior authority.

k. Losses or damages where the proximate cause of such damage or loss was the negligent act or omission of agents or employees of the Government acting within the scope of their employment, absent any negligence of the employee.

Section 9. Unallowable Claims. .01 The following types of claims will not ordinarily be payable (in addition to those which do not meet the conditions contained in Section 7. of this Order):

a. Claims for theft from the possession of the employee unless positive evidence clearly establishes the existence of a theft or burglary, the loss is otherwise allowable, the property meets the conditions in paragraph 12.05 of this Order, and the employee, his or her dependents and agents took all reasonable and practicable protection and security measures.

b. Claims for articles of extraordinary value or which may be easily pilferable, such as jewelry, cameras and accessories, binoculars, watches, furs, valuable articles of gold, silver, other precious materials, paintings, antiques other than bulky furnishings, relics, when shipped with household goods or as unaccompanied baggage (shipment includes storage). Claims for loss of or damage to such articles when properly checked or in the personal custody of the employee may be allowed, provided that all reasonable and practicable protection and security measures have been taken. The employee shall furnish satisfactory proof that such measures have been taken.

c. Claims for loss of money, currency, or intangible property, such as bank books, checks, notes, stock certificates, bonds, money orders, and travelers' checks, except when deposited for safekeeping with an authorized Government agent, or when lost incident to a marine, rail, aircraft, or other public transportation disaster, public disorder, or natural disaster such as fire, flood, hurricane, etc., or when lost under other circumstances clearly indicating that the employee had taken all reasonable and practicable protection and security measures and that a theft or burglary had occurred. Where the theft occurred from the employee's living quarters, and such loss is not excluded by subparagraphs 7.01d. of this Order, or .011. of this section, the employee must show, among other things, that the property was in a locked container and that the quarters themselves were securely locked.

d. Claims for loss of or damage to motor vehicles or trailers, except as indicated in Section 8. of this Order.

e. Claims for worn-out or unserviceable property.

f. Claims for loss or damage to the extent recovered by reason of insurance, indemnity, subrogation, assignment, or other contracts, or torts of third parties.

g. Claims for any losses of insurers and other subrogees.

h. Claims for property owned by the United States unless the employee is financially responsible for it.

i. Claims for property normally used for private business or profit.

j. Claims for fees for obtaining estimates of the cost of repair of the property damaged, except when approved by the claims officer concerned as (1) necessary and unavoidable expenses of submitting a claim, (2) reasonable in relation to the value of the property and cost of repairs, and (3) not deductible from the cost of repairs if the work is accomplished by the estimator.

k. Claims for property acquired, possessed, or transported in violation of

law, regulations, or orders of competent authority.

l. Claims of employees outside the United States for property located in their quarters when the employee is a local inhabitant.

.02 Employees are encouraged to carry private insurance against damage to or loss of their personal property. Such insurance is desirable to cover risks specifically excluded or limited by these, or other, regulations. Employee motor vehicles are expected to be employee insured.

Section 10. Substantiation of Claims. Each claim shall be accompanied by statements of any witnesses and by relevant and material documentary or other evidence available relating to the claim, including the value of the property lost or damaged (see Appendix A.).

Section 11. Recovery from Third Parties and Assignment of Claims. .01 When it appears that property has been damaged or lost under circumstances in which an insurer, carrier, warehouseman, contractor or other party may be responsible, the claimant shall promptly make a written and timely demand or claim on that third party. No such demand need be made if in the opinion of the claims officer or legal counsel it would be impracticable, or recovery insignificant, or circumstances precluded making timely demand, and the claim appears to be allowable under these rules.

.02 If the claimant has submitted or intends to submit a claim under these rules, a copy of the demand on the third party and any related correspondence shall be submitted to the claims officer. The claimant then and thereafter shall also promptly notify the claims officer of any action or proposed action by the third party, including offers of settlement, partial settlement, or denial of liability. In addition, before accepting any settlement, the claimant shall obtain the approval of the claims officer.

.03 When the claimant recovers from third parties a sum greater than or equal to the claimant's total loss determined to be allowable under these rules, the agency will, of course, make no further payment to the claimant. When the amount recovered from third parties is less than the total loss determined to be allowable by the agency, then the agency may compensate the claimant for the difference which may not exceed $15,000.

.04 When a third party is responsible for the loss or damage to an employee's property, and the agency compensates the claimant in advance of payment by the third party, the claimant shall assign to the agency (the United States Government) the claimant's right, title and interest in the claim against a third party to the extent the agency makes payment to the claimant. The claimant shall also furnish the agency all evidence and other cooperation to assist the agency in enforcing the claim against the third party. The claimant shall also, so as not to receive any excess payment after being compensated by the agency, promptly notify the claims officer of any payments the claimant then receives from a third party and repay the agency the amount due it, from any payments received through a third party.

.05 The agency shall pay no claim unless the General Counsel or designee decides that this section has been complied with.

Section 12. Computation of Awards.

.01 The amount awarded on any item of property will be based upon its estimated fair market value at the time and place of the loss or damage (to the extent practicable).

.02 The amount normally payable for property lost, or damaged beyond economical repair, is found by determining its depreciated value immediately before loss or damage, less any salvage value. If the cost of repair is less than the depreciated value, it will be considered to be economically repairable, and only the cost of repair will be allowable. As used herein, cost of repair means cost of restoring the property to the condition it was in at the time of the damage.

.03 When, at the option of the agency, settlement of a claim is made by replacement of property in kind, such replacement shall be made with property of equivalent nature, quality, and quantity, as determined by the agency.

.04 Depreciation in value of an item is determined by considering, among other things, the type of article involved, its cost, condition when lost or damaged beyond economical repair, and the time elapsed between the dates of its acquisition and accrual of the claim.

.05 Claims will be payable only for such types and quantities of personal property the possession of which shall be determined to have been reasonable, useful or proper under the circumstances at the time of the loss or damage, taking into consideration among other factors the danger of harm occurring to the property.

.06 Claims for antiques, relics, heirlooms, and items purchased at unreasonably high prices shall, if otherwise allowable, be allowed only for the reasonable purchase price of substitute articles of a similar functional nature, quality, and quantity, disregarding the nonintrinsic value of the articles.

Section 13. Internal Procedures.

.01 Officials having settlement authority, as prescribed in Section 4. of this Order, shall establish internal procedures for prompt and efficient receipt, investigation, and settlement of claims. Established procedures shall include provision for review for legal sufficiency prior to settlement of claims as provided in paragraph 4.03 and Appendix A of this Order.

.02 Appendix A includes Form CD-224, "Employee Claims for Loss of or Damage to Personal Property," and suggested procedures and policies which may be adapted for use in settling claims.

Guy N. Chamberlin, Jr.,

Assistant Secretary for Administration.

Appendix A.—Claims Procedures

A. *Submission of Claim.* .01 *Claim Forms.* Claimants shall submit to the operating unit's claims officers in duplicate Form CD-224 (Exhibit 1), "Employee Claim for Loss of or Damage to Personal Property," together with one copy of supporting evidence as indicated in paragraph .02 of this section, and an original and four copies of SF-1034, "Public Voucher for Purchases and Services Other Than Personal." The claimant's careful compliance with the requirements in the preparation of a claim will expedite adjudication by avoiding delays arising from the need to obtain additional information from the claimant.

.02 *Evidence in Support of Claim.* In addition to the information required on the claims form, the following evidence should be submitted when applicable, or a statement indicating why such evidence is not available or practicable to obtain:

a. *General.* (applicable to all claims)

1. Corroborating statements from a person or persons who have personal knowledge of the facts concerning the claim.

2. Statement of property recovered or replaced in kind.

3. Itemized bill of repair for any damaged property which has been already repaired.

4. At least one written estimate of the cost of repairs from a competent person, sufficiently identified, who is experienced or knowledgeable in the cost of the needed repairs in the current market.

5. Proof of original cost or current value in the form of purchase receipts or similar documents.

6. A claim filed by an agent or survivor shall be supported by a power of attorney or other satisfactory evidence of authority and standing to file. (See paragraph 6.01 of this Order.)

7. Statement concerning any insurance coverage or any warehouseman, carrier or other third party responsibility, and any reimbursement or recovery obtained from such insurer or third party. The identity of the insurer or other third party, the type of insurance or other coverage, and any claim or demand by the claimant upon such party should be described and copies of

correspondence attached. If the claimant has insurance or basis for a claim or demand upon such third party, and has not submitted a claim or demand, the claimant's failure to do so should be explained. (See Section 11. of this Order.)

8. Copy of orders or other evidences to establish claimant's right or property to be, or to have the claimant's property located, at place of loss or damage.

b. *Thefts or Losses in Allowable Quarters or at Other Authorized Places.* In addition to items listed in subparagrah a. of this paragraph:

1. Geographic location of the loss.

2. If in quarters, whether they were assigned or provided in kind by the Government and by whom, and whether they were regularly occupied by the claimant; or, if storage, name of authority, if any, who designated such place.

3. Security measures or precautions taken to protect the property involved. Attention will be given to the degree of care normally exercised in the locale of the loss because of any unusual risks of theft or other loss that may be involved at that location.

4. Facts and circumstances surrounding the loss or theft, including how the larceny or burglary occurred, capture of the thief, property recovered, reports made at the time to police or others, and such related information.

c. *Transportation Losses.* In addition to items listed in subparagraph a. of this paragraph:

1. Copy of orders authorizing the travel, transportation or shipment, or statement explaining their absence and setting forth their substance.

2. All bills of lading, and inventories of property shipped.

3. Description of action taken to locate missing property.

4. Where property was turned over to a transportation or supply officer or contract packer or shipper, a statement indicating the identity or designation of such party, the date and place where the property was turned over and its condition, date of shipment and reshipment and copy of all manifests, bills of lading and contracts, date and place of delivery and unpacking of property to claimant, statements of disinterested witnesses as to property's condition when received, whether damage was caused by negligence of a Government employee acting within the scope of his/her employment, and whether the last carrier was given a clean receipt.

d. *Money, Intangibles or Other Property Deposited for Safekeeping, Transmittal or Other Authorized Disposition.* In addition to items listed in subparagraph a. of this paragraph:

1. Identity of the person or persons who received the property and any others involved, and the disposition requested.

2. Identity of the individual who authorized such person or persons to accept the property.

3. Receipts and written statements explaining the failure to account for the property or return it to the claimant.

e. *Property Used for Benefit of Government.* In addition to items listed in subparagraph a. of this paragraph, a statement from proper authority that the property was required to be supplied by the claimant in the performance of official duty at the request or direction or with the approval of superior authority.

f. *Waiver of Required Evidence.* Any of the evidence required above may be waived by the claims officer or legal counsel in instances where the claim appears otherwise reasonable and proper and the obtaining and submission of such evidence would be unduly costly or time-consuming in relation to the amount of the claim.

.03 Where the employee's supervisor has knowledge of the incident which is the basis for the claim, the employee should submit the claim form with its supporting evidence to the supervisor. The supervisor, properly identified, shall attach to the claim a brief statement regarding knowledge of the incident and the claim, before the claim is submitted in accord with the operating unit's procedures to the claims officer.

B. *Claims Officer and Legal Counsel Procedures.* .01 The claims officer shall receive, review, examine, and investigate claims. Employees in addition to the claimant shall cooperate in providing information about a claim to the claims officer, who shall also consult with legal counsel as desirable.

.02 The claims officer shall prepare a brief memorandum commenting on the merits of the claim, its denial or acceptance, and determining what amount, if any, shall be paid in settlement thereof.

.03 Legal counsel for the head of the organization unit or for the Assistant Secretary for Administration shall review the claims officer's file and memorandum on each claim, and investigate further if necessary. Legal counsel shall indicate approvals, partial disapprovals, and disapprovals via notation and signature on the claims officer's determination memorandum and return to the claims officer. In the event of an unresolved conflict between the legal counsel and the claims officer, the claim with the appropriate file and legal memoranda shall be forwarded to the Department's Assistant General Counsel for Administration for final determination of denial or settlement.

.04 Claims to be paid in excess of $5,000 shall be forwarded to the Assistant General Counsel for Administration for review.

.05 The claims officer shall process claims as follows:

a. *Payment of Claims.* The original of the claim forms (without supporting evidence), the original and one copy of the SF–1034, along with the original of the determination memorandum, and approval notations including any legal determinations and opinions shall be sent to the accounting office for certification and payment. Claims are paid from the organizational unit's appropriated funds.

b. *Notice of Disapproved Claims.* In the event a claim is not approved for payment or is approved only for partial payment, the claims officer shall advise the claimant in writing of the action taken and the reasons for its as stated in the supporting memoranda.

c. *Related Documents.* The claims officer shall retain all documents relating to the claim other than those required by the accounting officer, subject to disposal as may be provided by record retirement rules.

.06 Settlement of a claim by a full or partial allowance or disallowance by the approving authority shall be final and conclusive. However, any claimant may request reconsideration of the adjustment or determination of a claim upon establishing an error in the settlement or presenting new evidence not available at time of settlement. Such request for reconsideration shall be made in writing and submitted to the claims officer within six months from the date the claimant received notice of the adjudication of a claim. The request shall be processed in accord with the procedure contained in this section.

BILLING CODE 3510–17–M

EXHIBIT 1

DAO 203-17

FORM CD-224
(7-26-66)
(PRESCRIBED BY
DAO 203-17)

U.S. DEPARTMENT OF COMMERCE

EMPLOYEE CLAIM FOR LOSS OF OR DAMAGE TO PERSONAL PROPERTY

(31 U.S.C. 240 et seq.)

INSTRUCTIONS: Submit in duplicate to Operating Unit Claims Officer. **Please type.**

NAME OF EMPLOYEE	BUREAU OR OFFICE	
	CITY	TEL. NO. AND AREA CODE
NAME AND ADDRESS OF CLAIMANT *(If claimant is other than employee, submit names and addresses of all parties in interest (See A.O. 203-17 Section 2)*	LOCATION OF LOSS OR DAMAGE	
	DATE OF LOSS OR DAMAGE	TOTAL AMOUNT OF CLAIM

DESCRIPTION OF PROPERTY

ITEMIZED LISTING	DATE ACQUIRED	PURCHASE PRICE OR VALUE	VALUE WHEN LOST OR DAMAGED	ESTIMATED REPAIR COST

CLAIM IS FOR ☐ LOSS ☐ DAMAGE *(Check One)* BRIEF STATEMENT OF CIRCUMSTANCES:

WAS PROPERTY INSURED?	IF ANSWER IS "YES," GIVE NAME OF INSURER, AMOUNT OF INSURANCE CARRIED, AND RESULTS OF EFFORTS TO COLLECT IT.
☐ YES ☐ NO	

CRIMINAL PENALTY FOR PRESENTING A FRAUDULENT CLAIM OR MAKING FALSE STATMENTS: Fine of not more than $10,000 or imprisonment for not more than 5 years or both (See 62 Stat. 698, 749; 18 U. S. C. 287, 1001)

CIVIL PENALTY FOR PRESENTING A FRAUDULENT CLAIM: The claimant shall forfeit and pay to the United States the sum of $2,000, plus double the amount of damages sustained by the United States. (See R. S. Sec. 3490, 5438; 31 U. S. C. 231.)

ADMINISTRATIVE PENALTY: Removal from the service.

I make this claim with full knowledge of the penalties for making a false claim, and certify that I am entitled to any payments.

DATE	IF CLAIMANT IS NOT OWNER, STATE RELATIONSHIP	SIGNATURE OF CLAIMANT

[FR Doc. 80-2512 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-C

USCOMM-DC 1341-P71

[Dept. Organization Order No. 5-1; Transmittal No. 476]

Deputy Secretary of Commerce; Duties and Responsibilities

This order effective January 2, 1980 supersedes the material appearing at 34 FR 6707 of April 19, 1969 and 44 FR 15523 of March 14, 1979.

Section 1. Purpose. .01 The purpose of this Order is to describe the duties and responsibilities of the Deputy Secretary of Commerce, a new position established by section (2)(b)(1) of Reorganization Plan No. 3 of 1979 on international trade functions. The President made that provision of the Reorganization Plan effective by Executive Order 12175 of December 7, 1979. Under the Plan, the Deputy Secretary is appointed by the President by and with the advice and consent of the Senate, receives compensation at the rate payable for Level II of the Executive Schedule, and performs such duties and exercise such powers as the Secretary may from time to time prescribe.

.02 The position of Under Secretary of Commerce which was established under section 1 of the Act of June 5, 1939 (ch. 180, 53 Stat. 808; 15 U.S.C. 1502, 1503) was abolished by section 2(b)(2) of Reorganization Plan No. 3 of 1979. The effective date for this action will be included in an executive order to be issued putting into effect the substance of the international trade functions in the Reorganization Plan.

Section 2. Duties and Responsibilities. .01 The Deputy Secretary of Commerce shall perform the duties of the Secretary of Commerce as Acting Secretary in case of the absence or sickness of the Secretary and in case of a vacancy in the Office of the Secretary.

.02 The Deputy Secretary shall serve as the principal deputy to the Secretary in all matters affecting the Department of Commerce. In this capacity, the Deputy Secretary will perform continuing and special duties as the Secretary may assign from time to time, including, as may be specified by the Secretary, the exercise of policy direction for and general supervision of organizational units and personnel not placed under other Secretarial Officers.

All Department Orders referring to the Under Secretary of Commerce are hereby constructively amended to refer to the Deputy Secretary of Commerce.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2513 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order No. 10-1; Amdt. 5; Transmittal No. 477]

Assistant Secretary for Science and Technology; Delegation of Authority

This order effective January 2, 1980 further amends the material appearing at 41 FR 18536 of May 5, 1976, 41 FR 26593 of June 28, 1976, 42 FR 40963 of August 12, 1977, 43 FR 39167 of September 1, 1978 and 44 FR 63127 of November 2, 1979.

Department Organization Order 10-1 of April 9, 1976 is hereby further amended as shown below. The purpose of this amendment is to: (a) delegate to the Assistant Secretary certain of the authorities formerly delegated to the Assistant Secretary for Industry and Trade; and (b) establish and prescribe the functions of the Office of Industrial Development.

Section 3. Delegation of Authority. The following new subparagraphs are added to read as follows:

"j. Encourage greater commercialization of proven resource recovery technology pursuant to Sections 5001 (2), (3) and (4) of the Solic Waste Disposal Act, as amended (42 U.S.C. 6951);

"k. Develop markets, with the cooperation and consultation of the Director of the Bureau of the Census and the Chief Economist, as required, for recovered materials and promote resource recovery technology pursuant to Sections 5003 and 5004 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6953 and 6954)."

Section 5. Office of Science and Technology. A new paragraph d. is added to read as follows:

"d. The *Director, Office of Industrial Development* shall carry out the following functions:

"1. Develop the institutional and information resources needed by industries and available within the capabilities of the Office for sectoral wide productivity improvement and innovation;

"2. Provide program management for technology related programs developed to assist selected industries and develop, revise and update selection criteria for the industries to be assisted; and

"3. Represent the Assistant Secretary with respect to coordiantion of the industry specific programs being conducted in other Federal, State and local agencies as well as sectoral programs carried out by the private sector."

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2514 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order No. 10-3; Transmittal No. 484]

Under Secretary for the International Trade Administration; Authority and Functions

This order effective January 2, 1980 supersedes the materials appearing at 42 FR 64721 of December 28, 1977, 43 FR 27224 of June 23, 1978, 43 FR 35523 of August 10, 1978, 44 FR 55026 of September 24, 1979, and 44 FR 66229 of November 19, 1979.

Section 1. Purpose. .01 This Order establishes the International Trade Administration (ITA) and prescribes the scope of authority and the functions of the Under Secretary for International Trade. The organizational structure and the assignment of functions are prescribed in Department Organization Order 40-1, "International Trade Administration".

.02 This Order includes the authorities assigned to the Secretary by Reorganization Plan No. 3 of 1979, as made effective by Executive Order 12188 of January 2, 1980. These authorities became effective January 2, 1980, except those in paragraph 4.01jj. which are effective April 1, 1980.

.03 The Industry and Trade Administration is abolished.

.04 The International Trade Administration ("ITA") is hereby established as a primary operating unit of the Department of Commerce.

Section 2. Administrative Designation. .01 The Under Secretary for International Trade, established by section 2(c) of Reorganization Plan No. 3 of 1979, shall be head of the International Trade Administration. The President made that provision of the Reorganization Plan effective by Executive Order 12188 of January 2, 1980. The Under Secretary is appointed by the President by and with the advice and consent of the Senate. The Under Secretary for International Trade shall be assisted by a Deputy Under Secretary for International Trade, who shall be appointed by the Secretary and who shall be the principal deputy for the Under Secretary for International Trade and shall act, in the event of the absence or disability of the Under Secretary for International Trade, or a vacancy in the Office of the Under Secretary, in the place of the Under Secretary in all matters pertaining to international trade

or the International Trade Administration.

.02 The position of Assistant Secretary of Commerce, established by Public Law 80–191 (15 U.S.C. 1505), currently designated as the Assistant Secretary for Industry and Trade, is redesigned the Assistant Secretary for Trade Administration. The two Assistant Secretaries of Commerce established by section 2(d) of Reorganization Plan No. 3 of 1979, which was made effective by Executive Order 12188 of January 2, 1980, are designated the Assistant Secretary for International Economic Policy and the Assistant Secretary for Trade Development, respectively. The Assistant Secretaries are appointed by the President by and with the advice and consent of the Senate.

.03 This Order abolishes the positions of Deputy Assistant Secretary for Administrative and Legislative Policy, Deputy Assistant Secretary for International Economic Policy and Research, Deputy Assistant Secretary for Trade Regulation, Deputy Assistant Secretary for Domestic Business Development, and Deputy Assistant Secretary for Field Operations, respectively.

.04 This Order continues the positions of Deputy Assistant Secretary for East-West Trade and Deputy Assistant Secretary for Export Development.

.05 This Order establishes the positions of Deputy Assistant Secretary for International Economic Policy, Deputy Assistant Secretary for Trade Agreements, Deputy Assistant Secretary for Finance, Investment and Services, Deputy Assistant Secretary for Policy Planning and Analysis, Deputy Assistant Secretary for Textiles and Apparel, Deputy Assistant Secretary for Export Administration, Deputy Assistant Secretary for Import Administration, Deputy Assistant Secretary for the U.S. Commercial Service, and the Director General of the Foreign Commercial Service, respectively.

Section 3. Structure and Scope of Authority. .01 The Under Secretary for International Trade shall be assisted in carrying out his or her responsibilities, by:

a. The Deputy Under Secretary for International Trade;

b. The Assistant Secretary for Trade Administration;

c. The Assistant Secretary for International Economic Policy;

d. The Assistant Secretary for Trade Development; and

e. The Director General of the Foreign Commercial Service.

.02 The Assistant Secretary for Trade Administration shall be assisted, in carrying out his or her responsibilities, by:

a. The Deputy Assistant Secretary for Import Administration; and

b. The Deputy Assistant Secretary for Export Administration.

.03 The Assistant Secretary for International Economic Policy shall be assisted, in carrying out his or her responsibilities, by:

a. The Deputy Assistant Secretary for International Economic Policy;

b. The Deputy Assistant Secretary for Trade Agreements;

c. The Deputy Assistant Secretary for Finance, Investment and Service;

d. The Deputy Assistant Secretary for Policy Planning and Analysis; and

e. The Deputy Assistant Secretary for Textiles and Apparel.

.04 The Assistant Secretary for Trade Development shall be assisted, in carrying out his or her responsibilities, by:

a. The Deputy Assistant Secretary for the U.S. Commercial Service;

b. The Deputy Assistant Secretary for Export Development; and

c. The Deputy Assistant Secretary for East-West Trade.

Section 4. Delegation of Authority. .01 Pursuant to the authority vested in the Secretary of Commerce, the Under Secretary for International Trade is hereby delegated the following authorities of the Secretary of Commerce; provided, however, that the Secretary reserve authority to provide policy guidance and direction to the Under Secretary (and delegates) and, at the Secretary's initiative or at the request of the Under Secretary, to consult with the Under Secretary (and delegates) to the extent permitted by law concerning the exercise of the authorities delegated by this section:

a. The Act of February 14, 1903, as amended (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) to foster, promote, and develop the foreign and domestic commerce of the United States, to the extent necessary for the performance of ITA's functions;

b. The Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*) conferred on the Secretary under: (1) Executive Order 10480 of August 14, 1953, as amended, including authority to restrict surface transportation and discharge of commodities or to prohibit movement of American carriers to designated destinations, except the authority to create new agencies within the Department of Commerce; and (2) Executive Order 11912 of April 13, 1976;

c. Executive Order 11490 of October 28, 1969, as amended, as it relates to the development of national emergency preparedness plans and programs covering production and distribution of materials, production facilities, construction materials, and regulation and control of exports and imports;

d. The National Security Act of 1947, as amended (50 U.S.C. 401 *et seq.*) and Executive Order 11490 of October 28, 1969, as amended, relating to mobilization preparedness;

e. The National Defense Stockpile Program as authorized by the Strategic and Critical Materials Act (Public Law 96–41, to be codified at 50 U.S.C. 98–98h), with respect to the quality and quantity of materials acquired for the national stockpile and disposal of materials determined to be in excess of national defense requirements;

f. Executive Order 11179 of September 22, 1964, as amended, with respect to the establishment and training of the National Defense Executive Reserve;

g. Executive Order 10421 of December 31, 1952, providing for the physical security of facilities important to the national defense;

h. Section 1441 of the Public Health Service Act, as amended by the Safe Drinking Water Act (42 U.S.C. 300j) conferred on the Secretary under executive Order 11879 of September 17, 1975, involving materials allocation of chemicals or substances necessary for treatment of water;

i. The Export Administration Act of 1979 (Public Law 96–72, to be codified at 50 U.S.C. App. 2401 *et seq.*) except that the following power, authority, and discretion shall be reserved to the Secretary:

1. The determinaton required by Section 12(c) with respect to the publication or disclosure of confidential information obtained under the Act, and

2. The submission of reports to the Congress required by Section 14 of the Act;

j. Executive Order 11958 of January 18, 1977, as it relates to the carrying out, on behalf of the Department of State, of functions under Section 38(e) of the Arms Export Control Act (22 U.S.C. 2751 *et seq.*) as agreed to by the Departments of Commerce and State;

k. Executive Order 11322 of January 5, 1967, and Executive Order 11419 of July 29, 1968, relating to the Rhodesian sanctions with respect to transactions occurring prior to December 16, 1979 (Executive Order 12183 of December 16, 1979 revoked the provisions of Executive Orders 11322 and 11419 with respect to transactions occurring after December 16, 1979);

l. The Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3201 *et seq.*) and the authority under that Act conferred on

the Secretary under Executive Order 12058 of May 11, 1978, pertaining to nuclear exports and related matters;

m. Sections 103 and 251 of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) conferred on the Secretary under Executive Order 11912 of April 13, 1976, relating to: (1) export restrictions of coal, petroleum products, natural gas, or petrochemical feedstocks and supplies of material or equipment necessary to maintain or further exploration, production, refining, or transportation of energy supplies or for the construction or maintenance of energy facilities within the United States; and (2) rules to authorize the export of petroleum and petroleum products as may be necessary for implementation of the obligations of the United States under the International Energy Program;

n. Section 303 and Title VII (including Section 771(1)) of the Tariff Act of 1930 (19 U.S.C. 1303, 1671 *et seq.*) in accordance with section 5(a)(1)(C) of Reorganization Plan No. 3 of 1979 (44 FR 69273, December 3, 1979), relating to antidumping and countervailing duties, except that the authority to take final actions as "administering authority" may not be redelegated beyond the Assistant Secretary.

o. Section 305(b) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(b)) and section 5(a)(1)(A) of Reorganization Plan No. 3 of 1979, with respect to advisory rulings and final determinations concerning the origin of products;

p. Sections 514, 515, and 516 of the Tariff Act of 1930 (19 U.S.C. 1514, 1515, and 1516) and section 5(a)(1)(D) of Reorganization Plan No. 3 of 1979 insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002(b)(1) of the Trade Agreements Act of 1979;

q. Sections 318, 502 (a) and (b), and 617 of the Tariff Act of 1930 (19 U.S.C. 1318, 1502 (a) and (b), and 1617) and sections 5(a)(1)(E), 5(a)(1)(F), and 5(a)(1)(G), respectively, of Reorganization Plan No. 3 of 1979, insofar as they relate to the investigation and enforcement of antidumping and countervailing duties;

r. Section 2632(e) of Title 28 of the United States Code and section 5(a)(1)(H) of Reorganization Plan No. 3 of 1979, insofar as they relate to actions taken by the Secretary reviewable under section 516A of the Tariff Act of 1930, (19 U.S.C. 1516a);

s. Section 402 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 512), relating to the importation of foreign excess property;

t. The Educational, Scientific and Cultural Materials Importation Act of 1966 (19 U.S.C. 1202);

u. Headnote 6(d) of Schedule 7, part 2, subpart E of the Tariff Schedules of the United States (19 U.S.C. 1202), added by Public Law 89–805, pertaining to the allocation of quotas for duty-free importation into the customs territory of the United States of watches and watch movements;

v. The Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a *et seq.*), as it relates to the Secretary's authority to designate an alternate to chair the Committee of Alternates of the Foreign-Trade Zones Board and to appoint an Executive Secretary of the Board (see 15 CFR Part 400);

w. Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, regarding Textile Trade Agreements;

x. Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) and section 5(a)(1)(B) of Reorganization Plan No. 3 of 1979, relating to the conduct of national security investigations on imports;

y. Section 104 of the Trade Act of 1974 (19 U.S.C. 2114) and Section 135 of the Trade Act of 1974 as amended by Section 1103 of the Trade Agreements Act of 1979 (19 U.S.C. 2155) and Section 4(d) of Executive Order 11846 of March 27, 1975, relating to the industry consultations program;

z. Executive Order 11858, of May 7, 1975, relating to foreign investment in the United States;

aa. Section 601(b)(1) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2351(b)(1)) conferred on the Secretary under Executive Order 12163 of September 29, 1979, relating to drawing the attention of private enterprise to opportunities for investment and development in less developed friendly countries and areas;

bb. The delegation of authority, dated June 25, 1962, from the United States Information Agency under Section 5(e) of Executive Order 11034 of June 25, 1962, as amended by Executive Order 11380 of November 8, 1967, with respect to U.S. participation in trade missions abroad under the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 *et seq.*);

cc. The Act of October 18, 1962 as amended (46 U.S.C. 1122b), which authorized mobile fairs;

dd. The China Trade Act of 1922, as amended (15 U.S.C. 141 *et seq.*);

ee. Executive Order 10978 of December 5, 1961 regarding the Presidential "E" Award, "E" Certificate of Service, and "E Star" Award, except final selection of recipients;

ff. The Act of May 27, 1970 (P.L. 91–269, 22 U.S.C. 2801 *et seq.*), relating to participation of the United States in international expositions;

gg. Section 4221 of the Internal Revenue Code of 1954 (26 U.S.C. 4221) and Section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309), insofar as they relate to findings with respect to exemptions from taxes and import duties on supplies and equipment for aircraft;

hh. Sections 5(b) and 5(c) of Executive Order 11846 of March 27, 1975, relating to quantitative import restrictions and monitoring of imports under orderly market agreements;

ii. Executive Order 11961 of January 19, 1977, as amended by Executive Order 12013 of October 7, 1977, which delegates to the Secretary of Commerce the authority of the President under Sections 4(a)(1), (2), (3), and (4), and 4(b) of the International Investment Survey Act of 1976 (P.L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101–3108). The functions thereunder shall be carried out in coordination with the Bureau of Economic Analysis, Office of the Chief Economist (Department Organization Order 35–1A), including, to the extent feasible, the division or assignment of responsibilities. All regulations established to carry out functions under the Act, and reports to be submitted to the Congress, shall be issued by the Secretary;

jj. Effective April 1, 1980, the trade promotion and commercial functions transferred to the Secretary from the Department of State or the Secretary of State by section 5(b)(1) of Reorganization Plan No. 3 of 1979;

kk. The authorities of the Secretary of State under the Foreign Service Act of 1946 (22 U.S.C. 801 *et seq.*) and under other laws the exercise of which are authorized to the Secretary under section 5(b)(2) of Reorganization Plan No. 3 of 1979. This delegation is in addition to, and not in lieu of, the general delegation of personnel management authority to the Assistant Secretary for Administration, and is to be exercised and redelegated in consonance with the Departmental policies issued by the Assistant Secretary for Administration; and

ll. Section 6 of the Federal Water Pollution Control Act amendments of 1972 (Public Law 92–500; 86 Stat. 816; 33 U.S.C. 1251 nt.) relating to the preparation of a report from the Secretary of Commerce to the President and to the Congress on the effects of water pollution on international trade;

.02 The Under Secretary may exercise other authorities of the

Secretary as applicable to performing the functions assigned in this Order.

.03 Except as otherwise provided in this Order, the Under Secretary may redelegate his or her authority, subject to such conditions in the exercise of such authority as he or she may prescribe.

Section 5. Functions. The Under Secretary for International Trade, acting as such and as head of the International Trade Administration, shall be the principal officer of the Department for carrying out the policies and programs of the Department to promote world trade and to strengthen the international trade and investment position of the U.S. In this respect he or she shall carry out programs to:

.01 Promote world trade including East-West Trade, and strengthen the international trade and investment position of the U.S. through participation in overseas trade promotion events, expand the export-consciousness of U.S. firms and assist U.S. exporters through the facilities of the U.S. Commercial Service and the Foreign Commercial Service.

.02 Administer the U.S. import and export laws relating to export licensing and enforcement, regulatory programs for antiboycott compliance, antidumping and countervailing duty investigation and enforcement, industrial mobilization, foreign-trade zones, national security import investigations, and other special import programs.

.03 Provide assistance and advice on trade and investment to improve the U.S. trade position; direct and coordinate international economic policy formulation, research and analysis; operate a trade policy implementation mechanism; develop the Department's position on international trade and resource policy; advise on policy development and support on finance, investment and service issues affecting the competitive position and international operations of U.S. business; advise on the economic condition of the U.S. textile and apparel industries; and forecast and and analyze U.S. trade to identify future trade problems and recommend trade strategies.

All rules, regulations, orders, determinations, authorizations, contracts, grants, agreements, proceedings, hearings, investigations, or other actions issued, undertaken, pending or entered into by or for the predecessor Industry and Trade Administration or the Assistant Secretary for Industry and Trade or the Assistant Secretary's delegates, or with respect to functions transferred to the Secretary by Reorganization Plan No. 3 of 1979, shall continue and remain in full force and effect until they expire in due course or are revoked or amended by appropriate authority.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2515 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 10-9; Amdt.; Transmittal No. 478]

Chief Economist of the Department; Delegation of Authority

This order effective January 2, 1980 amends the material appearing at 43 FR 57939 of December 11, 1978.

Department Organization Order 10-9 is hereby amended as shown below. The purpose of this amendment is to reflect the abolishment of the Office of Industrial Economics and the establishment of the Bureau of Industrial Economics.

Section 4. Functions. Paragraph .02 is revised as follows:

.02 The Chief Economist shall exercise policy direction and general supervision over the Bureau of the Census, the Bureau of Economic Analysis, the Bureau of Industrial Economics, the Office of Economic Affairs and the Office of Federal Statistical Policy and Standards.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2516 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order No. 10-11; Transmittal No. 479]

Associate Deputy Secretary; Establishment

This order effective January 22, 1980 supersedes the material appearing at 44 FR 2411 of January 11, 1979 and 44 FR 18722 of March 29, 1979.

Section 1. Purpose. This Order establishes the position, and prescribes the responsibilities and the functions, of the Associate Deputy Secretary.

Section 2. Administrative Designation and Transfers. .01 The Associate Deputy Secretary shall report and be responsible to the Secrtary.

.02 The functions of the Office of Regional Development and certain functions of the Industry and Trade Administration are hereby transferred to the Associate Deputy Secretary.

Section 3. Delegation of Authority. The authorities of the Secretary under Executive Order 11386 and the President's memorandum of January 19, 1979 on Regional Commission support, and under the Public Works and Economic Development Act of 1965 as amended (42 U.S.C. 3181 *et seq.*) which relate to the regional commission program, except for the authority to designate or modify the boundaries of economic development regions, are hereby delegated to the Associate Deputy Secretary in the capacity of Special Assistant to the Secretary for Regional Development. This delegation includes the authority, subject to Departmental directives, to award grants and cooperative agreements in accordance with the Federal Grant and Cooperative Agreement Act of 1977, (41 U.S.C. 501 *et seq.*) in order to accomplish the purposes set forth in 42 U.S.C. 3185(a)(1).

Section 4. Functions. The Associate Deputy Secretary shall:

a. Be responsible for outreach, consultation and liaison to Commerce constituencies in the public and private sectors, the coordination of agency relations with constituencies, and the translation of constituency needs into appropriate Department and Administration responses.

b. Coordinate integrated service delivery to key client groups.

c. Develop, conduct or monitor Commercewide programs or initiatives on behalf of Administration and Secretarial objectives, as assigned by the Secretary.

d. Serve as Special Assistant to the Secretary for Regional Development, and in that capacity provide coordination and assistance on behalf of the Secretary to the Federal CoChairmen of the Regional Commissions.

e. Provide coordination of and assistance to the Secretarial Representatives, on behalf of the Secretary.

f. Serve as the Department's liaison with governors, mayors, other state and local officials, and private sector leaders.

g. Involve constituents, as appropriate, in Department policymaking and program development. Insure their awareness of Department resources, policies, and programs.

h. Convene meetings of constituents and Department officials, as necessary, to resolve problems and improve coordination in areas affecting more than one major element of the Department, and to comment on significant Department policies and programs.

i. Provide assistance to Secretarial Representatives who serve as chairpersons of Federal Regional Councils and advise the Department of Commerce member of the Interagency Coordinating Council about

Departmentwide support of Federal Regional Council activity.

j. Initiate, assist in, facilitate, or manage development and coordination of new Departmental services, approaches, or systems for meeting the Department's goals, using suitable methods, to include demonstration and pilot programs.

k. Work to improve the coordinated impact of Commerce programs both in Washington and in the field, for the benefit of users of Departmental services and for contributions to cost reduction efforts.

l. Encourage, promote, and facilitate improved coordination, cooperation, and support among the various field elements of the Department.

m. Advise the Secretary on lead and support roles of Departmental agencies when Commerce participation is required in interdepartmental groups; and serve as lead or provide staff support for inter- or intra-Departmental task forces or groups, as assigned by the Secretary.

n. Provide coordination in Washington and in the Regions for Secretarial trips to the field.

o. Administer special projects and functions, as directed by the Secretary, that impact more than one operating unit of the Department. These include ongoing activities, or functions, such as education/work and special projects of a limited duration; sensitive feasibility studies on Secretarial initiatives; and service programs in the initiation and development stage which may later be assigned to operating units.

p. Plan for, and facilitate, strengthen services to business and industry and to State, county, and municipal governments.

q. Chair Departmental committees established to encourage, foster, and monitor coordination, cooperation and support for Departmental initiatives, or for programs and services in support of initiatives.

Section 5. Organization. .01 *Office of the Associate Deputy Secretary.* The Office of the Associate Deputy Secretary shall include:

a. The Associate Deputy Secretary;

b. The Deputy Director, who shall perform such duties as are assigned by the Associate Deputy Secretary and serve as Acting Associate Deputy Secretary in the absence of that official; and

c. The Special Assistant for Minority Liaison, who shall:

1. Maintain liaison with minority individuals and organizations in the business community, State and local government, and the general public, to insure their awareness of Commerce programs and activities and to represent their viewpoints to the Associate Deputy Secretary.

2. Work with the heads of major Department programs to insure their awareness of minority needs and viewpoints, and to promote programs and activities to ensure full benefit for minorities in Commerce services.

3. Represent the Associate Deputy Secretary in maintaining liaison with officials responsible for minority affairs in other Departments, the White House, and the Congress, to keep them advised of Commerce minority programs and activities and to insure coordination of policies affecting the Department's minority population constituency.

.02 *Departmental offices.* The Associate Deputy Secretary directs and supervises the following Departmental offices:

a. The Office of Regional Development (DOO 15–5);

b. The Office of State and Local Government Assistance (DOO 22–1);

c. The Office of Program Coordination (DOO 22–2);

d. The Office of Regional Affairs (DOO 22–4); and

e. The Office of Business Liaison (DOO 22–5).

.03 *Offices receiving administrative arrangements and services.* The Associate Deputy Secretary provides and supervises the administrative arrangements for the Office of Small and Disadvantaged Business Utilization (DOO 15–9) and the Office of Consumer Affairs (DOO 22–3).

Section 6. Limitation of Authority. Nothing in this Order shall be construed to amend, modify or repeal the authorities and responsibilities assigned to program officials by other Department Orders.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2517 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order No. 20-1; Amdt. 1; Transmittal No. 475]

Office of Administrative Services; Organization and Assignment of Functions

This order effective December 28, 1979 amends the material appearing at 44 FR 2412 of January 11, 1979.

Department Organization Order 20–1, dated November 30, 1978 is hereby amended as shown below. This amendment redefines: (1) the responsibilities of the OAS; (2) functions of the Communications and Transportation Division and Property and Buildings Management Division; and Records Management Division; and (3) establishes the Policy and Program Analysis Division.

1. *Section 3. Functions.* Subparagraph 3.a. is revised to read as follows:

a. Have Departmentwide staff management responsibility for supply (other than procurement), property, library, motor vehicle, occupational safety and health, telecommunications, mail, historic preservation, energy conservation, traffic, word processing, and, as specified in Section 5., certain aspects of records management, space management and utilization, and productivity management.

2. *Section 5. Organization.* Section 5. is revised to read as follows:

Section 5. Organization

Under the direction and supervision of the Director, the functions of OAS shall be organized and carried out as provided below:

a. The *Library Division* shall provide library services for the Office of the Secretary and operating units located in the Main Commerce Building, and serve as a reference source for libraries of operating units.

b. The *Communications and Transportation Division* shall be responsible for Departmentwide review and approval of word processing acquisition and implementation; review of major changes to telecommunications systems as defined by FPMR 101–37; and shall be the focal point in the Department for coordination, and be responsible for initiation of Departmentwide policy and procedures concerning those functions assigned to its area of responsibility. The Division shall be responsible for the coordination, supervision, and implementation of policies and procedures pertaining to the following services provided by OAS for the Office of the Secretary and elements of operating units in the Main Commerce Building, assigned Commerce annexes, the Regional Commissions and, upon request, other outlying and independently operated buildings not regularly serviced by the Division: word processing, telecommunications services, including the centralized Departmental phase of the State Department's telecommunications network, mail and messenger services, travel arrangements, receiving and shipping services in the Main Commerce Building, motor pool services, imprest fund services, and distribution of publications for the Department and its component units. The Division is also responsible for preparation of the Commerce Telephone Directory.

c. The *Property and Buildings Management Division* shall serve as the principal liaison between operating units and the GSA headquarters and regional offices on all real property and space management matters, including Federal Building Fund transactions. The Division shall be responsible for initiation of Departmentwide policy and procedures concerning those functions assigned to its area of responsibility; for the assignment of space and assuring compliance with Departmental policies for space assignments and utilization practices by the Office of the Secretary and operating units in

the Washington, D.C. area; exercising personal property utilization surveillance over all operating units nationwide; providing labor services and building liaison services with GSA and all operating units in the Main Commerce building; and operating an automated personal property system for the Office of the Secretary and designated operating units. The Division shall also be responsible for the implementation and maintenance of a Commerce "Facility Self-Protection Program" as required by subparagraph 3.c. of this Order.

d. The *Records Management Division* shall exercise Departmentwide responsibility, in accordance with the provisions of 101-11.102 of the Federal Property Management Regulations, for establishment and maintenance of an active, continuing, program for the economical and efficient management of records of the Department. The Division shall among other things, provide for the effective control over the creation, organization, maintenance and use, and disposition of all Department records; cooperation with GSA in developing and applying standards, procedures and techniques designed to improve the management of records, assure the maintenance and security of records of continuing value, and facilitate the segregation and disposal of all records of temporary value; and for assuring compliance with the provisions of the Federal Records Act of 1950 and with regulations issued thereunder. The Chief, Records Management Division is responsible for maintaining Departmental liaison with the National Archives and Records Service. The Division shall perform files, records disposition, forms and correspondence management services for the Office of the Secretary and, as approved by the Assistant Secretary for Administration, for designated operating units. The Division is also responsible for operation of a central Departmental forms supply store and arranges for the disposition and retrieval of retired records for those operating units for which the Division has operational responsibilities.

e. The *Policy and Program Analysis Division* is responsible for initiation of Departmentwide policy and procedures concerning those functions assigned to its area of responsibility; for advising and supporting other OAS divisions in development of policy and procedures initiated by these divisions; and for the issuance and implementation of all Departmentwide policy and procedures developed by OAS. The Division plans the overall framework of Department programs in administrative services areas to include systems, standards, methods, procedures, reports and controls; reviews and prepares recommendations pertaining to proposed Federal/Military Specifications; when requested, prepares comments on legislation; and provides specialists, in OAS' areas of responsibility, to represent the Department on interagency study groups, committees, and task groups established by OMB, GSA, or other Executive agencies or public and private organizations. The Division reviews, evaluates, and advises the Director, Deputy Director, and other OAs division Chiefs on matters concerning newly established Government-wide regulations and procedures, Executive orders, or OMB Circulars relating to all areas of OAS staff and line responsibilities; and observes and studies the implementating of new or existing policies or procedures for impact on operating activities. The Division is also responsible for management and operations of a variety of special programs to include Energy Conservation, Historic Preservation, and Occupational Safety and Health, Combined Federal Campaign, and Savings Bond Campaign.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2518 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order No. 5; Transmittal No. 480]

Office of Business Liaison; Organization and Assignment of Functions

This order is effective January 2, 1980.

Section 1. Purpose. This Order establishes the Office of Business Liaison and prescribes its functions.

Section 2. Establishment. In accordance with the provisions of Department Organization Order 10-11 of January 1, 1980, the Office of Business Liaison is hereby established as a Departmental office.

Section 3. Status and Line of authority. The Office of Business Liaison, a Departmental office, shall be headed by a Director who is also the Special Assistant to the Secretary for Business Liaison. The Director shall report and be responsible to the Associate Deputy Secretary.

Section 4. Functions. .01 The Office of Business Liaison shall:

a. Provide a central point of contact and assistance within the Department for business representatives, firms, associations and organizations, including members of the small business community.

b. Provide outreach and consultation with the business community to obtain information for the Department on business needs and concerns; to promote business involvement in significant Department policymaking and program development; and to keep business aware of Department resources, policies and programs.

c. Work through the Secretarial Representatives and Department field officers in their regions to ensure that outreach and consultation is provided to local business firms and organizations.

d. Keep the Secretary and other Department officials regularly informed of key issues of concern or interest to the business community where the Department has lead responsibility or should be otherwise involved.

e. Evaluate business reaction to policy initiatives and programs carried out by the Department and the administration and provide policy recommendations to the Secretary and other key Department and Administration officials on these issues.

f. As appropriate, convene Department officials on significant matters of concern to the business community.

g. Coordinate Departmentwide actions concerning a significant problem or actitivity affecting the business community.

h. Initiate responses or actions, in concert with the affected Department organizations to meet the needs of the business community or to implement Department policies and goals; and to assist with the delivery of services to members of the business community.

i. As appropriate, serve as the lead or staff unit on inter- or intra-Departmental task forces or groups concerned with business assistance or policy issues affecting business.

.02 In carrying out its functions, the Office shall not represent, intervene on behalf of, or otherwise seek to assist business and individuals on specific regulatory matters, cases or issues before Federal agencies or Departments; nor shall it intervene, participate, or in any other way seek to influence the negotiation or renegotiation of the terms of any contract between a business or individual and the government.

Approved:

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2519 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order No. 35-5A; Transmittal No. 481]

Bureau of Economics; Establishment

This order effective January 2, 1980 supersedes the material appearing at 43 FR 57940 of December 11, 1978.

Section 1. Purpose. .01 This Order establishes the Bureau of Industrial Economics (BIE), delegates authority to the Director of BIE, and prescribes the functions of the Bureau.

.02 The Office of Industrial Economics is hereby abolished and its functions are transferred to the Bureau of Industrial Economics.

.03 Certain functions previously performed by the Industry and Trade Administration have been transferred to the Bureau of Industrial Economics.

Section 2. Status and Line of Authority. .01 The Bureau of Industrial

Economics is hereby established as a primary operating unit of the Department of commerce.

.02 The Bureau of Industrial Economics shall be headed by a Director who shall report and be responsible to the Chief Economist of the Department of Commerce. The Director shall be assisted by a Deputy Director who shall perform the functions of the Director during the latter's absence.

Section 3. Delegation of Authority. .01 Pursuant to the authority vested in the Secretary of Commerce, and subject to such policies and directives as the Secretary may prescribe, the Director is hereby delegated authority to perform the following functions vested in the Secretary of Commerce under:

a. The Act of February 14, 1903, as amended (15 U.S.C. 1512 *et seq.;* 15 U.S.C. 171 *et seq.)* to foster, promote and develop the foreign and domestic commerce of the United States, to the extent necessary for the performance of the Bureau's functions;

b. Headnote 2, subpart B, part 6, schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) relating to the development, maintenance and publication of a list of bona fide motor-vehicle manufacturers, and authority to promulgate rules and regulations pertaining thereto under Section 501 (2) of Title V of the Automotive Products Trade Act of 1965 (19 U.S.C. 2031); and

c. Section 264 of the Trade Act of 1974 (19 U.S.C. 2354) relating to the studies and reports and information activities in response to investigations and findings of the International Trade Commission, except that reports to be submitted to the President shall be issued by the Secretary, and responsibility for assistance in preparation and processing of petitions and applications under Subsection 264(c) shall be vested in the Assistant Secretary for Economic Development.

.02 The Director of BIE may exercise other authorities of the Secretary as applicable to performing the functions assigned in this Order.

.03 The authorities delegated to the Director may be redelegated by the Director to any BIE employee, subject to the conditions in the exercise of such authority as the Director may prescribe.

Section 4. Functions. The Bureau of Industrial Economics shall serve as the central source of objective industry data, information and analysis in the Department. It shall collect and analyze information on various industries, commodities, markets and sectors of the economy; shall carry out a research program relating to U.S. industrial performance; and shall assist in the implementation of government programs and in the development of government policies through the dissemination of such information, analysis and research results and through provision of expert staff support for Departmental participation in domestic and international forums concerned with industrial analysis and industrial policy.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration

[FR Doc. 80-2520 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order No. 35-5B; Transmittal No. 482]

Bureau of Industrial Economics; Organization and Assignment of Functions

This order is effective January 2, 1980.

Section 1. Purpose. This Order prescribes the organization and assignment of functions within the Bureau of Industrial Economics (BIE), a new primary operating unit of the Department established by Department Organization Order 35-5A.

Section 2. Organization Structure. The organization structure and line of authority of BIE shall be as depicted in the attached organization chart. A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Section 3. Office of the Director. .01 The *Director of the Bureau of Industrial Economics* shall develop policies and plans for BIE, shall set priorities for and direct and manage its operations, and shall be the Department's primary source of information and analysis on conditions in, and developments affecting, major U.S. industrial sectors.

.02 The *Deputy Director* shall assist the Director in managing BIE, shall perform the duties of the Director during the latter's absence, and shall be the contact point with Bureau clients to ensure appropriate BIE response to client needs.

.03 The *Publications and Editorial Support Staff* shall provide editorial services to all BIE components; shall review and edit all proposed Bureau publications for literary style and clarity; shall coordinate printing and distribution of the U.S. Industrial Outlook and other Bureau publications; and, in consultation with BIE components and clients, shall develop new publications which will meet clients' recurring needs for industrial data, information and analysis.

.04 The *Administrative Staff* shall provide local administrative services for BIE.

Section 4. Associate Director for Industry Analysis. .01 The *Associate Director for Industry Analysis* shall plan and manage the work of BIE's *Industry Offices;* and shall coordinate the efforts to these Offices with other elements of the Bureau. The *Industry Offices* shall include:

a. Office of Basic Industries;
b. Office of Producer Goods;
c. Office of Consumer Goods; and
d. Office of Service Industries.

.02 The *Industry Offices* shall, for the industries covered: a. Maintain continued awareness of industrial structure, production, capacity, inputs, costs, distribution, prices, profits, markets, sources of supply, operating processes, productivity, product characteristics, financial, competitive and labor conditions, international trade patterns and other factors, both domestic and international, in order to provide comprehensive assessments of current conditions and performance in the industries covered.

b. Monitor macroeconomic trends, technological changes, developments in international trade patterns, changes in government legislation, regulations and policies, and other developments, both domestic and international, in order to provide comprehensive assessments of the effect of such developments on conditions and performance in the industries covered and to assist in the early identification of problems, including the prospect of supply and material shortages.

c. Contribute to the knowledge base of government and business officials through the publication of current and prospective industry assessments in special reports, in the U.S. Industrial Outlook and in such other publications as may be developed in consultation with the Publications and Editorial Support Staff.

d. In cooperation with the Office of Industry Statistics and Data Processing, contribute to the effective implementation of Department of Commerce and other agency programs through the provision of industry information and analysis. Departmental clients for such support shall include, but not be limited to, the International Trade Administration (e.g., short supply, export development, industrial mobilization, and Industry Sector Advisory Committee programs), The Economic Development Administration (e.g., loan guarantee and trade adjustment assistance programs), the Assistant Secretary for Science and Technology (e.g., industrial policy assistance programs), the Associate Deputy Secretary (e.g., business assistance and information programs),

and the Assistant Secretary for Policy (e.g., industry policy matters).

e. In cooperation with the Office of Current Issue Analysis, contribute to the development of government policy through the provision of information and analysis concerning the industrial impact of policy proposals and alternatives. Departmental clients for such services shall include, but not be limited to, the International Trade Administration (e.g., trade policy) the Assistant Secretary for Policy (e.g., legislative and regulatory policy), and the Secretary, Deputy Secretary and Chief Economist (e.g., general economic policy). Non-departmental clients for such services shall include other Federal departments and agencies, the Office of Management and Budget, the Council of Economic Advisors, the Council on Wage and Price Stability and other elements in the Executive Office of the President.

.03 In addition to the functions set forth above, the Office of Producer Goods shall provide staff assistance to officials designated to carry out the Department's responsibilities for implementing the Agreement concerning Automotive Products between the Government of the United States and the Government of Canada, including annual and special reporting requirements; recommend certification of qualified applicants as "bona fide motor vehicle manufacturers", and maintain and prepare for publication from time to time lists of bona fide motor vehicle manufacturers under provisions of the Automotive Products Trade Act of 1965.

Section 5. Office of Current Issue Analysis. The *Office of Current Issue Analysis* shall serve as a central source of specific economic and analytical skills (e.g., microeconomics, industrial organization, labor economics, financial analysis, etc.) to supplement the broad analytical skills and industry specific expertise of the industry offices in providing the industrial information and analytical support needed by Commerce and other Federal policy officials. The Office shall conduct its work on a project-by-project basis in cooperation with the industry offices; shall provide information and analysis regarding the industrial impact associated with issues of current concern to Federal policymakers, particularly the industrial impact of international trade, legislative, regulatory and industrial policies; shall perform research on industrial problems, including such matters as cost-price relationships, short-run forecasts of industrial activity on a detailed basis, and the impact of economic conditions on businesses of varying sizes; and shall serve as the coordination point for the conduct of multi-industry studies requested by BIE clients.

Section 6. Office of Industry Statistics and Data Processing. The *Office of Industry Statistics and Data Processing* shall develop and maintain an industrial data system to aid other BIE and Department of Commerce elements in the conduct of studies and analyses; shall organize data bases, develop econometric, modelling and other analytical techniques for using such bases, and either apply these in support of BIE projects or assist other BIE elements in their application; shall cooperate with the industry offices in providing data, information and analyses to support implementation of Department of Commerce and other agency programs; and, in consultation with the Publications and Editorial Support Staff, shall develop regular publications for disseminating industry statistics to business and government officials.

Section 7. Office of Long Range Analysis. The *Office of Long Range Analysis* shall conduct research on basic, underlying issues relevant to the industrial sector. The Office shall investigate such issues as the causes of productivity behavior, the evolution of industrial structure, the adequacy of capital formation, and the causes of cost and price trends; shall conduct research on ways to improve microeconomic forecast methodologies; shall seek to define the future environment for industrial policy in light of demographic developments, evolving patterns of natural resource supply, trade pressures and other factors; and shall conduct research to identify long range, recurring problems in the industrial sector and to devise ways of dealing with them. Office research projects shall be conducted in cooperation with other BIE elements, and shall be specifically designed to support industrial policy and other long run policy decisions to be made by Commerce and other Federal officials.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2521 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order No. 40-1; Transmittal No. 483]

International Trade Administration; Organization and Assignment of Functions

This order effective January 2, 1980 supersedes the materials appearing at 42 FR 64724 of December 28, 1977, 43 FR 35522 of August 10, 1978, 43 FR 38614 of August 29, 1978, 44 FR 24618 of April 26, 1979, 44 FR 49005 of August 21, 1979, and 44 FR 66229 of November 19, 1979.

Section 1. Purpose. .01 This Order prescribes the organization and assignment of functions within the International Trade Administration (ITA). Department Organization Order 10-3 establishes ITA and prescribes the functions and the scope of authority of the Under Secretary for International Trade.

.02 This revision reflects a major reorganization of ITA in response to the President's Reorganization Plan No. 3 of 1979.

.03 Those provisions of this Order pertaining to the trade promotion and commercial functions to be transferred from the Secretary of State become effective April 1, 1980, except that those authorizing the utilization of Foreign Service personnel authorities, as specified in Section 5(b)(2) of Reorganization Plan No. 3 of 1979, become effective January 2, 1980.

Section 2. Organization Structure. The principal organization structure and line of authority of ITA shall be as depicted in the attached organization chart (Exhibit 1). A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Section 3. Under Secretary for International Trade. The Under Secretary for International Trade (the "Under Secretary") determines policy, directs the programs, and is responsible for all activities of ITA. The Under Secretary shall coordinate all issues concerning trade administration, international economic policy and programs, and trade development; and, in the absence of the Secretary of Commerce, represent the Department on the Trade Policy Committee, as ex-officio member of the Board of the Export-Import Bank of the United States and, as assigned, serve on all other Secretarial-level boards, committees, or panels of which the primary focus is international trade.

Section 4. Deputy Under Secretary for International Trade. .01 The *Deputy Under Secretary for International Trade* ("the Deputy Under Secretary") shall serve as the principal deputy to the Under Secretary for International Trade, perform such duties as the Under Secretary shall assign and perform the functions of the Under Secretary in the latter's absence or disability or in the event of a vacancy in that office. The Deputy Under Secretary shall provide advice and assistance to the Under Secretary and in coordination with the Assistant Secretary for Congressional

Affairs, perform congressional liaison functions for ITA;

.02 The Deputy Under Secretary shall be responsible for day-to-day management of ITA. The Office of the Deputy Under Secretary includes:

a. The Director General, who is head of the Foreign Commercial Service, shall be responsible for administrative management of the Foreign Commercial Service, including development and implementation of policies determining the recruitment, training and assignment of Foreign Commercial Service officers. The Director General administers the overseas network of Foreign Commercial Service offices and serves as the control in ITA for resolving any Foreign Commercial Service post resource conflicts ITA program activities may impose. The Director General also serves as the ITA representative to other U.S. agencies for administrative and management issues affecting the Foreign Commercial Service. Foreign Commercial Service responsibilities include the following:

1. Support of overseas trade promotion activities, including Export Development Offices, trade fairs, business development offices, trade missions and related activities and counselling and support to individual U.S. firms seeking export sales or assistance for procurement contracts;

2. Development of marketing and commercial intelligence for dissemination to the U.S. business community through the Worldwide Information and Trade System (WITS) related activities overseas; commercial reporting including industry reports and market research for all ITA units; and management of commercial libraries;

3. Support for ITA import and export administration activities; monitoring of U.S. rights and opportunities created by multilateral trade agreements and implementation of related export services and programs; facilitation of U.S. investment and assistance for U.S. service industries marketing initiatives;

4. Representation to host country government on behalf of U.S. business to resolve individual business problems and to further U.S. business interests; make direct representations and conduct or share in negotiations on general trade and investment issues including those relating to implementation of the MTN; assistance to U.S. business representatives to resolve trade complaints; and overseas support for Joint Commission and other trade facilitation groups.

b. The *Director of Administration* who shall:

1. Develop and administer ITA personnel management programs including recruitment, placement, employee development, classification, labor-management relations, equal employment opportunity, and employee relations and provide liaison with the Departmental office of Personnel;

2. Provide management, organization and systems analysis, including management studies and surveys and organizational planning studies; coordinate ADP systems development, perform the committee management, directives management, records management, forms management, files management, correspondence management and reports management functions for ITA; coordinate GAO and Departmental audits; coordinate activity under the Freedom of Information Act and the Privacy Act of 1974; maintain boycott reports for public inspection; and provide liaison with the Departmental Office of Organization and Management Systems and the Office of Procurement and ADP Management;

3. Provide administrative and support services for ITA including physical and document security and related matters, travel, safety, correspondence control, and space management; and provide procurement liaison;

4. Formulate, present, execute, and assess program effectiveness of the ITA budget; effect financial and budgetary controls; prepare budget reports; and provide liaison with the Departmental Office of Budget and Program Evaluation; and

5. Advise on all public affairs and information service matters; provide ITA centralized information services, conduct and be responsible for all publications programs, consonant with the provisions of Department Organization Order 20–9, "Office of Publications;" provide speech writing and scheduling services; coordinate all audiovisual, exhibit, and advertising activities; maintain liaison with the Departmental Office of Publications, the Departmental Office of Public Affairs and the news and trade media consonant with the provisions of Department Organization Order 15–3, "Office of Public Affairs;" and publish *Business America* magazine.

Section 5. Assistant Secretary for International Economic Policy. The *Assistant Secretary for International Economic Policy* shall assist and advise the Secretary and the Under Secretary on the research, analysis, and development of Departmental programs on international trade and investment; provide direction and coordination of international economic policy formulation for the Under Secretary; implement and monitor the results of the MTN, and provide information and assistance to U.S. business on the rights and opportunities resulting from the MTN; be responsible for formulation of Departmental policy on international commodity problems and international resource issues other than energy; represent the Department in the General Agreement on Tariffs and Trade (GATT), the Organization for Economic Cooperation and Development (OECD) for trade matters, the U.N. Conference on Trade and Development (UNCTAD), and in multilateral negotiations; be responsible for the Department's position in negotiations of international and bilateral textile agreements; implement the Department's interagency international economic policy role in such organizations as the National Security Council, Office of the United States Trade Representative, and the National Advisory Council on International Monetary and Financial Policies. The Assistant Secretary shall carry out these functions through:

.01 The *Deputy Assistant Secretary for International Economic Policy* who shall serve as the principal deputy to the Assistant Secretary and shall assume the duties of the Assistant Secretary during the latter's absence.

.02 The *Deputy Assistant Secretary for Trade Agreements* who shall:

a. Direct the development of the Department's position on international trade and commodity policy; identify key trade and commodity policy issues and develop the Department's position;

b. Implement, monitor, and participate in international consultation and renegotiation of the MTN tariff, non-tariff and other trade agreements for industry and service interests (all nonagricultural matters);

c. Develop information on cases under the MTN and operate an advisory center which shall provide information and assistance to U.S. business on new U.S. rights and opportunities under the MTN codes and other agreements, such as the MTN Government Procurement and Standards Codes; administer the operation of the private sector advisory program, in conjunction with the United States Trade Representative, including staff support;

d. Provide staff support for the Subcommittee on GATT and Multilateral Trade Agreements of the President's Export Council; analyze and review import relief cases and monitor relief actions; provide staff analysis and participate in Trade Policy Committee recommendations to the President on import relief cases; monitor the effectiveness of relief and develop policy on orderly marketing agreements and participate in negotiations of

bilateral and multilateral trade agreements (except those carried out by the DAS for Textiles and Apparels);

e. Develop policy concerning revitalization of GATT trading rules; undertake special projects to provide a basis for multilateral consultation and negotiation where U.S. interests prove to be inadequately protected by the current system of GATT rights and obligations; provide Departmental input for Government input for U.S. participation in the trade-oriented activities of the OECD and UNCTAD; monitor non-MTN related trade agreements and provide recommendations for pursuing U.S. rights through dispute settlement mechanism or through renegotiations;

f. Develop and coordinate Departmental policy and positions regarding international commodity trade problems and international resources issues, other than energy; participate in interagency preparations for international discussions of negotiations on specific commodity problems and meetings of standing international commodity bodies to review current and prospective trends in world supply and demand for major internationally traded primary products; participate in U.S. delegations to such international discussions; and

g. Develop, coordinate, and implement the Department's position on general economic policy issues arising between the United States and individual countries and regional economic groupings (excluding those countries that are the responsibility of the Assistant Secretary for Trade Development); support certain joint economic consultative mechanisms in which the Department participates; perform trade facilitation efforts to resolve specific commercial complaints; and provide policy support to the Secretary and the Under Secretary for meetings with foreign dignitaries and foreign travel.

.03 The *Deputy Assistant Secretary for Finance, Investment and Services* who shall:

a. Direct policy development and support on finance, investment and service issues affecting U.S. international business operations and competitiveness including identifying key issues and developing Department positions;

b. Monitor and analyze foreign investment in the U.S.; prepare studies and reports on its economic effects and represent the Department in policy and program development;

c. Represent the Department in international finance and development assistance affairs; provide staff support for the Department's representatives on the National Advisory Council on International Monetary and Financial Policies (NAC), the Export-Import Bank Board, Overseas Private Investment Corporation and other organizations dealing with export finance, export guarantees and credit insurance, bilateral and multilateral aid loans;

d. Conduct comparative analyses of foreign financial, fiscal and competitive practices, and make recommendations for changes in U.S. treatment of export associations and trading companies;

e. Represent the Department of U.S. direct investment issues; analyze investment trends and consult with business on U.S. regulations and international practices affecting investment and participate in bilateral and multilateral negotiations on investment; develop positions on multinational corporation (MNC) issues, including proposed codes on technology transfer and MNC code issues and investment disputes; and

f. Develop recommendations to improve the access of U.S. service industries to foreign markets including identifying barriers and surveying U.S. laws and practices affecting international trade in services.

.04 The *Deputy Assistant Secretary for Policy Planning and Analysis* who shall:

a. Determine the policy significance of international economic and trade developments; forecast and identify future trade problems; and develop long-term trade strategies and plans;

b. Examine and formulate options for U.S. export policy, principally focusing on export incentives and disincentives and their effect on U.S. trade; develop and examine the likely effects of changes in such incentives/discentives; and recommend policies to improve the U.S. export position;

c. Examine international sectoral issues and formulate short-term and long-term trade and foreign investment policy approaches; develop and evaluate options for international positive adjustment and structural adjustment issues; represent the Department in committees and negotiations concerned with these issues; and

d. Initiate and review research studies and forecasts on developments affecting U.S. international trade and competitiveness; manage a program of trade and international economic analyses and statistics for U.S. Government and business; and develop and maintain computerized data bases for key statistical data.

.05 The *Deputy Assistant Secretary for Textiles and Apparel* who shall:

a. Assist and advise the Assistant Secretary for International Economic Policy on the economic condition of the U.S. textile and apparel industries, domestically and internationally; negotitate and monitor bilateral textile and apparel import restraint agreements in conjunction with the United States Trade Representative and the Departments of State, Treasury and Labor; monitor imports from controlled agreement countries and uncontrolled countries;

b. Manage operation of the Committee for the Implementation of Textile Agreements (CITA), and advisory committees related to the textiles and apparel program; prepare economic data and perform analyses of conditions in the domestic textile and apparel markets, including impact of imports; and promote the expansion of exports of textiles and apparel, and, in conjunction with the United States Trade Representative and other organizations, reduction of non-tariff barriers; and

c. Prepare statistical data on imports; classify problems arising under agreements and train foreign officials in U.S. classification procedures; and provide structural assistance to the industry on technology, research and development, and management training.

Section 6. Assistant Secretary for Trade Administration. The *Assistant Secretary for Trade Administration* shall assist and advise the Secretary and the Under Secretary on the development of policies pertaining to, and the implementation of, Departmental programs dealing with import and export administration issues, including industrial mobilization and foreign boycotts; exercise the functions of the "administering authority" of U.S. antidumping and countervailing duty laws within the meaning of Title VII of the Tariff Act of 1930, as amended; serve as alternate to the Secretary and Under Secretary in representing the Department on the Trade Policy Committee and other interagency committees which deal with matters pertaining to import and export administration issues; and represent the Department in all domestic and international forums which address such issues. The Assistant Secretary shall carry out these functions through:

.01 The *Deputy Assistant Secretary for Import Administration* who shall:

a. Coordinate the formulation and implementation of U.S. antidumping and countervailing duty policies and programs, ensuring that actions taken are consistent with overall U.S. trade policy;

b. Coordinate the development of Departmental positions with regard to

specific antidumping and countervailing duty cases and general antidumping and countervailing duty issues which are to be discussed in domestic and international forums, such as meetings of the interagency Trade Policy Committee and the GATT Antidumping and Countervailing Duty Code Committees;

c. Ensure the proper administration of antidumping and countervailing duty laws including the expeditious conduct of investigations, the administration of antidumping and countervailing duty orders, the collection of duties resulting from those orders, and the administration of antidumping and countervailing duty suspension agreements;

d. Conduct, as directed by the Assistant Secretary for Trade Administration, negotiations with foreign manufacturers or governments to suspend antidumping or countervailing duty investigations, except where the U.S. Trade Representative elects to lead U.S. negotiating teams; and

e. Administer Departmental programs relating to foreign-trade zones, allocation of watch quotas, duty-free entry of scientific instruments, and importation of foreign excess property.

.02 The *Deputy Assistant Secretary for Export Administration* who shall:

a. Carry out the Department's responsibilities for regulating exports of U.S. goods and technology for purposes of national security, foreign policy, and short supply;

b. Provide staff support for the Export Administration Review Board, the Advisory Committee on Export Policy, and the Subcommittee of the Advisory Committee on Export Policy (Sub-ACEP);

c. Administer programs concerning foreign boycotts against countries friendly to the United States, and develop and coordinate measures for opposing such boycotts;

d. Coordinate and conduct the Department's activities regarding industrial mobilization for national defense, including priorities and allocations, industrial resources, and emergency preparedness programs; and

e. Investigate and determine if imports threaten to impair the national security, and, if appropriate, recommend remedial action through the Under Secretary and the Secretary to the President.

Section 7. Assistant Secretary for Trade Development. The *Assistant Secretary for Trade Development* shall be responsible for carrying out the policies and programs of the Department to promote world trade and to strengthen the international trade and investment position of the U.S. In carrying out these functions, the Assistant Secretary shall direct the Department's programs for participation in international trade fairs, trade missions, and other overseas trade promotions; conduct programs within the United States to expand the export-consciousness of American firms and to facilitate entry into international trade; and provide assistance to American exporters through the facilities of the U.S. Commercial Service. With respect to East-West trade, the Assistant secretary shall be responsible for conducting the Department's program for expanding trade and investment in Communist countries, and for the formulation and analysis of policies with respect to U.S. commercial policy in those countries, and for relevant interagency representation.

The Assistant Secretary shall advise the Secretary and Under Secretary on policies and programs relating to these functions and serve as the National Export Expansion Coordinator. The Assistant Secretary shall carry out these functions through:

.01 The *Deputy Assistant Secretary for Export Development* who shall:

a. Plan, develop, and direct programs to expand exports and develop promotional programs to be carried out by the U.S. and FCS and provide them with analytical and technical support;

b. Perform the program planning and evaluation activities for export development programs and determine priorities for export development programs to be carried out by the U.S. and FCS;

c. Direct overseas promotional activities through management of overseas Development Offices; develop overseas trade missions, sponsor special missions, and conduct other trade and investment activities, including the "Invest in the USA" program;

d. Develop information on country economic and commercial conditions; provide counselling services to U.S. business on foreign countries and markets; conduct market research, and provide market information to other units of Commerce; and

e. Develop export information programs, including the Worldwide Information and Trade System (WITS) for dissemination through the U.S. and FCS for use by the U.S. business community; conduct a nationwide campaign on export awareness through specialized counselling, seminars, publications, joint industry/government activities, and assistance in competing for major overseas projects; and coordinate the program activities of the President's Export Council which provides advice from the private sector to the Secretary and the President on issues relating to export expansion activities.

.02 The *Deputy Assistant Secretary for East-West Trade* who shall:

a. Conduct the day-to-day bilateral commercial contacts with the embassies and other communist government entities in the U.S.; provide support for the Cabinet-level joint economic commissions, seek resolution of commercial problems; assist in the development of commercial policy toward individual communist countries; collect, analyze, and disseminate information about economic conditions, trade-related laws and regulations and market opportunities; advise U.S. firms on country oriented trading problems; assist in the negotiation of various agreements with these countries; and maintain day-to-day liaison with the major private U.S. bilateral councils on individual communist countries;

b. Offer services to help U.S. firms promote and market products in communist countries; conduct briefings on how to do business in the communist countries; arrange contacts between U.S. business and foreign trade organization officials; disseminate information on business opportunities in communist countries; assist U.S. firms in transaction problems involving Federal agencies; and plan, recruit, and manage trade promotion events such as fairs, technical sales seminars, and catalog shows in communist countries;

c. Formulate, analyze, and make recommendations about legislative and broad policy issues arising in East-West trade; study trade potential, balance-of-payments projections, econometric modeling of communist economies, and the economic impact of East-West trade on the United States, its communist trading partners, and other nations; and maintain a major statistical data base on East-West trade and provide analyses of trade trends;

d. Plan and develop relevant promotional programs to be carried out by the U.S. and FCS and provide them with analytical and technical support; and

e. Represent the Department on interagency consideration of East-West trade matters as set forth in subparagraphs a. through d. above.

.03 The *Deputy Assistant Secretary for the U.S. Commercial Service* who shall:

a. Provide field representation with the U.S. business community to carry out ITA and other Department programs by providing business with information, technical assistand and counselling primarily on export and investment matters and assisting in identifying

potential U.S. exporters and participants in overseas promotional events;

b. Administer a system of District Offices (see Exhibit 2) located in commercial centers throughout the United States, offer U.S. firms counselling on overseas marketing, technical export information, guidance on the marketing opportunities, and advice on marketing strategies; conduct seminars, workshops, and conferences; assist business persons to utilize Export Development and East-West Trade information services, including the WITS; assist in obtaining commercial information from U.S. firms for use in Export Development planning and evaluation; and disseminate to the business community information on trade devleopment, trade policy issues and technological developments;

c. Direct Federal procurement assistance and services programs, including Business Development conferences, Federal/State relations and Associate Office programs;

d. Publish the *Commerce Business Daily*; and

e. Carry out emergency preparedness functions through District Office Directors in the Uniform Federal Regional Council cities who serve as Regional Emergency Coordinators.

Section 8. Transitional Provisions. The Assistant Secretary for Administration shall establish the effective date of the necessary transfers of funds and positions and/or personnel and other resources from the Industry and Trade Administration and, in cooperation with the affected offices and operating units, determine the amount of funds, positions, personnel and other resources to be transferred.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2522 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Changes in the Textile Category System; Correction

January 18, 1980.

In FR Doc. 79-38905, appearing at page 75441 in the issue for Thursday, December 20, 1979, the following corrections should be made under the heading "Category and Type of Change":

"359—Change TSUSA 380.3987 to 380.3989" should read "359—Change TSUSA 380.3987 to 380.3989 and 380.3943".

"605—Add TSUSA 310.6034" should read "600—Add TSUSA 310.6034".

"605—Change TSUSA 310.6035 to 310.6038" should read "600—Change TSUSA 310.6035 to 310.6038".

"636—Change TSUSA 380.8139 to 380.8140" should read "638—Change TSUSA 380.8139 to 380.8140".

"636—Change TSUSA 382.7820 to 283.7834" should read "636—Change TSUSA 382.7820 to 382.7834".

"647—Add TSUSA 376.5618" should read "659—Add TSUSA 376.5618".

"648—Add TSUSA 376.5623" should read "659 Add TSUSA 376.5423".

The following change was omitted from the notice document and should be added:

627—Delete TSUSA 355.8200; Add 355.8210 and 355.8220.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-2544 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Proposed Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Deletion from Procurement List.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1980 commodities produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 27, 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. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to delete the following commodities from Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 3990

Pallets & Skids: 3990-00-366-6821, 3990-00-366-6810, 3990-00-366-6814, 3990-00-366-6815, 3990-00-366-6816, 3990-00-366-6817, 3990-00-366-6819, 3990-00-366-6820.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-2395 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-33

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 and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 27, 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. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to add the following commodities and services to Procurement List 1980, November 27, 1979 (44 FR 67925):

CLASS 7530

Paper Set, Manifold and Carbon: 7530-00-401-6910, 7530-00-205-0511, 7530-01-072-2536, 7530-01-072-2537, 7530-01-072-2538, 7530-01-072-2539.

CLASS 8465

Knapsack (Packsack): 8465-00-205-3493.

SIC 7399

Food Packet, Long Range Patrol: 8970-00-926-92222.

Food Packet, In-flight: 8970-00-060-2899.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-2396 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Air University Board of Visitors; Meeting

January 17, 1980.

The Air University Board of Visitors will hold an open meeting at 1:00 p.m. on April 22, 1980, in the Air University Conference Room, Austin Hall (Building 800), Maxwell Air Force Base, Alabama.

The purpose of the meeting is to give the board an opportunity to present to the Commander, Air University, a report of the findings and recommendations concerning Air University educational programs.

For further information this meeting, contact Dorothy D. Reed, Coordinator, Air University Board of Visitors, Headquarters Air University, telephone (205) 293–5159/6160.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80–2449 Filed 1–24–80; 8:45 am]

BILLING CODE 3910–01–M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for Tarrant County Water Control and Improvement District Number One's Richland Creek Dam, Reservoir, and Pump Station in Freestone and Navarro Counties, Texas

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

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: In the matter of Draft Environmental Impact Statement on Department of the Army Permit Application Under Section 10 of the River and Harbor Act, March 3, 1899, and Section 404 of the Clean Water Act for Tarrant County Water Control and Improvement District Number One's Richland Creek Dam, Reservoir, and Pump Station in Freestone and Navarro Counties, Texas.

1. The primary purpose for this project is to provide municipal and industrial water to customers of the water district. These customers are located primarily within Tarrant County with a few located in Johnson, Parker, and Denton Counties.

2. Reasonable Alternatives. The alternatives to be evaluated include: the issuing of the permits, not issuing the permits, or issuing one or both permits with conditions.

3. Scoping Process.

a. Public Involvement. A comprehensive public involvement program is to be conducted locally by the Fort Worth Army Engineer District and the water district as a means of disseminating information and soliciting public views. The techniques used will be formal public meetings; informal public information sessions as needed; and continuing dialogue with Federal, State, and local agencies, organizations, and the interested public.

b. Significant Issues Requiring In-Depth Studies. Hydraulic and hydrologic impacts on the Trinity River and its bay system. Social and economic effects on about 140 landowners. Presence of minable lignite. Land uses affected.

c. Assignments. None.

d. Environmental Review and Consultation Requirements. The draft statement will be circulated for review and all comments will be incorporated into the final environmental impact statement.

4. A scoping meeting will be held in Corsicana, Texas. A public notice will be issued when the time and place have been set.

5. The draft environmental impact statement is expected to be available to the public by November 1980.

ADDRESS: Person to contact for additional information is Mr. L. E. Horsman, Chief, Environmental Resources Section, U.S. Army Corps of Engineers, Fort Worth District, P.O. 17300, Fort Worth, Texas 76102. Telephone (817) 334–2095.

Dated: January 15, 1980.

Donald J. Palladino,

Colonel, CE District Engineer.

[FR Doc. 80–2186 Filed 1–24–80; 8:45 am]

BILLING CODE 3710–FR

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Action Taken on Consent Orders

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 December. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. (a) Post the maximum lawful selling price, or a certification that the current selling price is equal to or less than the maximum allowed, for each grade of gasoline on each pump used to dispense gasoline, facing each direction from which the pumps are generally viewed by customers, in numbers or letters not less than one-half (½) inch high, or (b) post the maximum lawful selling price for each grade of gasoline in a prominent location elsewhere at the retail outlet which is visible to a customer purchasing gasoline in letters not less than four (4) inches high, or (c) post a certification that the current selling price is equal to or less than the maximum allowed in a prominent location elsewhere at the retail outlet which is visible to a customer purchasing gasoline in letters not less than one and one-half (1½) inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact Leon Sneed, Program Manager for Product Retailers, Department of Energy, Economic Regulatory Administration, Enforcement Program Operations, 2000 M Street, NW, Washington, DC 20461, telephone number 202–254–5907.

Firm Name, Address, and Audit Date

Glebewood Exxon, 2240 N. Glebe Road, Arlington, VA 22207—12–11–79

Cottage City Exxon, Eastern Ave. and Bladensburg Rd., Cottage City, MD 20722—12–19–79

McClay's Exxon, 18th and L St. NW, Washington, D.C. 20036—12–19–79

Brookland Exxon, 3700 12th St. NE, Washington, D.C. 20017—12–20–79

Kaywood Exxon, 4501 Eastern Ave., Mt. Rainer, MD 20822—12–27–79

McQueeny's Exxon, 3213 Queens Chapel Road, Mt. Rainer, MD 20822—12–27–79

Issued in Washington, DC on the 21st day of January, 1980.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

[FR Doc. 80-2413 Filed 1-24-80; 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 December 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; and

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; and

3. Cease and desist from employing any practice making the sale 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; and

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

Jimmy Doirno, Sr. d.b.a., Jimmy's Texaco, Inc., P.O. Box 281, Morgan City, La. 70380—Dec. 4, 1979

Kenneth LeBlance, d.b.a., LeBlance's Gulf Service 2301 Johnston Street, Lafayete, La. 70503—Dec. 5, 1979

Don & Tracy Vining d.b.a. Fairview Texaco, Inc. 112 Hendricks Street Patterson, La. 70392—Dec. 10, 1979

Louis Nassons d.b.a. Louis' Exxon 421 East Bridge Street St. Martinville, La. 70582—Dec. 27, 1979

Andy Anderman & Ponce Cheramie, d.b.a. Andy Anderman, Inc. 1118 Highway 90 East Morgan City, La. 70380—Dec. 31 1979

Dulane Wiltheis, d.b.a. Sibley Road Texaco 1403 Sibley Road Minden, La. 71055—Dec. 11 1979

Howard R. Hosea d.b.a. I-20 Texaco I-20 & Cookton Road Ruston, La. 71270—Dec. 26, 1979

J.R. Davis d.b.a. Mobil Service Center 1601 N. Market Shreveport, La. 71107—Dec. 26, 1979

Sam's 66 Service P.O. Box 73 Pond Creek, Okla. 73766—Dec. 4, 1979

C. Kirkpatrick d.b.a. Kirkpatrick Standard Service 5535 West Skelly Drive. Tulsa, Okla. 74107—Dec. 10, 1979

Larry West d.b.a. Larry's Texaco I-40 & H'way 58 Hydra, Okla. 73043—Dec. 12, 1979

Hedges Service Station 1102 Main Street Woodward, Okla. Dec. 12, 1979

Bilbrey's Texaco I-40 & Route 152 Sayre, Okla. 73662—Dec. 12, 1979

James Murray d.b.a. Friendly's Service 327 North Muskogee Ave. Tahlequah, Okla. Dec. 12, 1979

Eddie A. Fielden d.b.a. Ed's Interstate Service I-40 & State H'way 2 Warner, Okla. Dec. 12, 1979

Mac's Skelly 49 South Mill Pryor, Okla. 74361—Dec. 20, 1979

McDowell's 66, 922 W. Okmulgee, Muskogee, Okla. 74401—Dec. 20, 1979

Sander's Texaco #2, 332 S. 32nd, Muskogee, Okla. 74401—Dec. 20, 1979

McGuire's Exxon 2800 Fort Sill Blvd. Lawton, Okla. 73501—Dec. 20, 1979

Bob Biffle 66 404 East Main St. Duncan, Okla. 73533—Dec. 20, 1979

Howell Exxon 1501 West Lee Blvd. Lawton, Okla. 73501—Dec. 20, 1979

Graham's Conoco 127 North 3rd Chickasha, Okla.—Dec. 28, 1979

Warren Bowers d.b.a. The Store P.O. Box 287 Batesville, Tx 78827—Dec. 18, 1979

Lutz's Shell 9390 Forest Lane Dallas, Tx.—Dec. 11, 1979

T & H CAR Wash 1001 Hall St. Dallas, Tx. 75204—Dec. 12, 1979

Abilene Mall Exxon 4202 Bufford Gap Road Abilene, Tx. 79605—Nov. 29, 1979

Zybra's Exxon 12200 Inwood Road Dallas, Tx. 75234—Nov. 30, 1979

English Exxon 104 North Pacific Mineola, Tx. 75773—Dec. 18, 1979

Hall & Terry Mobil P.O. Box 96 Lindale, Tx. 75771—Dec. 18, 1979

Jimmie's Texaco P.O. Box 624 Lindale, Tx. 7571—Dec. 18, 1979

Lee's Exxon 1917 S. 16th St. Longview, Tx. 76802—Dec. 20, 1979

Heard's Texaco 203 H'way 64 (Box 119) Canton, Tx. 75103—Dec. 21, 1979

Peel Mobil 302 E. Dallas St. Canton, Tx. 75103—Dec. 21, 1979

Furr's Inc. d.b.a. Handy Hut, P.O. Box 1650, Lubbock, Tx. 79416—Dec. 13, 1979

Richland Hills Texaco, 1914 American Blvd., Muleshoe, Tx. 79347—Dec. 5, 1979

Loy Dominguez d.b.a. First Street Conoco 106 E. American Blvd. Muleshoe, Tx. 79347—Dec. 5, 1979

Carl Grenwelge 903 N. Main St. Winters, Tx. 79567—Dec. 5, 1979

Rito's Exxon 152 N. Main Winters, Tx. 79562—Dec. 5, 1979

MacHann Exxon 1108 Hutchings Ballinger, Tx. 76821—Dec. 6, 1979

Ed Ziegenfus d.b.a. Southside Gulf 502 S. First Muleshoe, Tx. 79347—Dec. 14, 1979

Nino Sagado d.b.a. Nino's Gulf 310 S. Main Monahans, Tx. 79756—Dec. 18, 1979

T. Gardin d.b.a. East Sealy Shell 101 E. Sealy Monahans, Tx. 79756—Dec. 18, 1979

J.E. Coles d.b.a. Cole's Chevrolet 6th Street and Drake Iraan, Tx. 79744—Dec. 21 1979

Ken Pearce d.b.a. Perfect Car Wash 820 10th Street Alamogordo, N.M. 88310—Nov. 29, 1979

Nick Dorame d.b.a. Nick's Texaco H'way 54 & 70 South Tularosa, N.M. 88352—Nov. 30, 1979

J.D. James d.b.a. James' Exxon 907 4th Street Tularosa, N.M. 88352—Nov. 30, 1979

University Texaco 1131 W. 2nd Street Portales, N.M. 88130—Dec. 6, 1979

R. Kelly d.b.a. Kelly's 66 21st & Prince Clovis, N.M. 88101—Dec. 5, 1979

C.H. Cobb d.b.a. B & C Conoco 801 Elbe Ave. Portales, N.M. 88130—Dec. 6, 1979

Pergeson & Sons Exxon 201 N. Chicago St. Portales, N.M. 88130—Dec. 6, 1979

Marshall's Texaco, 2000 E. 66 Ave., Gallup, N.M. 87301—Dec. 3, 1979

M.E. Hobb d.b.a. Hobb's Exxon, 1001 W. 2nd St., Portales, N.M. 88130—Dec. 6, 1979

J. Vourazevis d.b.a. Del Norte Chevron 4401 San Mateo Albuquerque, N.M. 87104—Dec. 17, 1979

J. Guess d.b.a. Guess Exxon 120 N. Gold Deming, N.M. 88030—Dec. 5, 1979

J.E. Gilmore d.b.a. Gilmore Chevron P.O. Box 454 Deming, N.M. 88030—Dec. 6, 1979

E. Guevara d.b.a. Guevara Chevron 628 E. Lohman Las Cruces, N.M. 88001—Dec. 7, 1979

Chet Brown d.b.a. Hill Top Exxon H'way 180 East Silver City, N.M. 88061—Dec. 6, 1979

Gruz Torres d.b.a. Torres Conoco 606 N. Bayard Central, N.M. 88023—Dec. 6, 1979

J. Madrid d.b.a. Jerry's Chevron 321 W. 2nd Portales, N.M. 88130—Dec. 12, 1979

Issued in Dallas, Texas this 16th day of January, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 80-2414 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

Eugene Scott, d.b.a. Scott's Service; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Scott's Service, 401 NW. 23rd Street, Oklahoma City, Oklahoma 73103. This Proposed Remedial Order charges Scott's Service with failure to make records available for inspection upon request by ERA, a violation of 10 CFR 210.92(b), with failure to either post the maximum lawful selling price or certification, a violation of 10 CFR 212.129(b) and with pricing violations in the amount of $494.84, connected with the sale of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93. A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745.

On or before February 11, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW. Washington, D.C. 20461, in accordance with 10 CFR 105.193.

Issued in Dallas, Texas on the 16th day of January, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 80-2407 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

George Moreland, d.b.a., George Moreland General Merchandise; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to George Moreland General Merchandise, Rt. 1, Box 4, Roland, Arkansas 72135. This Proposed Remedial Order charges George Moreland General Merchandise with failure to properly maintain required records, a violation of 10 CFR 210.92 and 212.93, with failure to either post the maximum lawful selling price or certification, a violation of 10 CFR 212.129(b) and with pricing violations in the amount of $736.63, connected with the sale of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745. On or before February 11, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 105.193.

Issued in Dallas, Texas on the 16th day of January, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 80-2411 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

John Parker, d.b.a. Triangle Texaco; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Triangle Texaco, Highways 81 and 66 South, El Reno, Oklahoma 73036. This Proposed Remedial Order charges Triangle Texaco with failure to either post the maximum lawful selling price or certification, a violation of 10 CFR 212.129(b) and with pricing violations in the amount of $172.96, connected with the sale of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745. On or before February 11, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street NW., Washington, D.C. 20461, in accordance with 10 CFR 105.193.

Issued in Dallas, Texas on the 16th day of January, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 80-2409 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

J. E. Robertson, d.b.a., Robertson's Mobil; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Robertson's Mobil, 4420 S. Robinson, Oklahoma City, Oklahoma 73109. This Proposed Remedial Order charges Robertson's Mobil with failure to properly maintain required records, a violation of 10 CFR 210.92 and 212.93, with failure to either post the maximum lawful selling price or certification, a violation of 10 CFR 212.129(b) and with pricing violations in the amount of $391.46, connected with the sale of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745.

On or before February 11, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 105.193.

Issued in Dallas, Texas on the 16th day of January, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 80-2410 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 65006-9095-21-22; Docket No. ERA-FC-79-003a]

Modesto Irrigation District; Availability of Tentative Staff Determination

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Availability of Tentative Staff Determination.

SUMMARY: On June 19, 1979, Modesto Irrigation District (Modesto) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy for a permanent peakload powerplant

exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), which prohibits the use of petroleum or natural gas in new powerplants. Modesto plans to install a 49,900 KW oil-or gas-fired combustion turbine unit and certifies that the unit will be operated solely as a peakload powerplant and will be operated only to meet peakload requirements for the life of the plant. ERA accepted the petition relating to the use of petroleum on October 3, 1979, and published notice of its acceptance in the **Federal Register** on October 11, 1979 (44 FR 58776). Publication of the notice of acceptance commenced a 45-day public comment period pursuant to section 701 of FUA. Interested persons were also afforded an opportunity to request a public hearing. The comment period ended November 26, 1979. No Comments were submitted. No hearing was requested.

ERA's staff has reviewed the information presently contained in the record of this proceeding. A Tentative Staff Determination has been made which recommends that ERA issue an order which would grant the permanent peakload powerplant exemption to use petroleum in the proposed combustion turbine unit. A copy of the Tentative Staff Determination is available from the Office of Public Information at the address listed below.

ERA will issue a final order granting or denying the petition for a peakload powerplant exemption from the prohibitions of the Act within six months after the public comment period has expired unless ERA extends such period. Notice of any extension will be published in the **Federal Register** together with a statement of the reasons for such extension.

DATE: Written comments on the Tentative Staff Determination are due on or before February 8, 1980.

ADDRESSES: Fifteen copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street NW, Washington, D.C. 20461. Docket Number ERA–FC–79–003a should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

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

Louis T. Krezanosky, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room 3128, Washington, D.C. 20461, Phone (202) 254–9840; and

Marx M. Elmer, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW, Room 6G–087, Washington, D.C. 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION: Modesto Irrigation District (Modesto) plans to install a 49,900 KW No. 2 oil-or gas-fired combustion turbine unit to be known as McClure Station Unit 1 at its facility located in Modesto, California (McClure 1). The new unit is expected to consume approximately 97,714 barrels of No. 2 fuel oil per year (268 bbl/s day). Commercial operation is scheduled for May, 1980.

The Economic Regulatory Administration (ERA) published interim rules on May 15 and 17, 1979 (44 FR 28530, 28950) to implement provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act). FUA prohibits the use of natural gas or petroleum in certain new major fuel burning installations and powerplants unless an exemption for such use has been granted.

A prepetition conference was held in Washington, D.C. at Modesto's request on May 15, 1979. On June 19, 1979, Modesto petitioned ERA for a permanent peakload powerplant exemption from the prohibitions of the Act to use oil in McClure 1.

Modesto submitted a sworn statement dated August 6, 1979, by Mr. M. N. Bennett, Chief Administrative Officer, as required by 10 CFR Part 503.41(b)(1). In his statement, Mr. Bennett certifies that McClure 1 will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant. He also certifies that the maximum design capacity of McClure 1 is 49,900 KW and that the maximum generation that will be allowed during any 12 month period is the design capacity multiplied by 1,500 hours or 74,850,000 Kwh. Modesto also furnished the information required by 10 CFR Parts 502.11 (Petroleum and natural gas consumption), 502.12 (Conservation measures), and 502.13 (Environmental impact analysis).

Staff Determination

On the basis of Modesto's sworn statement and the information provided, the staff recommends that ERA should grant the requested exemption.

On the basis of the Department of Energy's (DOE) independent analysis of environmental information submitted by Modesto, DOE has concluded that no significant environmental impacts will occur as a result of the granting of this exemption.

Terms and Conditions

Section 214(a) of the Act gives ERA the authority to attach terms and conditions to any order granting an exemption. Based upon information submitted by Modesto and upon the results of the staff analysis, the staff of ERA has tentatively determined and recommends that any order which would grant the requested peakload powerplant exemption should, pursuant to section 214 of the Act, include the following terms and conditions:

A. McClure 1 shall be constructed with the capability to burn natural gas, alcohol and synthetic distillate oil as its primary energy source.

B. If DOE finds that there is an available supply of alcohol or synthetic oil derived from coal, or other alternate fuel or fuel mixtures suitable for use in McClure 1 and provided that the cost of using such alternate fuel does not substantially exceed the cost of using imported petroleum, this exemption shall be subject to termination.

C. Modesto shall investigate and report to ERA within thirty days from the date of any order granting the exemption, the technical and economic feasibility of installing a regenerative combustion turbine and/or heat exchange equipment designed to increase the heat rate efficiency of McClure 1. If ERA determines that the installation of such equipment is practicable, Modesto shall be required to install such equipment.

D. Modesto shall comply with the reporting requirements of § 503.41(e) of ERA's interim rules.

E. Modesto shall submit to ERA an acceptable compliance plan, which plan shall include a complete description of system wide energy conservation measures or practices (including a recommended schedule for their implementation) as Modesto deems to be cost effective. The compliance plan shall be submitted within thirty days from the date of any order granting the exemption. Such order shall not take effect until ERA has approved, in writing, the compliance plan submitted by Modesto, or earlier than the 60th calendar day after publication of the order in the **Federal Register**, whichever occurs later.

The Tentative Staff Determination does not constitute a decision by ERA to grant the exemption requested. Such determination will be made in accordance with § 501.66 of the interim rules on the basis of the entire record of this proceeding, including any comments received on the Tentative Staff Determination.

Issued in Washington, D.C. on January 21, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-2412 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

Richard Manzzanti, d.b.a., Joe's Truck Stop; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Joe's Truck Stop, Route 1, Box 223, Lake Village, Arkansas 71656.

This Proposed Remedial Order charges Joe's Truck Stop with failure to properly maintain required records, a violation of 10 CFR 210.92 and 212.93, with failure to either post the maximum lawful selling price or certification, a violation of 10 CFR 212.129(b) and with pricing violations in the amount of $693.91, connected with the sale of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grade of gasoline in violation of 10 CFR 212.93.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745. On or before February 11, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 105.193.

Issued in Dallas, Texas on the 16th day of January, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 80-2408 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

Phoenix Resources Co., as Successor to King Resources Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Admninistration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on the 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 a special account established pursuant to the Consent Order.

DATES: Effective date: January 14, 1980.

COMMENTS BY: February 25, 1980.

ADDRESS: Send comments to: Kenneth E. Merica, District Manager of Enforcement, Rocky Mountain District, Department of Energy, P.O. Box 26247—Belmar Branch, Lakewood, Colorado 80226.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Merica, District Manager of Enforcement, Rocky Mountain District, Department of Energy, 1075 South Yukon Street, P.O. Box 26247—Belmar Branch, Lakewood, Colorado 80226, telephone 303/234-3195.

SUPPLEMENTARY INFORMATION: On December 14, 1979, the Office of Enforcement of the ERA executed a Consent Order with Phoenix Resources Company (Phoenix) of Oklahoma City, Oklahoma. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because of the complex settlement negotiations in this case and the necessity to conclude this matter simultaneously with other proceedings assocated with this Consent Order, as well as the concern to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Phoenix effective as of the date of termination of proceedings before the Federal Energy Regulatory Commission (FERC) in Docket RO-79-4. In Docket RO-79-4, Phoenix is contesting an April 11, 1979 Remedial Order of the DOE issued to Phoenix's predecessor, King Resources Company (King). That Order is currently stayed pending review before FERC, and is superceded by this Consent Order.

I. The Consent Order

Phoenix, with its home office located in Oklahoma City, Oklahoma is a firm engaged in the production of crude oil, 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 against Phoenix by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and Phoenix entered into a Consent Order, the significant terms of which are as follows:

1. Phoenix is a "producer" as defined by 6 CFR 150.352 and 10 CFR 212.31 and is an operator of crude oil producing properties located in Oklahoma and Texas.

2. The period covered by the audit was December 1973 through December 1975.

3. Phoenix's pricing of crude oil sales was continuously controlled under CLC regulations (6 CFR, 150.1 *et seq.*) and successor regulations (10 CFR 212.1 *et seq.*) during the period of audit.

4. In order to expedite resolution of the disputes involved, the DOE and Phoenix have agreed to a settlement in the amount of $105.772.64. The negotiated settlement was determined to be in the public interest.

5. The provisions of 10 CFR, 205.199J, including publication of this Notice, are applicable to the Consent Order.

6. Refund of the agreed settlement amount is discussed in Section II below.

II. Disposition of Refunded Overcharges

In this Consent Order, Phoenix 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 regulatory violations described in the Remedial Order in Case No. DRO-0101 before the Office of Hearings and Appeals of the DOE, the sum of $105,772.64 in four (4) equal installments with the final payment due 365 days from the effective of the Consent Order. Refunded overcharges will be in the form of certified checks made payable to the United States Department of Energy, each in the amount of $26,443.16, and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211. 67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which

case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Kenneth E. Merica, District Manager of Enforcement, Rocky Mountain District, Department of Energy, P.O. Box 26247—Belmar Branch, Lakewood, Colorado 80226. You may obtain a free copy of this Consent Order by writing to the same address or by calling 303/234–3195.

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 Phoenix Consent Order." We will consider all comments we receive by 4:30 p.m., local time, February 25, 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 Lakewood, Colorado on the 14th day of January 1980.

Kenneth E. Merica,

District Manager of Enforcement.

Concurrence:

Charles F. Dewey,

Regional Counsel.

[FR Doc. 80-2415 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Special Counsel for Compliance

Getty Oil Co.; Proposed Remedial Order

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to Getty Oil Company and Opportunity for Objection.

Pursuant to 10 CFR 205.192(c) the Office of Special Counsel for Compliance of the Economic Regulatory Administration (ERA), Department of Energy, hereby gives notice that a Proposed Remedial Order to Getty Oil Company (Getty) was issued on December 5, 1979, to Harold E. Berg, President, Getty Oil Company, 3810 Wilshire Boulevard, Los Angeles, California 90010.

By this Proposed Remedial Order, the Office of Special Counsel alleges that Getty has violated provisions of the Mandatory Petroleum Price Allocation Regulations (39 FR 744, January 2, 1974). As set forth in the findings of fact and conclusions of law of the Proposed Remedial Order, Getty allegedly reported increased product costs attributable to the production of natural gas liquids and natural gas liquid products for the period September 1973 through January 1977 in excess of those permitted under a proper application of the regulations in an amount of not less than $3,522,704.88.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained by written request from: Milton Jordan, Director, Division of Freedom of Information, and Privacy Act Activities, Forrestal Building, Room GB–145, 1000 Independence Ave., SW., Washington, D.C. 20583. Attn: George W. Young, Jr.

In accordance with the provisions of 10 CFR 205.193 any aggrieved person may file a Notice of Objection to the Proposed Remedial Order on or before February 11, 1980. Such Notice shall be filed with: Office of Hearings and Appeals, Department of Energy, Room 8114, 2000 M Street NW., Washington, D.C. 20461.

Copies of the Proposed Remedial Order may be obtained in person from: Office of Freedom of Information, Reading Room, Forrestal Building, Room GA–152, 1000 Independence Ave. SW., Washington, D.C. 20585.

Issued in Washington, D.C. January 10, 1980.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 80-2416 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

Gulf Oil Corp.; Consent Order

AGENCY: Department of Energy.

ACTION: Notice of Proposed Consent Order and Opportunity for Public Comment.

SUMMARY: Pursuant to 10 CFR 205.199J, the Office of Special Counsel (OSC) of the Department of Energy hereby gives notice that it entered into a Consent Order with the Gulf Oil Corporation on November 21, 1979. The Consent Order addresses Gulf's allocation and recovery of increased product costs to unleaded gasoline for the period October 22, 1974 through October 31, 1976. In the Consent Order Gulf agrees to make refunds to identifiable customers, as well as to make a refund to the marketplace through a price reduction at Gulf's company operated service stations. The total amount of the refund is $10,457,705.00. Interest paid to date on the refunded amount is $1,280,547. In addition, Gulf agreed to pay the sum of $100,000.00 in compromise and settlement of all civil claims, which may arise against Gulf by reason of the alleged violation of DOE regulations settled by the terms of this Consent Order. As required by 10 CFR 205.199J, OSC will receive comments concerning the Consent Order for a period of at least 30 days following publication of this notice. Although the Consent Order has been signed and accepted by the parties, OSC may, after consideration of the comments received, withdraw its acceptance to the Consent Order, attempt to negotiate a modification of the Consent Order, or make the Consent Order final as proposed.

COMMENTS AND FURTHER INFORMATION: Comments received on or before February 25, 1980, will be considered. Comments and questions concerning the Consent Order should be addressed to:

Elizabeth D. Sampath, Esquire, Department of Energy, Office of Special Counsel, 1421 Cherry Street, Philadelphia, PA 19102.

Copies of the Consent Order may be received by written request at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Room GA–152.

SUPPLEMENTARY INFORMATION: The Gulf Oil Corporation is a refiner subject to the refiner pricing regulations of 10 CFR 212.83. These regulations are used to determine, among other things, the proper measurement of product and non-product costs that a refiner is permitted to pass through in its sales of covered products.

For the period October 22, 1974 through October 31, 1976, OSC alleges that Gulf allocated one-half cent (.005) more of the available increased costs to unleaded gasoline than it allocated to the regular and premium grades of gasoline. OSC alleges that such action was inconsistent with the refiner price rule provisions at § 212.83(c)(1)(i) as well as § 212.83(c)(2)(i) applicable during this period of time. However, OSC and Gulf have found it possible to resolve this matter through the Consent Order as executed with Gulf.

The Consent Order

The significant terms of the Consent Order are as follows:

1. Gulf will refund directly to those identifiable customers who purchased unleaded gasoline from Gulf during the period of time in question, an amount equal to the additional revenue received from each such customer due to the $.005 per gallon increment collected on unleaded gasoline, plus interest. OSC is aware that Gulf began a refund of $.005 per gallon to certain identifiable customers who purchased unleaded gasoline between October 22, 1974 and October 31, 1976.

2. Gulf has made a refund to the marketplace by a reduction in prices for unleaded gasoline at a minimum of one cent ($.01) per gallon and a maximum of two cents ($.02) per gallon to those customers who are non-identifiable. Such non-identifiable customers consist almost exclusively of purchasers of Gulf's company-operated service stations. The price reductions in the United States were commenced on November 3, 1977 and were maintained until January 27, 1978. The price reductions in Puerto Rico commenced on September 1, 1978 and were maintained until January 21, 1979.

3. An interest factor of 12.245% was utilized in calculating the total interest payment for the non-identifiable customers as a group. The 12.245% interest factor was the result of dividing the total accrued interest as of August 21, 1977 by the refund increment.

4. Interest for the period from August 22, 1977 to January 31, 1978 will be computed monthly at the rate of seven percent (7%) on the balance of the refund increment remaining at the end of each month. Interest for the period February 1, 1978, to the date the refund is made will be computed at the rate of six percent (6%) on the balance of the refund increment remaining at the end of the month.

5. Gulf hereby offers and OSC accepts on behalf of the United States the Sum of One Hundred Thousand and No/100 Dollars ($100,000.00) in compromise and settlement of all penalty claims of the United States which may arise against Gulf by reason of the alleged violations of DOE regulations settled by the terms of the Consent Order.

6. The provisions of 10 CFR § 205.199J, including the publication of this Notice are applicable to this Consent Order.

Submission of Written Comments

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to the address noted above. Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on the Gulf Unleaded Consent Order." All comments received by 4:30 PM EDT on February 25, 1980 will be considered in evaluating the Consent Order. Modifications of the Consent Order, which in the opinion of OSC, significantly change the terms or impact of the Consent Order will be published for comment.

Any information on data which, in the opinion of the person furnishing it, is confidential must be identified as such and submitted in accordance with the procedures of 10 CFR § 205.9(f).

Issued in Washington, D.C., January 14, 1980.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 80-2417 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

Corrections: To January 21, 1980, publication (Vol. 45, No. 14)

On Page 3949, Section I. Alternative Fuel Price Ceilings, the prices for three states should have been the following:

Arkansas	[1] 2.72
Maryland	[1] 2.97
Virginia	2.87

[1] Region-based price.

Issued in Washington, D.C. on January 22, 1980.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 80-2543 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1399-2; PF-163]

Thompson-Hayward Chemical Co.; Filing of Pesticide and Feed Additive Petitions

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

ACTION: Notice of filing.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following petitions have been submitted to the Agency for consideration.

PP OF2282. Thompson-Hayward Chemical Co., PO Box 2383, Kansas City, MO 66110. Proposes that 40 CFR 180.236 be amended by establishing tolerances for residues of the fungicide triphenyltin hydroxide in or on the following raw agricultural commodities:

Commodity:	Part per million
Eggs	0.05
Milk	0.05
Meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep	0.05
Soybean seeds	0.05

The proposed analytical method for determining residues is spectrophotometry or polarographic analysis for inorganic tin.

FAP OH5242. Thompson-Hayward Chemical Co. Proposes that 21 CFR 561 be amended by permitting residues of the above fungicide in or on the animal feed soybean processed-fraction soapstock at 0.15 ppm.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to Product Manager (PM/21), Mr. Henry Jacoby, Room E-305, Registration Division (TS-767). Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755-2562. Comments submitted should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while the petition is pending before the Agency. Written comments filed in connection with this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Secs. 408(d)(1), and 409(b)(5), Federal Food, Drug, and Cosmetic Act)

Dated: January 21, 1980.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 80-2435 Filed 1-24-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1398-8; OPTS-51017]

Receipt of Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of a premanufacture notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. (§) 5(d)(2) requires EPA to publish a summary of each PMN in the **Federal Register**. This Notice announces receipt of a PMN and provides a summary.

DATE: Persons who wish to file written comments on a PMN should submit their comments no later than 30 days before the applicable notice review period ends.

ADDRESS: Written comments should bear the PMN number "5AHQ–1279–0087" and should be submitted in triplicate to the Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, EPA, 401 M Street, SW, Washington, D.C. 20460.

Nonconfidential portions of the PMN and other documents in the public record are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E–447 at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Smith, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426–8816.

SUPPLEMENTARY INFORMATION: § 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under § 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. (Notice of availability of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558)). The requirement to submit a PMN for new chemical substances manufactured or imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms (44 FR 2242, January 10, 1979). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see the section entitled "Notice in the **Federal Register**" on p. 28567 of the Interim Policy.

A PMN must include the information listed in § 5(d)(1) of TSCA. Under § 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under § 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the § 5(d)(2) notice is subject to § 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a non-confidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures. EPA normally has 90 days to review a PMN once the Agency receives it (§ 5(a)(1)). The § 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under § 5(c), EPA may for good cause extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under § 5(a)(1)(A).

(Sec. 5, Toxic Substances Control Act (90 Stat. 2012; (15 U.S.C. 2604))

Dated: January 21, 1980.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN No.: 5AHQ–1279–0087.

Close of Review Period: March 17, 1980.

Manufacturer's Identity: The manufacturer's identity is claimed confidential. The submitter has total annual sales of between $100,000,000 and $499,000,000. It intends to produce the new chemical substance at a plant in the eastern south-central region of the country. The initial usage will be at several locations all internal to the company. The Standard Industrial Classification Code is 2851, "Paint and Varnish Manufacturer".

Specific Chemical Identity: Claimed confidential. Generic name: Polyacrylate.

Uses: The manufacturer claims specific use to be confidential. However, it has indicated that the substance is for industrial uses only.

Data: Exposure/Environmental Release:

Activity and type of exposure	Exposure route	Maximum number persons exposed	Maximum duration		Concentration	
			Hour/day	Day/year	Average	Peak
During production:						
Occupational	Dermal	3	.25	30	0–1 mg/m³	0–1 mg/m³.
Environmental Release:						
Air—No emissions.						
Water—No emissions.						
Physical states of the new chemical substance to which workers may be exposed: Solid or liquid.						
During processing:						
Occupational	Dermal	5	.5	60	1–10 mg/m³	10–100 mg/m³.
Environmental Release:						
Air—No emissions.						
Water—No emissions.						
Physical states of the new chemical substance to which workers may be exposed: Solid or liquid.						
During Use:						
Occupational	Dermal	3	4	260	0–1 mg/m³	10–100 mg/m³.
	Inhalation	1	6	260	0–1 mg/m³	0–1 mg/m³.
Environmental Release	Air		6	260	Less than 10 kg/yr (<0.01 gal/d).	

Physical states of the new chemical substance to which workers may be exposed:
Dermal route-solid or liquid.
Inhalation route-mist.
During disposal:
Environmental release: 1,000–10,000 kg/yr to landfill in sealed containers.

Test Data: The submitter did not provide any test data. The company indicated that it believes the new product has no deleterious effects on health or environment.

[FR Doc. 80-2434 Filed 1-24-80; 8:45 am]
BILLING CODE 6560-01-M

[OPP-180407; FRL 1399-7]

Georgia Department of Agriculture; Issuance of Specific Exemption To Use Etheprop on Okra To Control Root-knot Nematodes

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

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Georgia Department of Agriculture (hereafter referred to as the "Applicant") to use etheprop (Mocap EC) on 1,000 acres of okra to control the root-knot nematode complex in seven counties in Georgia. The specific exemption expires on May 31, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street SW., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting the EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, the root-knot nematode complex is a serious problem in the light sandy soils where okra is grown in Georgia. The pest can generally be controlled with a single pre-plant or at-planting application of a nematocide. The Applicant reports that specialized application equipment allows for pesticide treatment and planting at the same time and was devised for use with DBCP (1,2-dibromo-3-chloropropane), the traditional pesticide used. DBCP was cancelled on October 29, 1979 (44 FR 65135). There are currently two pesticides registered for use on okra. They are EDB (ethylene dibromide) and 1,3-dichloropropene. Both of these chemicals carry a waiting period between pesticide application and planting. In addition, registration of EDB was presumed against on December 14, 1977 (42 FR 63134), because of possible oncogenicity, mutagenicity, and reproductive effects. For this reason, the Applicant will not consider EDB as an alternative. EDB and 1,3-dichloropropene have not been used in this area due to labor costs involved in having to apply the pesticide and then having to return to plant the okra at a later date, the Applicant reports. The Applicant submitted data indicating that Mocap will control the root-knot nematode complex.

The Applicant states that 40–50 percent of the okra crop will be lost without the use of Mocap EC which contains the active ingredient etheprop. The loss on acreage proposed for treatment would come to $300,000, according to the Applicant.

The Applicant proposed to use a maximum of 10,000 pounds of Mocap EC (EPA Reg. No. 2224–44) on 1,000 acres in Brooks, Colquitt, Decatur, Earla, Grady, Mitchell, and Thomas Counties.

EPA has determined that residues of etheprop in or on okra from the proposed use are not expected to exceed 0.05 part per million (ppm). This residue level has been judged adequate to protect the public health. EPA has also determined that the program should not pose an undue hazard to the environment.

After reviewing the application and other available information, EPA has determined that: (a) a pest outbreak of root-knot nematodes has occurred or is likely to occur; (b) there is no effective, practical pesticide presently registered and available for use to control the root-knot nematode complex in Georgia; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the root-knot nematode complex is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until May 31, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Mocap EC is to be applied in accordance with the labeling submitted by the Applicant on October 30, 1979;

2. Mocap EC is to be applied at a rate of up to 1⅔ gallons (10 pounds etheprop) per acre;

3. Application is to take place between March 1, and May 31, 1980;

4. Application is to be made by State-certified applicators or by persons under their direct supervision;

5. A maximum of 1,000 acres of okra may be treated;

6. Mocap EC is toxic to fish, birds, and other wildlife. It must be kept out of lakes, streams, or ponds. Care must be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes;

7. The Applicant is responsible for ensuring that residue data, resulting from the proposed use pattern, are gathered for levels of etheprop in or on okra and that the data are submitted to EPA;

8. Okra treated according to the above provisions should not have residues of etheprop in excess of 0.05 ppm. Okra with residues of etheprop which do not exceed this level may enter into interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

9. The EPA will be immediately informed of any adverse effects resulting from the use of Mocap EC in connection with this exemption; and

10. The Applicant is responsible for assuring that all provisions of this specific exemption are met and must submit a report summarizing the results of the program by August 31, 1980.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: January 21, 1980.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-2424 Filed 1-24-80; 8:45 am]
BILLING CODE 6560-01-M

[OPP-180403; FRL 1399-3]

Montana Department of Agriculture; Receipt of Application for Specific Exemption To Use Compound 1080 To Control Columbian Ground Squirrel; Solicitation of Public Views

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

ACTION: Receipt of application for specific exemption; solicitation of public views.

SUMMARY: EPA has received a request from the Montana Department of Agriculture (hereafter referred to as the "Applicant") for a specific exemption to use approximately 240 ounces of Compound 1080 (sodium monofluoroacetate) to control Columbian ground squirrel damage in nineteen counties in Montana. Comments must be received on or before February 25, 1980.

ADDRESS COMMENTS TO: Document Control Officer, Chemical Information Division (TS–793), Office of Pesticides and Toxic Substances, EPA, Room: 447, East Tower, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Emergency Reponse Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, Room: E–124, at the address given above, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, the Columbian ground squirrel (*Spermophilus columbianus*) is a particularly devastating pest of agricultural land, pasture and rangeland. The Applicant reports that other pesticidal and nonpesticidal techniques have not given adequate control of this pest. Economic losses for 1980, as a result of the borrowing and feeding habits of the Columbian ground squirrel, are estimated by the Applicant at $1,091,557 without an adequate control program.

Last year the Applicant received a specific exemption to treat 70,831 acres in the counties of Broadwater, Flathead, Granite, Lake, Lewis and Clark, Lincoln, Mineral, Powell, Ravalli, Sanders, and Silver Bow. The Applicant reported that because of weather and manpower limitations approximately 52,000 acres were actually treated, and that an emergency condition still exists in the 18,000 acres which were not treated in the twelve counties. Additionally, the Applicant has requested treatment for Beaverhead, Deer Lodge, Glacier, Jefferson, Madison, Pondera, and Teton Counties.

The Applicant proposes to use Compound 1080 in a grain which would be applied by hand to each burrow by means of a calibrated dipper. Each dipper contains .16 oz. of grain bait, and only one dipper would be scattered near each active burrow entrance during the period of the specific exemption. It is estimated that 24,000 pounds of bait (240 ounces of technical grade sodium monofluoroacetate) would be needed. Each applicator would be trained in:

a. The biology and ecology of the Columbian ground squirrel;

b. Safe handling of the toxic grain baits;

c. Proper placement of the bait;

d. Consideration of environmental conditions before baiting is begun;

e. Necessary record keeping; and

f. Other competency standards.

Application would be made under the supervision of applicators trained by the Montana Department of livestock and licensed by the Applicant. Treatment would be made once in any area, and the application period would be from June 1 through August 10, 1980.

To prevent unreasonable hazard to the environment, the Applicant proposed to use Compound 1080 grain bait to control Columbian ground squirrels only in areas where they are causing damage to food crops, fiber crops, or range resources and not in situations where threatened and endangered animal species would be adversely affected. All bait will be handled and stored under controlled conditions. Compound 1080 will be applied only during seasons when Columbian ground squirrels are accepting grain, and the majority of the population is active above ground. The Applicant claimed that agricultural damage caused by Columbian ground squirrels was significantly reduced in nearly all areas of western Montana between 1948 and 1971 when 1080 grain bait was used for damage prevention and that no human fatalities or accidents occurred during this time period.

It should be noted that a rebuttable presumption exists against registration of rodenticide products containing Compound 1080 when applied by air or used above ground (see **Federal Register** of December 1, 1976, p. 52791); restrictions involving underground applications are not in question. However, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

This notice does not constitute a decision by EPA on the application itself. It has been determined that this application raises questions of such importance that public notice and opportunity for public comment should be given. Accordingly, interested persons may submit written views on this subject to the Document Control Officer at the address given above. The comments must be received on or before February 25, 1980 and should bear the identifying notation OPP–180403. All written comments filed pursuant to this notice will be available for public inspection in the office of the Document Control Officer at the address given above, from 8:30 a.m. to 4 p.m. during normal business days.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: January 21, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–2425 Filed 1–24–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–180405; FRL 1399–5]

Oregon Department of Agriculture; Issuance of Specific Exemption To Use Paraquat To Control Weeds in Peppermint Fields

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

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use either bis (methyl sulfate) or the dichloride salt of paraquat (1,1'-dimethyl-4,4'-bipyridinium ion) to control Italian ryegrass, common groundsel and other weeds in 15,000 acres of peppermint field located in the Willamette Valley and other areas in southern, central, and eastern Oregon. The specific exemption expires on March 31, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW, Room: E–124, Washington, DC 20460, Telephone: 202/426–0233. It is suggested that interested persons telephone before visiting the EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, the peppermint in western Oregon and in various other parts of the State is now grown under a non-tillage system as a cultural method to prevent the spread of *Verticillium* wilt. This has caused an extreme pressure from various kinds of weeds. The major weeds occurring during the dormant season of the peppermint are Italian ryegrass (*Lolium multiflorum*), common groundsel

(*Senecio vulgaris*), and several other annual, biennial, and perennial weed species. These weeds, the Applicant stated, germinate in the fall, grow vigorously during the winter season, and overwhelm the emerging peppermint in the spring. Treatment to combat these weeds should be made while the peppermint is dormant.

Only three herbicides are presently registered for use on peppermint: terbacil, trifluralin, and diuron. According to the Applicant, none of these is adequate to control the pest weeds. Data submitted by the Applicant indicated that paraquat seems to be the only effective herbicide which can be used in a pest management system which relies exclusively on cultural methods for mint disease control.

The Applicant proposed to use a paraquat formulation on a maximum of 15,000 acres of dormant peppermint located mainly in the Willamette Valley of western Oregon; some of this acreage is also located in southern, central, and eastern Oregon. A total of 11,250 pounds of the active ingredient will be required. Applications of from 0.37 to 0.75 pound active ingredient (from 1.5 to 3 pints product) in 20 to 50 gallons of water will be made by ground equipment. Either State-licensed commercial applicators or growers who have qualified as private applicators will make the treatments.

The Applicant estimated that, without the use of paraquat, Oregon peppermint growers could lose between $2.25 million and $7.5 million. Hand labor can be used for the removal of certain perennial and biennial weeds when in sparse stands, but the ryegrass and groundsel cannot be economically removed by hand. In addition to the short-term economic impact of these weeds, another concern is the accumulation of millions of weed seeds in the soil to cause future problems.

EPA has determined that no detectable residues (<0.05 part per million) of paraquat are expected to occur in mint oil from this use. There does not appear to be any potential irreversible hazard to the environment as a result of this short-term use of paraquat. The use of paraquat in peppermint fields will not significantly increase the amount of residues in the total diet of man or domestic animals.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of various weeds in peppermint fields has occurred or is about to occur; (b) there is no pesticide presently registered and available for use to control these weeds in Oregon; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the weeds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until March 31, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products Ortho Paraquat CL, EPA Reg. No. 239–2186, or Ortho Paraquat, EPA Reg. No. 239–1994, may be used at a dosage rate of from 1½ to 3 pints product per 20 to 50 gallons of water/acre. If the high dosage rate is used, only a single application may be made. Two applications may be made at the low dosage rate. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. A maximum of 11,250 pounds active ingredient may be applied;

3. Applications may be made by either State-certified commercial or private applicators or persons under their direct supervision;

4. Application rates and procedures will be recomended by qualified Oregon State University Research and Extension agents;

5. A residue level of paraquat not exceeding 0.05 part per million in mint oil has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

6. The fresh peppermint forage must be used only for the distillation of mint oil. The spent hay must not be fed to livestock;

7. All applicable directions, precautions, and restrictions on the EPA-registered label must be followed;

8. The EPA shall be immediately informed of any adverse effects resulting from the use of paraquat in connection with this exemption; and

9. A full report sumarizing the results of this program must be submitted to the EPA by the end of September, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: January 21, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-2188 Filed 1-24-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180406; FRL 1399-6]

Oregon Department of Agriculture; Issuance of Specific Exemption To Use Fenvalerate To Control Pear Psylla in Pears

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

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use fenvalerate to control the pear psylla on a maximum of 23,500 acres of pears in the Hood River, Rogue River and Willamette Valleys in Oregon. The specific exemption expires on April 30, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW, Room: E–124, Washington, DC 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, pear psylla, requiring constant control, is present in all pear orchards in Oregon. The adults winter in bark crevices or under leaves on the ground and start in early spring to lay pear-shaped yellow eggs around the buds. These hatch in two weeks into wingless nymphs which become adults in one month. There are normally three to five generations in a season. Summer eggs are laid on leaves or petioles. The nymphs cluster at axils and on undersides of leaves secreting their honeydew. The secretion covers foliage and fruits; sooty mold growing in this scars and blackens the fruit. The Applicant reports there can be partial defoliation, loss of vigor, and abnormal buds. The fruit is made unsightly and unfit for fresh market sale, the Applicant claims. According to the Applicant, processors will not buy russeted fruit because of the problems in peeling and/or contamination of the end product. Pear psylla is also the only know vector of the mycoplasma-induced disease called "Pear Decline" which results in reduced vigor of trees, diminished yields, and death of trees. According to the Applicant, no cultural or biological control methods are effective for control of pear psylla. The Applicant indicates that use of fenvalerate (cyano (3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate) is necessary to reduce pear psylla

densities to a level where in the summer they can be controlled with registered chemicals such as BAAM. The Applicant further states that use of fenvalerate should reduce the need for frequent applications of other materials next summer. The Applicant estimates that without adequate control of pear psylla a loss of over $2,115,000 could be experienced by Oregon pear growers.

The Applicant proposed to use Pydrin, manufactured by Shell Chemical Co., on up to 23,500 acres of pears, including those interplanted with apples. A maximum of 18,800 pounds of the active ingredient fenvalerate will be applied by either ground or air equipment.

EPA has determined that this use of fenvalerate should not result in residue levels exceeding 0.01 part per million (ppm) in or on pears or apples. Secondary residues in meat, fat, and meat byproducts should not exceed 0.02 ppm since the cover crops grown in treated orchards are not to be fed to livestock. EPA has judged these residue levels to be adequate to protect the public health. EPA has also determined that this program should not pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) on outbreak of pear psylla has occurred; (2) there is no effective pesticide presently registered and available for use to control the pear psylla in Oregon; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the pear psylla is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until April 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Pydrin, EPA Reg. No. 201–401, may be applied at a rate of up to 0.4 pound active ingredient per acre per application. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. A maximum of two applications may be made during the dormant to the pre-bloom stages of pear tree development. Pear orchards that are interplanted with apple trees may be treated, provided applications are made prior to the bloom stage of development of both apple and pear trees;

3. Applications may be made with ground or air equipment;

4. Spray mixture volumes of 3–20 gallons will be applied by aircraft and 3–400 gallons with ground equipment. Pydrin may be applied in combination with water or a superior type oil;

5. A maximum of 23,500 acres may be treated;

6. All applications will be limited to commercial orchards;

7. All applications will be made by State-certified private or commercial applicators or persons under their direct supervision;

8. Precautions will be taken to avoid spray drift to non-target areas;

9. Pydrin is extremely toxic to fish and aquatic invertebrates. It must be applied with care in areas adjacent to any body of water. It may not be applied when weather conditions favor runoff or drift. It must be kept out of lakes, streams, and ponds. Care must be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes;

10. Fenvalerate should not be applied any closer to fish-bearing waters than indicated in the chart below:

Application method and height	Aerial (10 ft.)			Ground (2 ft.)		
Application rate (lbs. A.I.).	.05	.1	0.2	0.05	0.1	0.2
Freshwater (distance in ft.).	1847	2779	3950	369	556	790
Saltwater (distance in ft.).	111	206	371	22	41	74

The Applicant is warned that applications closer than those allowed in the above chart may result in fish and/or other aquatic organism kills;

11. Pydrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. The pesticide may not be applied or allowed to drift to weeds on which economically significant numbers of bees are actively foraging. Protective information may be obtained from the State Cooperative Agricultural Extension Service;

12. Pears and apples with residue levels of fenvalerate that do not exceed 0.01 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

13. The feeding or grazing of orchard cover crops shall be prohibited;

14. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

15. The Applicant is responsible for assuring that all the provisions of this specific exemption are met and must submit a report summarizing the results of this program by October 30, 1980; and

16. The EPA shall be immediately informed of any adverse effects resulting from the use of fenvalerate in connection with this exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: January 21, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–2431 Filed 1–24–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP—180404; FRL 1399–4]

South Dakota Department of Agriculture; Receipt of Application for Specific Exemption To Use Compound 1080 To Control Blacktail Prairie Dog: Solicitation of Public Views

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

ACTION: Receipt of application for specific exemption; solicitation of public views.

SUMMARY: EPA has received a request from the South Dakota Department of Agriculture (hereafter referred to as the "Applicant") for a specific exemption to use approximately 55 pounds of Compound 1080 (sodium monofluroacetate) to control the blacktail prairie dog in all of the counties in South Dakota west of the Missouri River. Comments must be received on or before February 25, 1980.

ADDRESS COMMENTS TO: Document Control Officer, Chemical Information Division (TS–793), Office of Pesticides and Toxic Substances, EPA, Room 447, East Tower, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, Room E–124, at the address given above, Telephone: 202/426–0223. It is suggested that interested persons telephone before visting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, more than one million acres of rangeland in western South Dakota are infested with permanently established colonies of blacktail prairie dogs with population densities increasing annually during each spring breeding season. The

Applicant claims that at least 75 percent of the available forage grown in the infested areas is currently consumed by prairie dogs. The Applicant proposed to treat no more than 200,000 acres. Without treatment, the Applicant estimates a loss of $1,275,000 on that acreage. The Applicant reported that zinc phosphide, strychnine, and other methods using smoke devices are available and are currently being used, but that they achieve a control rate at a level less than the rate of population increase.

The Applicant proposes to use rolled oat bait with Compound 1080 as the active ingredient. Applications would not exceed .000275 pond sodium monfluoroacetate per acre of ¼ of a pound of bait containing .11 percent active ingredient per acre. Application will be by hand at the rate of 4 grains (1 tablespoon) per burrow at burrow sites and spread over no less than a three-foot square area. All applications will be made by, or under the direct supervision of, applicators State-certified in the category of rodent, predator and bird pest control. Application would be from February 1, through November 30, 1980.

To prevent unreasonable hazard to the environment, the Applicant would make no application to a site where a blackfooted ferret had been sighted or is known to inhabit. Carcasses of all prairie dogs would be buried. Excess bait would be returned to the Applicant for storage until proper disposition could be made. The Applicant stated that Compound 1080 had been used for several years prior to 1973 in western South Dakota for prairie dog control without any known significant adverse effect to either man or the environment.

It should be noted that a rebuttable presumption exists against registration of rodenticide products containing Compound 1080 when applied by air or used above ground (see **Federal Register** of December 1, 1976, p. 52791); restrictions involving underground applications are not in question. However, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

This notice does not constitute a decision by EPA on the publication itself. It has been determined that this application raises questions of such importance that public notice and opportunity for public comment should be given. Accordingly, interested persons may submit written views on this subject to the Document Control Officer at the address given above. The comments must be received on or before and should bear the identifying notation OPP—180404. All written comments filed pursuant to this notice will be available for public inspection in the office of the Document Control Officer at the address given above, from 8:30 a.m. to 4 p.m. during normal business days.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975 and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: January 21, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-2433 Filed 1-24-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 80-20]

Financial Qualification Showing Revised for Station Modification Applicants

January 18, 1980.

The Commission has deleted its requirement for a detailed showing of financial qualification in application forms to change the facilities of an existing broadcast station, reserving the authority to require the submission of financial information if needed (Section III of FCC Forms 301 for commercial and 340 for noncommercial educational stations).

The detailed showing of financial qualifications is being retained in the application forms for construction of new broadcast stations.

The Commission concluded that proposals to change facilities of existing stations are predicated on business judgments in which the ability of such an on-going operation to finance the change is an inherent factor in that judgment and is assured before undertaking the filing of such proposal. Commission review of previously-required showings indicated that they seldom serve any useful purpose because questions of adequate financing rarely arise, and, if one should, authority is retained to require any necessary information. Contingent applications, however, filed by prospective assignees or transferees pursuant to § 73.3517(a) must include all pertinent Section III information.

This revision relieves licensees of much detail involved in these applications and relieves the FCC of the review of unnecessary financial showings.

Section III (Financial Qualifications) of Forms 301 and 340 (for commercial and noncommercial stations respectively) will be revised. This new procedure will apply to all station change applications effective January 25, 1980. The present form may be used until the new Section III forms are available.

Action by the Commission January 16, 1980. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, Brown and Jones.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-2378 Filed 1-24-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[80-40]

Preemption of State Usury Laws

Dated: January 22, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice of Agency Interpretation.

SUMMARY: Pursuant to the authority granted by section 105 of Public Law 96-161, 96th Cong., 1st Sess. (1979), the Federal Home Loan Bank Board is issuing four interpretations relating to the recent temporary statutory preemption of state usury laws, with respect to Federally-related residential mortgage loans.

The Board has determined that: (1) If a new borrower "assumes" an existing Federally-related residential first mortgage, but at an increased rate of interest, section 105 would preempt otherwise applicable state usury laws if the transaction takes place during the preemption period;

(2) If a lender makes a Federally-related residential mortgage in New York State during the preemption period pursuant to a completed application submitted prior to the effective date of Pub. L. 96-161, section 14-a(10) of the New York Banking Law would prevent the interest rate on the loan from exceeding that prescribed by State law on the date the completed application is submitted, if the loan is closed within 120 days of the application date;

(3) A Federally-related residential mortgage loan closed within two years of the enactment date of Pub. L. 96-161 will be exempt from state usury laws as provided by section 105(d), if the loan is made pursuant to a commitment given during the preemption period and the commitment indicates the parties have bound themselves to a rate which may exceed that prescribed by state law at the time of closing; and

(4) If a home builder obtains a commitment during the preemption period from a lender to provide

permanent Federally-related mortgage financing to qualified purchasers of his homes, loans to these purchasers will be exempt from state usury laws under section 105(d) if closed pursuant to the builder's commitment within two years of the effective date of Pub. L. 96–161.

FOR FURTHER INFORMATION, PLEASE CONTACT: James C. Stewart, Attorney, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552 (202–3770–6457).

EFFECTIVE DATE: December 28, 1979.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted by section 105(c) of Pub. L. 96–161, 96th Cong., 1st Sess. (1979), the Federal Home Bank Board is issuing four interpretations relating to the statute's temporary preemption of state usury laws with respect to Federally-related residential first mortgage loans. The reader is also invited to consult the regulations on the statute published at 45 FR 1853 (Jan. 9, 1980).

Federal Home Loan Bank Board Interpretation No. 590–2 (Assumptions)

Section 105(a) of Pub. L. 96–161 provides that state usury laws do not apply to Federally-related residential mortgage loans made between December 28, 1979 and March 31, 1980. The Federal Home Loan Bank Board has been asked to interpret the effect of this provision on existing loans assumed during the preemption period.

A loan "assumption," as that term is correctly defined, involves only the substitution of one borrower for another, with no other changes in the terms of the loan. Since this type of assumption entails no material change in the obligation, it should not be considered the "making" of a loan as that term is used in section 105(a)(1)(B) of Pub. L. 96–161. Accordingly, the preemption provisions of Pub. L. 96–161 would not apply.

However, if the substitution of obligors is accompanied by an increase in the interest rate, as permitted by the contract, section 105 of the above statute would apply. Although the latter type of transaction is also sometimes referred to as an "assumption," it is, in fact, a new loan since the obligation materially differs from that of the predecessor loan. For this reason, the substitution of obligors at a higher interest rate constitutes the making of a loan for purposes of section 105(a)(1)(B) of Pub. L. 96–161. If made during the statutory preemption period, these agreements are not subject to state usury laws.

Finally, an agreement during the preemption period to refinance an existing first lien mortgage loan also would be considered the making of a loan for purposes of section 105 (a)(1)(B) of Pub. L. 96–161. Under this type of agreement, the present obligor pays off the prior first lien with proceeds from a new loan secured by a first lien on residential real property at a higher rate of interest.

Federal Home Loan Bank Board Interpretation No. 590–3 (Completed Applications in New York)

Section 105(a) of Pub. L. 96–161 states that "[t]he provisions of the consititution or law of any State expressly limiting the rate of amount of interest, discount points, or other charges which may be charged, taken, received or reserved" will not apply to Federally-related residential mortgage loans made during the statutory preemption period. The Federal Home Loan Bank Board has been asked to interpret the effect of this provision on a state law restricting the interest rate charged on loans closed within 120 days of the date on which the loan application is submitted.

New York State Banking Law Section 14–a(10) provided that lenders in that State may not close loans secured by one to six family residences or by stock in a residential cooperative housing corporation at rates exceeding "(1) the rate of interest prescribed [by N.Y. law] in effect at the time the completed application . . . is submitted . . . and for a period of not fewer than one hundred twenty days thereafter or (2) the rate of interest prescribed [by N.Y. law] in effect at the time of closing, whichever is the lower."

The State law provision prevents lenders from charging a rate higher than that in effect at the date of submission of the completed application for at least 120 days thereafter. The question has been raised whether a commitment made during the period from December 28, 1979 through March 31, 1980, the preemption period under Public Law 96–161, must adhere to the New York 120 day rule if the commitment is make pursuant to a completed application submitted prior to December 28, 1979, the effective date of the preemption statute.

In the opinion of the Board, Pub. L. 96–161 does not preempt section 14–a(10) of the New York Banking Law with respect to completed applications submitted prior to the effective date of Pub. L. 96–161. Section 105 of Pub. L. 96–161 was intended to preempt usury ceilings and not other consumer protections in state laws. *See* S. Rep. No. 368, 96th Cong., 1st Sess. 19 (1979). Although N.Y. Banking Law Section 14–a(10) makes references to that State's usury limits, its purpose is to protect applicants from increases in interest rates above those prevailing at the time of submission of their completed application. As a consumer protection measure, section 14–a(10) would not be preempted by Pub. L. 96–161.

This is not to say that Pub. L. 96–161 will have no effect on the operation of New York Banking Law section 14–a(10). During the preemption period, the interest rate set by New York will be inapplicable to loans described in section 105(a) of the statute. Accordingly, section 14–a(10) would not affect post-December 28, 1979 applications for these loans as their will be no New York State interest ceiling to protect during the 120 day period. On the other hand, pre-December 28, 1979 applications would be subject to section 14–a(10) and loans made pursuant to such applications during the preemption period would have to respect the New York rate in effect on the application date if closed within 120 days thereafter.

Federal Home Loan Bank Board Interpretation No. 590–4 (Commitments during Preemption Period)

Section 105(d) of Pub. L. 96–161, provides that when a commitment for a Federally-related residential mortgage loan is made during the statutory usury preemption period (December 28, 1979 through March 31, 1980), the resultant loan will be exempt from state usury ceilings if closed within two years of the effective date of the statute (December 28, 1979). The Federal Home Loan Bank Board has been asked to determine which types of commitments are contemplated by the above statute.

If a commitment were made at 15% or "at the higher of 15% or the prevailing rate at date of closing," the 15% rate could still be charged regardless of the rate prescribed by state law at the time of closing. Similarly, the two year closing rule of section 105(d) would apply to a commitment with interest rate to be determined by reference to an index which later yielded a rate in excess of state usury limits. An example of such a commitment would be "the interest rate shall be 1 point above the Federal National Mortgage Association purchase rate on the date of closing." In both of these cases, the parties have bound themselves to a rate which may exceed that prescribed by state law in force at the time of closing.

Federal Home Loan Bank Board Interpretation No. 590–5 (Builder Commitment)

Section 105(d) of Pub. L. 96–161 provides that when a commitment for a Federally-related residential mortgage

loan is made during the December 28, 1979 through March 31, 1980 statutory preemption period, the completed loan will be exempt from state interest ceilings if closed within two years of the December 28, 1979 effective date of the statute. The Federal Home Loan Bank Board has been asked to determine the effect of the above provision on the following situation:

A home builder obtains a commitment from a lender during the preemption period to provide permanent mortgage loans to qualified purchasers of homes currently being constructed by the builder. The commitment obligates the lender to provide financing at a specified rate to unidentified creditworthy buyers who meet the conditions set forth in the committment letter.

The Board determines that loans ultimately made to the purchasers pursuant to the builder's commitment would be exempt from state usury laws under section 105(d) if closed within two years of the effective date of Pub. L. 96–161, even if they are closed after the expiration of the preemption period. Although the identities of the final purchasers may not be known until after the expiration of the preemption period, the terms of their loans are determined prior to that date. As long as the loans ultimately made to the buyers do not vary materially from those required under the commitment, any loans closed pursuant to such commitments would be eligible for the extended exemption provided in section 105(d) of the statute.

For commitments issued to builders prior to December 28, 1979, the Board's Interpretation No. 590–1 (45 FR 2840) applies. Thus, if a commitment to a builder provides that financing will be available for individual qualified purchasers "at the prevailing rate," the highest rate at which the lender may make financing available to individual purchasers pursuant to this commitment would be the lesser of the market rate or the maximum rate that would have been allowed under the relevant State usury law at the time of closing, absent Federal preemption.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80–2440 Filed 1–24–80; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1783]

Trans-Maritime Freight, Jose M. Blanco, d.b.a.; Order of Revocation

January 18, 1980.

By letter dated January 10, 1980, the Federal Maritime Commission was notified of the death of Jose M. Blanco and Independent Ocean Freight Forwarder License No. 1783 issued to Trans-Maritime Freight, Jose M. Blanco, d.b.a. was returned for cancellation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 1783 issued to Trans-Maritime Freight, Jose M. Blanco, d.b.a., be and is hereby revoked effective January 10, 1980.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon the estate of Trans-Maritime Freight, Jose M. Blanco, d.b.a.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80–2392 Filed 1–24–80; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–462) notice was published in 44 FR 76858 of December 28, 1979, that a meeting of the Federal Prevailing Rate Advisory Committee would be held on January 31, 1980. Notice is hereby given that the meeting scheduled for that date has been cancelled.

Jerome H. Ross,

Chairman, Federal Prevailing Rate Advisory Committee.

January 18, 1980.

[FR Doc. 80–2418 Filed 1–24–80; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL RESERVE SYSTEM

BGM Corp.; Formation of Bank Holding Company

BGM Corporation, Gays Mills, Wisconsin, 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 93 percent or more of the voting shares of Bank of Gays Mills, Gay Mills, Wisconsin. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 21, 1980. Any comment on an application that requests a hearing must include a statement of why 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, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80–2489 Filed 1–24–80; 8:45 am]

BILLING CODE 6210–01–M

Chrisman Bancshares, Inc.; Formation of Bank Holding Company

Chrisman Bancshares, Inc., Chrisman, 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 81.6 percent of the voting shares of State Bank of Chrisman, Chrisman Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 21, 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, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80–2398 Filed 1–24–80; 8:45 am]

BILLING CODE 6210–01–M

First Financial Group of New Hampshire, Inc.; Acquisition of Bank

First Financial Group of New Hampshire, Inc., Manchester, New Hampshire, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of First Bank and Trust Company, Meredith, New Hampshire. 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 Boston. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 19, 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 questons of fact that are in dispute and summarizing the eidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 18, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2399 Filed 1-24-80; 8:45 am]

BILLING CODE 6210-01-M

Industrial National Corp., et al.; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than February 19, 1980.

A. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President), 30 Pearl Street, Boston, Massachusetts 02106:

Industrial National Corporation, Providence, Rhode Island (mortgage banking activities; Michigan) to engage, through its indirect subsidiary, Mortgage Associates, Inc., in the servicing of residential mortgage loans. This activity will be conducted from an office in Lansing, Michigan, serving the State of Michigan. Comments on this application must be received by February 8, 1980.

B. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. Chemical New York Corporation, New York, New York (financing and insurance activities; Florida): to engage through its subsidiary, Sunamerica Corporation, in making or acquiring for its own account loans and other extensions of credit and servicing loans and other extensions of credit, including but not limited to, making or acquiring loans to consumers; acquiring installment contracts from retail sellers covering the time sales of goods and related services; making or acquiring loans and other extensions of credit to business (including inventory financing); making or acquiring extensions of credit secured by personal property lease contracts; making available to its debtors credit life, credit accident and health, mortgage life, mortgage disability, and property and casualty insurances, all directly related to extensions of credit. These activities would be conducted from an office in Tampa, Florida, serving the State of Florida.

2. Citicorp, New York, New York (consumer finance and insurance activities; Utah): to engage through its indirect subsidiary, Citicorp Person-to-Person Financial Center in operating a finance company, including making or acquiring consumer loans and other extensions of credit, secured or unsecured; making or acquiring loans and other extensions of credit to finance the purchase of mobile homes or manufactured housing, together with the real property to which such housing is or will be permanently affixed; and acting as agent for the sale of credit life and credit accident and health insurance directly related to extensions of credit. These activities would be conducted from an office in Salt Lake City, Utah, serving the entire State of Utah. This application is for an expansion of activities and service area of an existing office. Previously approved activities including purchasing and servicing for its own account sales finance contracts; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the making of non-consumer loans; and acting as agent for the sale of property and casualty insurance and for the sale of credit life and credit accident and health insurance directly related to extensions of credit will continue to be offered at this office and the service area will be expanded to cover the entire State of Utah.

3. Deutsche Bank AG, Frankfurt, West Germany (financing activities; continental United States): to act, through its 50% owned indirect subsidiary, Fiat Credit Corporation (which is presently engaged in the business of dealer inventory financing for dealers of affiliates of Fiat S.p.A. in the United States and retail financing for purchasers and leasees of products from such dealers), as agent or broker for the sale of life, accident and health insurance directly related to extensions of credit by Fiat Credit Corporation. These activities would be conducted from the principal office of Fiat Credit Corporation located at 2333 Waukegan Road, Bannockburn, Illinois, serving the continental United States.

C. *Federal Reserve Bank of Richmond.* (Lloyd W. Bostian, Jr., Vice President) 701 Byrd Street, Richmond, Virginia 23261:

BANK OF VIRGINIA COMPANY, Richmond, Virginia (Trust company activities; Virginia): to continue to engage through its subsidiary, Bank of Virginia Trust Company, in activities that may be carried on by a trust company, including activities of a fiduciary, investment advisory, agency, or custodian nature. These activities would be conducted from an office to be relocated from Salem, Virginia, to Roanoke, Virginia, serving the Roanoke, Virginia metropolitan area. Comments on this application must be received by February 12, 1980.

D. *Federal Reserve Bank of San Francisco* (Harry Green, Vice President)

400 Sansome Street, San Francisco, California 94120:

1. Western Bancorporation, Los Angeles, California (mortgage banking activities; nationwide) (insurance activities; Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming): to engage through its subsidiary, Western Bancorp Mortgage Company, in the activities of: (1) Making or acquiring construction loans and loans on income producing properties for its own account and for the account of others; (2) selling and servicing real estate and construction loans for its own account and for the account of others; (3) making or acquiring 1–4 family residential property loans for its own account and for the account of others; and, (4) acting as insurance agent or broker with respect to credit life, credit accident and health, mortgage disability, and mortgage redemption insurance directly related to extensions of credit or the provision of other financial services by Western Bancorporation or its subsidiaries. These activities would be conducted from an office in Salt Lake City, Utah, serving the eleven states listed in the caption to this notice (activities (3) and (4) above), and the entire United States (activities (1) and (2) above). Comments on this application must be received by February 15, 1980.

2. Bankamerica Corporation, San Francisco, California (financing and insurance activities; Massachusetts): to engage, through its subsidiary, FinanceAmerica Corporation of Massachusetts, in making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit. Such activities will include but not be limited to making consumer installment loans; purchasing installment sales finance contracts; making loans and other extensions of credit to small businesses; making loans secured by real and personal property; and offering life insurance directly related to extensions of credit made or acquired by FinanceAmerica Corporation of Massachusetts. These activities will be conducted from an office to be relocated from Reading, Massachusetts to North Reading, Massachusetts, and serving the Commonwealth of Massachusetts. Comments on this application must be received by February 13, 1980.

E. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, January 18, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2403 Filed 1-24-80; 8:45 am]

BILLING CODE 6210-01-M

Jacksboro National Bancshares, Inc.; Formation of Bank Holding Company

Jacksboro National Bancshares, Inc., Jacksboro, Texas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Jacksboro National Bank, Jacksboro, Texas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 20, 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, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2402 Filed 1-24-80; 8:45 am]

BILLING CODE 6210-01-M

O'Hare Banc Corp.; Formation of Bank Holding Company

O'Hare Banc Corp., 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 100 per cent of the voting shares of O'Hare International Bank, N.A., Chicago, Illinois. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not late than February 19, 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, January 18, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2400 Filed 1-23-80; 8:45 am]

BILLING CODE 6210-01-M

Wellsville Bancshares, Inc.; Formation of Bank Holding Company

Wellsville Bancshares, Inc., Wellsville, Kansas, 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 60 percent or more of the voting shares of The Wellsville Bank, Wellsville, Kansas. 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 may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 21, 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, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2491 Filed 1-24-80; 8:45 am]

BILLING CODE 6210-01-M

Winslow Bancorporation, Inc.; Formation of Bank Holding Company

Winslow Bancorporation, Inc., Winslow, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Winslow, Winslow, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Winslow Bancorporation, Inc., Winslow, Indiana, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to act as agent or broker for the sale of life accident and health, and property and casualty insurance directly related to extensions of credit by First National Bank of Winslow. These activities would be performed from Applicant's office in Winslow, Indiana, and serve Pike and Gibson Counties, in Indiana. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 19, 1980.

Board of Governors of the Federal Reserve System, January 18, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2490 Filed 1-24-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of February 1980.

Alcohol Training Review Committee—February 7–8, 9:00 a.m.; Holiday Inn, 8777 Georgia Avenue, Silver Spring, Maryland 20910. Open: February 7, 9:00 a.m. to 11:00 a.m.; Closed: Otherwise. Contact Robert E. Davis, Room 14C–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, ADAMHA, relating to training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00 a.m. to 11:00 a.m., February 7, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol Abuse, Drug Abuse and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Community Processes and Social Policy Review Committee—February 7–9, 9:00 a.m.; Shoreham Americana, 2500 Calvert St., N.W., Washington, D.C. 20008. Open: February 7, 9:00 a.m. to 10:00 a.m.; Clsoed: Otherwise. Contact Mrs. Rachel Driver, Room 9C–08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the field of institutional and organiational environments, and community social relationships and processes, as these relate to social problems, social policy, and individual and family mental health, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. February 7, the meting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychiatry Education Review Committee—February 11–14, 10:00 a.m.; Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open: February 11, 10:00 a.m. to 12:00 p.m.; Closed: Otherwise. Contact Irma Fisher, Room 9A–54, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4728.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to training activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 10.00 a.m. to 12:00 p.m. on February 11, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Community Alcoholism Services Review Committee—February 13–18, 7:00 p.m.; Sheraton Inn, 8727 Colesville Road, Silver Spring, Maryland 20910. Open: February 13, 7:00 p.m. to 9:30 p.m.; Closed: Otherwise. Contact Phillip Dawes, Room 11–10, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program area administered by the National Institute on Alcohol Abuse and Alcoholism relating to alcoholism service activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 7:00 p.m. to 9:30 p.m., February 13, the meeting will be open for discussion of the administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the

provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 94–463 (5 U.S.C. Appendix I).

Alcohol Biomedical Research Review Committee—February 20–22, 9:00 a.m.; Ramada Inn, 1251 West Montgomery Avenue, Rockville, Maryland. Open: February 20, 9:00 to 11:00 a.m.; Closed: Otherwise. Contact Kenneth R. Warren, Ph.D., Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, ADAMHA, relating to research activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00 a.m. to 11:00 a.m., February 20, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Criminal and Violent Behavior Review Committee—February 20–22, 9:15 a.m.; Shoreham Americana Hotel, 2500 Calvert St., N.W., Washington, D.C. Open: February 20, 9:15 to 10:30 a.m.; Closed: Otherwise. Contact Mrs. Phyllis Pinzow, Room 15–99, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3373.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of crime and delinquency, related law and mental health interactions, individual violent behavior, and sexual assault, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:15 to 10:30 a.m. February 20, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Mental Health Services Manpower Development Review Committee—February 20–22, 9:00 a.m.; Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open: February 20, 9:00 to 10:00 a.m.; Closed: Otherwise. Contact Lawrence Chaitkin, Ph.D., Executive Secretary, Room 9C–09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for state mental health manpower development projects, and research and demonstration projects concerning mental health services manpower, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. February 20, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Paraprofessional Education Review Committee—February 21–23, 9:00 a.m.; The Spring East Room, Holiday Inn, 8777 Georgia Avenue, Silver Spring, Maryland 20910. Open: February 21, 9:00 a.m. to 12:00 p.m.; Closed: Otherwise. Contact Mrs. Carolyn N. Snowden, Room 9C–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1737.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for paraprofessional education, the primary focus of which is on the development, production, and integration of paraprofessional mental health workers into service systems to meet NIMH service priorities such as providing services to unserved and underserved populations, increasing the supply of trained minority mental health service manpower, and providing mental illness prevention services, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m. to 12:00 p.m. February 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Drug Abuse Biomedical Research Review Committee—February 24–28, 1:00 p.m.; Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open: February 24, 1:00 p.m. to 5:00 p.m. and February 25, 9:00 a.m. to 10:30 a.m. Closed: Otherwise. Contact Ms. Mary-Carol Kelly, Room 10A–56, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6245.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 1:00 p.m. to 5:00 p.m., February 24, and from 9:00 a.m. to 10:30 a.m. on February 25, the meeting will be open for discussion of general research topics, administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Alcohol Abuse Prevention Review Committee—February 25–27, 9:00 a.m.; Sheraton Hotel, 8727 Colesville Road, Silver Spring, Maryland 20910. Open: February 25, 9:00 a.m. to 10:30 a.m.; Closed: Otherwise. Contact Robert E. Davis, Room 14C–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, relating to prevention

activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00 a.m. to 10:30 a.m., February 25, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Drug Abuse Clinical, Behavioral, and Psychosocial Research Review Committee—February 25–29, 9:00 a.m.; Conference Rooms H and I, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open: February 25, 9:00 a.m. to 10:30 a.m.; Closed: Otherwise. Contact Daniel L. Mintz, Executive, Secretary, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00 a.m. to 10:30 a.m., on February 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Drug Abuse Resource Development Review Committee—February 25–29, 9:00 a.m.; Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open: February 25, 9:00 a.m. to 10:30 a.m.; Closed: Otherwise. Contact Mary C. Knipmeyer, Executive, Secretary, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6664.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to demonstration treatment services, prevention and education, and training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00 a.m. to 10:30 a.m., on February 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Treatment Development and Assessment Research Review Committee—February 28–29, 9:00 a.m.; Shoreham Americana Hotel; 2500 Calvert St., N.W., Washington, D.C. 20008. Open: February 28, 9:00 a.m. to 10:00 a.m.; Closed: Otherwise. Contact Mrs. Eileen Nugent, Room 9–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3367.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of treatment development and assessment research, e.g., psychosocial and biobehavioral treatments; psychopharmacological, biological, and physical treatments; and clinical program-projects and clinical research centers, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m. to 10:30 a.m., February 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Basic Psychopharmacology and Neuropsychology Research Review Committee—February 28–March 1, 9:00 a.m.; Holiday Inn, 8777 Georgia Avenue, Silver Spring, Maryland 20910. Open: February 28, 9:00 a.m. to 10:00 a.m.; Closed: Otherwise. Contact Jean Pierce, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of basic psychopharmacology and neuropsychology, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m. to 10:00 a.m. February 28, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in acordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychopathology and Clinical Biology Research Review Committee—February 28–March 1, 9:00 a.m.; Shoreham Americana, 2500 Calvert St., N.W., Washington, D.C. 20008. Open: February 28, 9:00 a.m. to 10:00 a.m.; Closed: Otherwise. Contact Mary M. Martin, Room 10C–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3367.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of clinical psychopathology and clinical biology, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m. to 10:00 a.m. February 28, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in acordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIAAA Information Officer who will furnish summaries of the meetings and rosters of the

Committee members is Mr. Paul Garner, Acting Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 11A–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3306. The NIDA Information Office who will furnish summaries of the meetings and rosters of the Committee members is Ms. Mary-Carol Kelly, Program Information Officer for Drug Abuse, NIDA, Room 10A–56, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6245. The NIMH Committee Management Officer who will furnish summaries of the meetings and rosters of the Committee members is Mrs. Zelia Diggs, Office of the Associate Director for Extramural Programs, NIMH, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: January 21, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-2377 Filed 1-24-80; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration

[Docket No. 76P-0163]

Identity and Quality Standards for Canned Pineapple Juice; Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a formal evidentiary public rulemaking hearing and a prehearing conference for the purpose of resolving a factual issue raised by an objection that stayed one provision of the identity and quality standards for canned pineapple juice.

DATES: Prehearing conference February 28, 1980, beginning at 10 a.m. Written notices of participation must be received by February 25, 1980. Applications for reimbursement by February 19, 1980.

ADDRESSES: The prehearing conference will be held in the Food and Drug Administration (FDA) Hearing Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857. Written notices of participation and applications for reimbursement should be submitted to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Ted Herman, Regulations Policy Staff (HFC–10), Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 28, 1976 (41 FR 21768), the Commissioner of Food and Drugs issued a final regulation revising the standards of identity (21 CFR 27.54) and quality (21 CFR 27.55) for canned pineapple juice. Juice Bowl Products, Inc., objected in writing to 21 CFR 27.55 (recodified 21 CFR 146.185(b)), which set the minimum requirement for pineapple juice soluble solids in pineapple juice prepared from concentrate at a 13.5° Brix level. The objection was based on the argument that the 13.5° Brix requirement is too high in that it will decrease product acceptance and, at the same time, increase the cost of the product to the U.S. consumer. In response to this written objection and request for a hearing, a notice identifying the provision that was stayed pending consideration whether a hearing is necessary was published in the **Federal Register** of March 14, 1978 (43 FR 10552). The Commissioner has now determined that it is necessary to conduct a hearing to resolve the contested issue. A hearing is being granted on the stated objection.

The Commissioner's granting of a hearing on the issue raised by the objection does not indicate that he agrees with the objection. The stay will remain in effect until the issue is resolved. Therefore, it is ordered that a public hearing be held on whether it will promote honesty and fair dealing in the interest of consumers to set the minimum soluble solids requirement for pineapple juice made from concentrate at a Brix level of 13.5° or at a lower level between 12.0° and 12.5° Brix.

The hearing will consist of the submission of evidence in written form only, unless otherwise ordered by the Administrative Law Judge. If the hearing consists of any oral testimony, such testimony will be taken at the FDA Hearing Room (address above). The presiding Administrative Law Judge will be Daniel J. Davidson. Written notices of participation must be filed with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, no later than February 25, 1980. The written notices of participation should be identified by the Hearing Clerk docket number found in brackets in the heading of this document; also, to aid in identification, the envelope containing the notice should be clearly labeled "Canned Pineapple Juice Hearing."

Parties to the hearing shall be the Bureau of Foods of the Food and Drug Administration and Juice Bowl Products, Inc. The Pineapple Growers Association of Hawaii shall be a participant in the hearing.

The Bureau of Foods takes no position on the hearing issue and, therefore, will introduce no evidence at the hearing.

The portions of the administrative record that the Bureau of Foods deems relevant at this time, and which have been placed on public display in the office of the Hearing Clerk, include the following:

1. Relevant literature.
2. Correspondence.
3. **Federal Register** notices.
4. Relevant data.

The hearing will be open to the public. Any participant may appear in person, or by or with counsel or other qualified representatives, and may make known his or her views on matters relevant to the issue under consideration. Participants other than the Bureau of Foods shall disclose data and information under § 12.85 (21 CFR 12.85) by March 25, 1980.

In accordance with 21 CFR 12.92, all participants shall appear at the prehearing conference fully prepared to discuss in detail and resolve all matters specified in paragraph (b) of 21 CFR 12.92.

FDA has established a pilot program for financial assistance to participants in certain agency proceedings, including hearings under Part 12 (see the **Federal Register** of April 13, 1979 (44 FR 22339)). This program is described in regulations that were published in the **Federal Register** of October 12, 1979 (44 FR 59174) and that became effective on October 25, 1979 (44 FR 72585; Dec. 14, 1979). Subject to the availability of funds and other factors, FDA may reimburse participants meeting the criteria set forth in these regulations for certain costs of participating in this proceeding. For more information regarding the reimbursement program, contact Ron Wylie, Office of Consumer Affairs (HF–70), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2932.

Applications for reimbursement must be filed by February 19, 1980 in accordance with § 10.210 (44 FR 59186, October 12, 1979).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to him (21 CFR 5.1), the Commissioner orders that a public hearing be held on the issue set out in this notice.

Dated: January 21, 1980.
William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.
[FR Doc. 80-2371 Filed 1-24-80; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79F-0469]

International Minerals & Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: International Minerals & Chemical Corp. has filed a petition proposing the safe use of 2-amino-2-methyl-1-propanol as a dispersing agent in pigment suspensions to be applied as coatings to paper and paperboard products 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 OB3486) has been filed by International Minerals & Chemical Corp., P.O. Box 207, Terre Haute, IN 47808, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) and § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180), be amended to provide for the safe use of 2-amino-2-methyl-1-propanol as a dispersing agent in pigment suspensions to be applied as coatings to paper and paperboard for food-contact use.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that an environmental impact statement is not required, notice of availability of the environmental impact analysis report will be published in the **Federal Register** regulation, in accordance with 21 CFR 25.25(b).

Dated: January 17, 1980.
Sanford A. Miller,
Director, Bureau of Foods.
[FR Doc. 80-2369 Filed 1-24-80; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79F-0458]

Sunkyong Fibers, Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: Sunkyong Fibers, Ltd., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of trimethyl phosphate as a stabilizer in the processing of polyethylene phthalate polymers intended for food contact.

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 9B3437) has been filed by S&P Associates, 5 Pitcairn Place, Lexington, MA 02173, on behalf of Sunkyong Fibers, Ltd., Seoul, Korea, proposing that the food additive regulations be amended to provide for the safe use of trimethyl phosphate as a stabilizer in the manufacture of polyethylene phthalate polymers intended for food contact.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that no environmental impact statement is required, the notice of availability of the environmental impact analysis report, or the environmental assessment report will be published in the **Federal Register** regulation, in accordance with 21 CFR 25.25(b).

Dated: January 17, 1980.
Sanford A. Miller,
Director, Bureau of Foods.
[FR Doc. 80-2370 Filed 1-24-80; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 75N-0230; DESI 1786]

Certain Combination Drugs Containing an Organic Nitrate and a Sedative; Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration.
ACTION: Withdrawal of Approval.

SUMMARY: This notice withdraws approval of the new drug applications for certain combination drugs containing an organic nitrate and a sedative. Approval is withdrawn because the drugs lack substantial evidence of effectiveness in the treatment of angina pectoris.

EFFECTIVE DATE: February 4, 1980.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the number DESI 1786 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Suzanne M. O'Shea, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing, published in the **Federal Register** of August 17, 1979 (44 FR 48351), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the following drug products because they lack substantial evidence of effectiveness.

1. NDA 16-193; Sorbitrate with Phenobarbital Tablets containing isosorbide dinitrate and phenobarbital; Stuart Pharmaceuticals, Division of ICI Americas, Inc., Wilmington, DE 19397.

2. NDA 16-458; Pentritol 30 milligrams with Butabarbital containing pentaerythritol tetranitrate and butabarbital; formerly manufactured by Armour Pharmaceutical Co., P.O. Box 511, Kankankee, IL 60901.

3. NDA 16-460; Pentaerythritol Tetranitrate 10 milligrams and 20 milligrams with Phenobarbital ¼ grain Tablets; Kirkman Laboratories, Inc., 934 N.E. 25th Ave., Portland, OR 97208.

4. NDA 16-497; Duotrate 30 with Phenobarbital Sustained Release Capsules, containing pentaerythritol tetrainitrate and phenobarbital; formerly manufactured by Marion Laboratories, Inc., 10236 Bunker Ridge Rd., Kansas City, MO 64137.

5. NDA 16-546; Pentaerythritol Tetranitrate 10 milligrams and 20 milligrams with Phenobarbital 15 milligrams; manufactured by Lit Drug Co., 2530 Polk St., Union, NJ 07083.

6. NDA 16-554; Pentran No. 3 with Phenobarbital ¼ grain tablets, and Pentran No. 4 with Phenobarbital ¼ grain tablets containing pentaerythritol tetranitrate and phenobarbital; Halsey Drug Co., Inc., 1827 Pacific St., Brooklyn, NY 11233.

7. NDA 16-556; Pentaerythritol Tetranitrate 10 milligrams with Phenobarbital ¼ grain Tablets, and Pentaerythritol Tetranitrate 20 milligrams with Phenobarbital ¼ grain Tablets; Zenith Laboratories, Inc., 150 South Dean St., Englewood, NJ 07631.

8. NDA 16-559; Pentaerythritol Tetranitrate with Phenobarbital Tablets; West-Ward, Inc., 465 Industrial Way West, Eatontown, NJ 07724.

9. NDA 16-626; Pentaerythritol Tetranitrate 10 milligrams and 20 milligrams with Phenobarbital ¼ grain

Tablets; manufactured by Bolar Pharmaceuticals, Inc., 130 Lincoln St., Copiague, NY 11726.

10. NDA 16-643; Pentaerythritol Tetranitrate 10 milligrams and 20 milligrams with Phenobarbital 15 milligrams Tablets; formerly manufactured by American Pharmaceutical Co., 120 Bruckner Blvd., Bronx, NY 10454.

The National Association of Pharmaceutical Manufacturers requested a hearing in response to the notice of opportunity for a hearing. That request is under review, and will be the subject of a future notice.

No person other than the National Association of Pharmaceutical Manufacturers filed a written notice of appearance and request for hearing as provided by the August 17, 1979 notice. The failure to file a notice of appearance and request for a hearing constitutes an election by such persons not to avail themselves of an opportunity for a hearing.

Any drug product that is identical, related, or similar to a drug product named above and that is not the subject of an approved new drug application is covered by the new drug applications reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82) finds that on the basis of new information, not contained in the applications or not available until after the applications were approved, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that each of the drugs will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of new drug applications 16-193, 16-458, 16-460, 16-497, 16-546, 16-554, 16-556, 16-559, 16-626, 16-643 and all amendments and supplements applying thereto is withdrawn effective February 4, 1980.

Shipment in interstate commerce of the above products or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: January 9, 1980.

Jerome A. Halperin,

Acting Director, Bureau of Drugs.

[FR Doc. 80-2039 Filed 1-24-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79F-0473]

W. R. Grace & Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: W. R. Grace & Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of styrene-maleic anhydride resin, partial methyl and sec-butyl ester as a dispersant in can-end cements intended for food contact.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 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 9B3449) has been filed by W. R. Grace & Co., 55 Hayden Ave., Lexington, MA 02173, proposing that Part 175—Indirect Food Additives: Adhesive Coatings and Components (21 CFR Part 175) be amended to provide for the safe use of styrene-maleic anhydride resin, partial methyl and sec-butyl ester in can-end cements intended for food contacts.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that no environmental impact statement is required, the notice of availability of the environmental assessment report will be published in the **Federal Register** regulation, in accordance with 21 CFR 25.25(b).

Dated: January 15, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-2040 Filed 1-24-80; 8:45 am]

BILLING CODE 4110-03-M

National Institutes of Health

General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Research Support Review Committee, Division of Research Resources, March 26, 27, and 28, 1980. The meeting will be held on March 26, in the Lobby Room at the Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland, 20015, and on March 27 and 28, 1980, in Conference Room 6, Bldg. 31-C, National Institutes of Health, Bethesda, Maryland 20205.

The meeting will be open to the public on March 26, 1980, from 7:30 p.m. to 8:00 p.m., to discuss administrative matters relating to the Biomedical Research Support Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 26, 1980, from 8:00 p.m. to recess and on March 27 and 28, from 8:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B-13, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5545 will provide summaries of the meeting and rosters of the Committee members. Dr. Michael A. Oxman, Executive Secretary of the General Research Support Review Committee, Bldg. 31, Rm. 5B-23, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-6743, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.337, National Institutes of Health)

Dated: January 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-2391 Filed 1-24-80; 8:45 am]

BILLING CODE 4110-08-M

Large Bowel and Pancreatic Cancer Review Committee, Large Bowel Subcommittee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Large Bowel and Pancreatic Cancer Review Committee, (Large Bowel Subcommittee), National Cancer Institute, February 28-29, 1980, the Prudential Building, 1100 Holcombe Road, Houston, Texas. This meeting will be open to the public on February 28, from 7:30 p.m. to 8:00 p.m., to review administrative details. Attendance by

the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 28, from 8:00 p.m. to adjournment and on February 29, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Vincent J. Cairoli, Executive Secretary, National Cancer Institute, Westwood Building, Room 855, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7194) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Number 13.393, 13.394, 13.395 National Institutes of Health)

Dated: January 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–2390 Filed 1–24–80; 8:45 am]

BILLING CODE 4110–08–M

NIDR Special Grants Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Institute of Dental Research Special Grants Review Committee, on February 26–27, 1980, in Conference Room 9, Building 31–C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to adjournment on February 26, 1980, to discuss program policies and issues. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:00 a.m. to adjournment on February 27, 1980, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Emil L. Rigg, Executive Secretary, NIDR Special Grants Review Committee, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 504, Bethesda, MD 20205 (telephone 301 496–7658), will provide summaries of meeting, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13–840 through 13–845, and 13–878, National Institutes of Health.)

Dated: January 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–2389 Filed 1–24–80; 8:45 am]

BILLING CODE 4110–08–M

Public Health Service

Health Resources Administration

Grants for Public Health Traineeships; Application Announcement

The Bureau of Health Manpower, Health Resources Administration, announces that competitive applications for Grants for Public Health Traineeships will be accepted under the authority of section 748(a)(2) of the Public Health Service Act, as amended. Application materials are expected to be available on January 8, 1980.

Section 748(a)(2) authorizes the award of grants to public or nonprofit institutions (other than schools of public health) which provide graduate or specialized training in public health.

Applications will be accepted only in the following program areas:

- Biostatistics or epidemiology,
- Environmental or occupational health,
- Dietetics or nutrition,
- Preventive medicine or dentistry (residency training) or
- Maternal and child health.

In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that 65 percent of the funds received shall go to individuals having previously received a postbaccalaureate degree or having three years' work experience in health services.

For fiscal year 1980, in determining the priority for funding approved competitive applications, *additional preference will be accorded projects* that are designed to expand opportunities for the entry of minorities and disadvantaged persons, as defined below, into the designated programs of public health training.

"Minorities" means individuals whose race/ethnicity is classified as American Indian or Alaskan Native, Asian or Pacific Islander, Black, or Hispanic. (OMB-Designations of race/ethnic categories found in **Federal Register**, Vol. 42, No. 64, April 4, 1977, and implementing OMB Circular No. A–46 Revised Transmittal Memorandum No. 6, dated May 12, 1977.)

"Disadvantaged persons" means an individual who—

(a) comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a graduae or specialized program in public health, or

(b) comes from a family with an annual income below a level based on low income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health manpower programs.

The following income figures are to be used to determine what constitutes a low-income family for purposes of Public Health Traineeship grants for fiscal year 1980:

[Adjusted Gross Income for Calendar Year 1980]

Size of parents' family [1]	Income level [2]
1	$4,400
2	5,700
3	6,800
4	8,700
5	10,200
6	11,500

[1] Includes only dependents listed on Federal income tax returns.

[2] Rounded to $100.

Applications which do not address this preference area will be reviewed and given full consideration for funding.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (A–03), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: 301–436–7360.

Questions concerning the programmatic aspects of these grants should be directed to: Chief, Education Development Branch, Division of Associated Health Professions, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 5–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: 301–436–6800.

To be considered for fiscal year 1980 funding, applications must be received by the Grants Management Officer,

Bureau of Health Manpower at the above address no later than March 3, 1980. Approximately $275,000 is expected to be available for these grants.

Dated: January 14, 1980.

Henry A. Foley, Ph. D.,

Administrator.

[FR Doc. 80-2347 Filed 1-24-80; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Yankton Sioux Tribe of Indians; Plan for the Use and Distribution of Yankton Sioux Judgment Funds in Docket 332-C-1 Before the U.S. Court of Claims

Corrections

In FR Doc. 80-1094 appearing at page 2712 in the issue of Monday, January 14, 1980, second column, first line of the paragraph under *Higher Education Assistance Program* should read: "Two (2) percent of the funds shall be"; and the first line of the paragraph under *General Tribal Needs* should read: "One (1) percent of the funds shall be".

BILLING CODE: 1501-01-M

Bureau of Land Management

Lands and Resources, Redelegation of Authority; Amendment of Bureau Order No. 701

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Secretarial Order Nos. 3003, dated April 26, 1977, and 3018, dated March 16, 1978, the Secretary of the Interior delegated to the Director, Bureau of Land Management, the authority to grant or renew rights-of-way under Title I, Section 28 of the Mineral Leasing Act of 1920, as amended, and under the Federal Land Policy and Management Act of 1976. The authority was redelegated to the Bureau of Land Management State Directors through Bureau Order No. 701. Through this amendment, the Director is providing State Directors the opportunity to redelegate that authority. This action is taken so that the Bureau may be more responsive to the demands for rights-of-way. In addition, the amendment will allow the Director to designate a lead official for right-of-way projects that occur in more than one State.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Orval L. Hadley, (202) 343-5537. Part 1 of Bureau Order No. 701 dated July 23, 1964, is amended as follows:

1. Section 1.0(b)(5) is amended as follows:

Section 1.0 Functions of the State Director

* * * * *

(b) * * *

(5) The issuance of right-of-way grants that involve States under the jurisdiction of two or more State Directors. The Director, Bureau of Land Management, may, without further notice, or amending this order, redelegate to any State Director the authority to issue and take all actions associated with the right-of-way grant that involves more than one State Director's area of jurisdiction.

* * * * *

2. Section 1.1(a)(2) is amended as follows:

Section 1.1 Authority to Redelegate

(a) * * *

(2) The State Director may, without approval, redelegate to District Managers and Area Managers the authority to take actions on behalf of the State Director in matters listed in section 1.9(m) of Part 1.

Frank Gregg,

Director.

[FR Doc. 80-2428 Filed 1-24-80; 8:45 am]

BILLING CODE 4310-84-M

[M 31858-A]

Wyoming; Proposed Withdrawal and Reservation of Lands

January 15, 1980.

By virtue of the authority contained in Sec. 24 of the Act of October 21, 1976 (43 U.S.C. 1714), the Bureau of Land Management proposes to withdraw the following described lands from location and entry under the general mining laws (30 U.S.C. Ch. 2) subject to valid existing rights:

Sixth Principal Meridian, Wyoming.

T. 58 N., R. 95 W.,
Sec. 19, Lot 2 and SE¼NE¼;
Sec. 20, N½S½, SE¼SW¼, and S½SE¼;
Sec. 21, Southwest diagonal half SW¼;
Sec. 23, NE¼SW¼;
Sec. 26, SW¼NW¼ and W½SW¼;
Sec. 27, S½;
Sec. 28, NW¼NE¼, S½NE¼, and S½;
Sec. 29, NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 33, NE¼ and NE¼NW¼; and
Sec. 34, NW¼.

The area described contains 1,960.10 acres of public lands in Bighorn County, Wyoming.

The purpose of this withdrawal is to afford the above-described lands the same protection presently assigned to the public lands within the Pryor Mountain Wild Horse Range and to protect a highly significant archeological site complex.

On or before February 29, 1980, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing in connection with the withdrawal is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below by February 29, 1980. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to: (1) Determine the existing and potential demands for the lands and their resources; and (2) to provide for the maximum utilization of the lands.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested. The determination of the Secretary on the application will be published in the **Federal Register.** A separate notice will be sent to each interested party of record.

For a period of two years from the date of publication of this notice in the **Federal Register,** the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date.

All communications in connection with this withdrawal should be addressed to the Bureau of Land Management, Department of the Interior, Montana State Office, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-2375 Filed 1-24-80; 8:45 am]

BILLING CODE 4310-84-M

Office of the Secretary

Livestock Grazing on Public Lands; Schedule of Fees, 1980

Pursuant to the authority vested in the Secretary of the Interior, notice is hereby given of the schedule of fees for the 1980 fee year beginning March 1, 1980, and ending February 28, 1981, for livestock grazing on the public lands under the administration of the Bureau of Land Management.

For the purpose of establishing charges, one animal unit month (AUM) shall be considered equivalent to grazing use by one cow, five sheep, or one horse for one month.

Bills shall be issued in accordance with the rates prescribed in this notice.

Inside Statutory Grazing Districts

Pursuant to Departmental regulations (43 CFR 4130.5–1(a)), as published January 10, 1979 (44 FR 2173), fees within districts, except as otherwise provided herein, shall be $2.36 per AUM.

Exceptions to the above rates are hereby set as follows for certain LU project lands (Bankhead-Jones Land) in order to continue the basis of fees that has heretofore been established.

Arizona. For the San Simon project (Cienega area) transferred to the Department by Executive Order 10322, the fees shall be $2.54 per AUM.

Colorado. For the Great Divide project transferred to the Department by Executive Order 10046, the fees shall be $2.54 per AUM.

Montana. For all LU lands within districts transferred to the Department by Executive Order 10787, the fees shall be $2.54 per AUM.

New Mexico. For the Hope Land project transferred to the Department by Executive Order 10787, the fees shall be $2.48 per AUM. For the San Simon project (Cienega area) transferred to the Department by Executive Order 10322, the fees shall be $2.54 per AUM.

Outside Statutory Grazing Districts (Exclusive of Alaska)

Pursuant to Departmental regulations (43 CFR 4130.5–1(a)), the rate for grazing leases except as otherwise provided herein, shall be $2.36 per AUM.

Exceptions to the above rates are hereby set as follows for certain LU project lands and for all O&C and intermingled public domain lands in western Oregon in order to continue the basis of fees that has heretofore been established.

Montana. For those Milk River project lands outside districts transferred to the Department by Executive Order 18787, the fees shall be $2.54 per AUM.

Wyoming. For the northeast Wyoming project lands transferred to the Department by Executive Order 10046, and amended by Executive Order 10175, the fee shall be $2.54 per AUM.

Western Oregon. For western Oregon, the fee shall be $2.54 per AUM.

Dated: January 21, 1980.

James W. Curlin,

Deputy Assistant Secretary of the Interior.

[FR Doc. 80–2189 Filed 1–24–80; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF INTERIOR

Office of Surface Mining Reclamation and Enforcement

Advisory Committee on Mining and Mineral Resources Research; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. I) and the Office of Management and Budget's Circular No. A–63, Revised.

The Advisory Committee on Mining and Mineral Resources Research will meet from 9:00 a.m. to 5:00 p.m. (or completion of business) on February 19 and 20, 1980, in the Park Service North Penthouse Conference Room 8070, 18th and E Street, N.W., Washington, D.C. 20240.

This meeting will deal with the following principal subjects:

1. Introductory Remarks—Joan Davenport, Assistant Secretary—Energy and Minerals.
2. Approval of Minutes—Meeting of November 20, 1979.
3. Discussion of old business.
4. New business.
5. Policies and future activities of the Advisory Committee.
6. Report on Mineral Institutes Directors' Meeting held in Jackson, Mississippi on January 30–31 and February 1, 1980.
7. Progress report on Fiscal Year 1980 research proposal process.
8. Discussion of mineral industries research needs, and role of the Advisory Committee in identifying those needs to the Secretary of the Interior.

The meeting of this committee is open to the public. Approximately 40 visitors can be accomodated on a first come, first serve basis. Written statements concerning the subjects are welcome.

Visitors who expect to attend should make this known no later than February 11, 1980, to Ms. Marsha Helfand, Program Assistant, Mineral Institutes Branch, Division of Research, Technical Services and Research, Office of Surface Mining, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, telephone (202) 343–6912.

Walter N. Heine,

Director.

January 22, 1980.

[FR Doc. 80–2542 Filed 1–24–80; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Water and Power Resources Service

Contract Negotiations With the Village of Questa; Intent to Negotiate a Water Service Contract

In accordance with procedures established by the Department of the Interior concerning public participation in water service and repayment contract negotiations, the Water and Power Resources Service (Service) intends to negotiate a water service contract with the Village of Questa, New Mexico, to furnish that municipality 200 acre-feet of water annually from the San Juan-Chama Project. The contract will be written pursuant to the Reclamation Project Act of 1939 (53 Stat. 1187), the Act of June 13, 1962 (76 Stat. 96), and the Act of April 11, 1956 (70 Stat. 105).

The initial stage of the San Juan-Chama Project was authorized by the Act of June 13, 1962 (76 Stat. 96). That act provides for furnishing of San Juan-Chama Project water for irrigation, municipal and industrial, and domestic uses to several units in north-central New Mexico. Following a Service study showing that some of the units were not feasible, 13,330 acre-feet of water became available for reallocation to other entities.

In October 1975, the Service and the New Mexico Interstate Stream Commission recommended that the Secretary of the Interior contract with the entities listed below for 13,330 acre-feet of water allocated in amounts as indicated.

Long-Term Contracts Recommended

Entity	Annual Acre-Feet
Santa Fe	5,605
Los Lunas	400
Espanola	1,000
Taos Ski Valley Water and Sanitation District	15
Red River	60
Questa	200
Taos	400
Bernalillo	400
Belen	500
Los Alamos	1,200
Northeastern New Mexico	3,000
Cuba	300
Llano Unit—San Juan Indian Extension	250
Total	13,330

Contracts have been executed with the first four entities on the above list

and with the Department of Energy at Los Alamos. Those contracts set the water service rate at $26 per acre-foot. That rate was established to recover the contractors' share of capital costs, including interest during construction (IDC), and interest at the rate of 3.046 percent per year on the unpaid balance based on the ratio of the contractors' share of project water to the total project supply. Those contracts also provide for adjustment of the water service rate when final construction costs are known. In addition, an operation, maintenance, and replacement (OM&R) charge is assessed in advance annually.

The proposed contract with the Village of Questa will annually provide 200 acre-feet of San Juan-Chama Project water to supplement existing supplies. The proposed contract, with a term of 40 years, will require Questa to pay a proportionate share of the estimated construction costs, including IDC, interest at the rate of 3.046 percent per year on the unpaid balance, and OM&R costs. Provision will be made for reviewing and adjusting, if appropriate, the water charge every 5 years.

The proposed contract also provides that annual payments will be made by Questa for the allocated 200 acre-feet of project water whether or not the full amount is needed and used each year. However, provision is also made that Questa may sell any part of its annual entitlement which is not needed on a temporary 1-year basis.

Third-party contracts, as provided, may be for irrigation, recreation, fish and wildlife, or other beneficial purposes as permitted by the New Mexico State Engineer and approved by the Secretary of the Interior or his designated representative.

The proposed contract action will involve releasing 200 acre-feet of water from Heron Reservoir into the Rio Chama and thence into the Rio Grande to replace additional ground water pumped by Questa. An environmental assessment prepared by the Service's Southwest Region in October 1978, indicates there will be no adverse environmental impacts from the action.

All written correspondence concerning the proposed contract will be made available pursuant to the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the completed contract draft is declared to be available to the public.

For further information about scheduled meetings, copies of the proposed contract or the environmental assessment, please contact Mr. Ira M. Stevens, Repayment and Economics Branch, Water and Power Resources Service, Suite 201, 714 South Tyler, Amarillo, Texas 79101; telephone No. (806) 378-5430. All meetings scheduled by the Service with the potential contractor for the purpose of discussing terms and conditions of the proposed contract will be open to the general public as observers. Advance notice of such meetings will be furnished to those parties requesting such notice from the office identified above.

Dated: January 18, 1980.

R. Keith Higginson,

Commissioner of Water and Power Resources.

[FR Doc. 80-2117 Filed 1-24-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 162]

Assignment of Hearings

January 21, 1980.

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 postpontments of hearings in which they are interested.

MC 14252 (Sub-42F), Commercial Lovelace Motor Freight, Inc., now assigned for continued hearing on March 4, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 126844 (Sub-70F), R.D.S. Trucking Company, Inc., now assigned for hearing on January 23, 1980 at Washington, DC is postponed to February 12, 1980 at Offices of the Interstate Commerce Commission in Washington, D.C.

MC 107912 (Sub-22F), Rebel Motor Freight, Inc., now assigned for hearing on February 4, 1980 (10 Days), at Jackson, MS, is canceled and reassigned to February 4, 1980 (4 Days), in room 1401, Federal Building, 100 West Capital Street, Jackson, MS and continued to February 11, 1980 (5 Days) at the Ramada Inn, 10330 Airline Highway, Baton Rouge, LA.

AB 193 (Sub-1F), Canton Railroad Company-Entire Line Abandonment-In Baltimore County, Maryland, now being assigned for hearing on March 10, 1980 (1 Week) at Baltimore, MD in a hearing room to be designated later.

MC 140511 (Sub-9F), Autolog Corporation, now assigned for hearing February 11, 1980 at New York, NY is canceled and transferred to Modified Procedure.

MC 4491 (Sub-13F), Great Coastal Express, Inc., now assigned for hearing on February 4, 1980 will be held in Room D-2206, Federal Building, 26 Federal Plaza, New York, NY.

MC 142664 (Sub-5F), Import Dealers Service Corporation, now being assigned for hearing on March 18, 1980 (1 Day), at Los Angeles, CA in a hearing room to be designated later.

AB 6 (Sub-73F), Burlington Northern, Inc., Abandonment Near Laclede and Unionville, MO now being assigned for hearing on March 31, 1980 (1 Week), at Unionville, MO in a hearing room to be designated later.

MC 96878 (Sub-3F), Consolidated Transfer & Warehouse Company, Inc., now assigned for hearing on January 23, 1980 at Oklahoma City, OK is canceled and transferred to Modified Procedure.

MC 110683 (Sub-135F), Smith's Transfer Corporation, now assigned for continued hearing on January 31, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 146129F, Direct Delivery Incorporated, now being assigned for hearing on March 19, 1980 (3 Days), at Los Angeles, CA in a hearing room to be designated later.

MC 134387 (Sub-64F), Blackburn Truck Lines, Inc., now being assigned for hearing on March 24, 1980 (5 Days), at Los Angeles, CA in a hearing room to be designated later.

AB 39, St. Louis Southwestern Railway Company abandonment near Paragould and Blytheville and Hornesville, junction and Caruthersville, in Greene and Mississippi Counties, AR, and Dunklin and Pemiscot Counties, MO, now assigned for hearing on February 4, 1980 will be held at the Municipal Building, 200 West Third Street, Caruthersville, MO.

MC 125916 (Sub-11F), Norwood Transportation, Inc., now being assigned for hearing on February 21, 1980 (2 Days), at Salt Lake City, UT in a hearing room to be designed later.

AB 19 (Sub-42F), Baltimore and Ohio Railroad Company, Allegheny and Western Railway Company, Buffalo, Rochester & Pittsburgh Railway Company & The Pittsburg & Western Railroad Company Abandonment & Discontinuance of Service beteen New Castle Branch, Big Run Branch and Marquis Spur, PA, now being assigned for hearing on February 25, 1980 (1 Week), at New Castle, PA in a hearing room to be designated later.

MC 141969 (Sub-10F), Noble Transport, Inc., now assigned for hearing on January 22, 1980 will be held at the County Courthouse, 111 North Hill Street, Los Angeles, CA.

MC 116004 (Sub-52F), Texas Oklahoma Express, Inc., now assigned for hearing on January 22, 1980 at Washington, DC. is postponed and continued to January 24, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 114457 (Sub-512F), Dart Transit Company, now assigned for hearing on

January 22, 1980 at Washington, DC. is changed to Prehearing Conference on January 22, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 146467F, Triad Motor Lines, Inc., now assigned for hearing on January 22, 1980 at Durham, NC. is canceled and reassigned to January 22, 1980 (4 days), at Greensboro, NC., and will be held on the Second Floor Court Room, U.S. Post Office & Courthouse Building, Greensboro, NC.

MC 129615 (Sub-4F), American International Driveaway Extension—Hawaii, now being assigned for hearing on April 2, 1980 (3 days), at Los Angeles, CA. in a hearing room to be designated later.

MC 108119 (Sub-115F), E. L. Murphy Trucking Company, now assigned for hearing on April 7, 1980 (2 days), at San Francisco, CA. in a hearing room to be designated later.

MC 145441 (Sub-27F), A.B.C. Trucking, Inc., now being assigned for hearing on April 9, 1980 (3 days), at San Francisco, CA. in a hearing room to be designated later.

MC 145399 (Sub-1F), Shay Distributing Co., Inc., now being assigned for hearing on March 11, 1980 (2 days), at Los Angeles, CA, location of hearing room will be designated later.

MC-C-10306 The Gray Line Tours Company -V- Stuart Alan Messnick, d.b.a. the Co-Ordinators, now being assigned for hearing on March 13, 1980 (2 days) at Los Angeles, CA, location of hearing room will be designated later.

MC-C-10254F, Carolina Coach Company, Safety Transit Lines, and Moore Brothers Transportation Company v. E.S. Charter Service, now assigned for hearing on January 28, 1980 (2 days) at Raleigh, NC in Room No. 440, Federal Bldg. Century Station, 300 Fayetteville Street Mall.

MC 1515 (Sub-258F), Greyhound Lines, Inc., now assigned for continued hearing on January 29, 1980 (4 days) at the Marriott Hotel, Courthouse & International Blvd. N.E., Atlanta, GA.

No. 37165, Southern Pacific Transportation Company—Rates and Classification of Iron Ore within Texas, now assigned for hearing on January 28, 1980 (5 days) at Dallas, TX is postponed indefinitely.

MC 120981 (Sub-29F), Bestway Express, Inc., now assigned for hearing on February 25, 1980 (5 days) at Nashville, TN will be held in the Ramada Inn Airport, Spence Lane, instead of in Room No. 651, Old Federal Bldg., 801 Broadway.

AB-55 (Sub-29F), Seaboard Coast Line Railroad Company Abandonment near Gordonville and Bartow in Polk County, FL, now assigned for hearing on February 4, 1980 (5 days) at Bartow, FL is postponed to February 11, 1980 (5 days) at Bartow, FL.

No. 37251, Landmark, Inc. v. Consolidated Rail Corporaton, now assigned for hearing on January 30, 1980 (3 days) at Columbus, OH is postponed indefinitely.

FD-29153, American Train Dispatchers v. Union Pacific RR. Co., is canceled and transferred to Modified Procedure.

No. 36434, Commuter Fares Consolidated Rail Corporation, New Jersey and New York, now assigned for hearing February 26, 1980 (3 days) at Goshen, NY, Building No. 1841, Old Courthouse, Main Street.

No. 36474, Benjamin A. Gilman v. Consolidated Rail Corporation, et al, now assigned for hearing on February 26, 1980 (3 days) at Goshen, NY, Building No. 1841, Old Courthouse, Main Street.

MC 109533 (Sub-108F), Overnite Transportation Company, now being assigned for hearing on April 15, 1980 (9 days) at Indianapolis, IN, location of hearing room will be by subsequent notice.

MC-FC-77914 American Tank Transport, Inc., Baltimore, Maryland, Transferee and Secon Service System, Inc., New York, New York, Transferor, now being assigned for Prehearing Conference on February 28, 1980 at the Offices of the Interstate Commerce Commission, Washington, DC.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2496 Filed 1-24-80; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 163]

Assignment of Hearing; Correction

January 21, 1980

MC 126844 (Sub-70F), R.D.S. Trucking Co., appearing page 74961, December 18, 1980 is corrected as follows:

MC 126844 (Sub-70F), R.D.S. Trucking Co., now being assigned for hearing on January 23, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C., (instead of continued Prehearing Conference).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2497 Filed 1-24-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241, Rule 19, 38th Revised Exemption No. 129]

Atlanta & Saint Andrews Bay Railway Co., et al.; Exemption Under Mandatory Car Service Rules

To all railroads: It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle onthese lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC-RER 6410-C, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
Columbus and Greenville Railway Company [1]
Reporting Marks: CAGY
Green Mountain Railroad Corporation
Reporting Marks: GMRC
Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
Missouri-Kansas-Texas Railroad Company
Reporting Marks: MKT
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
North Stratford Railroad Corporation
Reporting Marks: NSRC
St. Louis Southwestern Railway Company
Reporting Marks: SSW
Southern Pacific Transportation Company
Reporting Marks: SP
Southern Railway Company
Reporting Marks: SOU

Effective January 15, 1980, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., January 14, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-2498 Filed 1-24-80; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29085]

Consolidated Rail Corp.—Merger—Raritan River Railroad Co.; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the merger of the Raritan River Railroad Company into the Consolidated Rail Corporation, from the requirements of 49 U.S.C. 11343-11347, which requires prior consideration and approval of the transaction by the Commission.

DATE: Effective January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, (202)-275-7246.

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[1] Addition.

SUPPLEMENTARY INFORMATION:

Procedural Background

Consolidated Rail Corporation (Conrail) and the Raritan River Railroad Company (Raritan) filed a petition for exemption under 49 U.S.C. 10505 on June 20, 1979, requesting that their proposed merger be exempted from the requirements of obtaining prior Commission approval under 49 U.S.C. 11343–11347. In response to this petition we published a notice in the **Federal Register** on August 20, 1979, 44 FR 48846 (1979) requesting comments on the proposed exemption. Comments in opposition to the proposed exemption were filed by various shippers and receivers who presently utilize the services of Raritan. No comments in favor of the exemption were filed.

The notice of proposed exemption sets forth the facts in this proceeding. Certain shippers and receivers have challenged the basis for various allegations made by Conrail in their petition.

Continental Plastic Containers; E. R. Squibb & Sons, Inc. (Squibb); H. & F. Warehouse; Personal Products Company; Frank A. Greek & Son, Inc. (Greek); Permacel; Chicopee; Hercules, Inc.; and NL Titanium Pigments jointly object to the grant of the proposed exemption. They allege that in 1978 Raritan handled more than 9,000 carloads of their traffic. These opponents state that Raritan's importance to the economic growth of the area cannot be understated.

It is alleged that the Raritan management now provides flexibility in daily routine in order to accommodate shipping and receiving variations. The opponents state that Raritan's employee work rules differ from Conrail's and enhance the ability of the road to respond to the changing needs of its customers. It is felt that the planned merger into Conrail would eliminate these beneficial aspects of Raritan. Further, Conrail's claimed potential savings in cost due to the elimination of duplicate facilities and reduction of work force is challenged.

These parties state that any decline in rail service could necessitate an increase in the use of motor common carriage which would increase freight costs, effect future plans for expansion, and counter efforts to conserve fuel. Parties would like an opportunity to present these objections concerning the proposed merger.

Equipment Rental Corp. (Equipment), an intermodal distribution service served by Raritan, has filed a comment stating its need for Raritan's continued good service. Raritan's pride of workmanship is cited as being directly related to the excellent service now provided. Equipment states that in view of Conrail's past performance the present service would deteriorate if the merger occurs.

Greek owns a 150 acre industrial park in East Brunswick, NJ, that houses several major users of the Raritan. It has filed a separate comment alleging that the merger would seriously decrease the quality of service to its tenants. It is alleged that a full hearing is necessary in order for Conrail to demonstrate how it intends to maintain or improve Raritan service.

Squibb and Chicopee have each filed separate comments stating that a public hearing on the proposed transaction is vital. They doubt Conrail's ability to maintain the same level of service now provided by Raritan.

Continental Group Inc., has filed a comment urging that a public hearing be held on the proposed merger. It states that industrial users served by the Raritan should be given an opportunity to present their views.

The State of New Jersey, Department of Transportation has filed a comment objecting to the exemption. It states that shippers and receivers on the Raritan have a right to present their objections to this merger at a formal hearing. Further, it states that Contrail has an obligation to answer any questions raised by the involved shippers as to continued reliability and frequency of service.

The Brotherhood of Locomotive Engineers has filed a comment stating that the proposed merger would have an adverse effect on the locomotive engineers of the applicant, as well as locomotive engineers on other railroad carriers effected. It has requested that we deny the request for exemption. However, if the exemption is granted conditions for the protection of employees as prescribed in 49 U.S.C. 11347 should be imposed.

Rail Exemption Authority

Conrail seeks exemption of its merger with Raritan from 49 U.S.C. 11343–11347 under 49 U.S.C. 10505. This section provides that the Commission can exempt a transaction after an opportunity for a proceeding if it is limited in scope, not necessary to carry out the national transportation policy, would be an unreasonable burden, and would serve little or no useful purpose.

Limited Scope

Conrail currently controls Raritan. Since April 18, 1979, all the outstanding stock of Raritan has been owned by Conrail. The proposed merger is within the corporate family and is a limited transaction.

Additionally, the merger is of minor geographic significance. Conrail operates in 16 states, the District of Columbia, and two Canadian provinces. Raritan is a class III railroad owning 17.2 miles of railroad comprising 32 miles of track only extending from South Amboy to New Brunswick, N.J. It does not connect with any railroad other than Conrail.

The transaction will have a limited effect on railroad employees involved. Raritan has an average of 52 employees and Conrail hopes to eliminate approximately 16 administrative and supervisory positions. However, to the extent that employees would be covered under the protection provided by labor protective conditions enacted in *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979) affirmed by slip opinion of U.S. Court of Appeals for 2nd Circuit, November 7, 1979, protection will be provided.

The transaction will not affect competitors of Conrail and Raritan. The purpose of the merger is to consolidate traffic, equipment, and operations. This will allow for more efficient and expeditious handling of traffic. Raritan has no independent existence from Conrail as far as competition for freight traffic is concerned, and no change in rail competition will result from the merger.

The exemption proposed by Conrail and Raritan is of restricted scope. The merger is limited to: (1) a corporate family; (2) a minor geographic area; and (3) a minor impact on employees, and (4) no effect on competition for freight traffic.

Since the proposed transaction is of limited scope, we may now proceed to consider the other criteria.

Necessity To Carry the National Transportation Policy

The transportation policy stated at 49 U.S.C. § 10101 requires us to provide impartial regulations of modes of transportation subject to Subtitle IV. Impartial regulation is achieved through: (1) recognizing and preserving the inherent advantage of each mode; (2) promoting safe, adequate, economical, and efficient transportation; (3) encouraging sound economic conditions in transportation, including sound economic conditions among carriers; (4) encouraging the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair or destructive competitive practices; (5) cooperating with each State on transportation matters; and (6) encouraging fair wages

and working conditions in the transportation industry.

Regulation of the Conrail and Raritan merger is not necessary to carry out the goals of the National Transportation Policy. It is a merger within a corporate family, and will not affect the considerations of the transportation policy since elimination of a corporate entity will be the only change resulting from the transaction. Elimination of Raritan will reduce duplicative record and book keeping. It will also simplify the corporate structure of Conrail.

Unreasonable Burden on a Person

The Commission's *Consolidation Procedures* require a complete application to be filed in order for a decision to be reached within the time constraints of 49 U.S.C. 11345. The submission of the material necessary to comply with the *Consolidation Procedures* will be a time consuming task requiring the dedication of financial resources. To establish such a record in this transaction would require Conrail and Raritan to submit a complete application under the requirements imposed by 49 U.S.C. 11344 and would place an unreasonable burden upon them. Our granting of the petition will allow Conrail to avoid the burden of complying with the I.C.C. *Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights, and Lease Procedures*, 49 CFR Part 1111, (1978) (*Consolidation Procedures*).

Little or No Useful Public Purpose

In determining whether or not to approve a merger, the Commission decides if it is in the public interest. In reaching this determination we rely upon the applications submitted pursuant to the *Consolidation Procedures* and any comments by the parties.

Here we have received comments through various shippers and receivers objecting to the merger since it would allegedly decrease the present high level of service provided by Raritan. The opponents fear that Raritan's pride and adaptability would disappear after the merger. A full proceeding under 49 U.S.C. 11343 requiring an application under the *Consolidation Procedures* would not alleviate the opponents' fears.

Raritan is wholly owned by Conrail. Our permission to affect a corporate simplification should not result in a change in the level of service. Raritan's present service is conducted under the ownership of its parent, Conrail. This will not change. The same service level and dedication or personnel should continue as before. It would be a wasteful allocation of resources to require the filing of an application under the *Consolidation Procedures*.

Because this is a merger within a corporate family, involving little substantive change, our review of it would serve no useful purpose.

Conclusion

We conclude that exemption of the merger between Conrail and Raritan from 49 U.S.C. 11343–11347 meets the statutory requirements of 49 U.S.C. 10505. The power to exempt from regulation enables the Commission and railroads to commit their limited resources in areas where they are most needed by enabling the Commission to effectively deregulate those areas which have no significant bearing on the overall regulatory scheme. In enacting 49 U.S.C. 10505, Congress clearly intended us to exempt certain limited transactions from our regulatory power. This is one such transaction.

We find: (1) The application of the requirements of 49 U.S.C. 11343–11347 for the merger of the Raritan River Railroad Company into the Consolidated Rail Corporation is of a limited scope and (a) is not necessary to carry out the transportation policy of section 10101, (b) would be an unreasonable burden on Conrail and Raritan, and (c) would serve little or no useful purpose.

(2) This decision is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

It is ordered: (1) Consolidated Rail Corporation and Raritan River Railroad Company are exempted under 49 U.S.C. 10505 from the requirements of 39 U.S.C. 11343–11347 for the limited purpose of merging the Raritan into Conrail, subject to the conditions imposed for the protection of employees imposed in *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), affirmed by slip opinion of U.S. Court of Appeals for 2nd Circuit, November 7, 1979.

(2) If Raritan is merged into Conrail, Conrail shall within 60 days of the merger submit three copies of a sworn statement showing all general entries required to record the transaction.

(3) Public notice of our action shall be given to the general public by delivery of the copy of this decision to the Director, Federal Register, for publication therein.

(4) This exemption will continue in effect for 90 days from the effective date of this decision. Conrail and Raritan must consummate this merger during that time in order to take advantage of the exemption which we have granted.

(5) This decision shall be effective January 25, 1980.

Dated: January 11, 1980.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Chairman O'Neal not participating. Vice Chairman Stafford, joined by Commissioner Clapp, dissenting. Commissioner Christian absent and not participating.

Agatha L. Mergenovich,

Secretary.

Commissioner Stafford, Joined by Commissioner Clapp (Dissenting)

I fully believe that the Congress intended this Commission to exercise its discretion in utilizing 49 U.S.C. 10505 to exempt certain rail transactions. Accordingly, the automatic reliance on those provisions is wholly inappropriate, especially in the situation at hand where there is vigorous opposition to such a procedure. Use of the Section 10505 provisions will deny shippers and other interested persons the opportunity to fully develop their positions and will, unfortunately, remove the burden of proof from the shoulders of petitioners. A more equitable approach would be to grant petitioners extensive waivers from the requirements of 49 C.F.R. 1111, but to require them to proceed under 49 U.S.C. 11343 *et seq.*

[FR Doc. 80-2500 Filed 1-24-80; 8:45 am]

BILLING CODE 7035-01-M

Finance, Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and

one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed on or before February 25, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: January 17, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Friedman. (Member Friedman not participating.)

MC–F–14227F, filed November 20, 1979, KERR MOTOR LINES, INC. (Kerr) (1/4 Jackson Street, Binghamton, NY 13903) Purchase—ROBERT E. CUNNINGHAM, d.b.a. BOB'S EXPRESS (Express) (28 Union Street, Morrisville, NY 13408), and in turn, Robert H. Kerr, Edward Kerr, and James J. Kerr, all of Binghamton, NY, seek to acquire control of such rights through the transaction. Applicants' representatives: Herbert M. Canter and Benjamin D. Levine, 305 Montgomery Street, Syracuse, NY 13202. Kerr is purchasing the operating rights of Express evidenced by a Certificate of Public Convenience and Necessity in MC 121062 (Sub-2) and by a Certificate of Registration in MC 121062 (Sub-1) which is supported by a Certificate of Public Convenience and Necessity issued by the New York Public Service Commission, now the New York Department of Transportation, in No. 2155, as last reissued May 5, 1970, in Case MT–3104. These certificates authorize the transportation as a motor common carrier, of *general commodities* with usual exceptions, (a) over irregular routes, between points in Oneida County, NY, and between points in Oneida County, NY, on the one hand, and, on the other, points in Chenango, and Madison Counties, NY, and (b) over regular routes, between Syracuse, NY, and Cazenovia, NY, serving all intermediate points, and the off-route point of Chittenango Falls, NY: from Syracuse over NY Hwy 5 to Fayeteville, NY, then over NY Hwy 92 to junction U.S. Hwy 20, and then over U.S. Hwy 20 to Casenovia, and return over the same route. Kerr is authorized to operate as a motor common carrier pursuant to certificates in MC–126588 and sub-numbers thereunder which authorize the transportation of *general commodities*, over regular and irregular routes, between various points in New York and Pennsylvania, and the transportation of *new furniture* in cartons, over irregular routes, from the facilities of S. J. Bailey & Sons, Inc., at or near Walton, NY, and Honesdale, PA, to points in Illinois, Indiana, Michigan, Ohio, and that part of Pennsylvania west of U.S. Hwy 15. (Hearing site: Syracuse, NY or Washington, DC.

Notes.—(1) Application has been filed for temporary authority under 49 U.S.C. 11349. (2) A directly related application seeking a conversion of the Certificate of Registration in MC–121062 (Sub-1) into a Certificate of Public Convenience and Necessity has been filed in MC–126588 (Sub-4F), published in this same **Federal Register** issue.

MC 126588 (Sub-4F), filed November 21, 1979. Applicant: KERR MOTOR LINES, INC., 1/4 Jackson Street, Binghamton, NY 13903. Representatives: Herbert M. Canter and Benjamin D. Levine, 305 Montgomery Street, Syracuse, NY 13202.—Conversion. Conversion of Certificate of Registration MC 1211062 (Sub-1) into a Certificate of Public Convenience and Necessity authorizing the transportation, as a common carrier, by motor vehicle, over irregular routes, of *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities of unusual value, and those requiring special equipment), between points in Chenango, Madison, and Oneida Counties, NY. (Hearing site: Syracuse, NY, or Washington, DC.)

Notes.—(1) The authority as set forth in the Certificate of Registration in MC–121062 (Sub-1) is radial in nature, but the conversion has been broadened to non-radial irregular route authority. (2) This proceeding is a matter directly related to a proceeding pursuant to 49 U.S.C. 11343 in MC–F–14227F published in this same **Federal Register** issue.

MC–F–14241F, filed November 28, 1979, F. & W. EXPRESS INC., (F & W) (P.O. Box 2213, Memphis TN 38109)—PURCHASE (Portion)—HARPER TRUCK SERVICE, INC. (Harper) (1266 North Eight Street, Paducah, KY 42001). Representative: Dale Woodall, 900 Memphis Bank & Trust Bldg., Memphis, TN 38103. F & W seeks to purchase a portion of the operating rights of Harper. Nelson Finleyson, the majority stockholder of F & W (P.O. Box 2213, Memphis, TN 38109), also seeks to acquire control of such rights through the transaction. The interstate operating rights F & W is purchasing are contained in Harper's certificate No. MC–110479 (Sub.-No. 25) which authorizes the transportation, in interstate or foreign commerce, as a common carrier, over regular routes, of *general commodities*, with usual exceptions, as follows: (1) between Benton, KY, and Dyersburg, TN, serving Newbern, TN, as an

intermediate point: from Benton over KY Hwy 348 to junction Purchase Parkway, then over Purchase Parkway to junction U.S. Hwy 51 (southwest of Fulton, KY), and then over U.S. Hwy 51 to Dyersburg, and return over the same route, and (2) between St. Louis, MO, and Dyersburg, TN, serving no intermediate points: from St. Louis over Interstate Hwy 55 to junction Interstate Hwy 155 (south of Hayti, MO), then over Interstate Hwy 155 to junction U.S. Hwy 51 (approximately 3 miles north of Dyersburg), and then over U.S Hwy 51 to Dyersburg, and return over the same route, restricted in (1) and (2) above against the transportation of malt beverages and new furniture destined to Dyersburg, TN, and points in its commercial zone as defined by the Commission. F & W holds authority pursuant to MC–107913 and sub-numbers thereunder to operate as a motor common carrier, transporting general commodities, over regular routes, throughout various points in AR, MS, and TN. (Hearing site: Memphis, TN.)

MC–F–14231F, filed November 20, 1979, CONAGRA, INC. (200 Kiewit Plaza, Omaha, NE 68131)—Control—Lynn Transportation Company, Inc. (712 South 11th Street, Oskaloosa, IA 52577), through reacquisition of all of Lynn's voting stock which was originally acquired by ConAgra, Inc., on September 15, 1975, but subsequently placed in the hands of a trustee pursuant to a voting trust agreement. Representative: Peter A. Greene, 900 17th Street, NW, Washington, DC 20006. Lynn Transportation Company, Inc., holds motor common carrier authority in MC–133604 and MC–133604 (Sub-No. 6) which authorizes the transportation over irregular routes as follows: (1) *Lumber,* From Moravia, Iowa, to Jonesboro and Bearden, Arkansas. (2) *Machined castings,* From Oskaloosa, Iowa, to Bay Minette and Mobile, Alabama. (3) *Meats, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 and Foodstuffs,* From the plant site of Geo. A. Hormel & Co. at or near Ottumwa, Iowa, to points in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee; and (4) *Meats, meat products, meat by-products, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in Sections A, C and D of Appendix I to the report in Descriptions In Motor Carrier Certificates, 61 M.C.C. 209 and 766 and Foodstuffs,* From the destination points specified in (3) above to the plant site of Geo. A. Hormel & Co., at or neat Ottumwa, Iowa. Restriction: The authority granted in parts (3) and (4) above is restricted against the transportation of hides and commodities in bulk and further restricted to the transportation of traffic originating at, or destined to, the named plant site. (5) (a) *Meats, meat products, meat by-products, and articles distributed by meat packinghouses,* and (b) *foodstuffs* (except those in (a) above), From the facilities of Geo. A. Hormel & Co., at or near Algona and Fort Dodge, Iowa, to points in Georgia, restricted against the transportation of commodities in bulk and hides and further restricted to the transportation of traffic originating at the named origin and destined to the named destinations. ConAgra also controls Bralen Trucking Co., Inc., a motor contract carrier which holds authority in MC–142162 and sub-numbers thereunder. (Hearing site: Washington, DC.)

Notes.—(1) The sole purpose of the application is to reacquire the company formerly controlled by ConAgra, Inc. (2) Dual operations may be involved in this proceeding.

Dated: January 14, 1980.

By the Commission, Review Board Number 5, Members Krock, Pohost, and Taylor.

MC–F–14229F, filed November 20, 1979, H. F. CAMPBELL & SON, INC. (Campbell) (P.O. Box 260, Millerstown, PA 17062)—Purchase (Portion)—Cox Refrigerated Express, Inc. (Cox) (10606 Goodnight Lane, Dallas, TX 75220), and in turn, H. B. Campbell, Richard B. Campbell, Jennie L. Campbell, Donald L. Campbell, H. Albert Campbell, and R. Franklin Campbell, all of Millerstown, PA, acquiring control of such rights through the transaction. Representative: John M. Musselman, P.O. Box 1146, Harrisburg, PA 17108. Campbell is purchasing the interstate operating rights contained in Cox's Certificate in No. MC–140033 (Sub-No. 41), which authorizes the transportation, as a motor common carrier, over irregular routes, of foodstuffs (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Anderson-Clayton Foods, Inc., at or near Jacksonville, IL, to points in PA, NY, MD, DE, NJ, CT, RI, MA, VT, NH, ME, and DC, restricted to the transportation of traffic originating at the named origin. Campbell holds authority to operate as a motor common carrier in MC–31367 and sub-numbers thereunder throughout the United States (except AK and HI). (Hearing site: Harrisburg, PA, or Washington, DC.)

MC–F–14212F, filed November 6, 1979. MCDANIEL MOTOR EXPRESS, INC. (McDaniel) (1115 Winchester Road, Lexington, KY 40505)—Purchase (Portion)—Bestway Express, Inc. (Bestway) (905 Visco Drive, Nashville, TN 37210). John C. McDaniel who controls transferee through the majority stock ownership, also acquiring control of the rights of Bestway. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. The interstate operating rights to be acquired by McDaniel are contained in Bestway's Certificate No. MC–120981 (Sub-No. 7) issued October 2, 1973, which also embraces those operations authorized in MC–120981 (Sub-No. 9). The certificate authorized operations, in interstate or foreign commerce, as a motor common carrier of *general commodities,* with usual exceptions, over regular routes, (1) Between Lebanon, KY, and Louisville, KY, serving all intermediate points except those points on the route between Bardstown and its commercial zone as defined by the Commission and Louisville, but serving Bardstown for purpose of joinder only; from Lebanon over KY Hwy 55 to Springfield, KY, then over U.S. Hwy 150 to Bardstown, KY, then over U.S. Hwy 31E to Louisville, and return over the same route. (2) Between Lebanon, KY, and Bardstown, KY, serving all intermediate points but serving Bardstown for purpose of joinder only; from Lebanon over KY Hwy 52 to Loretto, KY, then over KY Hwy 49 to Bardstown, and return over the same route, Restriction: The authority granted in (1) and (2) above is restricted against the transportation of shipments (a) having an immediate prior to subsequent movement by air and (b) originating at, destined to, or interlined at Nashville, TN, Lexington, Bardstown, and Springfield, KY, and points within their respective commercial zones as defined by the Commission. (3) Between Lebanon, KY, and Lexington, KY, serving all intermediate points except Lawrenceburg, KY, and points within its commercial zone as defined by the Commission and those points on the route between Lawrenceburg and Lexington; from Lebanon over U.S. Hwy 68 to Perryville, KY, then over U.S. Hwy 150 to Danville, KY, then over U.S. Hwy 127 to Lawrenceburg, KY, then over U.S. Hwy 62 to Versailles, KY, then over U.S. Hwy 60 to Lexington, and return over the same route, and (4) Between Harrodsburg, KY, and Lexington, KY, serving no intermediate points, and serving termini for purposes of joinder only; from Harrodsburg over U.S. Hwy

68 to Lexington, and return over the same route. McDaniel presently operates as a common carrier under authority issued in No. MC–129291 and subs thereunder. (Hearing site: Lexington, KY, or Nashville, TN.)

Note.—The possibility of duplications exist between the authority Bestway is selling and the authority Bestway is retaining. The duplications occur over U.S. Hwys 60 and 62.

MC–F–14220, filed November 20, 1979. R. G. JONES TRUCKING COMPANY, INC., 927 East Avenue "B", Hutchinson, KS 67501—Purchase (Portion)—Refrigerated Foods, Inc., 1420 33rd Street, P.O. Box 1018, Denver, CO 80201. Applicants' Representatives: William L. Mitchell, 119 West Sherman Street, Hutchinson, KS 67501 and Joseph W. Harvey, P.O. Box 1018, Denver, CO 80201. R. G. Jones Trucking Company, Inc. (Jones) purchasing a portion of the operating rights of Refrigerated Foods, Inc. (Refrigerated). Robert G. Jones, the majority stockholder of Jones also acquiring control of the rights of Transferor through the transaction. Jones is purchasing a portion of the authority purchased by refrigerated in MC–F–13271, which authorizes operations as a motor common carrier, in interstate or foreign commerce, over irregular routes, in MC–138018 (Sub–No. 46), as follows: salt, (1) from Hutchinson, KS, to points in CO, and (2) from Lyons and Kanopolis, KS, to points in that part of CO on and east of a line beginning at the WY–CO State line and extending along U.S. Hwy 85 to junction unnumbered hwy (formerly portion U.S. Hwy 85), then along unnumbered hwy through Walsenburg, CO, to junction U.S. Hwy 85, then along U.S. Hwy 85 to junction unnumbered hwy (formerly portion U.S. Hwy 85), then along unnumbered hwy through Aguilar, CO, to junction U.S. Hwy 85, then along U.S. Hwy 85 to the CO–NM State line. A certificate in MC–138018 (Sub-No. 46) has not yet been issued pursuant to MC–F–13271. Jones holds authority to operate as a motor common carrier, in interstate or foreign commerce, over irregular routes, pursuant to Certificates issued in MC–117462 (Sub–Nos. 2 and 3). (Hearing site: Wichita or Hutchinson, KS.)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–2495 Filed 1–24–80; 8:45 am]

BILLING CODE 7035–01–M

Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before February 25, 1980. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

Agatha L. Mergenovich,

Secretary.

MC–F–14072, By application filed June 19, 1979, TIONA TRUCK LINE, INC., P.O. Box 312, Butler, MO 64730. Representative: Mr. Jim Tiona, Jr., Inn Building, P.O. Box 312, Butler, MO 64730. Application seeks to authority to purchase the Operating Rights of Cox Refrigerated Express in Certificate MC–140033 (Sub-No. 45), authorizing such merchandise as is dealt in by grocery and food business houses (except in bulk, in tank vehicles), in vehicles equipped mechanical refrigeration, from facilities of Kraft, Inc., located at Garland, TX, to points in AR, KS, LA, MS, MO, OK, and TN. Application for temporary was granted August 24, 1979.

MC–F–13895. Authority sought by VERREAULT TRANSPORT LTD., MC–109863, of 438 St.-Jean, Granby (Quebec), Canada GIR 2k3, to control Inter-City Bus Lines, LTD, of the same address. Applicant's attorney: Mr. Guy Poliquin, Edifice Grande-Allee, 580 Est. Grande-Allee, Suite 140, Quebec, Canada GIR 2K3. Inter-City Bus Lines LTD., is a Common Carrier, MC–113656, and operates by motor vehicle the following services: *I. Regular route:* Passengers and their baggage, between Richford, Vt., and the United States-Canada Boundary line, serving all intermediate points; From Richford over Vermont Highwary 13 to the United States-Canada Boundary line, and return over the same route.

MC 124743. *II. Irregular routes:* Passengers and their baggage, in round trip charter operations; Beginning at Ports of Entry on the United States-Canada boundary line located in Michigan, New York, Vermont, New Hampshire and Maine, and ending at Ports of Entry located along the southern United States-Canada Boundary line, and extending to points in the United States except those in Alaska and Hawaii. Application has not been filed for temporary authority under section 210a(B).

MC–F–14106F. Transferee: GRAVES TRUCK LINE, INC., P.O. Drawer 1387, Salina, Kansas 67401. Transferor: The Luper Transportation Company, (same address as transferee). Applicant's attorney: Bruce A. Bullock (same address as transferee). Authority sought to merge the operating rights of The Luper Transportation Company into Graves Truck Line, Inc. Operating rights sought to be merged: (1) *Tea and coffee beans,* from Houston, TX, to Oklahoma, City, OK; (2) *Coffee Beans,* from New Orleans, LA, to Wichita, KS; (3) *Bananas,* from Galveston, TX and New Orleans, LA, to Wichita, KS, Authority in (1), (2), and (3) restricted against service to facilities of Safeway Stores. (4)(a) *Meats, meat products, meat by-products and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), Between Wichita, KS, on the one hand, and, on the other, Memphis, TN and points in southern MO, eastern NM, and points in AR, LA, OK, and TX; (b) Between Arkansa City, KS, on the one hand, and, on the other, Memphis, TX, and points in AZ, AR, NM, OK and TX. (c) from facilities of John Morrell and Co. at Amarillo, TX, to Memphis, TX, and points in AR, CA, KS, MO, NE, NM, and OK; (d) from the facilities of MBPXL at Wichita, KS, to points in CA, ID, MT, OR, and WA. (5) *Such commodities as are used by meat packers* as described in Sections A, of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles) butter, cheese and oleomargarine, from Memphis, TN, points in southern MO, and points in AR, LA, OK, TX, to Wichita, KS. Transferee is authorized to operate as a common carrier of general commodities in States of KS, NE, CO, IA, MO, OK and TX and of meat and packinghouse products in that part of the United States west of and including MI, OH, KY, NC, SC, and GA. Transferee has permanent control of Transferor pursuant to MC–F–12516 and no authority has been filed for temporary authority under section 11349 of the act. Directly related to MC–53965 (Sub-No.——).

No. MC–F–14118F. Transferee: C & E TRUCKING CO., INC., a California corporation, 11910 Greenstone Avenue, Santa Fe Springs, CA 90607. Transferor: Wheeler Freightways, a California corporation, 3375 South Polaris Avenue, Las Vegas, NV 89102. Representative: Robert Fuller, 13215 E. Penn Street, Suite 310, Whittier, CA 90602. Authority sought for purchase by transferee of a portion of the operating rights of transferor as a motor common carrier over irregular routes authorized in certificates of public convenience and necessity as follows: MC 106679, *building and construction materials, equipment and supplies, and mining equipment and supplies,* between points in Los Angeles County, CA, on the one hand, and, on the other, points in Clark and Lincoln Counties, NV and *lime, lime rock,* and *limestone* not included in the commodities specified next above, from Sloan, NV to points in Los Angeles County, CA; and MC 106679 Sub 9, *gypsum plaster,* gypsum wallboard, and gypsum lath, from points in Clark County, NV, to points in Santa Barbara, Ventura, Mono, Inyo, San Diego, Imperial, Kern and Fresno Counties, CA. Transferee presently holds authority from this Commission with lead docket No. MC 142335. Application has not been filed for temporary authority under 49 U.S.C. 11349. This application is filed simultaneously with companion application wherein authority is sought by transferor herein to purchase concurrently a portion of the operating rights in MC 142335 held by transferee herein.

Docket No. MC–F–14171F, filed: September 25, 1979. COLUMBUS RETAIL MERCHANTS DELIVERY, INC., 3275 Alum Creek Drive, P.O. Box 755, Columbus, OH 43216—Purchase (Portion)—Reed Lines, Inc., 634 Ralston Avenue, Defiance, OH 43512. Applicants' Representative: John P. McMahon, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, OH 43215. Authority sought to purchase by Columbus Retail Merchants Delivery, Inc., 3275 Alum Creek Drive, P.O. Box 755, Columbus, OH 43216 of a portion of the operating rights of Reed Lines, Inc., 634 Ralston Avenue, Defiance, OH 43512. Applicants' attorney is John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Operating rights sought to be purchased are transferor's MC–119632 Sub 61 certificate which authorizes transportation as a common carrier by motor vehicle over irregular routes transporting articles distributed or dealt in by food distributors or wholesale or retail grocers (except frozen foods and commodities in bulk), from the facilities of Retail Merchants Consolidation and Distribution Center, a Division of Columbus Retail Merchants Delivery, Inc. at or near Columbus, OH to points in IL, IN, KY, the lower peninsula of MI, NY, OH, PA, and WV. Transferee is authorized to transport general commodities (usual exceptions) over irregular routes between Columbus, OH, on the one hand, and, on the other, points in OH. Application has been filed for temporary authority under § 49 U.S.C. § 11349 (formerly § 210a(b) of the Act). (Hearing site: Columbus, OH.)

No. MC–F–14180F. Authority sought for the amalgamation of KINGSWAY TRANSPORTS LIMITED, 123 Rexdale Boulevard, Rexdale, Ontario, Canada M9W 1P3 and John N. Brocklesey Transport Limited, 123 Rexdale Boulevard, Rexdale, Ontario, Canada M9W 1P3, with Kingsway Transports Limited being the surviving corporation. Applicants' attorney: S. Harrison Kahn, Kahn and Kahn, Suite 733 Investment Building, Washington, D.C. 20005. John N. Brocklesby Transport limited is a motor common carrier of commodities, the transportation of which because of size or weight require the use of special equipment (except motor vehicles), between ports of entry on the U.S.-Canada boundary line at or near Morses Line, West Berkshire, Richford, East Richford, North Troy, Beebe Plain, Derby Line, High Gate Springs, and Norton, VT., Beecher Falls and Scott Bog, NH, and Fort Covington, Trout River, Mooers Forks, Champlain and Rouses Point, NY, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Connecticut, Rhode Island, and New York. This authority is set forth in Docket No. MC–126672. Kingsway Transports Limited is a motor common carrier of general commodities, with the usual exceptions, authorized in Certificates of Public Convenience and Necessity issued in Docket Nos. MC–112908, Sub No. 1, Sub No. 3, Sub No. 4, Sub No. 5, and Sub No. 7 to operate between New York, NY and ports of entry on the U.S.-Canada boundary line near Rouses Point, NY, serving intermediate and off-route points in New York and New Jersey within 15 miles.

No. MC–F–14179F. Authority sought for control by CROWLEY MARITIME CORPORATION, One Market Plaza, San Francisco, CA 94105 and Thomas B. Crowley of same address of Northwestern Construction, Inc., 3812 Spendard Road, AK 99503 through stock ownership. Applicant's attorney: Leo C. Franey, 700 World Center Building, 918-16th Street, N.W., Washington, D.C. 20006. Operating Rights to be controlled: *General Commodities,* except household goods and commodities in bulk, as a *contract* carrier, over irregular routes, between points in Alaska within 50 miles of the U.S. Post Office at Deadhorse, AK in seasonal operations extending from July 1 to October 15, restricted to the transportation of traffic having a prior or subsequent movement by water under contract with Artic Marine Freighters. Crowley Maritime Corporation presently owns the stock of Northwestern Construction, Inc. The purpose of this application is to obtain approval of control upon issuance of authority in MC–145929. Applicant also controls Gulf Carribbean Marine Lines, Inc., Arctic Lighterage Company and Muklúk Freight Lines, Inc., motor common carriers authorized to transport general commodities between specified points in Florida and Alaska as set forth in detail in MC–141323, MC–141642 and MC–118518, respectively and North Star Forwarding Co. in FF–308 and FF–308 (Sub-No. 1), and water common carriers, Arctic Lighterage Company, Drummond Lighterage, Columbia Common Carriers, Inc. and Bay Cities Transportation Company authorized to operate in self-propelled and non-self-propelled vehicles between points on the Atlantic Coast, the Gulf of Mexico, Pacific Coast and Alaska as specified in W–1229, W–586, W–580, and W–379. No duplicating authority sought. Dual Operations approved in MC–145929. No temporary authority application filed.

[FR Doc. 80–2494 Filed 1–24–80; 8:45 am]
BILLING CODE 7035–01–M

[Authorization Order No. 18; Directed Service Order No. 1398]

Kansas City Terminal Railway Co. Directed To Operate Over Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

Decided: January 15, 1980.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). *See* Directed Service Order No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.,* 360 I.C.C. 289 (1979), 44 FR 56343 (October 1, 1979). In DSO No. 1398 (Sub-No. 1), this authority was extended through March 2, 1980, subject to certain modifications. *See* DSO No. 1398 (Sub-No. 1), 360 I.C.C. 478 (decided November 30, 1979; served December 3,

1979) and 44 FR 70733 (December 10, 1979).

RI operates a 1978 Ford 26-ton tandem truck No. 78037 that is used on the Southern Division by maintenance-of-way forces. The truck is equipped with hi-rail gear, crane loom, hydraulic tools and rail-carrying racks. A new engine is needed for this truck at an estimated cost of $3,960.00.

Supplemental Order No. 4 to DSO No. 1398 required the DRC to obtain prior Commission approval for all rehabilitation for freight cars and other non-locomotive equipment which exceeds $1,200 per unit. *See* Supplemental Order No. 4 (served October 15, 1979) [44 FR 61127, Oct. 23, 1979]. Accordingly, the DRC submitted an urgent request for authority to repair the above vehicle. *See* wire to Joel E. Burns, dated December 21, 1979.

The DRC seeks Commission authorization to repair 1978 Ford 26-ton tandem truck number 78037 on the grounds that repairs are necessary for the efficient conduct of important maintenance-of-way work.

We find: 1. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. *See* 49 CFR Parts 1106, 1108 (1978).

It is ordered: 1. The DRC is authorized to make repairs to RI tandem truck number 78037, at a cost of $3,960.00, as requested in a telegram from the DRC to Joel E. Burns dated December 21, 1979.

2. The repairs authorized above shall be completed within the directed service period.

3. This decision shall be effective on its service date.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2493 Filed 1-24-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL COMMUNICATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "The Bronze Age of China" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the Committee for the Preparation of Exhibitions of Archaeological Relics, People's Republic of China, and The Metropolitan Museum of Art, New York, N.Y. I also determine that the temporary exhibition or display of the listed exhibit objects at The Metropolitan Museum of Art, New York, N.Y., beginning on or about April 9, 1980, to on or about July 9, 1980; The Field Museum, Chicago, Ill., beginning on or about August 20, 1980, to on or about October 29, 1980; Kimbell Art Museum, Fort Worth, TX., beginning on or about December 10, 1980, to on or about February 18, 1981; Los Angeles County Museum of Art, beginning or or about April 1, 1981, to on or about June 10, 1981, and at The Museum of Fine Arts, Boston, Mass., beginning on or about July 22, 1981, to on or about September 30, 1981, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Charles W. Bray III,

Acting Director, International Communication Agency.

January 23, 1980.

[FR Doc. 80-2656 Filed 1-24-80; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

A.I.D. Research Advisory Committee; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on March 3-4, 1980 at the Pan American Health Organization Building, 23rd Street and Virginia Avenue, N.W., Conference Room 'C' to review, appraise and make recommendation to the Administrator, Agency for International Development, concerning projects proposed for A.I.D. central research funding in the fields of foods and nutrition, health and population, education and selected development problems.

The meeting will begin at 9:00 a.m. and adjourn at 5:30 p.m. each day. The meeting is open to the public. Dr. Miloslav Rechcigl, Jr. Chief of Research and Methodology Division, Bureau for Development Support, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information, contact Dr. Rechcigl, 1601 N. Kent Street, Arlington, Virginia 22209 or call area code (202) 235-9011.

Dated: January 14, 1980.

Miloslav Rechcigl,

A.I.D. Representative, Research Advisory Committee.

[FR Doc. 80-2439 Filed 1-24-80; 8:45 am]

BILLING CODE 4710-02-M

[Redelegation of Authority No. 99.1.112]

Mission Director, USAID-Uganda; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Mission Director, USAID/Uganda, the authority to sign:

1. U.S. Government contracts, grants, or amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent; and

2. Contracts with individuals for the services of the individual along provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent.

The authority herein delegated may be redelegated in writing, in whole or in part, by said Mission Director at his discretion to the person or persons designated by the Mission Director as Contracting Officer. Such redelegation shall remain in effect until such designated person or persons ceases to hold the office of Contracting Officer or until the redelegation is revoked by the mission Director, whichever shall first occur. The authority so redelgated by the Mission Director may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein redelegated may be exercised by duly authorized persons

who are performing the functions of the Mission Director in an acting capacity.

Actions within the scope of this delegation and any redelegation hereunder heretofore taken by officials designated in such delegation or redelegation are hereby ratified and confirmed.

This redelegation of authority is effective on the date of signature.

Dated: January 4, 1980.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 80-2438 Filed 1-24-80; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Effects of Socio-Economic Trends on Police Services; Solicitation

The National Institute of Justice plans to initiate a program of research to identify and examine the effects of socio-economic trends over the next ten to twenty years on the nature and effectiveness of police services. The aim of such research is to increase our understanding of societal trends, patterns and events that have critical significance for improving or modifying police services—so that policy makers as well as other decision-makers may anticipate available current and future improvement options upon which to base their decisions for strengthening police services. The ultimate objectives of this effort are to: identify the pertinent emerging issues and problems of policing and conceptualize a basis for contingency planning; provide information for crisis avoidance; encourage the need to explicate alternatives and trade-offs; and develop various models or plans of action for implementation of various proposed changes and strategies.

The solicitation, entitled "Improving Police Services: The Impact of Socio-Economic Trends," asks for the submission of preliminary proposals rather than concept papers or full proposals. The selection of the final applicant will be determined by a peer review panel process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be postmarked no later than March 28, 1980, The grant or cooperative agreement is planned for award in June 1980 with funding support not to exceed $125,000 and a time period of 18 months in duration. To maximize competition for this award, both profit-making and non-profit organizations are eligible.

Copies of the solicitation may be obtained by sending a mailing label to: Solicitation Request, "Improving Police Services: The Impact of Socio-Economic Trends", National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Further information regarding the solicitation can be obtained by contacting Shirley Melnicoe or David J. Farmer, Office of Research Programs, NIJ, 633 Indiana Avenue, N.W., Washington, D.C. 20531 (301/492-9110).

Dated: January 15, 1980.

Approved:

Harry M. Bratt,

Primary and Principal Assistant to the Acting Director, NIJ.

[FR Doc. 80-2374 Filed 1-24-80; 8:45 am]

BILLING CODE 4410-18-M

Office of the Attorney General

Hispanic Advisory Committee; Notice of Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776, 5 U.S.C. App. I, Supp. II), and with the approval of the Attorney General, and the concurrence of the Office of Management and Budget, the undersigned Special Assistant to the Attorney General has determined that establishment of the Hispanic Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department of Justice by law.

Purpose: The primary purpose of the Hispanic Advisory Committee to the Attorney General is to provide an organized public forum for the discussion of matters which are of concern to the Hispanic community. Since this segment of the population has not had many persons of their ethnic background in decision-making positions, the Committee can provide a vehicle by which the Hispanic community can voice its concerns to high-level officials more effectively. In addition, the Committee can provide a means by which the Attorney General and other Department officials communicate policies and programs to that community.

Another purpose of the committee is to consolidate the various Hispanic communities and focus attention on specific subjects of concern where action is possible. By engaging in such discussion with the chief law enforcement officer of the United States, the Department can better demonstrate its commitment to civil rights, its sensitivity to community concerns, and its pledge to represent the interests of all Americans.

Specifically, the Hispanic Advisory Committee will advise the Attorney General as to changes which the Committee wants to see in the procedure or process by which matters are generally reviewed for the purpose of determining whether to prosecute or whether to litigate. In the employment area, the Committee will be free to discuss with the Attorney General policy considerations regarding the processing of employment applications, the criteria utilized in determining a person's qualifications, and the changes, if any, which should be made.

Interested persons are invited to submit comments regarding the establishment of the Hispanic Advisory Committee. Such comments, as well as any inquiries, may be addressed to the Advisory Committee Management Officer, Office of Management and Finance, Department of Justice, Washington, D.C. 20530, phone: (202) 633-4531.

Dated: January 22, 1980.

Lupe Salinas,

Special Assistant to the Attorney General.

[FR Doc. 80-2404 Filed 1-24-80; 8:45 am]

BILLING CODE 4410-01-M

U.S. Committee on Selection of Federal Judicial Officers; Nominating Panel Meeting

The nominating panel for the United States Committee on Selection of Federal Judicial Officers will meet on Monday, February 11, 1980, at 8:30 a.m. and will continue, if necessary, through Tuesday, February 12, 1980. The meeting will be held in the United States Court of Claims, 717 Madison Place, N.W., Washington, D.C. This meeting will be closed to the public pursuant to Pub. L. 92-463, section 10(d) as amended. CFR 5 U.S.C. 552b(c)(6).

Phillip B. Cover,

Advisory Committee Control Officer.

January 22, 1980.

[FR Doc. 80-2405 Filed 1-24-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

NATIONAL LABOR RELATIONS BOARD

General Counsel

Litigation Procedures; Memorandum of Understanding

The Mine Safety and Health Administration (MSHA), U.S. Department of Labor, and the General Counsel, National Labor Relations Board (General Counsel), enter into this agreement in order to establish a procedure for coordinating Section 105(c) litigation under the Federal Mine Safety and Health Act of 1977 (Mine Act), and litigation under Section 8 of the National Labor Relations Act (NLRA), which will (1) obviate duplicate litigation and (2) ensure that employee rights in the area of safety and health will be protected.

A. Background

1. The Mine Act establishes in the Department of Labor the Mine Safety and Health Administration. MSHA is responsible for the administration and enforcement of the Mine Act. This responsibility includes the investigation of complaints of alleged discrimination and interference filed by miners, representatives of miners, or applicants for employment under Section 105(c) of the Mine Act. Section 105(c) provides in pertinent part:

Discrimination or interference prohibited; complaint; investigation; determination; hearing (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 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 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 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. * * *

2. Section 7 of the NLRA provides that "[e]mployees shall have the right to * * * engage in * * * concerted activities for the purpose of collective bargaining or other mutual aid or protection * * *." Section 8 of the NLRA provides in pertinent part that it shall be an unfair labor practice for an employer to interfere with, restrain, or coerce employees and for a labor organization to restrain or coerce employees in the exercise of the rights guaranteed in Section 7.

3. Although there may be some safety and health activities which may be protected solely under the Mine Act, it appears that many employee safety and health activities may be protected under both Acts. However, since the rights of "miners" to engage in safety and health activity is specifically protected by the Mine Act and is only generally included in the broader right to engage in concerted activities under the NLRA, enforcement actions to protect such safety and health activities should, where appropriate, be taken under the Mine Act rather than the NLRA.

B. Procedural Agreement

1. Section 105(c) gives individuals the right to complain to MSHA if they believe they have been discriminated against for exercising rights under the Mine Act (access to MSHA activities). Where a charge involving such access to NSHA activities protected by Section 105(c)(1) of the Mine Act has been filed with the General Counsel, and the General Counsel has been advised by the charging party or MSHA that a complaint has also been filed pursuant to Section 105(c)(2) of the Mine Act as to the same factual matters, the General Counsel will, absent withdrawal of the matter, defer or dismiss the charge. The General Counsel will inform the charging party of its action and will send a copy of such letter to MSHA.

2. Where a charge involving access to MSHA activities protected by Section 105(c)(1) of the Mine Act has been filed with the General Counsel, and the General Counsel has determined that no complaint has been filed pursuant to Section 105(c)(2) of the Mine Act, the General Counsel shall notify the charging jparty of the right to file a complaint pursuant to Section 105(c)(2) of the Mine Act. Following such notification:

(a) If the General Counsel is informed by the charging party or MSHA that a Section 105(c)(2) complaint has been timely filed, the General Counsel will then follow the procedure described in paragraph B–1 above.

(b) If the charging party does not file a complaint pursuant to Section 105(c)(2) of the Mine Act, or has withdrawn a complaint filed under Section 105(c)(2), the General Counsel will proceed with the matter under the NLRA.

(c) If the charging party has untimely filed a Section 105(c)(2) complaint (such complaints may be filed within 60 days after the alleged discrimination) the Office of the Solicitor of Labor and the General Counsel will consult to determine the appropriate handling of the matter.

3. Where a charge has been filed with the General Counsel which includes access to MSHA activities protected by Section 105(c)(1) of the Mine Act and matters within the exclusive jurisdiction of the General Counsel, the Office of the Solicitor of Labor and the General Counsel will consult in order to determine the appropriate handling of the matter. Further, the Solicitor of Labor and the General Counsel will so consult where a charge has been filed with the General Counsel involving activities protected by Section 105(c)(1) of the Mine Act other than access to MSHA issues.

4. The parties to this agreement will consult periodically to review the agreement and its implementation.

C. Modification and Termination

1. This Memorandum of Understanding may be modified in writing by mutual consent of MSHA and the General Counsel.

2. This Memorandum of Understanding may be terminated at any time by either party giving written notice to the other party at least thirty (30) days prior to the date fixed in such notice.

3. This Memorandum shall be effective immediately and shall remain in effect until modified or terminated in accordance with the procedures described in paragraph C–1 or C–2 above.

John S. Irving,

General Counsel, National Labor Relations Board.

Dated: September 14, 1979.

Dated: December 12, 1979.

Carin Ann Clauss,

Solicitor of Labor.

Dated: September 14, 1979.

John S. Irving,

General Counsel, National Labor Relations Board.

Dated: December 12, 1979.

Carin Ann Clauss,

Solicitor of Labor.

[FR Doc. 80–2300 Filed 1–24–80; 8:45 am]

BILLING CODE 4510–43 and 7545–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Certifications Regarding Pennsylvania Under the Federal Unemployment Tax Act

On December 26, 1979, the Secretary of Labor certified to the Secretary of the Treasury the Commonwealth of Pennsylvania and the Pennsylania unemployment compensation law, under Sections 3304 and 3303 of the Federal Unemployment Tax Act, for the taxable year 1979. The certifications were made in a letter of that date to the Secretary of the Treasury, which is printed below.

Dated: January 21, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

December 26, 1979.

Hon. G. William Hiller
Secretary of the Treasury, Washington, D.C. 20220.

Dear Mr. Secretary: I transmitted to you on October 31, 1979, my certifications on that date of certain States in accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)) and my certifications of certain State unemployment compensation laws in accordance with the provisions of Section 3303(b)(1) of the Code (26 U.S.C. 3303(b)(1)). I noted that the Commonwealth of Pennsylvania, among other States, was treated specially in the two certifications because of my findings that the law of the State does not contain each of the provisions required for State unemployment compensation laws by Section 3304(a) of the Code. I also said in my letter that I would notify you further when a final decision is made with respect to the 1979 certifications as to those States.

I hereby certify, to the Secretary of the Treasury, the Commonwealth of Pennsylvania for the 12-month period ending October 31, 1979, in accordance with the provisions of Section 3304(c) of the Code and the Commonwealth's unemployment compensation law for the 12-month period ending October 31, 1979, in accordance with the provisions of Section 3303(b)(1) of the Code.

Sincerely,

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-2429 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-30-M

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 establihsed 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 enterprises 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 its 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-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street NW., Washington, D.C. 20013.

Signed at Washington, D.C. this 22nd day of January 1980.

Earl T. Klein,

Director, Office of Program Services.

Applications Received During the Week Ending January 26, 1980

Name of Applicant and Location of Enterprise and Principal Product or Activity

Frame Brick and Tile Company, Inc., Calhoun County, Ala., manufacture of brick
Hess Broadcasting Corporation, Robertsdale, Ala., television station
The AGFERM Corporation, City of Portland, Ind., fuel-grade ethyl alcohol plant
BAY Plastics, Inc., Burleson, Tex., manufacture plastic PVC pipe (small diameter)
D. S. Inns, Palestine and Port Lavaca, Tex., motel
American Family Homes, Inc., Anderson, Mo, manufacture of mobile homes

[FR Doc. 80-2492 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-79-285-C]

Bishop Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

The Bishop Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241, has filed a petition to modify the application of 30 CFR 75.326 (use of belt haulage entries to ventilate) to its Bishop No. 33-37 mine located in McDowell County, Virginia, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition is as follows:

1. A fault of approximately 300 feet in length restricts air coursing to the 3-Panel Section active working places.

2. Rehabilitation of the fault area would be hazardous work.

3. An isolated intake escapeway is provided.

4. The petitioner proposes the following alternative to the provisions of 30 CFR 75.326:

a. The air in the belt entry would be used to ventilate active working places in the 3-Panel Section.

b. The belt conveyor entry shall be examined by the pre-shift examiner each shift and once during each coal producing shift while men are working in the 3-Panel Section. Such examination

shall be spaced to provide the most effective examinations of the entry.

c. The requirements for "Fire Protection" found in 30 CFR Part 75 Subpart L will be strictly followed especially as it pertains to water lines, fire hoses, fire suppression systems, warning devices, and flame-resistant belting. Further, if the average air velocity along the belt haulage entry exceeds 100 feet per minute, the provisions of Section 75.1103–10 (placement of fire sensors and materials caches) shall apply.

5. Petitioner states that use of the belt entry air is necessary to ventilate active working places in the the 3-Panel Section unless the hazardous rehabilitation work in the fault area is done. The petitioner states that the alternative method would eliminate the hazards of rehabilitation.

Requests for Comments

Persons interested in this petition may furnish written comments on or before February 25, 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: January 16, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-2302 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-179-C]

McGlothlin Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

The McGlothlin Coal Company, Rosedale, Virginia 24280, filed a petition to modify application of 30 CFR 75.1719 (Illumination) at its #15 UG Mine located in Tazewell County, Virginia, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition is as follows:

1. The coal height is 28 to 42 inches.

2. The petitioner says that the lights required by 30 CFR 75.1719 would cause a glare problem in the low irregular coal, would not increase safety, and in some instances could create a hazard.

3. The petitioner proposes to use regular headlights on the front and rear of an S and S model 74 scoop plus one additional light on the front and rear of the scoop.

4. The 12 RB Joy cutting machine and the Paul's roof bolter would be used without adding additional lights because additional lights would cause glare in the eyes of the operator during operation of the equipment, as well as problems of eye adjustment when moving in and out of an intensely lighted area to perform other tasks.

Request for Comments

Persons interested in this petition may furnish written comments on or before February 25, 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: January 14, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-2301 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

[TA-W-6343]

Airco Speer Electronics; 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 8, 1979 in response to a worker petition received on November 5, 1979 which was filed on behalf of workers and former workers warehousing electronic resistors at Airco Speer Electronics, Bradford, Pennsylvania, a division of Airco, Incorporated.

The Bradford, Pennsylvania facility of Airco Speer Electronics is engaged in the warehousing and distribution of imported electronic resistors produced at its foreign subsidiary and resistors purchased by Airco from Japan. The Bradford facility has not performed any production operations since January 1978.

Thus, since January 1978 workers of Airco Speer Electronics have not produced an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Airco Speer Electronics by ownership, or a firm related by control. Furthermore, the reduction in demand for services must originate at a domestic production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

The Bradford facility warehouses and distributes only imported resistors produced at Airco Speer's foreign plants as well as resistors purchased abroad by Airco. The Bradford facility does not provide warehousing or distribution functions for any domestic production facilities.

Conclusion

After careful review, I determine that all workers of Airco Speer Electronics, Bradford, 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 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2304 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

American Shingle Co., et al.; 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 sudivision 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 February 4, 1980.

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 February 4, 1980.

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 Aveune, NW, Washington, D.C. 20210.

Signed at Washington, D.C. this 14th day of January 1980.

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
American Shingle Company (workers)	Garibaldi, Oreg	1/9/80	1/2/80	TA-W-6,766	Western red cedar shingles.
Bennett Importing, d.b.a. Rumford Shoe (workers).	Rumford, Maine	12/31/79	12/27/79	TA-W-6,767	Boots and shoes.
Bulova Watch Co., Inc., Watch Manufacturing Div. (Tool & Diemakers Independent Union).	Jackson Heights, N.Y.	12/26/79	12/14/79	TA-W-6,768	Ladies' and Men's watches.
Eaton Corporation, Climate Control Div. (workers).	Harrodsburg, Ky	1/7/80	1/2/80	TA-W-6,769	Air conditioners and heaters for automobiles and off highway equipment.
James R. Jarrett, Inc. (workers)	Kokomo, Ind	1/7/80	12/27/79	TA-W-6,770	Truck hauling transportation for steel companies.
Metallurgical Exoproducts Corp. (IUMSWA)	McKees Rocks, Pa	1/8/80	1/4/80	TA-W-6,771	Chemicals for steel products.
Methuen Internations Mills (company)	Methuen, Mass	1/8/80	1/4/80	TA-W-6,772	Woven worsted and worsted blend men's wear fabrics.
Modern Garment, Inc. (ILGWU)	Glassboro, N.J	12/17/79	12/10/79	TA-W-6,773	Ladies' sportswear.
Obear-Nester Glass (Glass Bottle Blowers Association of U.S. & Canada).	East St. Louis, Ill	1/8/80	12/29/79	TA-W-6,774	Glass bottles.
Parkway Manufacturing Company (workers)	West Roxbury, Mass	12/31/79	12/18/79	TA-W-6,775	Contractor of ladies' skirts, blouses, jackets, and blazers.
Seacoast Tri Level, Inc. (workers)	Newark, Del	1/8/80	1/4/80	TA-W-6,776	Loading and unloading of Chrysler automobiles onto railroad trains.
Texas Oklahoma Express, Inc. (workers)	St. Louis, Mo	1/8/80	1/2/80	TA-W-6,777	Common carriers (truck hauling).

[FR Doc. 80-2305 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

Amherst Coal Co., et al.; 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 February 4, 1980.

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 February 4, 1980.

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 18th day of January 1980.

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
Amherst Coal Co. No. 7 Mine (workers)	Slagle, W. Va	1/7/80	1/3/80	TA-W-6,803	Steam coal, also metallurgical coal.
Art Metal U.S.A., Inc. (workers)	Newark, N.J.	1/9/80	1/4/80	TA-W-6,804	Office furniture.
Central Cartage Co. (Teamsters)	Toledo, Ohio	1/10/80	1/7/80	TA-W-6,805	Hauls freight.
Hull Dye & Print Works, Inc. (workers)	Derby Conn	1/8/80	1/4/80	TA-W-6,806	Textile printing and dyeing.
Lobel Company, Inc. (ACTWU)	Paterson, N.J	1/11/80	1/9/80	TA-W-6,807	Boy's suits, slacks, and outerwear.
Shutzer Manufacturing Company (company)	Lawrence, Mass	1/11/80	1/9/80	TA-W-6,808	Men's and women's jackets.
Stanhope Sewing (ILGWU)	Metcong, N.J.	1/11/80	1/7/80	TA-W-6,809	Ladies' sportswear.
Star Sportswear Manufacturing Corporation (workers).	Lynn, Mass	1/11/80	1/8/80	TA-W-6,810	Men's leather outerwear.
Stephanie Coat, Inc. (ILGWU)	Hoboken, N.J	1/10/80	1/8/80	TA-W-6,811	Ladies' coats.
Summersville Mine Equipment Service Shop (IUE).	Summersville, W. Va	1/10/80	1/17/80	TA-W-6,812	Service and repair mine equipment.
Teledyne Monarch Rubber (URW)	Hartville, Ohio	1/10/80	1/7/80	TA-W-6,813	Motor mounts, industrial tires, mechanical rubber goods, and weatherstripping.
Uniroyal, Inc. (Company)	Thomson, Ga	1/15/80	1/7/80	TA-W-6,814	Rubber and canvas footwear.
Wagner Electric Corp. (IUE)	St. Louis, Mo	1/11/80	1/7/80	TA-W-6,815	Automotive components.

[FR Doc. 80-2306 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5719 and 5760]

Amstar Corp.; Revised Determination on Reconsideration

On December 5, 1979, the Department of Labor made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the Amstar Corporation, American Sugar Division, Boston, Massachusetts; Brooklyn, New York; Philadelphia, Pennsylvania; Baltimore, Maryland and Chalmette, Louisiana, refineries. This determination was published in the **Federal Register** on December 11, 1979, (44 FR 71472).

In the workers' application for reconsideration, they claimed that the Chalmette, Louisiana, and Baltimore, Maryland, plants supplied the bulk of their refined sugar to areas where Amstar workers were found meeting all the statutory criteria for trade adjustment assistance. Another former worker claimed that the Charlotte, North Carolina, sales office of the Central States region sold refined sugar out of the Philadelphia and Brooklyn refineries as well as out of Baltimore and Chalmette.

The Department of Labor's review of the initial determination revealed that all workers at the Boston, Massachusetts; Brooklyn, New York; and Philadelphia, Pennsylvania, sugar refineries of Amstar's American Sugar Division and their related facilities in Chicago, Illinois; Brooklyn, New York; Sprague and Versailles, Connecticut; Pitman, New Jersey; Charleston, South Carolina, the general offices in New York, New York; and the regional sales offices in Boston, Massachusetts; Des Plaines, Illinois; Livonia, Michigan; and Philadelphia, Pennsylvania, were separated from employment on or after June 18, 1978, are eligible to apply for trade adjustment assistance. Workers at the Baltimore, Maryland, and Chalmette, Louisiana, refineries were not certified since the principal market areas served by them were believed to be areas which are not significantly affected by competition from imported refined sugar.

The Department's review showed that although imports of refined sugar are relatively insignificant when compared to total domestic production, they are not insignificant when compared to the Northeastern and Northcentral regions of the U.S. in which they are marketed. Imports of refined sugar from Canada accounted for more than 98 percent of total U.S. imports of refined sugar in 1978. Nearly all imports of refined sugar from Canada are marketed in the Northeastern and Northcentral areas of the U.S., principally in the Eastern Great Lakes region.

On reconsideration, the Department found that a significnt share of the production or refined sugar from the Chalmette, Louisiana, refinery was shipped to Amstar's related facility in Chicago, Illinois, which is in a market area affected by Canadian imports of refined sugar where Amstar workers were certified eligible to apply for trade adjustment assistance. Production of refined sugar, in quantity, at Chalmette, Louisiana, decreased in the first six months of 1979 compared to the same period in 1978. Average employment decreased 7.4 percent in the first five months of 1979 compared to the same period in 1978.

An insignificant share of Amstar's Baltimore, Maryland, refinery's production of refined sugar was shipped to areas where Amstar's workers were certified eligible to apply for trade adjustment assistance. Most of the refined sugar produced at the Baltimore refinery was shipped to Maryland, Virginia, North Carolina and South Carolina. Further, production in quantity of refined sugar at Baltimore increased in 1978 compared to 1977 and in the first six months of 1979 compared to the same period in 1978. The average number of production workers decreased only 2.5 percent in the first five months of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of refined sugar like or directly competitive with the refined sugar produced at the Amstar Corporation's American Sugar Division refinery at Chalmette, Louisiana, did contribute importantly to the separations of refinery workers and to the decrease in sales or production at the Chalmette, Louisiana, refinery of the American Sugar Division of Amstar Corporation. It is further concluded that such increased imports did not contribute importantly to worker separations at the Baltimore, Maryland, sugar refinery or any of its sales offices in the Central States region. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of the Boston, Massachusetts; Brooklyn, New York; Philadelphia, Pennsylvania; and Chalmette, Louisiana, cane sugar refineries and related facilities of the American Sugar Division of Amstar Corporation who became totally or partially separated from employment on or after June 18, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

The related facilities include a distribution and blending plant in Chicago, Illinois; research and development laboratories in Brooklyn, New York; printing, package and food service plants in Sprague, Connecticut; Versailles, Connecticut; Pitman, New Jersey;

and Charleston, South Carolina; general offices of the American Sugar Division in New York, New York; and regional sales offices in Boston, Massachusetts; Des Plaines, Illinois; Livonia, Michigan; and Philadelphia, Pennsylvania.

Signed at Washington, D.C., this 17th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2307 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6408]

Ashley Fashion, 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 21, 1979 in response to a worker petition received on November 8, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Ashley Fashion, Incorporated, New York, New York. The investigation revealed that the plant produces women's leather coats. It is concluded that all of the requirements have been met.

U.S. imports of men's, boy's, women's, misses', junior', and children's leather coats and jackets increased absolutely and relative to domestic production.

A sample of customers of Ashley Fashion, Incorporated was surveyed regarding their purchases of women's leather coats and jackets. Total purchases of imported leather coats and jackets by customers responding to the survey increased in 1978 compared with 1977 and in the first 10 months of 1979 compared with the same period of 1978. A number of customers indicated that they reduced purchases from Ashley Fashion, Incorporated and increased purchases of imported women's leather coats.

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 leather coats produced at Ashley Fashion, 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 Ashley Fashion, Incorporated, New York, New York who became totally or partially separated from employment on or after November 5, 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 16th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2308 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6512]

Bellissima Knitwear, 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 December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sweaters, suits and skirts at Bellissima Knitwear, Incorporated, North Bergen, New Jersey. The investigation revealed that the plant produces mainly ladies' sweaters. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children sweaters, increased relative to domestic production in 1978 compared with 1977. The ratio of imports to domestic production was 115.8 percent in 1978.

A survey of customers of Bellissima Knitwear, Incorporated conducted by the Department of Labor evinced that in 1979, the major customer discontinued contracting with the subject firm and contracted with foreign sources for all their needs.

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'

sweaters, produced at Bellissima Knitwear, Incorporated, North Bergen, New Jersey, contributed importantly to the decline in sales and to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Bellissima Knitwear, Incorporated, North Bergen, New Jersey, who became totally or partially separated from employment on or after August 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 15th day of January 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-2309 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6328]

Biltmore Apparel Corp.; Certification Regarding Eligibility To Apply for Workers 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 November 1, 1979 which was filed on behalf on workers and former workers producing infants' clothing at Biltmore Apparel Corporation, New York, New York. It is concluded that all of the requirements have been met.

U.S. imports of infants' and children's playwear increased absolutely and relative to domestic production in 1978 compared with 1977.

The Department surveyed major customers of Biltmore Apparel Corporation. Several respondents reported that they reduced purchases of infants' clothing from the company in 1979 compared with 1978 and increased their purchases of imported infants' apparel.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with infants' clothing produced at Biltmore Apparel Corporation, 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 provision of the Act, I make the following certification:

"All workers of Biltmore Apparel Corporation, New York, New York who became totally or partially separated from employment on or after October 25, 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 January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2310 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6413]

Brown Shoe Co.; 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 21, 1979, in response to a worker petition received on November 16, 1979, which was filed by the Footwear Division of the United Food and Commercial Workers International Union on behalf of workers and former workers producing ladies' sandals at the Houston, Missouri plant of Brown Shoe Company. The investigation revealed that women's shoes are produced by the Houston, Missouri plant. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Production by the Houston, Missouri plant of Brown Shoe Company increased in quantity and value in 1978 from 1977 and in January–October 1979 compared to January–October 1978. Compared to the same quarter of the previous year, production increased during seven consecutive quarters from the first quarter of 1978 through the third quarter of 1979.

Conclusion

After careful review, I determine that all workers of the Houston, Missouri plant of Brown Shoe Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2311 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6441]

C & E Coal Co.; 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 27, 1979 in response to a worker petition received on November 13, 1979 which was filed by company officials on behalf of workers and former workers producing metallurgical coal at C & E Coal Company, Greenwood, Arkansas. It is concluded that all of the requirements have been met.

U.S. imports of metallurgical coal are negligible. However, in accordance with section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive" with an imported article at a later stage of processing. U.S. imports of coke increased absolutely and relative to U.S. production in 1978 compared to 1977. Imports of coke declined absolutely in the first six months of 1979 compared to the same period in 1978.

C & E Coal Company mined and shipped metallurgical coal to one other coal company who in turn mixed it with its own coal and shipped the combined output to one steel mill. In August 1979, this steel mill stopped purchasing metallurgical coal from C & E's customer. The parent firm of this steel mill increased its purchases of imported coke in 1978 compared to 1977. Purchases of imported coke by the

parent firm increased in the first eight months of 1979 compared to the same period in 1978. The steel mill increased its usage of imported coke during these periods.

C & E Coal Company's customer closed in August 1979. C & E Coal Company discontinued mining operations in October 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 the metallurgical coal produced at C & E Coal Company, Greenwood, Arkansas contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of C & E Coal Company, Greenwood, Arkansas who became totally or partially separated from employment on or after August 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 15th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2312 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6442]

Cheryl Dress Corp., (aka Cheryl Manufacturing 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 November 27, 1979 in response to a worker petition received on November 20, 1979 which was filed on behalf of workers and former workers producing ladies' dresses, skirts, vests, shirts, pants and jackets at Cheryl Dress Corporation, Fall River, Massachusetts. The investigation revealed that the company produces primarily ladies' sportswear and its name will be changed to Cheryl Manufacturing Corporation on January 1, 1980. It is concluded that all of the requirements have been met.

U.S. imports of the following categories of women's, misses' and children's apparel increased both absolutely and relative to domestic production in 1978 when compared to 1977: suits, blouses and shirts, coats and jackets, skirts, and slacks and shorts. U.S. imports of women's, misses' and children's cotton vests increased in absolute terms in 1978 compared to 1977.

In a survey conducted by the Department of Commerce, a customer accounting for a significant proportion of Cheryl Dress Corporation's sales declines indicated it had decreased contracts with Cheryl and had increased purchases of imported women's and girls' apparel in the year ending August 31, 1979 when compared to the year ending August 31, 1978. The Department of Commerce on November 27, 1979 certified Cheryl Dress Corporation eligible to apply for firm adjustment assistance.

Conclusion

After careful review of the facts obtained in the investigaton, I conclude that increases of imports of articles like or directly competitive with ladies' sportswear produced at Cheryl Dress Corporation (aka Cheryl Manufacturing Corporation), Fall River, 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 Cheryl Dress Corporation (also known as Cheryl Manufacturing Corporation), Fall River, Massachusetts who became totally or partially separated from employment on or after November 13, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 18th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2312 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

Chrysler Corp., et al.; 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 February 4, 1980.

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 February 4, 1980.

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 17th day of January 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Chrysler Corp., Marine & Industrial Div. (UAW).	Marysville, Mich	1/4/80	12/28/79	TA-W-6,800	Marine engines.
Chrysler Plastic Products Corp. (UAW)	Sandusky, Ohio	1/16/80	1/6/80	TA-W-6,801	All vinyl material used in Chrysler cars and trucks.
Northern Steel Company, Inc. (UAW)	Detroit, Mich	1/14/80	1/7/80	TA-W-6,802	Cut steel for Chrysler automotive plants, also serves as a warehouse.

[FR Doc. 80-2314 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6374]

Como Textile Prints, Inc.; 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 15, 1979 in response to a worker petition received on November 6, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers printing fabric at Como Textile Prints, Incorporated, Paterson, New Jersey. In the following determination, without regard to whether any of the other criteria has 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 ratio of imports of finished fabric has been less than 2.1 percent of U.S. production in the years 1974–1978. Imports decreased absolutely in the first nine months of 1979 compared to the first nine months of 1978.

The average number of production workers increased in 1979 compared to 1978 and decreased by less than 5 percent in the first 11 months of 1979 compared to the same period in 1978. The average number of non-overtime hours for production workers decreased by less than 5 percent in 1978 compared to 1977 and in the first eleven months of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of Como Textile Prints, Incorporated, 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 January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2315 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6714]

Corso Dress, Inc.; Investigation Regarding Certification of Eligibility to Apply for Worker Adjustment Assistance; Correction

In FR Doc. 80-983 appearing on page 2421-2422 in the **Federal Register** of January 11, 1980, the following location in the Appendix under petitioner Corso Dress, Incorporated, TA-W-6714 is corrected to read as follows: St. Johnstown, New York.

Signed at Washington, D.C. this 16th day of January 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-2316 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6345]

Crest Container Corp.; Negative Determination Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein present 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 by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers and former workers producing disposable food containers at Crest Container Corporation, Millville, New Jersey. In the following determination, at least one of the 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.

Imports of disposable food and beverage containers are negligible. The value of imports of food and beverage containers made from paper was less than one half of one percent of the value of U.S. production of such items in 1978. Paper plates are the type of disposable food containers most likely to be imported because of their compactness for shipping. Products manufactured at the Millville plant of Crest Container Corporation are bulkier than paper plates and less likely to be imported.

Conclusion

After careful review, I determine that all workers of Crest Container Corporation, Millville, New Jersey are denied eligiblity 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 January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2317 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[RTA-W—6456]

Custom Casuals, Inc.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, and investigation wa initiated on November 27, 1979 in response to a worker petition recived on November 13, 1979 which was filed by the International Ladies' Garment Workders' Union on behalf of workers and former workers producing women's dresses, ensembles and suits at Custom Casuals, Incorporated, New York, New York.

The petitioning group of workers in this case was included in a determination (TA–W—6329) issued on December 31, 1979 which certified as eligible to apply for adjustment assistance all workers of Custom Casuals, Incorporated, who are engaged in employment related to the production of ladies' ensembles, suits, blouses, coats and dresses. Since all workers separated, totally or partially, from Customs Casuals, Incorporated, New York, New York on or after October 25, 1978 are covered by an existing determination, a new investigation would serve no purpose. Therefore, it is recommended that this investigation be terminated.

Signed at Washington, D.C. this 11th day of January 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–2318 Filed 1–23–80; 8:45 am]

BILLING CODE 4510–28–M

[TA-W-6330]

Englishtown Leather Goods, Inc.: 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 6, 1979 in response to a worker petition received on October 17, 1979 which was filed by the Leather Goods, Plastic, Handbags and Novelty workers' Union on behalf of workers formerly producing wallets at Englishtown Leather Goods, Inc., New York, New York. 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 be separations, or threat thereof, and to the absolute decline in sales or production.

Englishtown Leather Goods, Inc., closed on December 21, 1978.

The Office of Trade Adjustment Assistance surveyed the major customers of Englishtown Leather. None of these customers decreased purchases of wallets from the subject firm while increasing purchases of imported wallets during the period under investigation.

Conclusion

After careful review, I determine that all workers of Englishtown Leather Goods, Inc., 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 18th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80–2319 Filed 1–24–80; 8:45 am]

BILLING CODE 4510–28–M

[TA-W-6438]

Ford Motor Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance withe 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 21, 1979 in response to a worker petition received on November 14, 1979 which was filed by the United Auto Workers on behalf of workers and former workers producing Pintos and Bobcats at the Ford Company, Metuchen Assembly Plant, Eidson, New Jersey, It is concluded that all of the requirements have been met.

U.S. imports of subcompact automobiles increased absolutely in the first two months of model year (MY) 1980 compared to the same 1979 period.

The MY 1979 Pintos and Bobcats were produced exclusively at the Metuchen Assembly Plant, Edison, New Jersey. Since October 1979 Ford Motor also began producing the MY 1980 Pinto and Bobcat at its St. Thomas plant in Canada.

Ford Motor Company's imports of all subcompact car lines increased in quantity during August-November of MY 1980 compared with the same period in 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 Pintos and Bobcats produced at the Ford Motor Company, Metuchen Assembly Plant, Edison, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the followin certification:

All workers of the Ford Motor Company, Metuchen Assembly Plant, Edison, New Jersey who became totally or partially separated from employment on or after November 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 11th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80–2320 Filed 1–24–80; 8:45 am]

BILLING CODE 4510–28–M

General Instrument Corp., et al.; 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 February 4, 1980.

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 February 4, 1980.

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 16th day of January 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
General Instrument Corp., Chicago Miniature Lamp Works (workers).	Neptune, N.J.	11/26/79	11/21/79	TA-W-6,788	Lighted devices.
Geo. L. Meyer Manufacturing Div. of ATO, Inc. (workers).	Cudahy, Wis.	1/7/80	1/2/80	TA-W-6,789	Bottling machinery.
Greystone Shirt Company, Inc. (ACTWU)	New York, N.Y.	1/7/80	1/3/80	TA-W-6,790	Men's shirts.
Highway Dumphaulers, Inc. (workers)	Little Rock, Ark.	1/9/80	12/31/79	TA-W-6,791	Haul metallurgical coal.
J & R Manufacturing Company, Inc. (workers)	Newark, N.J.	1/3/80	12/18/79	TA-W-6,792	Ladies' coats.
Jacobson Manufacturing Co. (UAW)	Kenilworth, N.J.	12/31/79	12/26/79	TA-W-6,793	Nuts.
Jersey Jacobson (UAW)	Union, N.J.	12/31/79	12/26/79	TA-W-6,794	Nuts.
Keller Furniture of Kentucky (Distillery, Rectifying, Wine & Allied Workers International Union of America).	Williamsburg, Ky.	1/9/80	12/16/79	TA-W-6,795	Standard centura lounge.
Louis Roth Clothes, Inc. (workers)	Los Angeles, Calif.	1/9/80	1/4/80	TA-W-6,796	Men's clothing.
R.J.F. Coal Co., Inc. (workers)	Gilbert, W. Va.	1/7/80	1/2/80	TA-W-6,797	Metallurgical coal.
Vargish Knitwear Company (workers)	Carlstadt, N.J.	1/14/80	1/3/80	TA-W-6,798	Knitted sweaters and shirts for men and women.
Walworth Company (USWA)	South Greenburg, Pa.	1/8/80	1/2/80	TA-W-6,799	Standard and special calves.

[FR Doc. 80-2321 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6171]

General Tire & Rubber Co.; Negative Determination Regarding Application for Reconsideration

By letter of December 17, 1979, the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing passenger car tires and truck tires at The General Tire and Rubber Company's plant at Mayfield, Kentucky. The determination was published in the **Federal Register** on December 14, 1979 (44 FR 72678).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioners claim that the Department's customer survey was not adequate since it did not take into consideration the replacement tire market. The petitioners further claim that tire sales are being taken away from General Tire because of the importation of automobiles complete with tires produced overseas.

A review of the investigative case file reveals that workers of General Tire and Rubber Company's plant in Mayfield, Kentucky, were denied eligibility because they did not meet the "contributed importantly" test of Section 222 of the Trade Act of 1974. In its investigation, the Department conducted a survey of customers that accounted for the declines in sales at General Tire. The survey revealed that these customers either did not purchase, or purchased negligible, imports of passenger car and truck tires or decreased purcahses of imported passenger car and truck tires in 1978 compared to 1977 and in the first nine months of 1979 compared to the same period in 1978.

The review also indicates that General Tire's decreased sales to the original equipment market (OEM) accounted for all of its sales decline. Sales increased substantially to non-OEM customers.

Further, the Department had previously determined that the finished article is not like or directly competitive with the component parts. An imported car is not like or directly competitive with tires. This position is supported by the courts in the *United Shoe Workers* v. *Bedell*, 506 F 2d., 174 (1974). In this case, the court held that imported finished women's shoes were not like or directly competitive with domestically-produced shoe counters (stiffeners which are place around the heel of the shoe), a component of footwear. Therefore, the Department sees no relevance for the certification of tire workers under the Act in the workers' claim that import competition from foreign-made

automobiles was the reason fr the production declines in auto and truck tires at the Mayfield plant.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied. Signed at Washington, D.C., this 17th day of January 1980.

C. Micheal Aho,

Director, Office of Management, Foreign Economic Research.

[FR Doc. 80-2322 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6614]

Gina Sportswear, Inc.; 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 December 13, 1979 in response to a worker petition received on December 10, 1979 which was filed on behalf of workers and former workers producing ladies' sportswear at Gina Sportswear, Incorporated, Philadelphia, Pennsylvania. The investigtion revealed that the plant produces women's skirts, jackets and 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, misses' and children's skirts decreased absolutely in the January-September 1979 period compared to the same period of 1978.

U.S. imports of women's, misses', and children's coats and jackets decreased absolutely in the January-September 1979 period compared to the same period of 1978.

U.S. imports of women's and misses' dresses decreased absolutely in the January-September 1979 period compared to the same period of 1978.

A Departmental survey was conducted of the major manufacturers for whom Gina Sportswear performed contract work in 1977, 1978 and 1979. The survey revealed that these manufacturers did not import women's or misses' skirts, jackets or dresses in 1977, 1978 or 1979. In addition, the manufacturers expect to continue to utilize domestic contractors in the future.

Conclusion

After careful review, I determine that all workers of Gina Sportswear, Incorporated, 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 15th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2323 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6348]

H.W. Gossard, Inc.; Negative Dtermination 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 October 23, 1979 which was filed on behalf of workers and former workers producing lingerie at H.W. Gossard, Incorporated, malden, Missouri. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of customers of H.W. Gossard. Results of the survey indicated that most customers who reduced purchases of lingerie from H.W. Gossard did not increase purcahses of lingerie from foreign sources.

Those customers who decreased purchases from H.W. Gossard while increasing purcahses of imported lingerie represented an insignificant portion of the subject firm's sales. In addition, increased purchases of imports by those who reduced purchases from H.W. Gossard were also accompanied by increased purchases of lingerie from other domestic sources.

Conclusion

After careful review, I determine that all workers of H.W. Gossard, Incorporated, malden, Missouri are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade ACt of 1974.

Signed at Washington, D.c. this 17th day of January 1980.

C. Micheal Aho,

Director, Office of Management, Foreign Economic Research.

[FR Doc. 80-2324 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6605]

A. O. Smith Corp., Automotive Division; 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 eligiblity to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligiblity to apply for adjustment assistance each of the group eligiblity requirements of Section 222 of the Act must be met.

The investigation was initiated on December 12, 1979 in response to a worker petition received on December 6, 1979 which was filed by the Smith Steelworkers Union, D.A.L.U., on behalf of workers and former workers producing front-end assemblies for AMC Pacers cars at the Milwaukee, Wisconsin plant of A. O. Smith Corporation, Automotive Division. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced

by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that front-end assemblies for Pacer cars were not imported.

The petitioners allege that increased imports of small and intermediate cars contributed importantly to the decline in production of front-end assemblies for Pacer cars and resulting unemployment at A. O. Smith. However, compact cars (like Pacer cars of the American Motors Company) cannot be considered to be like or directly competitive with front-end assemblies for Pacer cars produced by the Milwaukee, Wisconsin plant of A. O. Smith Corporation, Automotive Divsion. Imports of front-end assemblies for Pacer cars must be considered in determining import injury to workers producing front-end assemblies for Pacer cars at the Milwaukee, Wisconsin plant of A. O. Smith Corporation, Automotive Division.

The petition was filed by the Smith Steelworkers Union, D.A.L.U., on behalf of workers who worked directly on production of front-end assemblies for AMC Pacer cars at the Milwaukee, Wisconsin plant of A. O. Smith Corporation, Automotive Division. In November 1979 the American Motors Corporation (AMC) discontinued production of the Pacer car and stopped ordering front-end assemblies for the Pacer. AMC purchased all of the front-end assemblies for Pacer from A. O. Smith Corporation and did not import them. The A. O. Smith Corporation did not shift production of frontend assemblies for the Pacer to any foreign facilities. The corporation is not corporately affilitated with AMC.

Conclusion

After careful review, I determine that all workers at the Milwaukee, Wisconsin plant of A. O. Smith Corporation, Automotive Division, who were engaged in employment related to the production of front-end assemblies for the Pacer car, 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 January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2303 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

A. C. Lawrence Leather Co., et al.; 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 February 4, 1980.

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 February 4, 1980.

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 21st day of January 1980.

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
A. C. Lawrence Leather Company, Inc. (Amalgamated Meat Cutters and Butcher Workmen of North America).	South Paris, Maine	1/9/80	1/4/80	TA-W-6,816	Tanned and finished sides of leather for shoe industry.
Dunlop Tire & Rubber Corporation (URW)	Buffalo, N.Y.	1/15/80	1/8/80	TA-W-6,817	Motorcycle tires, large truck and bus tires.
Femia Fashions, Inc. (ILGWU)	Brooklyn, N.Y.	1/7/80	12/24/79	TA-W-6,818	Contractor of skirts and pants.
Goodyear Tire & Rubber Company (URW)	Luckey, Ohio	1/15/80	1/11/80	TA-W-6,819	Pliofoam seat cushions for automobiles.
Goodyear Tire & Rubber Company (URW)	Jackson, Mich	1/14/80	1/10/80	TA-W-6,820	Replacement passenger car tires, repiacement truck tires, replacement vehicle tires, and original equipment tires.
Keystone Metal Moulding Company, Clanton Division (IAM & AW).	Clanton, Ala	1710/80	12/19/79	TA-W-6,821	Metal moulding for automobiles.
Keystone Group (Independent Steel Workers Alliance Union).	Bartonville, Ill	1/15/80	1/10/80	TA-W-6,822	Nuts.
Livonia Magnetics Company, Inc. (workers)	Farmington, Mich	1/15/80	1/11/80	TA-W-6,823	Beltless magnetic conveyors, magnetic belt conveyors.
Matox Knitting Mill, Inc. (workers)	Spartanburg, S.C	1/10/80	1/7/80	TA-W-6,824	Double knit, single knit, and sweater knit fabrics.
Ranco, Inc. (IAM & AW)	Columbus, Ohio	1/15/80	1/11/80	TA-W-6,825	All types of controls and valves.
Selma Industries, Inc. (workers)	Selma, Ala	1/11/80	1/2/80	TA-W-6,826	Ladies' sportswear.
(The) Standard Products Company (company)	Lexington, Ky	1/15/80	1/7/80	TA-W-6,827	Extruded rubber weatherstrip.

[FR Doc. 80-2450 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6407]

Allied Chemical Corp., Detroit Coke Plant; 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 21, 1979, in response to a worker petition received on November 12, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing metallurgical coke at the Semet-Solvay Allied Chemical Corporation, Detroit Coke Plant, Detroit, Michigan. 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 metallurgical coke decreased in the first three quarters of 1979 compared with the same 1978 period. The ratio of imports to domestic production also declined during the same period.

The Department conducted a survey of the major customers purchasing metallurgical coke from the Allied Chemical Corporation, Detroit Coke Plant. Most of the customers indicated they had not purchased any imports of coke in 1979. Customers who did import coke decreased foreign purchases in 1979.

Conclusion

After careful review, I determine that all workers of the Allied Chemical Corporation, Detroit Coke Plant, Detroit, Michigan 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 21st day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2451 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

Armco Inc., et al.; 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 February 4, 1980.

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 February 4, 1980.

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 10th day of January 1980.

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
Armco, Inc., Metal Products Div. No. 8 (USWA).	Ashland, Ky	12/31/79	12/17/79	TA-W-6,756	Corrugated steel drainage pipe.
Bethlehem Mines Corp., Kayford-Boone Div. (USWA).	Charleston, W. Va	12/31/79	12/26/79	TA-W-6,757	Metallurgical coal.
Boyle-Midway (OCAWU)	Cranford, N.J	12/31/79	12/26/79	TA-W-6,758	Household chemicals.
Canteen Corporation (workers)	Fenton, Mo	12/20/79	12/13/79	TA-W-6,759	Operates cafeteria facilities.
Corcol Energy, Inc., Preparation Plant No. 101 (workers).	Warncliffe, W. Va	12/31/79	12/26/79	TA-W-6,760	Cleaning of coal.
Ideal Sportswear (workers)	Hyde Park, N.Y	12/27/79	12/17/79	TA-W-6,761	Dresses.
King Powellton Mining, Inc. (workers)	Hansford, W. Va	12/31/79	12/26/79	TA-W-6,762	Metallurgical coal.
Kris Marc (workers)	North Bergen, N.J	12/26/79	12/29/79	TA-W-6,763	Ladies' sportswear and dresses.
McGregor Sportswear (ACTWU)	Berwick, Pa	12/26/79	12/20/79	TA-W-6,764	Distribution center.
Motor Wheel Corp.—Centerfuse Division (Allied Industrial Workers of America).	Lansing, Mich	12/27/79	12/20/79	TA-W-6,765	Wheel and brake drums (foundry operation).

[FR Doc. 80-2452 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6370, 6372, 6373, 6380, 6382, and 6387]

Bald Eagle Coal Co., et al.; 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 15, 1979 in response to a worker petition received on November 6, 1979 which was filed on behalf of workers and former workers producing bituminous metalurgical coal at Bald Eagle Coal Company (TA-W-6370), Cari Eagle Coal Company (TA-W-6372), Christopher Coal Sales Corporation (TA-W-6373), Robert Eagle Coal Company (TA-W-6380), Terry Eagle Coal Company (TA-W-6382), and William Eagle Coal Company (TA-W-6387), Nicholas County, West Virginia. The investigation revealed that the companies produce primarily metallurgical coal. 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 metallurgical coal decreased in 1978 compared with 1977 and during the first nine months of 1979 compared with the same period in 1978.

U.S. imports of coke decreased both absolutely and relative to domestic production during the first three quarters of 1979 compared with the same period in 1978.

Coal brokers of Terry Eagle Coal Company who were surveyed reported declining sales in the period April through November 1979 compared with the same period in 1978. Customers of these brokers who decreased purchases of metallurgical coal reported that they had not purchased imported metallurgical coal during the period under investigation and that they had either decreased their purchases of imported coke absolutely or relative to their total purchases of coke in 1979 compared with 1978.

Conclusion

After careful review, I determine that all workers of Bald Eagle Coal Company (TA-W-6370), Cari Eagle Coal Company (TA-W-6372), Christopher Coal Sales Corporation (TA-W-6373), Robert Eagle Coal Company (TA-W-6380), Terry Eagle Coal Company (TA-W-6382), and William Eagle Coal Company (TA-W-6387), Nicholas County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2453 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6409]

Bernie Bee, Inc.; 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 21, 1979 in response to a worker petition received on November 12, 1979 which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing ladies' dresses at Bernie Bee, Incorported, 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.

U.S. imports of women's and misses' dresses decreased absolutely in the January-September period of 1979 compared to the same period of 1978.

A survey was conducted by the Department of Labor of customers of Bernie Bee, Incorporated. Most of the customers responding to the survey increased their purchasers of domestically-produced dresses by a greater amount than they increased purchases of imports. The customers who reduced purchases of domestic dresses and increased purchases of imported dresses, in the January-November 1979 period compared to the same period of 1978, represented an insignificant proportion of Bernie Bee's sales.

Conclusion

After careful review, I determine that all workers of Bernie Bee, 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 18th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2454 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28

[TA-W-6593]

Bethlehem Steel Corp.; Burns Harbor Plant; 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 intiated on December 11, 1979 in response to a worker petition received on December 4, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing hot rolled coiled and sheet steel at the Bethlehem Steel Corporation, Burns Harbor Plant, Chesterton, Indiana. In the

following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Evidence developed in the Department's investigation revealed that the total separations which occurred during the period of possible coverage amounted to less than five percent of the work force employed in the petitioning subdivision of the Burns Harbor plant. The total number of workers experiencing separations during the period November 30, 1978, one year prior to the signature date of the petition, to the present was less than 50 workers. There is no immediate threat of separations to workers at the Burns Harbor plant.

The Department's investigation further revealed that the workers' average weekly hours of work have not been reduced to less than 80 percent of their average weekly hours from November 30, 1978, one year prior to the signature date of the petition, to the present.

Conclusion

After careful review, I determine that all workers producing hot rolled coiled and sheet steel at the Bethlehem Steel Corporation, Burns Harbor Plant, Chesterton, Indiana 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 21st day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2455 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6513]

Campos Dress Co., Inc.; 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 December 3, 1979, in response to a worker petition received on November 26, 1979, which was filed by the International Ladies' Garmet Workers' Union on behalf of workers and former workers producing ladies' dresses at Campos Dress, Newark, New Jersey. The investigation revealed that the name of the firm is Campos Dress Company, Incorproated. 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 separtions, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the manufacturer for which Campos Dress Company, Incorporated performs contract work had not purchased imported finished dresses, and did not use foreign contractors. In January-November 1979 compared to January-November 1978 the manufacturer experienced an increase in sales of dresses and increased its total work with domestic contractors.

Conclusion

After careful review, I determine that all workers of Campos Dress Company, Incorporated, Newark, 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 18th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2456 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6503]

Elizabeth Undergarments Corp.; 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 30, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing slips and undergarments at Elizabeth Undergarments Corporation, Hackettstown, New Jersey. The investigation revealed that prior to 1979 the plant produced primarily women's nightwear and girls' underwear. The plant began producing slips and camisoles in 1979. 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, girls' and children's nightwear decreased absolutely from January–June 1978 to January–June 1979.

The ratio of U.S. imports to domestic production for women's, girls' and infants' underwear has been less than 5 percent in each year from 1974 through 1978.

A Departmental survey was conducted of the principal manufacturers for whom Elizabeth Undergarments performed contract work in 1977, 1978, and 1979. The survey revealed that these manufacturers did not purchase imported women's nightwear or girls' underwear and did not use foreign contractors in 1977, 1978 or the first 11 months of 1979. The manufacturers indicated that they either increased their contract work with other domestic contractors or increased their utilization of in-house production facilities during the first 11 months of 1979 compared to the same period of 1978.

Conclusion

After careful review, I determine that all workers of Elizabeth Undergarments Corporation, Hackettstown, 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 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Adminstration and Planning.

[FR Doc. 80-2457 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6464]

Essex Group, Inc.; 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 21, 1979 which was filed by the Allied Industrial Workers on behalf of workers and former workers producing power steering hose assemblies and return lines for cars and trucks at the Andrews, Indiana plant of Essex Group, Incorporated. The investigation revealed that the primary products were power steering hose assemblies and return lines and that these products were used primarily in passenger cars. In the following determination, without regard to whether any of the other criteria has 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.

A Labor Department survey revealed that the major customer of the Andrews, Indiana plant of the Essex Group, Incorporated did not purchase imported power steering hose assemblies and return lines.

Petitioners allege that increased imports of automobiles have caused decreases in production and employment at the Andrews, Indiana plant of Essex Group, Incorporated. Although imported automobiles incorporate power steering hose assemblies and return lines of the same origin, imports of the whole product are not "like or directly competitive" with their component parts.

Imports of power steering hose assemblies and return lines must be considered in determining import injury to workers producing power steering hose assemblies and return lines at the Andrews, Indiana plant of Essex Group, Incorporated.

Conclusion

After careful review, I determine that all workers engaged in employment related to the production of power steering hose assemblies and return lines at the Andrews, Indiana plant of Essex Group, 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 21st day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2458 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6396]

Holston Manufacturing Co.; 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 19, 1979 in response to a worker petition received on November 9, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's and ladies' hosiery at the Holston Manufacturing Company, Knoxville, Tennessee. 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.

Holston Manufacturing Company produces men's and women's hosiery, except pantyhose. U.S. imports of all hosiery, except pantyhose, are negligible.

Conclusion

After careful review, I determine that all workers of the Holston Manufacturing Company, Knoxville, Tennessee 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 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2459 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6042]

Island Creek Coal Co.; Negative Determination Regarding Application for Reconsideration

By an application dated December 17, 1979, the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers mining metallurgical coal at the Virginia Pocahontas #2 Mine of the Island Creek Coal Company, Oakwood, Virginia. The determination was published in the **Federal Register** on November 23, 1979, (44 FR 67245).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on mistake in the determination of facts previously considered; or

(3)If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioners claim that the greater portion of the coal mined at the Virginia Pocahontas #2 Mine of the Island Creek Coal Company was used in the domestic market and that if any of the metallurgical coal was shipped overseas it was to fill in spot shortages and that the regular and normal destination of its coal was for the domestic market.

The Department's review revealed that the workers at the Island Creek Coal Company's Virginia Pocahontas #2 Mine did not meet the "contributed importantly" test of section 222 of the Trade Act, since the major portion of the coal mined was for the export market and that declines in production and

employment at the mine were the result of a loss of export sales.

The Department does not see any validity in the petitioners' claim concerning the destination of the coal mined at Virginia Pocahontas #2 Mine. The Department's investigation showed that export sales of metallurgical coal from Virginia Pocahontas #2 Mine accounted for virtually all of that mine's sales in 1979 and a major share in 1978. Only a few domestic customers reduced their purchases in 1979 compared to 1978 and none of them imported metallurgical coal or coke.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 11th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2460 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6397]

Jacqueline Coat Co., Inc., 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 19, 1979 in response to a worker petition received on November 2, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at Jacqueline Coat Company, Incorported, New York, New York. The investigation revealed that the subject firm also produced ladies' suits. 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.

U.S. imports of women's, misses' and children's coats and jackets decreased in the first nine months of 1979 compared to the same period of 1978.

A survey of some of the customers of Jacqueline Coat Company, Incorporated conducted by the U.S. Department of Labor, revealed that none of these customers increased purchases of imported ladies' coats nor did they contract with foreign suppliers for ladies' coats.

Conclusion

After careful review, I determine that all workers of Jacqueline Coat 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 18th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 80-2461 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6350]

Jo-Jo Manufacturing Co.; 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 3, 1979 which was filed on behalf of workers and former workers producing children's clothing at Jo-Jo Manufacturing, Port Jervis, New York. The investigation revealed that the plant produces infants' playwear, children's slack sets and infants' and children's dresses. The correct name of the firm is Jo-Jo Manufacturing Company. It is concluded that all of the requirements have been met.

U.S. imports of infants' and children's playwear increased absolutely and relative to domestic production from 1976 to 1977 and from 1977 to 1978.

U.S. imports of children's dresses increased absolutely and relative to domestic production from 1977 to 1978.

U.S. imports of women's, misses' and chidlren's suits increased absolutely and relative to domestic production from 1977 to 1978.

A Departmental survey was conducted of customers of Jo-Jo Manufacturing Company. The survey revealed that several customers increased their purchases of imported infants' playwear, children's slack sets and infants' and children's dresses and decreased their purchases from Jo-Jo Manufacturing Company during the first ten months of 1979 as compared to the first ten months 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 infants' playwear, children's slack sets and infants' and children's dresses produced at Jo-Jo Manufacturing Company, Port Jervis, 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 Jo-Jo Manufacturing Company, Port Jervis, New York who became totally or partially separated from employment on or after October 26, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Wsahington, D.C. this 11th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2462 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6521]

Just Sew, Inc.; 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 December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing ladies' blouses at Just Sew, Incorporated, Rockaway, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

The investigation revealed that the value of contract work performed by Just Sew, Incorporated increased in 1978 compared to 1977 and increased in the first 11 months of 1979 compared to the same period in 1978. The value of contract work increased in each successive quarter from the first quarter of 1978 through the third quarter of 1979 compared to the same quarter of the previous year.

Average employment at Just Sew, Incorporated increased in 1978 compared to 1977 and increased in the first 11 months of 1979 compared to the same period of 1978. Average employment increased in each successive quarter beginning with the first quarter of 1978 through the third quarter of 1979 compared to the same quarter of the previous year.

Conclusion

After careful review, I determine that all workers of Just Sew, Incorporated, Rockaway, 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 15th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2463 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6415]

K-D Manufacturing Co., Inc.; 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 21, 1979, in response to a worker petition received on November 13, 1979 which was filed on behalf of workers and former workers producing hex keys and screwdrivers at the Upland Industries Division of K-D Manufacturing Company, Incorporated, Upland, Pennsylvania. The investigation revealed that hex keys were the primary product produced at the Upland Industries Division of K-D Manufacturing Company during 1979. 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.

K-D Manufacturing Company purchased the Upland Industries Division in early 1979 with the intention of transferring the plant's equipment and products to a more cost-efficient manufacturing facility in Puerto Rico. Given the lead time required to repair old equipment and manufacture new machine dies, it was not feasible for K-D Manufacturing to transfer equipment immediately to K-D Tools of Puerto Rico. Consequently, manufacturing operations were resumed at the plant during the interim in order to maintain Upland customer accounts.

K-D Manufacturing Company expects to achieve full production of the Upland line of hex keys and screwdrivers at K-D Tool of Puerto Rico, Incorporated by early 1980.

Sales of hex keys manufactured at the Upland Industries Division increased in the first nine months of 1979 compared to the same period of 1978. Because machine dies employed in screwdriver production were virtually unusable, K-D Manufacturing Company stopped production of screwdrivers at the Upland Industries Division in early 1979, to the extent possible, Upland customers were supplied with screwdrivers from existing inventories.

Conclusion

After careful review, I determine that all workers of the Upland Industries Division of K-D Manufacturing Company, Incorporated, Upland, 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 17th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2464 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6399]

Kenosha Auto Transport Corp.; 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 19, 1979 in response to a worker petition received on November 12, 1979, which was filed by the Teamsters on behalf of workers and former workers transporting domestic automobiles at the Kenosha Auto Transport Corporation, Kenosha, Wisconsin.

Kenosha Auto Transport Corporation is engaged in providing the service of transporting automobiles from the Kenosha Auto Transport yard or designated haulaway sites to the various dealers.

Thus, workers of the Kenosha Auto Transport Corporation do not produce an article within the meaning of Section 222(3) of the Act. Therefore they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to the Kenosha Auto Transport Corporation by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Kenosha Auto Transport Corporation and its customers have no controlling interest in one another. Neither the subject firm nor any affiliated company produces an article.

All workers engaged in transporting automobiles at the Kenosha Auto Transport Corporation are employed by that firm. All personnel actions and payroll transactions are controlled by

the Kenosha Auto Transport Corporation. All employee benefits are provided and maintained by the Kenosha Auto Transport Corporation. Workers are not, at any time, under employment or supervision by customers of the Kenosha Auto Transport Corporation. Thus, Kenosha Auto Transport Corporation, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of the Kenosha Auto Transport Corporation, Kenosha, Wisconsin 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 January 1980.

James F. Taylor,

Director, Office of Management, Adminstration and Planning.

[FR Doc. 80-2465 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6359]

Leather Styles, 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 intiated on November 13, 1979 in response to a worker petition received on November 3, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing leather apparel at Leather Styles, Incorporated, New York, New York. The investigation revealed that Leather Styles produced primarily women's leather and suede coats and jackets. It is concluded that all of the requirements have been met.

U.S. imports of men's boy's, women's, misses', juniors' and children's leather coats and jackets increased absolutely and relative to domestic production from 1977 to 1978.

The Department conducted a survey of customers of Leather Styles during the January–October 1979 period compared with the same period of 1978. The survey indicated that some respondents decreased purchases from Leather Styles and increased purchases of imported women's leather and suede coats and jackets.

Import penetration in the leather coat market has been significant in the 1976–1978 period. In 1977 and 1978 approximately one of every two leather coats purchased in the U.S. was imported.

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 leather and suede coats and jackets produced at Leather Styles, 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 Leather Styles, Incorporated, New York, New York who became totally or partially separated from employment on or after October 31, 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 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 80-2466 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6401]

Louis Cantor & Son, Inc.; 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 cerfitication 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 initated on November 19, 1979 in response to a worker petition received on November 9, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at the Egg Harbor, New Jersey plant of Louis Cantor & Son. The investigation revealed that the correct name of the firm is Louis Cantor & Son, 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.

Imports of women's, misses', and children's coats and jackets decreased absolutely in the first nine months of 1979 compared to the first nine months of 1978.

Louis Cantor & Son, Incorporated produces women's wool and wool blend coats on a contract basis for a single apparel manufacturer. This manufacturer does not purchase imported wool coast. This manufacturer's sales of women's wool coats decreased in 1978 compared to 1977 and in the first six months of 1979 compared to the same period of 1978. A survey of the manufacturer's customers showed a decreased reliance on imported coats by respondents.

Conclusion

After careful review, I determine that all workers of Louis Cantor & Son, Incorported, Egg Harbor, New Jesey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2467 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6553]

M & G Convoy, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding cerification 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 December 6, 1979, in response to a worker petition received on November 23, 1979, which was filed by the

Teamsters Union on behalf of workers and former workers transporting Chrysler cars at the M & G Convoy, Incorporated, Murrysville, Pennsylvania.

M & G Convoy, Incorporated was engaged in providing the service of transporting automobiles from the Murrysville, Pennsylvania terminal to various dealers.

Thus, workers of M & G Convoy, Incorporated do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to M & G Convoy, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

M & G Convoy, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with the Chrysler Corporation.

All workers engaged in transporting automobiles at M & G Convoy, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by M & G Convoy, Incorporated. All employee benefits are provided and maintained by M & G Convoy, Incorporated. Workers are not, at any time, under employment or supervision by customers of M & G Convoy, Incorporated. Thus, M & G Convoy, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of M & G Convoy, Incorporated, Murrysville, 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 17th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2468 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6482]

M. Lowenstein & Sons, Inc.; 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 29, 1979 in response to a worker petition received on November 5, 1979 which was filed on behalf of workers and former workers producing textiles at M. Lowenstein Corporation, New York, New York. The investigation revealed that the correct name of the firm is M. Lowenstein and Sons, Incorporated and that the New York office employed administrative and sales personnel only. 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.

The ration of U.S. imports of finished fabric to domestic production was 2.1 percent in 1978. U.S. imports decreased absolutely in the first nine months of 1979 when compared with the same period in 1978.

The New York, New York office of M. Lowenstein and Sons, Incorporated is the corporate headquarters and is not a producing facility of the company. Total sales and production of textiles made at all domestic plants of M. Lowenstein and Sons, Incorporated increased from 1977 to 1978 and in the first nine months of 1979 compared to the like period of 1978.

Conclusion

After careful review, I determine that all workers of M. Lowenstein and Sons, 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 21st day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2469 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6360]

M. Snower & Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustmment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 13, 1979 in response to a worker petition received on November 3, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing lab frocks, hospital frocks and other institutional apparel at the M. Snower and Company Plants, 2715 and 816 Commercial Street, Division of Opelika Manufacturing Company, Cairo, Illinois. The investigation revealed that the M. Snower Company also produces girls' jeans at these plants. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of service or institutional apparel are negligible, and are not separately identifiable in the official trade statistics. Industry sources indicate that the primary reason that these garments are not imported is the inferior quality of the foreign product.

The decline in jeans production and employment was primarily attributable to a strike that occurred at M. Snower early in 1979. Because of the strike, M. Snower transferred jean production to other Opelika Company plants and to outside contractors. Sales and production of girls' jeans increased in the third quarter of 1979 compared to the same quarter in 1978.

Imports of women's, misses' and children's slacks and shorts, the category that includes girls' jeans, declined in the first six months of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determined that all workers of the M. Snower Division of the Opelika Manufacturing Corporation, 2715 and 816 Commercial Street, Cairo, Illinois 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 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2470 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6270]

Marcie Foundations, 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 25, 1979 in response to a worker petition received on October 3, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers formerly producing brassiers and panties at Marcie Foundations, Incorporated, Aibonito, Puerto Rico. It is concluded that all of the requirements have been met.

U.S. imports of brassieres, bralettes and bandeaux increased both absolutely and relative to domestic production in each year from 1974 to 1978. Imports increased absolutely in January-June 1979 compared to the like period of 1978. The ratio of U.S imports to domestic production was 68.6 percent in 1978.

U.S. imports of women's, girls' and infants' underwear increased both absolutely and relative to domestic production in each year from 1975 to 1978. Imports increased absolutely in January-June 1979 compared to the like period of 1978.

Marcie Foundations sold all of its brassieres and panties through the parent company, the Gold Seal Garter Corporation.

Customers of Gold Seal Garter Corporation were surveyed by the Department of Labor. Most of the customers who responded to the survey purchased imported brassieres and panties. Their purchases of imports increased relative to their purchases from all domestic sources in 1978 compared with 1977 and in the first ten months of 1979 compared with the same period in 1978. The ratio of their imports to their purchases from all domestic sources was 43.5 percent in the first ten months of 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with brassieres and panties produced at Marcie Foundations, Incorporated, Aibonito, Puerto Rico 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 Marcie Foundations, Incorporated, Aibonito, Puerto Rico who became totally or partially separated from employment on or after March 24, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2471 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6336]

Mason Tanning Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assitance

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 November 2, 1979 which was filed on behalf of workers and former workers producing suede splits at Mason Tanning Company, Incorporated, Salem, Massachusetts. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat threof, and to the absolute decline in sales or production.

A survey of Mason Tanning's customers was conducted by the Department. Survey results show that customers, measured in aggregate value, increased purchases of suede split leather from Mason Tanning Company while decreasing purchases in terms of value of imports during 1978 compared to 1977 and during the first ten months of 1979 compared to the first ten months of 1978. Those customers who did increase import purchases in terms of value while decreasing purchases from Mason Tanning represented an insignificant proportion of total sales.

Conclusion

After careful review, I determine that all workers of Mason Tanning Company, Incorporated, Salem, Massachusetts are denied eligibilty to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 2472 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6153]

Merit Plastics, Inc.; Negative Determination Regarding Application for Reconsideration

By letter of December 10, 1979, the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and formers workers of Merit Plastics, Inc., East Canton Division, East Canton, Ohio. The determination was published in the **Federal Register** on December 11, 1979 (44 FR 71482).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of

the law justifies reconsideration of the decision.

In their application, the workers maintain that the plastic parts contained on imported cars are like or directly competitive with the plastic parts components which they produce and that imports of cars have directly impacted them in an advance way.

Although the economic impact of imports of final articles may be comparable to the impact of component imports on domestic workers producing component parts for the final article, for purposes of the adjustment assistance provisions of the Trade Act, imports of finished products are not "like or directly competitive" with domestically-produced component parts. Moreover, an automobile component is not deemed to be "at a later stage of processing" as the term is used in the Trade Act when it becomes part of a completed automobile. In a case arising under the Trade Expansion Act of 1962, *United Shoe Workers* v. *Bedell*, 506 F. 2d 174, the United States Court of Appeals for the District of Columbia Circuit construed the term "like or directly competitive." The issue in this case is whether imported finished women's shoes were like or directly competitive with domestic components of women's shoes, in this case, shoe counters (stiffeners which are placed around the heel of the shoe). The court concluded that a shoe counter is not like or directly competitive with the shoe.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2473 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6098]

Mode Manufacturing Co., Inc.; Negative Determination Regarding Application for Reconsideration

By letter of December 12, 1979, the President of Mode Manufacturing Company of New Haven, Connecticut, requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of that company. The determination was published in the **Federal Register** on December 4, 1979 (44 FR 69748).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The company claimed in its application for reconsideration that the manufacturer for which it contracted work bought imports which resulted in eliminating much of Mode's production. The company further claims that workers in a neighboring and competing firm have received trade adjustment assistance.

The Department's review revealed that workers of the Mode Manufacturing Company were denied eligibility because they did not meet the "contributed importantly" test of the Trade Act of 1974, since its sole manufacturer did not purchase imported dresses nor utilize foreign contractors. Its manufacturer had declining sales; however, of the few customers who imported women's dresses, all reported an increased reliance on other domestic sources during the relevant period. The review also showed that U.S. imports of women's, misses' and children's dresses decreased absolutely during the first half of 1979 compared with the same period in 1978. The ratio of imports to domestic production was less than five percent in 1977 and 1978.

With respect to the company's claim that the manufacturer imported a sufficient number of products so as to eliminate much of Mode Manufacturing's production, the Department's investigation indicated that the manufacturer did no foreign contracting and did not import women's dresses.

The Department does not consider the company's claim of a neighboring worker group being certified as relevant for rebutting the Department's original denial. For certification, the Trade Act requires that worker groups filing a petition meet the three statutory group criteria by themselves during the period under investigation. Further, the other firm produced blouses and skirts and performed contract work for a different manufacturer than does Mode.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 14th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2474 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W- 5338 and 5339]

Muench-Kreuzer Candle Corp.; Negative Determination Regarding Application for Reconsideration

By an application dated October 1, 1979, the United Steelworkers of America requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing candles at Muench-Kreuzer Candle Corporation's Liverpool and Syracuse, New York, plants. The determination was published in the **Federal Register** on July 6, 1979 (44 FR 39634).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the determination.

In denying workers of the Liverpool and Syracuse, New York, plants of Muench-Kreuzer Candle Corporation eligibility to apply for adjustment assistance, the Department concluded that increased imports of candles did not contribute importantly to the declines in employment of those workers. The Department noted in its initial investigation that although there were several transient employment losses, these losses involved workers hired temporarily to help build up inventory levels following a three-week

strike during July, 1978. That this may have been the case is borne out by the fact that average employment of production workers at both the Liverpool and Syracuse plants increased from 1976 to 1977, from 1977 to 1978, and during the first four months of 1979 compared with the same period in 1978.

The union argues in its application for reconsideration that the employment declines at Muench-Kreuzer were not temporary and were due to a loss of business caused by increases in competitive imports. The union disputes the Department's conclusion that these employment declines were an indirect result of the July, 1978 strike claiming that the strike occurred largely within the vacation period when production was ordinarily not scheduled.

Though the union is correct in claiming that the strike occurred during a period when production is normally not scheduled, the Department does not agree that employment losses subsequent to the strike were related to import competition. Labor turnover at Muench-Kreuzer is normally high. As the union submits in its petition, there were a large number of quits and layoffs in 1977 and 1978 for reasons unrelated to import competition. Under such circumstances, to accurately judge whether worker separations were significant and importantly caused by increases of competitive imports, the Department must consider average employment trends. As noted above, average employment increased during the period relevant to this investigation.

Furthermore, the union fails to claim in its application that either sales or production decreased absolutely. Under the Act, sales or production of the workers' firm, or appropriate subdivision thereof, must have decreased absolutely before a worker group may be certified as eligible to apply for adjustment assistance. Annual sales and production for both the Syracuse and Liverpool plants of Muench-Kreuzer increased from 1976 to 1977, from 1977 to 1978 and during the first four months of 1979 compared with the same period in 1978.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 14th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2475 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6361]

Oxford Textile Finishing Co., Inc.; 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 13, 1979 in response to a worker petition received on November 6, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers engaged in dyeing and finishing women's wear at Oxford Textile Finishing Company, Incorporated, Oxford, New Jersey. The investigation revealed that the petition was filed by three workers and that the plant produces finished fabric. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of finished fabric remained at or below two percent of domestic production in each of the years 1974 through 1978 and decreased absolutely during the first half of 1979 compared with the same period in 1978.

Converters for whom Oxford Textile Finishing Company, Incorporated did commission fabric finishing who were surveyed reported that they did not import finished fabric or rely on foreign contractors in 1978 or 1979. Customers of those converters reported that imports represented a negligible proportion of their total finished fabric purchases.

Conclusion

After careful review, I determine that all workers of Oxford Textile Finishing Company, Incorporated, Oxford, 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 17th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2476 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W- 6287, 6288, 6289, 6290, and 6288A]

Perfect Garment 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 October 29, 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 women's sportswear at Perfect Garment Company, Incorporated Cambridge (TA-W-6287), Baltimore (TA-W-6288), Grasonville (TA-W-6289), and Secretary (TA-W-6290), Maryland. The investigation was expanded to include the New York, New York sales facility of Perfect Garment Company, Incorporated (TA-W-6288A). The investigation revealed that the women's sportswear included women's woven and knit pants, shorts, skirts, tops, and blouses. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's slacks and shorts increased both absolutely and relatively 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.

U.S. imports of women's, misses', and children's skirts increased both absolutely and relative to domestic production in 1978 compared to 1977.

A survey of some major customers of Perfect Garment Company, Incorporated revealed that some of these customers

decreased purchases from the subject firm and increased purchases of imports in 1978 compared to 1977 and in the first nine months of 1979 compared to the same period in 1978. The company closed permanently in October, 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 women's woven and knit pants, shorts, skirts, tops and blouses produced at Perfect Garment Company, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Perfect Garment Company, Incorporated, Cambridge (TA-W-6287), Baltimore (TA-W-6288), Grasonville (TA-W-6289), and Secretary (TA-W-6290), Maryland and New York, New York (TA-W-6288A) who became totally or partially separated from employment on or after April 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2477 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6496]

Renco Manufacturing, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 28, 1979 which was filed on behalf of workers and former workers producing girls' coats at Renco Manufacturing, Incorporated, Long Branch, New Jersey. The investigation revealed that the plant also produces ladies' coats. 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 in 1978 compared to 1977.

Renco Manufacturing, Incorporated is a contractor for manufacturers of girls' and ladies' coats. A Department survey revealed that the major customer of Renco increased purchases of imported ladies' and girls' coats and decreased purchases from the subject firm in FY (ending April 30) 1979 compared to FY 1978. This manufacturer decreased purchases from Renco but decreased purchases of imported girls' and ladies' coats during the period May to October 1979 compared to the same period in 1978. Retail customers of this manufacturer revealed that they decreased purchases from the manufacturer and increased purchases of imported ladies' and girls' coats during the period under investigation.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with girls' and ladies' coats produced at Renco Manufacturing, Incorporated, Long Branch, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Renco Manufacturing, Incorporated, Long Branch, New Jersey who became totally or partially separated from employment on or after November 23, 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 18th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2478 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6379]

Research-Cottrell, Inc.; 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 15, 1979 in response to a worker petition received on November 2, 1979 which was filed on behalf of workers and former workers producing air and water pollution devices at Research-Cottrell, Inc., Somerville, New Jersey. The investigation revealed that the plant primarily produces electrostatic precipitators. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of electrostatic precipitators are negligible primarily because of the infeasibility of shipping the heavy steel of which the precipitators are constructed. To avoid this problem, foreign companies seeking to penetrate the United States market have secured licensing agreements with domestic manufacturers whereby the foreign firm licenses its technology to the domestic firm. Thus, there is significant importation of precipitator technology, but not of the actual product.

The investigation revealed that the petitioning workers were engaged in the planning and design of precipitators exclusively for Research-Cottrell, and that their plans and designs do not enter the domestic market. Thus, the relevant market for the plans and designs produced by these workers is Research-Cottrell. The investigation disclosed that Research-Cottrell does not utilize plans and designs from foreign sources in the construction of its precipitators, therefore imports of foreign plans and designs cannot be considered to have contributed importantly to the decline in the employment of workers at Research-Cottrell within the meaning of section 222(3) of the Trade Act of 1974.

Conclusion

After careful review, I determine that all workers of Research-Cottrell, Incorporated, Somerville, 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 January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2479 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W- 6363 and 6364]

Rita Coal Co. and Russell Fork Coal Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 13, 1979 in response to a worker petition received on November 2, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers producing metallurgical coal at Rita Coal Company, Elkhorn City, Kentucky and Russell Fork Coal Company, Incorporated, Elkhorn City, Kentucky. 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 petition was filed on behalf of workers mining metallurgical coal. In accordance with section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive" with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of processing. Imports of coke and imports of metallurgical coal should be considered in determining import injury to workers mining metallurgical coal.

U.S. imports of metallurgical coal have been negligible. U.S. imports of coke decreased absolutely and relative to domestic production in the first half of 1979 compared to the same period of 1978.

All coal mined by Rita Coal and all coal mined for Russell Fork Coal by contractors is sold by Russell Fork Coal. The Department conducted a survey of the domestic customers of Russell Fork Coal Company which revealed that customers decreased purchases of imported metallurgical coal and increased purchases of domestically-produced coal in 1978 compared with 1977 and in the first nine months of 1979 compared with the same period of 1978.

Conclusion

After careful review, I determine that all workers of Rita Coal Company, Elkhorn City, Kentucky and Russell Fork Coal Company, Incorporated, Elkhorn City, Kentucky 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 21st day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2480 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6508]

Roan Contractors; 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 30, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies Garment Workers' Union on behalf of workers and former workers producing ladies' skirts, blouses and jackets at Roan Contractors, Roselle, New Jersey. The investigation revealed that the plant produces women's and men's warm-ups and tennis outfits. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' dress and sport trousers (which includes warm-ups) increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of men's and boys' athletic uniforms (which includes tennis outfits) increased in absolute terms in 1978 compared to 1977.

U.S. imports of the following categories of women's, misses' and children's apparel increased both absolutely and relative to domestic production in 1978 compared to 1977; blouses and shirts, coats and jackets, slacks and shorts, skirts, and dresses.

The Department of Labor investigation revealed that Roan Contractors contracts exclusively with one manufacturer. The sole customer of this manufacturer was surveyed by the Department. The survey results revealed that the customer reduced purchases from the manufacturer with whom Roan contracts in the January through November 1979 period when compared to the same period of the previous year. This customer increased its purchases of imported warm-ups and tennis outfits the same time 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 women's and men's warm-ups and tennis outfits produced at Roan Contractors, Roselle, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Roan Contractors, Roselle, New Jersey who became totally or partially separated from employment on or after November 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2481 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6611]

Roberts & Schaefer Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 12, 1979 in response to a worker petition received on December 6, 1979, which was filed by the United

Mine Workers of America on behalf of workers and former workers of Roberts and Schaefer Company, McClure #1 Mine, McClure, Virginia, engaged in engineering and construction of preparation plants.

Roberts and Schaefer Company, McClure #1 Mine, McClure, Virginia is engaged in providing construction and engineering services to coal mining companies. Roberts and Schaefer Company is a subsidiary of Elgin National Industries, Incorporated, a watch and clock maker.

Thus, workers of Roberts and Schaefer Company, McClure #1 Mine, McClure, Virginia do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from the parent firm, a firm otherwise related to Roberts and Schaefer Company by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Roberts and Schaefer Company and its customers have not controlling interest in one another. The parent firm does not produce coal.

All workers engaged in construction and engineering work for Roberts and Schaefer Company, McClure #1 Mine, McClure, Virginia are employed by that firm. All personnel actions and payroll transactions are controlled by Roberts and Schaefer Company. All employee benefits are provided and maintained by Roberts and Schaefer Company. Workers are not, at any time, under employment or supervision by customers of Roberts and Schaefer Company. Thus, Roberts and Schaefer Company, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Roberts and Schaefer Company, McClure #1 Mine, McClure, 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 17th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2482 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6620]

Rockingham Shoe Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 13, 1979, in response to a worker petition received on December 7, 1979, which was filed on behalf of workers and former workers producing children's shoes at Rockingham Shoe Company, Newmarket, New Hampshire. It is concluded that all of the requirements have been met.

U.S. imports of children's non-rubber footwear incresed in quantity and relative to domestic production in the January–September period of 1979, compared with a the same period of the previous year.

The Department of Commerce conducted a survey of customers of Rockingham Shoe Company. The survey revealed that a major customer increased purchases of imported children's shoes and decreased purchases of children's shoes from Rockingham from 1977 to 1978 and from 1978 to 1979. On December 27, 1979 Rockingham Shoe Company was certified by the Department of Commerce as eligible to apply for trade 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 children's shoes produced at Rockingham Shoe Company, Newmarket, New Hampshire contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Rockingham Shoe Company, Newmarket, New Hampshire who became totally or partially separated from emploment on or after December 3, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2483 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6416]

Roseville Garment Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 21, 1979 in response to a worker petition received on November 13, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Roseville Garment Company, Incorporated, East Newark, New Jersey. The investigation revealed that the plant produces ladies' slacks, skirts, gowns and robes, and children's 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.

Roseville Garment Company, Incorporated produces ladies' slacks, skirts, gowns and robes, and children's dresses for several manufacturers. A survey of the manufacturers revealed that they did not utilize foreign contractors or purchase imported ladies' slacks, skirts, gowns and robes, and children's dresses from 1977 through 1979.

Customers of the manufacturers which had declining sales were surveyed. The survey indicated that most respondents did not purchase imported ladies' gowns and robes.

Conclusion

After careful review, I determine that all workers of Roseville Garment Company, Incorporated, East Newark,

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 17th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2484 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6187]

Santa Rosa Shoe 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 on behalf of workers and former workers producing men's work and outdoor footwear at the Santa Rosa Shoe Corporation, Santa Rosa, California, a subsidiary of the Stride Rite Manufacturing Corporation, Boston, Massachusetts. It is concluded that all of the requirements have been met.

U.S. imports of work footwear increased in quantity in 1978 from 1977 and decreased in January-September 1979 compared to the like period in 1978. The ratio of imports to domestic production increased from 19.5 percent in 1977 to 29.8 percent in 1978.

Imports of men's work and outdoor footwear by the Santa Rosa Shoe Corporation increased in January-October 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 work and outdoor footwear produced at the Santa Rosa Shoe Corporation, Santa Rosa, California contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Santa Rosa Shoe Corporation, Santa Rosa, California who became totally or partially separated from employment on or after February 10, 1979 and before January 1, 1980 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated on or after January 1, 1980 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 21st day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2485 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5429 and 5430]

Singer Co.; Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, 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 become 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.

On December 14, 1979, the Department issued a Revised Certification Regarding Eligibility to Apply for Worker Adjustment Assistance for the Wauwatosa, Wisconsin, plant of the Singer Company, Controls Division (TA-W-5430). Through an oversight in revising TA-W-5430, the Department failed to include the workers at the Milwaukee, Wisconsin, plant of the Singer Company, Controls Division, (TA-W-5429), who should have been included in the certification together with TA-W-5430. This omission is hereby corrected.

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, Milwaukee, Wisconsin who became totally or partially separated from employment on or after September 1, 1978, and before July 1, 1979, and all workers of Singer Company, Controls Division, Wauwatosa, Wisconsin, who became totally or partially separated from employment on or before 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 January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2486 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6474]

Snob Fashions, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 23, 1979 which was filed on behalf of workers and former workers producing women's coats at Snob Fashions, Incorporated, Jersey City, 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 important to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of the manufacturers which contract orders from Snob Fashions, Incorporated revealed that only one manufacturer decreased orders from the subject firm in 1978 compared to 1977. Orders to Snob Fashions increased in the period January–October 1979 compared to the same period in 1978. Total sales of the manufacturer who reduced orders to Snob increased from 1977 to 1978 and purchases of imported women's coats by this manufacturer decreased during the same period.

Conclusion

After careful review, I determine that all workers of Snob Fashions, Incorporated, Jersey City, 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 15th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2501 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6460]

Stafford Garment Manufacturing Corp.; 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 certificate 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 27, 1979 in response to a worker petition received on November 14, 1979 which was filed on behalf of workers and former workers producing women's housecoats, blouses, dresses, skirts and suits at Stafford Garment Manufacturing Corporation, Fall River, Massachusetts. The investigation revealed that the plant produces primarily women's 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.

Evidence developed during the course of the investigation revealed that none of the manufacturers for whom Stafford Garment Manufacturing Corporation does contract work use the services of foreign contractors nor do they purchase women's dresses and pantsuits from foreign sources.

Customers (retail outlets) of those manufacturers who experienced decreasing sales were also surveyed. Results of the survey indicated that imported dresses and pantsuits by those respondents who purchased imported apparel did not exceed one percent of total purchases of dresses and pantsuits by the retail outlets in 1978 and 1979.

Conclusion

After careful review, I determine that all workers of Stafford Garment Manufacturing Corporation, Fall River, Massachusetts are denied eligibilty to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2502 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6366]

Stunzi USA, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 13, 1979 in response to a worker petition received on October 29, 1979 which was filed on behalf of workers and former workers producing greige goods, drapery goods, and fine women's wear at Stunzi USA, Incorporated. The investigation revealed that the plant produces finished and unfinished fabric. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Workers at Stunzi USA, wove finished fabric and greige goods (unfinished fabric).

Imports of gray woven fabric increased in 1978 compred to 1977, and decreased absolutely in the first six months of 1979 compared to the same time period in 1978.

Imports of finished fabric have been less 2.1 percent of domestic production in the period 1974–1978. Imports decreased absolutely in the first six months of 1979 compared to the same period in 1978.

The Buena Vista plant of Stunzi USA, Incorporated closed in April, 1979. Company officials submitted data to the Department that showed the plant was unprofitable and that that was the reason they closed the plant.

The Department conducted a survey of major customers of Stunzi USA, Incorporated. This survey revealed that none of these customers had decreased purchases from Stunzi USA prior to the firm's closing and increased imports.

Conclusion

After careful review, I determine that all workers of Stunzi USA, Incorporated, Buena Vista, 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 18th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 80-2503 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6721]

T-R Auto Handling; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding cerification of elibility 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 January 8, 1979, in response to a worker petition received on December 20, 1979, which was filed by the International Brotherhood of Teamsters on behalf of workers and former workers loading automobiles onto railcars at T–R Auto Handling, Edison, New Jersey.

T–R Auto Handling is engaged in providing the service of loading and unloading automobiles from multi-level railcars.

Thus, workers of T–R Auto Handling do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to T–R Auto Handling by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

T–R Auto Handling and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in loading and unloading automobiles from railcars trasnporting automobiles at T–R Auto Handling are employed by that firm. All personnel actions and payroll transactions are controlled by T–R Auto Handling. All employee benefits are provided and maintained by T–R Auto Handling. Workers are not, at any time, under employment or supervision by cutomers of T–R Auto Handling. Thus, T–R Auto Handling, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of T–R Auto Handling Edison, New Jersey are denied eligiblity to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80–2504 Filed 1–24–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–6319]

Teledyne AMCO; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 31, 1979 in response to a worker petition received on October 30, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing electronic clutch motors for sewing machines at Teledyne AMCO, Mohnton, Pennsylvania. The investigation revealed that the plant primarily produces electric motors for sewing machines. It is concluded that all of the requirements have been met.

Teledyne AMCO is the only domestic producer of electric motors for sewing machines, including mechanical clutch drive motors and electronic variable speed motors.

U.S. imports of A.C. Fractional Horsepower Motors increased both absolutely and relative to domestic production from 1977 to 1978, and increased absolutely in the first six months of 1979 compared to the same period in 1978.

U.S. imports of A.C. Fractional Electric Clutch Motors (for sewing machines) increased absolutely from 1977 to 1978 and increased relative to domestic production in the first six 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 electric motors for sewing machines produced at Teledyne AMCO, Mohnton, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Teledyne AMCO, Mohnton, Pennsylvania who became totally or partially separated from employment on or after April 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80–2505 Filed 1–24–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–6305]

Textile Printing & Finishing Co.; 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 30, 1979 in response to a worker petition received on October 23, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers contracting printed fabric at Textile Printing and Finishing Company, Lebanon, Pennsylvania. The investigation revealed that the plant produces finished fabric. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of finished fabric decreased during the first half of 1979 compared with the first half of 1978. The ratio of imports to domestic production did not exceed 2.0 percent from 1974 through 1978.

The Department conducted a survey of Textile Printing and Finishing Company's major customers. The survey respondents did not utilize foreign contractors nor did they increase purchases of imported finished fabric and decrease purchases from the subject firm during the period under investigation.

Conclusion

After careful review, I determine that all workers of Textile Printing and Finishing Company, Lebanon, 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 11th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2506 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W- 6132 and 6133]

U.S. Steel Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 1, 1979 in response to a worker petition received on September 24, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel plate, structural shapes, wire and wire products at the Fairfield Works of the U.S. Steel Corporation in Fairfield and Bessemer, Alabama. 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.

All employees of the Fairfield Works engaged in employment related to the production of carbon steel plate, structural shapes and wire and wire products separated on or after November 15, 1975 and on or before June 9 1979 were proviously certified elibible to apply for adjustment assistance.

A. Structural Shapes

Plant sales and production of carbon steel structural shapes increased in 1978 compared to 1977 and continued to increase in the first three quarters of 1979 compared to the like 1978 period.

Imports of carbon steel structural shapes declined relative to domestic production in 1978 compared to 1977 and in the first three quarters of 1979 compared to the like 1978 period.

The Department conducted a survey of some of the customers of carbon steel structural shapes of the Fairfield Works. All of the respondents except one increased purchases from the Fairfield Works in the first ten months of 1979 compared to the like 1978 period and the one exception did not purchase any imported structural shapes in the first ten months of 1979.

B. Plate

Imports of carbon steel plate declined both absolutely and relative to domestic shipments in the first three quarters of 1979 compared to the like period of 1978.

The Department conducted a survey of some of the customers of carbon steel plate of the Fairfield Works. The majority of the respondents did not purchase any imported plate in the first ten months of 1979. Most of the respondents stated that they shifted to other domestic sources rather than to foreign sources following the shutdown of the Fairfield plate mill in September 1979. Those respondents who reduced purchases from the Fairfield Works and increased purchases from foreign sources in the first ten months of 1979 compared to the like period in 1978 represented a small percentage of the plant's sales in that period.

C. Wire and Wire Products

Imports of wire and wire products declined both absolutely and relative to domestic shipments in the first three quarters of 1979 compared to the like 1978 period.

The Department conducted a survey of some of the customers of wire and wire pruoducts of the Fairfield works. The majority of respondents either did not purchase from foreign sources or reduce purchases foreign sources in the first ten months of 1979 compared to the like 1978 period. The respondents who reduced purchases from domestic sources and from the Fairfield Works and who increased purchases from foreign sources in the first ten months of 1979 compared to the like 1978 period represented a small percentage of the plant's sales.

Conclusion

After careful review, I determine that all workers of the Fairfield Works of the U.S. Steel Corporation in Fairfield and Bessemer, Alabama engaged in employment related to the production of carbon steel structural shapes, plate, wire and wire products 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 January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2507 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6306]

Weyenberg Shoe Manufacturing Co.; 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 Boot and Shoe Workers Union on behalf of workers and former workers producing men's shoes at the Lakeside plant, Beaver Dam, Wisconsin of the Weyenberg Shoe Manufacturing Company. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual footwear increased relative to domestic production in the first six months of 1979 compared to the first six months of 1978. Imports as a percentage of domestic production exceeded 75 percent in 1977, 1978, and in the first six months of 1979.

Weyenberg increased its imports of men's footwear in 1978 compared to 1977 and in the first ten months of 1979 compared to the same period in 1978 while decreasing domestic production.

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 footwear produced at the Lakeside plant, Beaver Dam, Wisconsin of the Weyenberg Shoe Manufacturing Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Lakeside plant, Beaver Dam, Wisconsin of the Weyenberg Shoe Manufacturing Company who became totally or partially separated from employment on or

after May 12, 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 18th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 80-2508 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6307]

Weyenberg Shoe Manufacturing Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 30, 1979 in response to a worker petition received on October 24, 1979 which was filed by the Boot and Shoe Workers Union on behalf of workers and former workers producing component shoe parts for men's shoes at the Milwaukee Sole Plant, Milwaukee, Wisconsin of the Weyenberg Shoe Manufacturing Company. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual footwear increased relative to domestic production in the first six months of 1979 compared to the first six months of 1978. Imports as a percentage of domestic production exceeded 75 percent in 1977, 1978, and in the first six months of 1979.

Weyenberg increased imports of men's footwear in 1978 compared to 1977 and in the first ten months of 1979 compared to the first ten months in 1978 while decreasing domestic production.

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 footwear produced at the Milwaukee Sole Plant, Milwaukee, Wisconsin of the Weyenberg Shoe Manufacturing Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Milwaukee Sole Plant, Milwaukee, Wisconsin of the Weyenberg Shoe Manufacturing Company who became totally or partially separated from employment on or after May 26, 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 18th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2509 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6406]

Wilson Sporting Goods Co.; 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 19, 1979 in response to a worker petition received on November 2, 1979 which was filed by the Amalgamated Meat Cutters Union on behalf of workers and former workers distributing sporting equipment at the Edison, New Jersey facility of Wilson Sporting Goods Company. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the reduction in demand for warehousing and distribution at the Edison, New Jersey distribution center does not relate to any production facility directly impacted by imports.

The Edison, New Jersey distribution center of Wilson Sporting Goods Company warehouses and distributes sporting goods produced by both domestic and foreign manufacturers as well as by Wilson's own production facilities in the United States and abroad.

During 1978, the Edison, New Jersey distribution center experienced an increase in the average number of employees and the total number of hours worked compared to 1977. During this time the Edison facility was handling an order of sporting goods produced in the Northeast region for distribution nationwide. Since the Edison facility does not normally distribute nationwide, the distribution of this line of sporting goods significantly increased the workload at the facility. These orders were completed in the latter part of 1978 and subsequently employment at the facility resumed normal levels.

None of the workers employed by Wilson Sporting Goods Company are covered under any existing certification. Workers at the Wilson Sporting Goods Company production plant in Tullahoma, Tennessee were certified eligible to apply for trade adjustment assistance on August 9, 1978 (TA-W-3246). That certification had an impact date of February 6, 1977 and a termination date of March 4, 1978. The certification was based on the fact that production had been shifted from this facility to a foreign plant. Workers at the Edison, New Jersey facility warehouse and distribute the products produced at this foreign plant.

Conclusion

After careful review, I determine that all workers of the Edison, New Jersey distribution center of Wilson Sporting Goods Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2510 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6651, 6652, 6653, and 6654]

Zantop International Airlines, Inc.; 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 December 20, 1979, in response to a worker petition received on December 14, 1979, which was filed on behalf of workers and former workers of the following facilities of Zantop International Airlines, Incorporated: Ypsilanti, Michigan (TA–W–6651); Atlanta, Georgia (TA–W–6652); Dothan, Alabama (TA–W–6653); and Niagara Falls, New York (TA–W–6654).

Zantop International Airlines, Incorporated is engaged in providing the service of air transport.

Thus, workers of Zantop International Airlines, Incorporated do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Zantop International Airlines, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Zantop International Airlines, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in air transport at Zantop International Airlines, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by Zantop International Airlines, Incorporated. All employee benefits are provided and maintained by Zantop International Airlines, Incorporated. Workers are not, at any time, under employment or supervision by customers of Zantop International Airlines, Incorporated. Thus, Zantop International Airlines, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of the Ypsilanti, Michigan; Atlanta, Georgia; Dothan, Alabama and Niagara Falls, New York facilities of Zantop International Airlines, 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 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80–2511 Filed 1–24–80; 8:45 am]

BILLING CODE 4510–28–M

LEGAL SERVICES CORPORATION

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project . . . "

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Western Nebraska Legal Services in Scottsbluff, Nebraska, to serve Banner, Blaine, Boyd, Brown, Chase, Cherry, Custer, Dundy, Frontier, Furnas, Garfield, Greeley, Hayes, Hitchcock, Holt, Keya Paha, Kimball, Loup, Nuckolls, Perkins, Red Willow, Rock, Valley and Wheeler Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80–2524 Filed 1–24–80; 8:45 am]

BILLING CODE 6820–35–M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Southern New Mexico Legal Services in Las Cruces, New Mexico to serve Catron, Grant, Hidalgo, Luna, Sierra and Socorro Counties.

Interested person are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Co. 80202.

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80–2525 Filed 1–24–80; 8:45 am]

BILLING CODE 6820–35–M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 39–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Services of Northeastern Pennsylvania in Wilkes-Barre, Pa., to serve Pike County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Philadelphia Regional Office, 101 North 33rd Street, Suite 404, Philadelphia, Pa. 19104.

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80–2526 Filed 1–24–80; 8:45 am]

BILLING CODE 6820–35–M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to

the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Black Hills Legal Services in Rapid City, South Dakota, to serve Harding and Perkins Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80-2527 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that is it considering the grant application submitted by:

Northwest Arkansas Legal Services in Fayetteville, Arkansas, to serve Cleburne, Fulton, Izard, Stone and Van Buren Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, NE., 9th Floor, Atlanta, Ga. 30308

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80-2528 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that is it considering the grant application submitted by:

Western Arkansas Legal Services in Ft. Smith, Arkansas to serve Johnson and Pope Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street NE., 9th Floor, Atlanta, GA. 30308

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80-2529 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project . . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Services of Northeast Arkansas in Newport, Arkansas, to serve Clay, Craighead, Greene and Sharp Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street NE., 9th Floor, Atlanta Ga. 30308.

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80-2530 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid of Western Oklahoma in Oklahoma City, Okla., to serve Garfield, Kay, and Noble Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado 80202.

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80-2531 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Gulf Coast Legal Foundation in Houston, Texas, to serve Austin, Brazos, Burleson, Colorado, Leon, Madison,

Robertson, Waller, and Washington Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado 80202.

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80-2532 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996/, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Montana Legal Services Corporation in Helena, Montana, to provide services to Native Americans residing on or near the Blackfeet, Crow, Flathead, Fort Belknap, Fort Peck, Northern Cheyenne and Rocky Boy's Reservations.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Native American Desk, Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado 80202.

Antone G. Singsen III,

Vice President—Finance and Management.

[FR Doc. 80-2541 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

MINIMUM WAGE STUDY COMMISSION

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Commission meeting:

Name: Minimum Wage Study Commission.
Date: February 12, 1980.
Time: 10:30 a.m.
Place: 1430 K St. NW., Suite 1102, Washington, D.C.

Proposed Agenda

1. Pending Business.
2. Staff evaluation of DOL exemption reports on Domestic Workers and Substitute House Parents Employed in Non-Profit Education Institutions.
3. Progress Report on non-econometric studies.
4. New Business.

Next meeting of the Commission will be held Tuesday, March 11, 1980.

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, Executive Director, 1430 K Street, N.W., Washington, D.C. 20005; telephone (202) 376-2450.

Louis E. McConnell,

Executive Director.

[FR Doc. 80-2430 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-23-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-458]

Gulf States Utilities Co. (River Bend Station, Unit 1)

Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Note—This document originally appeared in the **Federal Register** for Friday, January 11, 1980. It is reprinted in this issue at the request of the agency.

Gulf States Utilities Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on October 26, 1979, information requested by the Attorney General for antitrust review as required by 10 CFR Part 50, Appendix L. This information adds Cajun Electric Power Cooperative, Inc. and Sam Rayburn G&T, Inc. as co-owners of the River Bend Station, Unit 1.

The information was filed by Gulf States Utilities Company in connection with their application for construction permits and operating licenses for the River Bend Station, Units 1 and 2. The site for this plant is located in West Feliciana Parish, Louisiana.

The original antitrust portion of the application was docketed on September 24, 1973, and Notice of Receipt of Application for Construction Permits and Operating Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters, was published in the **Federal Register** on October 23, 1973 (38 F.R. 29245). The Notice of Hearing was published in the **Federal Register** on October 23, 1973 (38 F.R. 29243).

Copies of the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C. 20555, and at the Audubon Library, West Feliciana Branch, Ferdinand Street, St. Francisville, Louisiana 70775.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to Cajun Electric Power Cooperative, Inc. and Sam Rayburn G&T, Inc., presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before March 10, 1980.

Dated at Bethesda, Maryland, this 26th day of December 1979.

For the Nuclear Regulatory Commission.

L. S. Rubenstein,

Acting Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc. 80-897 Filed 1-10-80; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. MC79-3]

Red-Tag Proceeding, 1979

January 22, 1980.

Notice is hereby given that pursuant to the "Chairman's Notice of Oral Argument", dated January 22, 1980, Oral Argument in this proceeding is scheduled to be held on Friday, February 8, 1980, at 9:00 a.m., Hearing Room, Postal Rate Commission, 2000 L Street, NW., Washington, D.C.

David F. Harris,

Secretary

[FR Doc. 80-2397 Filed 1-24-80; 8:45 am]

BILLING CODE 7715-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1694; Amdt. No. 3]

Alabama; Declaration of Disaster Loan Area

The above numbered Declaration and Amendments thereto (See 44 FR 61716, 65852, and 72694) are amended further by extending the filing date for physical damage until the close of business on February 15, 1980, and for economic injury until September 15, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 14, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-2343 Filed 1-24-80; 8:45 am]

BILLING CODE 8025-01-M

First B.D.J. Financial Services, Inc.; Application for License to Operate as a Small Business Investment Company

[Proposed License No. 04/04-5184]

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. *661 et seq.),* has been filed by The First B.D.J. Financial Services, Inc. (applicant), with the Small Business Administration (SBA), pursuant to 13 C.F.R. 107.102 (1979).

The officers, directors and stockholders of the applicant are as follows:

Dan E. Young, Chairman of the Board; 9559 East 86th Street, Indianapolis, Indiana 46256.

John R. Rhodes, President, Director; 5100 North Ocean Boulevard, Apartment 1513, Fort Lauderdale, Florida 33308.

William J. De Fouw, Secretary-Treasurer, Director; 2101 South 6th Street, LaFayette, Indiana 47903.

*D. J. International, Inc.,[1] 100 Percent Stockholder; 5100 North Ocean Boulevard, Apartment 1513, Fort Lauderdale, Florida 33308.

The applicant, a Florida corporation, with its principal place of business at 5250 Griffin Road, Fort Lauderdale, Florida 33314, will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 500 shares of common stock.

The applicant will conduct its activities principally in the Greater Fort Lauderdale and Broward County areas.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Fort Lauderdale, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 21, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-2346 Filed 1-24-80; 8:45 am]

BILLING CODE 8025-01-M

[1] D. J. International, Inc. is owned and managed by Messrs. Young, Rhodes, and De Fouw.

[Declaration of Disaster Loan Area No. 1755]

Massachusetts; Declaration of Disaster Loan Area

The area of the Central business district on Essex Street in the City of Lawrence, Massachusetts, constitutes a disaster area because of damage resulting from a fire which occurred on December 23, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 7, 1980, and for economic injury until the close of business on October 8, 1980, at: Small Business Administration, District Office, 150 Causeway Street, 10th Floor, Boston, Massachusetts 02114 or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 9, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-2342 Filed 1-24-80; 8:45 am]

BILLING CODE 8025-01-M

Quidnet Capital Corp.; Filing of Application for Approval of Conflict of Interest Transaction

[License No. 02/02-0350]

Notice is hereby given that Quidnet Capital Corporation (Quidnet Capital), 32 Nassau Street, Princeton, New Jersey 08540, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application pursuant to Section 107.1004 of the SBA Rules and Regulations governing small business investment companies (13 C.F.R. 107.1004(1979)), for approval of a conflict of interest transaction.

Quidnet Capital desires to purchase 45,658 shares of Non-Voting, Class B, Common Stock of Fox-Vliet Holding Corporation (FVHC), P.O. Box 24087, 4529 Enterprise Place, Oklahoma City, Oklahoma 73124, for a total price of $132,408 from Commercial Union Insurance Company (CUIC). These shares represent 10.2 percent of the outstanding shares of FVHC and are to be acquired at their cost basis to CUIC of $2.90 per share. CUIC will retain an investment in 4.9 percent of FVHC's common shares.

FVHC was formed in December 1977 and CUIC was among the original investors therein. In June 1979, FVHC required additional financing but it did not at that time meet the definition of a small business concern under Section 121.3-11 of SBA's Regulations. Consequently, Quidnet Capital was precluded from making a $132,408 investment in FVHC, as it desired to do, and the investment was made, instead, by CUIC. Subsequently, effective September 28, 1979, the SBA revised Section 121.3-11 of its Regulations as a result of which FVHC now qualifies as a small business concern for financial assistance by small business investment companies.

CUIC is considered to be an "Associate" of Quidnet Capital as that term is defined in Section 107.3 of SBA Regulations since it owns 100 percent of the Non-Voting, Preferred Stock of Quidnet Capital. Consequently, the proposed transaction comes within the purview of Section 107.1004 of the Regulations which prohibits a Licensee from providing financing to any of its Associates, except where a written exemption is granted by the SBA.

Notice is hereby given that any person may, not later than February 11, 1980, submit written comments on the proposed transaction. Any such comments should be addressed to the Deputy Associate Administrator for

Finance and Investment, 1441 "L" Street, N.W. Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Princeton, New Jersey and Oklahoma City, Oklahoma.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: January 21, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-2345 Filed 1-24-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No 1754; Amdt. No. 1]

Washington; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 2456) is amended in accordance with the President's declaration of December 31, 1979, to include Kitsap County in the State of Washington. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above named county, and adjacent counties within the State of Washington. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on February 28, 1980, and for economic injury until the close of business on September 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Date: January 15, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 2344 Filed 1-24-80; 8:45 am]

BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY

Consideration of Ratemaking Standards; Changed Hearings

AGENCY: Tennessee Valley Authrity (TVA).

ACTION: Notice of change of hearing dates and locations, addition of hearing and workshop site, and extension of comment period.

SUMMARY: Notice that the Tennessee Valley Authority is considering implementing for itself and the distributors of TVA power certain ratemaking standards was published in the **Federal Register** December 27, 1979 (44 FR 76611). In that notice it was announced that public hearings and workshops were to be held at various locations. The purpose of this notice is to reschedule all the hearings to later dates, with some of the locations also changed, and add a fifth site as a location for both hearings and a workshop. These changes set out below will give the public more time to prepare for participation in the hearings and increase the opportunity for participation by providing an additional site for hearings and a workshop. Because of the rescheduling of the hearings, the period to receive written comments will be extended to April 18, 1980. In all other respects the notice previously published in the **Federal Register** accurately sets out the manner of public participation in TVA's consideration of ratemaking standards.

Extension of written comment period: Written comments on the ratemaking standards must be received by April 18, 1980, to be assured of being considered.

New hearing dates and locations: Public hearings respecting the standards previously published in the notice appearing in the **Federal Register** December 27, 1979, will be conducted at the following times and places instead of those set out in the December 27, 1979, notice:

Muscle Shoals, Alabama—February 26, 1980, 10 a.m. and 7 p.m., TVA National Fertilizer Development Center Auditorium, Construction Services Branch Building, Wilson Dam Road;

Memphis, Tennessee—March 11, 1980, 10 a.m. and 7 p.m., Frayser Community Center, 2893 North Watkins;

Knoxville, Tennessee—March 18, 1980, 10 a.m. and 7 p.m., TVA Auditorium, West Tower, Plaza Level, 400 Commerce Avenue;

Nashville, Tennessee—March 25, 1980, 10 a.m. and 7 p.m., Tennessee State University, Downtown Campus Auditorium, Room 358, 10th and Charlotte; and

Chattanooga, Tennessee—April 1, 1980, 10 a.m. and 7 p.m., Central YMCA, Room 239A, 301 West Sixth Street.

Other details concerning the hearings and public participation are not changed and are set out in the **Federal Register** notice published December 27, 1979.

Additional workshop: As explained in the **Federal Register** notice of December 27, 1979, in order to assist interested consumers in preparing for participation in the hearings, TVA will sponsor a series of rate workshops which will include discussion of the ratemaking standards set out in the **Federal Register** notice. The workshops will be conducted at the four locations and times mentioned in that **Federal Register** notice, with one additional workshop at Chattanooga, Tennessee, scheduled as follows:

Chattanooga, Tennessee—February 5, 1980, 3:30 p.m.–10:00 p.m., Central YMCA, Room 145, 301 West Sixth Street.

As stated in the December 27, 1979, notice these workshops will not constitute part of the official record upon which determinations concerning the ratemaking standards will be made.

FOR FURTHER INFORMATION CONTACT: Dawn S. Ford at Tennessee Valley Authority, 400 Commerce Avenue, E12A2, Knoxville, Tennessee 37902 (615) 632–4402.

Dated: January 15, 1980.

W. F. Willis,

General Manager.

[FR Doc. 2348 Filed 1-24-80; 8:45 am]

BILLING CODE 8120-01-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on February 22, 1980, at 10:00 A.M., the Fort Harrison Station Committee on Educational Allowances shall at VAM & ROC, Fort Harrison, MT conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Great Falls Commercial College, 905 First Avenue North, Great Falls, MT 59401 should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: January 15, 1980.

John D. Bunger,

Director, VAM & ROC, Ft. Harrison, MT 59636.

[FR Doc. 80-2372 Filed 1-24-80; 8:45 am]

BILLING CODE 8320-01-M

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedures and Hearing Rules, Station Committee on Educational Allowances that on February 21, 1980, at 1:00 p.m., the Des Moines Regional Office Station Committee on Educational Allowances shall at Room 1025, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, conduct a hearing to determine whether the Veterans' Administration benefits to all eligible persons enrolled in Stanrick Corporation, Aviation Division, Davenport, Iowa, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: January 16, 1980.

Robert L. Winters,

Director, VA Regional Office, 210 Walnut Street, Des Moines, Iowa 50309.

[FR Doc. 80-2376 Filed 1-24-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 18
Friday, January 25, 1980

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

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., January 29, 1980.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matter/proposed administrative proceedings.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-149-80 Filed 1-23-80; 10:31 am]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., January 29, 1980.

PLACE: 2033 K Street NW., Washington, D.C., Fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Issues Pending on the Kansas City Board of Trade's Value Line Index Proposal.

Rulemaking Regarding Foreign Brokers and Traders.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-148-80 Filed 1-23-80; 10:32 am]

BILLING CODE 6351-01-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, January 29, 1980.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the Public

1. Sexual Harrassment Guidelines and Management Director.
2. Hazardous Substance Guidelines—Proposed Policy Statement.
3. Improving Government Regulations; Agenda for Significant Regulatory Activity.
4. Request for approval of continuation comment period on the Pilot Project.
5. Freedom of Information Act Appeal No. 79-11-FOIA-394, concerning a charging party appealing the denial of documents in her charge file.
6. Two Proposed sole source Contracts for services needed in connection with court causes.
7. Report on Commission Operations by the Executive Director

Closed to the Public

Litigation authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued January 22, 1980.

[S-159-80 Filed 1-23-80; 3:31 pm]

BILLING CODE 6570-06-M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 11:45 a.m., Wednesday, January 16, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Commission closed meeting.

MATTER TO BE CONSIDERED: Scheduling of an item.

Due to the exigencies of Commission business, it was necessary to discuss during the Closed Session of January 16, 1980 the scheduling of the Commission meeting with respect to applications for WNAC-TV, Boston, Massachusetts. An audio tape of that portion of the meeting is available in room 222.

The prompt and orderly conduct of Commission business did not permit announcement of this matter prior to the meeting.

Action by the Commission January 21, 1980. Commissioners Ferris, Chairman; Lee, Quello, Washburn, Fogarty, Brown and Jones voting to consider this matter.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: January 22, 1980.

[S-147-80 Filed 1-23-80; 10:00 am]

BILLING CODE 6712-01-M

5

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, FR page 3695, January 18, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., January 23, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202-377-6677).

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting. Modification of Merger Condition—First Federal Savings and Loan Association of Tuscaloosa, Tuscaloosa, Alabama.

Announcement is being made at the earliest practicable time.

No. 312, January 23, 1980.

[S-152-80 Filed 1-23-80; 11:53 am]

BILLING CODE 6720-01-M

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9 a.m., January 30, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Frank O. Bolling (202-377-6677).

MATTERS TO BE CONSIDERED:

Application for Branch Office—Merchants and Mechanics Federal Savings and Loan Association of Springfield, Springfield, Ohio.

Application for Bank Membership—The People's Savings Bank of New Britain, New Britain, Connecticut.

Bank Membership and Insurance of Accounts—Independence Savings and Loan Association, Gonzales, Texas.

Modification of Condition—Home Federal Savings and Loan Association of San Diego, San Diego, California.

No. 313, January 23, 1980.

[S-158-80 Filed 1-23-80; 3:08 pm]

BILLING CODE 6720-01-M

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., January 30, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Report on Notation Items disposed of during December 1979.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during December 1979.
3. Report of the Secretary on Applications for Admission to Practice approved during December 1979, pursuant to delegated authority.
4. Assignment of Informal Dockets by the Secretary during December 1979.
5. Matson Navigation Company overall 2.9 percent rate increase between U.S. Pacific Coast ports and Hawaii.
6. Agreement No. 10320-2: Amendment to equal access agreement in Brazilian trade to reallocate shares.
7. Agreement No. 10025-2: Modification of the U.S. Atlantic & Gulf/Red Sea and Gulf of Aden Rate Agreement to conform to General Order 7 and to establish security for financial obligations.
8. Docket No. 78-2: Organic Chemicals (Glidden-Durkee) Division of SCM Corporation v. Atlanttrafik Express Service—Motion of complainant to require respondent to pay expenses.
9. Docket No. 79-84: Matson Navigation Company—Proposed 5.90 Percent Bunker Surcharge Increase in Tariffs FMC-F Nos. 165, 166 and 167—Consideration of the record.
10. Petition of Refrigerated Express Lines for Commission action under section 19 of the Merchant Marine Act, 1920.
11. Specific Commodity rates of Far Eastern Shipping Company.
12. Docket No. 78-11: Exemption of Certain Collective Bargaining Agreements—Consideration of proposed rules.

CONTACT PERSON FOR MORE INFORMATION: FRANCIS C. HURNEY, SECRETARY, (202) 523-5725.

[S-156-80 Filed 1-23-80; 2:48 pm]

BILLING CODE 6730-01-M

8

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: Approximately 11:30 a.m., Wednesday, January 30, 1980 (following a recess at the conclusion of the open meeting).

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement to be presented to the Senate Committee on Banking, Housing, and Urban Affairs regarding the Federal Reserve's monetary improvement program.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:
Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: January 23, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-151-80 Filed 1-23-80; 11:31 am]

BILLING CODE 6210-01-M

9

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, January 30, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item by moved to the discussion agenda.

1. Proposed interpretation of section 2(g)(3) of the Bank Holding Company Act regarding whether certain routine extensions of credit will not be regarded as indebtedness for the purposes of this section.

Discussion Agenda

1. Request by the Commodity Futures Trading Commission for Board comment on the proposal by the Kansas City Board of Trade to trade a futures contract on a stock market index.
2. Proposed action regarding the handling of non-interest bearing negotiable orders of withdrawal of mutal savings banks in Pennsylvania. (Proposed earlier for public comment; docket no. R-0220).
3. Requests to increase limitations on premiums offered to depositors by member banks.
4. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: January 23, 1980.

Griffith Garwood,

Deputy Secretary of the Board.

[S-150-80 Filed 1-23-80; 11:30 am]

BILLING CODE 6210-01-M

10

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 9:30 a.m., January 30, 1980.

PLACE: 1776 G Street NW., Washington, D.C., seventh floor, board room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rates.
2. Use of Expedited Closing Procedure and Proposed Sunshine Act Regulations.
3. Delegations of Authority.
4. Final Rule, 12 CFR Part 701, "Organizing a Federal Credit Union" and the *Chartering and Organizing Manual for a Federal Credit Union.*
5. Establishment of Automatic Data Processing Oversight Committee.
6. Applications for charters, amendments to charters, bylaw amendments, mergers, conversions and insurance as may be pending at that time.

CONTACT PERSON FOR MORE INFORMATION:
Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-155-80 Filed 1-23-80; 2:41 pm]

BILLING CODE 7535-01-M

11

NATIONAL CREDIT UNION ADMINISTRATION. Notice of previously held emergency meeting.

TIME AND DATE: 11:50 a.m., December 6, 1979.

PLACE: 1776 G Street NW., Washington, D.C., Seventh floor board room.

STATUS: Closed.

MATTER TO BE CONSIDERED:

Fiscal Year 1980 Travel and Transportation Reduction proposed by the Office of Management and Budget (OMB) Closed pursuant to exemption (9)(B).

There was no scheduled closed meeting the week of December 3. The next closed meeting would not be held until december 13, 1979. The Board determined that it would not be feasible to wait that long since there could be

no final budget for fiscal 1980 until this matter was resolved. Resolution of the matter would also affect the operating fee which credit unions would be assessed for calendar year 1980. The letters to credit unions regarding the operating fee were ready to mail. Therefore the Board unanimously voted to consider the OMB directive, deciding that seven days advance notice was not possible.

FOR FURTHER INFORMATION CONTACT: Rosemary Brady, Secretary of the Board (202) 357–1100.

[S–146–80 Filed 1–22–80; 4:11 pm]

BILLING CODE 7535–01–M

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: January 28 and 29, 1980.

PLACE: Commissioners conference room 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Monday, January 28

1:30 p.m.—Discussion and Vote on Philippine Export License Application (approximately 2 hours, public meeting).

Note.—Rescheduled from January 22.

Tuesday, January 29

1:30 p.m.—Briefing by Executive Branch on Export Matters (approximately 2 hours, closed—Exemption 1).

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed (202) 634–1410.

Roger M. Tweed,

Office of the Secretary.

January 21, 1980.

[S–154–80 Filed 1–23–80; 2:40 pm]

BILLING CODE 7590–01–M

13

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9 a.m., February 1, 1980.

PLACE: Board's meeting room on the eighth floor of its headquarters building at 844 Rush Street, Chicago, Illinois, 60611.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion Open to the Public

(1) Federal Women's Program.
(2) Interview by industrial psychologist.
(3) Occupational disability standards.

Portion Closed to the Public

(4) Intra-Board personnel matters.
(5) Appeal from referee's denial of disability annuity application, Victor J. Haughey.
(6) Appeal from referee's denial of disabled widow's annuity, Catherine Martin.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board, COM No. 312–751–4920; FTS No. 387–4920.

[S–153–80 Filed 1–23–80; 12:48 pm]

BILLING CODE 7905–01–M

14

[Meeting No. 1235]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 7:30 p.m., CST, Wednesday, January 30, 1980.

PLACE: Auditorium of the Academic Building, Hopkinsville Community College, North Drive, Hopkinsville, Kentucky.

STATUS: Open.

MATTERS FOR ACTION:

Project Authorizations

1. No. 3501—Research and demonstration program for the weatherization of rental property (in cooperation with Memphis Light, Gas and Water Division).
2. No. 3502—New home conservation program.

Purchase Awards

1. Req. No. 165607—Indefinite quantity term contract for light distillate oil for Allen Steam Plant.
2. Req. No. 108271—Conductor cable, ACSR, for Browns Ferry Nuclear-Union and Union Cordova 500-kV Transmission Lines.
3. Req. No. 163120—Low-pressure and high-pressure turbine rotors for Gallatin and Shawnee Steam Plants.
4. Req. No. 164998—Generator rotor for Colbert Fossil Plant, Unit 4.
5. Req. No. 162281—Turbine buckets for Paradise Steam Plant, Unit 3.
6. Req. No. 826533—Reinforced concrete drilled pier foundations for Yellow Creek Nuclear Plant.
7. Req. No. 824451—Requirements contract for 13.8- and 6.9-kV auxiliary power switchboards for Yellow Creek Nuclear Plant.
8. Req. No. 825211—Requirements contract for 480-volt AC motor control centers for Yellow Creek Nuclear Plant.
9. Sales Invitation No. 4158—Sales of Marion Shovel with parts and accessories, located at Fabius Mine, Fabius, Alabama.

Power Items

1. Adoption of supplemental resolution authorizing 1980 Series A Power Bonds.
2. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1980 Series A Power Bonds.
3. Letter agreement with Appalachian Power Company extending the term of Service Schedule EC covering emergency conservation energy.
4. Letter agreement with Big Rivers Electric Corporation covering arrangements for transmitting power and energy through TVA's system.
5. Agreement with Joe Wheeler Electric Membership Corporation covering arrangements for distributor's participation in TVA's load management residential thermal storage field test.

Personnel Actions

*1. Change of status for Billy J. Bond from Acting Manager, Office of Community Development, Knoxville, Tennessee, to Manager, Office of Agricultural and Chemical Development, Muscle Shoals, Alabama.
*2. Appointment of Hortense Dixon as Manager, Office of Community Development, Knoxville, Tennessee.
*3. Appointment of Craven H. Crowell, Jr., as Director of Information, Office of the General Manager, Knoxville, Tennessee.

Unclassified

1. Revised TVA policy code relating to disposal of personal property not needed by TVA.
2. Letter agreement between TVA and Hardin County, Tennessee, providing for TVA's financial assistance in the development of an emergency fire, police, and medical response system as part of the impact mitigation program for Yellow Creek Nuclear Plant.
3. Resolution relating to lease of office space from the TVA Employees Federal Credit Union in Chattanooga, Tennessee.

CONTACT PERSON FOR MORE INFORMATION:

Lee C. Sheppeard, Acting Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: January 23, 1980.

[S–157–80 Filed 1–23–80; 3:39 pm]

BILLING CODE 8120–01–M

15

[M–266 amdt. 2, 1/21/80]

CIVIL AERONAUTICS BOARD.

Addition and Closure of Item to the January 24, 1980, Meeting Agenda

TIME AND DATE: 10:30 A.M.—January 24, 1980.

PLACE: Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 22. International fare increases proposed by Pan American, Braniff and TWA. (BIA).

STATUS: Open (Items 1–19)—Closed (Items 20–22).

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: Item 22 is being added to the January 24, 1980 agenda because the Board wishes to

* Items approved by individual Board members. This would give formal ratification to the Board's action.

discuss further staff recommendations presented informally at the January 21, 1980 closed meeting. Also, the Board must act before January 26, 1980 if it is to suspend some of the proposed increases. Accordingly, the following Members have voted that agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of this meeting was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

Public disclosure, particularly to foregin governments of opinions, evaluations, and strategies discussed could seriously compromise the ability of the United States Government to achieve understanding in future rate negotiations which would be in the best interests of the United States. Accordingly, we believe that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate future action within the meaning of the exemption provided under 5 U.S.C. 552(c)(9) and 14 CFR section 310b.5(9)(B) and that any meeting on this item should be closed:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

PERSONS EXPECTED TO ATTEND:

Board Members: Chairman Marvin S. Cohen, Member Richard J. O'Melia, Member Elizabeth E. Bailey, Member Gloria Schaffer.
Assistants to Board Members: Mr. David Kirstein, Mr. James L. Deegan, Mr. Daniel M. Kasper, Mr. Stephen H. Lachter.
Managing Director: Mr. Cressworth Lander.
Executive Assistant to the Managing Director: Mr. John R. Hancock.
Bureau of International Aviation: Mr. Sanford Rederer, Mr. Douglas V. Leister, Mr. Ivars V. Mellups, Mr. Herbert P. Aswall, Mr. Vance Fort, Mr. James S. Horneman, Mr. John H. Kiser, Ms. Carolyn K. Coldren, Mr. Francis S. Murphy, Mr. Joseph Di Bella, Jr.
Office of the General Counsel: Ms. Mary McInnis Schuman, Mr. Peter B. Schwarzkopf, Mr. Michael Schopf.
Bureau of Domestic Aviation: Mr. Mark S. Kahan, Mr. Albert Halprin, Mr. Robert I. Stein, Mr. Julien R. Schrenk.
Office of Economic Analysis: Mr. Robert H. Frank, Mr. Robert Preece.
Bureau of Consumer Protection: Mr. Reuben B. Robertson, Mr. John T. Golden.
Office of the Secretary: Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee.

General Counsel Certification

I Certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9) and 14 CFR section 310b.5(9)(B) and that the meeting may be closed to public observation:

Mary McInnis Shuman,
General Counsel.

[S–161–80 Filed 1–23–80; 3:45 pm]
BILLING CODE 6320–01–M

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[M–266 amdt 3, January 21, 1980]

CIVIL AERONAUTICS BOARD.

Addition of Item to the January 24, 1980, Meeting

TIME AND DATE: 10:30 A.M.—January 24, 1980.

PLACE: Room 1027—Open, Room 1011—Closed, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: la. Docket 35752—Wild Card Route Case (Instructions to staff).

STATUS: 1–19—Open, 20–22—Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUMMPLEMENTARY INFORMATION: Since the next Board Meeting will not be until February 5, 1980, the Board wishes to give instructions on the Wild Card Case at the January 24th meeting. Early action is desirable so that this case may be completed in time for summer service on route chosen. Accordingly, the following Members have voted that Item la be added to the January 24th meeting and that no earlier announcement of this addition was possible: Chairman Marvin S. Cohen, Member Richard J. O'Melia, Member Elizabeth E. Bailey, Member Gloria Schaffer.

[S S–160–80 Filed 1–23–80; 3:45 pm]
BILLING CODE 6320–01–M

federal register

Friday
January 25, 1980

Part II

Department of Health, Education, and Welfare

Food and Drug Administration

FD&C Red No. 2; Denial of Petition For Permanent Listing; Final Decision

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administation

[Docket No. 76C-0033]

FD&C Red No. 2; Denial of Petition for Permanent Listing; Final Decision

AGENCY: Food and Drug Administration.

ACTION: Final Decision Following a Formal Evidentiary Public Hearing.

SUMMARY: The Commissioner of food and Drugs is issuing the final decision following a formal evidentiary public hearing to consider objections to the agency's denial of the petition for permanent listing of Red No. 2 as a color additive. The Commissioner affirms the Initial Decision, which denied the petition, with the supplementation and modifications in the Final Decision.

EFFECTIVE DATE: April 24, 1980.

ADDRESS: The transcript of the hearing, evidence submitted, and all other documents cited in this decision may be seen in the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Richard T. Hunt, Regulatory 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:

I. History

In the **Federal Register** of April 9, 1976 (41 FR 15053) the then Commissioner of Food and Drugs, Alexander M. Schmidt, denied a petition to list FD&C Red No. 2 (Red No. 2) permanently as a color additive. The Certified Color Manufacturers' Association (CCMA) and the Cosmetic, Toiletry, and Fragrance Association (CTFA) objected to the denial, and CCMA requested a formal hearing on its objections. CCMA is referred to as the petitioner in this Decision because it was one of the associations that filed the original petition to list Red No. 2 permanently as a color additive. In the **Federal Register** of July 20, 1976 (41 FR 29896), the then Commissioner granted a formal hearing on the objections. At the conclusion of the formal hearing, the Administrative Law Judge (ALJ) issued an Initial Decision (ID) on March 30, 1978, denying the petition for permanent listing.[1]

CCMA filed exceptions to the Initial Decision under 21 CFR 12.125[2] and the Bureau of Foods (Bureau) filed a reply to the exceptions (Reply) requesting an adoption of the Initial Decision and denial of the petition for permanent listing for all uses. CCMA requested oral argument. Ex., p. 1. Because I do not find oral argument necessary, I am denying that request. 21 CFR 12.125(e).

I am issuing this Final Decision under section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376) and 21 CFR 12.130 to take final agency action with respect to the petition in light of the Initial Decision, the exceptions to it, and the other material in the record of the hearing. In reaching this decision, I have all the powers I would have in making the Initial Decision. 21 CFR 12.130(a). The Initial Decision and The Final Decision must be based upon a "fair evaluation of the entire record," under section 706 of the act, and should also satisfy the provisions of 21 CFR 12.120 and 12.130. After reviewing the entire record, I deny the petition for permanent listing of FD&C Red No. 2 on the basis of the Initial Decision on supplemented and modified by this Decision.

Although Red No. 2 has never been approved for permanent use as a color additive, at one time the color was permitted to be used in foods, drugs and cosmetics as a provisionally listed color additive under the transitional provisions of the color additive amendments. The agency terminated the provisional listing of the color in the **Federal Register** of February 10, 1976 (41 FR 5823), as implemented on February 12, 1976 (see the **Federal Register** of February 13, 1976 (41 FR 6774)). The termination of the provisional listing was upheld *in Certified Color Mfg. Ass'n* v. *Mathews*, 543 F.2d 284 (D.C. Cir. 1976). The correctness of the termination of the provisional listing is not an issue in this proceeding; the hearing and this proceeding concern only the permanent listing of Red No. 2 as a color additive.

This Decision will examine the three issues on which the notice of hearing granted a hearing, and the particular disputes concerning these issues as they developed at the hearing. The three issues on which a hearing was granted are:

(1) *Carcinogenicity.* The notice of hearing granted a hearing on whether data submitted by petitioners, in addition to other data before FDA, establish to a reasonable certainty that FD&C Red No. 2 is not a carcinogen in man or animals.

(2) *Chemistry.* The notice of hearing granted a hearing on whether on the facts as to Red No. 2 the considerations set forth in 706(b)(5)(A) of the act (21 U.S.C. 376(b)(5)(A)) support a determination that Red No. 2 is safe for its intended uses. At the hearing this issue concerned whether Red No. 2 should not be considered safe due to questions concerning its stability, metabolism, and purity all of which, for convenience, are described in this decision as "the chemistry issues."

(3) *Topical Uses.* The notice of hearing granted a hearing on whether FD&C Red No. 2, if not approvable for all petitioned uses, may nevertheless be approvable for certain limited uses.

Before discussing these issues, I will examine the petitioner's obligation under the statute to show the safety of a color additive, and the general exceptions to the Initial Decision raised by CCMA.

II. General Issues

A. *Petitioner's Burden to Show Safety.* Under the law, a color additive can be included in the permanent list of approved color additives only if "the data" submitted to the agency in a color additive petition "establish" that use "will be safe" (21 U.S.C. 376(b)(4)). As interpreted by FDA, an additive is "safe" under the statute only if there is "convincing evidence that establishes with reasonable certainty that no harm will result from the intended use of the color additive." 21 CFR 70.3(i).

Thus, it is clear that the petitioner seeking approval for permanet listing of a color additive has the burden of proof to demonstrate by adequate tests that the color is safe. The additive cannot be approved if there is no information about the safety of the additive, or if there is inadequate information to determine safety for use to a reasonable certainty. Thus, denial is required when the safety of the additive is unknown or uncertain, even though the available information does not affirmatively establish that there is a particular hazard posed by use.

Congress could have established a different system. Indeed, before the passage of the 1960 Color Additive Amendments, non-coal tar colors could be marketed without an advance demonstration of safety, with FDA able

[1] Testimony was submitted in written form, with an opportunity for oral cross-examination. Written testimony was given exhibit numbers. Citations to the record in this Decision are as follows: CCMA exhibits (P-); Bureau's exhibits (G-); transcript of cross-examination (Tr.,); appendix to the Initial Decision (ID App.,).

[2] The hearing was held under the procedural rules 21 CFR 2.48 et seq. (1976)) in effect at the time the notice of the hearing was issued. However, the ALJ ruled that the Initial and Final Decisions and exceptions would be governed by FDA's revised procedural rules as found in 21 CFR 12.120 et seq. (1978). Tr., pp. 3-5. I have observed the revised rules in issuing this Final Decision.

to stop sale of these colors only if FDA could show, through its own testing, consumer injuries or other means, that the color posed a hazard to health. Under such a system, until FDA could demonstrate a potential hazard an additive could be sold for use by the general public even though no safety testing had been done on the additive, or the safety testing was inadequate. With the passage of the Color Additive Amendments, Congress did not allow any color additive to be listed for permanent use until its safety had been established with reasonable certainty by the petitioner in data submmitted to the agency.

The important purpose underlying this statutory scheme was described in *Certified Color Mfg. Ass'n.* v. *Mathews, supra:*

> The Color Additive Amendments of 1960 reflect a Congressional and administrative response to the need in contemporary society for a scientifically and administratively sound basis for determining the safety of artificial color additives, widely used for coloring food, drugs, and cosmetics. The Amendments reflect a general unwillingness to allow widespread use of such products in the absence of scientific information on the effect of these products on the human body. The previously used system had some glaring deficiencies, and the 1960 Amendments were designed to overcome them. This was accomplished by the establishment of a dual system of registration: a permanent listing and a provisional listing. A color additive would be permanently listed if those desirous of producing it had proven to the satisfaction of the Commissioner that it was safe for its intended use. 543 F.2d at 286–87 (Footnotes omitted).

The petitioner's burden to show the safety of a color additive by adequate studies has a critical effect on the outcome of this proceeding. As the subsequent discussion establishes, the petitioner has not, in my judgment, shown through adequate studies that Red No. 2 is not a carcinogen. Accordingly, the petition to list the color additive for permanent use must be denied. This determination does not mean, however, that Red No. 2 has been found to be a carcinogen. The existing studies are not sufficient to show definitely either that it is a carcinogen or that it is not. The questions about its possible carcinogenicity are simply unresolvable on this record. In this type of situation, the petition must fail because it is insufficient at present to meet the statutory requirement that safety be affirmatively shown with reasonable certainty.

For several years, the agency has maintained that the existing studies are inadequate to establish the safety of Red No. 2. During this period, the petitioner could have conducted further studies, which might have resolved the outstanding questions and might have established the safety of Red No. 2. The petitioner has not submitted any new studies in the petition, and instead has exercised the statutory right to obtain a full evidentiary hearing to test the correctness of FDA's original determination that the existing studies are inadequate. This decision completes the proceeding to review the adequacy of the existing studies. After reviewing the hearing record, I agree with the previous determination of the agency that the existing studies are inadequate to establish the non-carcinogenicity of Red No. 2.

If, at some future point, the petitioner conducts a further study or studies that adequately demonstrate the non-carcinogenicity of Red No. 2, the petitioner can submit a new petition to seek approval of Red No. 2. The agency will examine any new study or studies carefully, and will approve the petition if a sufficient showing is made that Red No. 2 is not a carcinogen and is otherwise safe.

In reviewing the adequacy of the existing studies, I have, in accordance with the philosophy of the color additive law, adopted a conservative approach in order to be sure that the public health will be adequately protected. Thus, in considering the level of statistical significance or the statistical procedure (such as a one-tail or two-tail test) to be used to evaluate the studies on Red No. 2, I have used methods that are valid and are also the ones most likely to detect any carcinogenic effect that may be present. In a regulatory proceeding such as this, the choice among statistical procedures is not an abstract or academic matter, but rather should be guided by the purpose for which a study is being used. When a study is used to evaluate the safety of a substance to be widely used by the public, the risk of a false negative—of incorrectly failing to detect an adverse effect that is present—is of greater concern than the risk of a false positive—of incorrectly reporting an adverse effect when none exists. Although it is not necessary at this point to state a position on the procedures to be used in every case, it is clearly appropriate in the case of Red No. 2 to adopt a conservative approach. The studies on the safety of Red No. 2 have deficiencies that weaken the confidence to be place in their results, and that make it more difficult to detect positive effects. Some statistical analyses of the tumor findings in one of the studies suggest possible cancer findings. In this type of situation, it is appropriate to rely on statistical analyses that use methods and procedures that will increase the likelihood of detecting any carcinogenic effect the color may induce. Moreover, the present record discloses additional reasons for being concerned about the possible carcinogenicity of Red No. 2, including the results of the Andrianova (Russian) study and the short-term screen studies. These questions reinforce the concern about safety arising from the other factors.

I am not, however, imposing an absolute standard of safety for the evaluation of safety studies. As discussed in the following section of this decision, the statute establishes a requirement that safety be shown with reasonable certainty. I would not use a procedure, even if it were the most conservative, if the procedure were not a valid one. If the questions about a substance or the defects in a study are insubstantial, they do not preclude approval of the substance. However, when uncertainty remains about safety, after a fair evaluation of the record in accordance with scientific principles of evaluation, then, under the applicable law, the importance of protecting the public health must guide the final decision. It is appropriate to be cautious and prudent in determining whether safety has been adequately shown. The use of a conservative approach in evaluating studies and in selecting the statistical methods to be used ultimately reflects the fact that Congress has imposed upon the petitioner the burden to establish safety with reasonable certainty. The record in this proceeding does not permit me to conclude that the safety of Red No. 2 has been established.

B. *General Exceptions.* The first 24 pages of the 141 pages of exceptions to the Initial Decision filed by CCMA concern what CCMA describes as "general areas of exceptions." CCMA maintains that the Initial Decision failed to provide a "fair evaluation of the record," in that the ALJ unfairly evaluated the evidence and distorts petitioner's testimony. CCMA also excepts, at length, to the ALJ's failure to apply the proper legal standards to the evidence and issues" in the proceeding. Ex., pp. 25–57, at 25.

The petitioner asserts that the ALJ in practice applied an absolute standard of proof of noncarcinogenicity, under which FD&C Red No. 2 could not be found safe unless every possibility regarding cancer was entirely disproved. Ex., pp. 18–22, 36–40. In addition, CCMA argues that the ALJ "all but ignored" certain memoranda because they were

hearsay and the authors involved were not available for examination. Ex., pp. 40–43. Finally, CCMA excepts to the ALJ's failure to strike from the hearing matters relating to the chemistry of Red No. 2 that were not expressly listed in the notice of hearing. Ex., pp. 43–58.

C. *Analysis.* I have decided, for the reasons discussed in section IV of this Decision, that it is not necessary to resolve the chemistry issues in this proceeding. With respect to the hearsay issue, I believe that it is inappropriate to exclude information or give it virtually no weight solely on the basis that it is hearsay. Under the rules in effect at the time of the hearing, hearsay evidence is not automatically excluded, but any information may be excluded if it is not reliable. 21 CFR 2.81(c) (1976). The ALJ decided that "as hearsay" certain evidence was unreliable and therefore should be excluded. ID, p. 9. In addition, the ALJ gave little weight to memoranda stating the opinions of some Bureau scientists concerning one of the studies of Red No. 2 apparently because the memoranda "suffer from the unreliability inherent in hearsay evidence." ID App., p. 34.

Although unreliable evidence should not be given weight, not all hearsay evidence should be deemed unreliable, as the ALJ seems to have believed. Instead, the information should be evaluated on its merits and given appropriate weight. The absence of the writer to provide further information on the basis for the statements, and the effect of changing circumstances, should be taken into account as affecting the weight to be given to the evidence. I have followed this practice in evaluating the record in this proceeding.

CCMA's other general objections essentially parallel the specific exceptions made by CCMA and recapitulate its major points. To evaluate whether there is any merit to the contentions that important evidence was ignored, or other evidence distorted, it is essential to understand each specific issue raised and all the relevant information on it. Consequently, I have considered these general exceptions in evaluating the specific exceptions, and I have discussed the general exceptions as pertinent to the specific issues.

An illustration of the need to examine the specific issues is provided by CCMA's general objections to the failure of the ALJ to evaluate the record properly concerning the significance of the negative results of the Ames test, a short-term screening study for carcinogenicity. CCMA objected to the ALJ's statement that there is a "general uncertainty of the conclusiveness" of the Ames test in light of the estimates of 90–95 percent reliability of this test made by three of CCMA's witnesses and one of the Bureau's witnesses. Ex., pp. 6–8 quoting ID App., p. 2. It is clear, however, that the Initial Decision considered the estimates of reliability made by these witnesses, as well as the 65 percent estimate of reliability made by another of the Bureau witnesses, and the reservations of one of petitioner's witnesses about short-term screening studies (P–150(2), pp. 42–43) since these estimates and related evidence are specifically discussed in the paragraphs preceding the reference to "general uncertainty of the conclusiveness of the test." ID App., p. 2. This statement seems to have been a summary way of indicating, without specifying the exact degree of uncertainty, that there was enough uncertainty that it would be unjustified to regard the negative results as showing that Red No. 2 lacks carcinogenic potential. Thus, the Initial Decision evaluated the evidence, but weighed it differently than CCMA would like. Moreover, the Initial Decision discusses a "complicating factor," which makes it less likely that the Ames test would give reliable results for a substance like Red No. 2 that is metabolized in the gut. ID App., p. 2. This complicating factor is not discussed in CCMA's general exceptions (Ex., pp. 6–8), but is addressed, as it is in this discussion, in connection with the specific issues on short-term screening studies and their bearing on carcinogenicity. Ex., p. 125.

Similarly, the CCMA objection that an absolute standard of safety was required has to be evaluated in conjunction with the specific issues. The ALJ stated that he was observing the standard all regard as the correct one, i.e., whether Red No. 2 has been shown to a reasonable certainty not to be a carcinogen. ID, pp. 7–8. Indeed, the ALJ stated that there is "no requirement of absolute certainty * * * because science is unable to assure complete safety." ID, p. 8. CCMA argues, nonetheless, that, although the ALJ stated the correct standard, in fact he applied an absolute standard. Ex., pp. 18–22. The nature of reasonable certainty cannot be specified with exactitude, however. Whether absolute certitude was in fact required is a determination interrelated with the evaluation of the evidence on the specific issues concerning carcinogenicity.

CCMA argues that affirmative tests to show the noncarcinogenicity of a color are required under the law only if the general safety testing shows "some indication of inducing cancer." Ex., pp. 32–40 at 33. CCMA cites an HEW statement:

> The scientific tests that are adequate to establish the safety of an additive will give information about the tendency of an additive to produce cancer * * *. Any indication that the additive may thus be carcinogenic would * * * restrain [FDA] from approving * * * the additive unless and until further testing shows to the point of reasonable certainty that the additive would not produce cancer * * *. Ex., p. 33 citing 104 Cong. Rec. 17415.

Since, in CCMA's view, the 1959 Webb rat feeding study is adequate to show the safety of the color, CCMA believes the ALJ improperly imposed a burden to disprove every possibility of cancer. Ex., pp. 35–36. However, the cited statement by HEW points out the importance of having adequate general safety testing, both to show general safety and to evaluate the carcinogenic potential of an additive. CCMA's argument does not take into account either the inadequacies of the Webb study, as judged by current standards, to evaluate the safety and carcinogenic potential of the additive, or the significant questions about the carcinogenicity of Red No. 2 that have arisen from subsequent information, including the Taylor/Monlux study, the Andrianova study, and short-term screening studies. The evaluation of these studies is considered in detail in the next section of this Decision, which relates to the carcinogenicity issue.

Finally, it should be noted that it is not necessary to discuss every item of evidence in order to have evaluated it adequately. The decision can properly focus on the evidence important to the outcome. It is also clear from the detailed summary in the Appendix to the Initial Decision that the ALJ examined the record in detail. The main text of the Initial Decision is, however, brief in its explanation of the reasons for resolution of the scientific issues. In reaching this Final Decision, I have evaluated the entire record, and discussed the principal issues and their resolution. I have concluded, after a careful review of the record, that the ultimate findings and outcome of the Initial Decision with respect to the carcinogenicity issue are essentially correct and should be upheld. Some errors were made in the Initial Decision, and its phrasing could be improved and more explanation given of its analysis. The complaints about distortion of the record largely relate, however, to relatively minor differences in descriptions of the parties' positions, and reflect CCMA's disagreement with the weight given by the ALJ to the

evidence. When the record is evaluated on an overall basis, the limitations of the Initial Decision do not undercut the validity of its basic finding that Red No. 2 has not been shown with reasonable certainty not to be a carcinogen. Consequently, I affirm the Initial Decision with the supplementation and modifications made in this Decision.

III. Carcinogenicity Issue

The ALJ found that the data presented at the hearing did not establish to a reasonable certainty that Red No. 2 is not a carcinogen in man or animals. ID, p. 20. In his general discussion of the safety testing done on Red No. 2, the ALJ stated that there were "many negative results and several equivocally positive ones." ID, p. 19. Despite the long use of the color and an apparent reasonableness "[o]n the surface" in considering approval, there were several "complicating factors." These include the fact that the color belongs to a class of chemicals many of which are carcinogenic, and that carcinogens, as well as mutagens, have a long latency period and may be missed despite long use. ID, p. 20. He concluded:

> There are numerous unanswered questions concerning the safety of Red No. 2 raised by the test data presented on the record. The total picture presented is one consisting of many positive findings which have not been satisfactorily explained. Under such circumstances, the evidence of record in this proceeding cannot be considered as constituting the requisite showing necessary to an ultimate finding of safety for Red No. 2. ID, p. 20.

Although the ALJ relied on the "total picture," rather than a single study, for the conclusion that the safety of Red No. 2 had not been adequately established, for purposes of evaluating the record and the exceptions it is useful to discuss separately each of the important studies and items of information bearing on carcinogenicity.

A. *Taylor/Monlux Study (p–6,p–7).* 1. *Introduction.* The 1975 FDA chronic feeding study (P–7), called the Taylor/Monlux study in the Initial Decision and in this Decision, was a well-designed feeding study on rats conducted under the direction of Dr. Jean M. Taylor, an FDA toxicologist. The histopathological evaluation was made by Dr. William S. Monlux and other scientists at FDA. P–6. This study involved feeding a total of 500 rats at a control level and 4 dosage levels (.003, .03, .3 and 3 percent). The scientist who conducted the study found that this study revealed "minimal effects" of the test compound and no adverse effect on weight gain or survival. P–7, p. 27. The report also states:

> The histopathological lesions, both neoplastic and non-neoplastic, were characteristic of the aged rat and seen in both control and test animals. Incidence and severity of the lesions could not be related to administration of the test compound. ID.

However, there were defects in the execution of this study, consisting of a mix-up of animals during the study, and a "high" loss of animals to autolysis. P–7, pp. 23, 29. (Autolysis is a rotting of tissues that begins shortly after death and that makes examination of tissues more difficult.) The FDA Toxicological Advisory Committee (TAC) formally agreed that the Taylor/Monlux study was of such quality that it could not be used to demonstrate the safety of Red No. 2. Minutes of the TAC meeting, March 8–9, 1976, are on file with the Hearing Clerk, and of which I take official notice. In addition, a statistical analysis of the tumor findings in the study, made after its completion by Dr. David W. Gaylor, a member of the TAC and the chief of biometrics at the National Center for Toxicological Research, indicated an increase in a variety of malignant neoplasms among aged female rats. G–226 p. 21. These findings concerning the Taylor/Monlux study were a factor in the agency's denial of the petition for permanent listing of Red No. 2 in the **Federal Register** of April 9, 1976 (41 FR 15053–15054). FDA stated that:

> [T]he Adverse (sic) implications of the [Taylor/Monlux] study cannot be ignored. In light of continuing public concern and the serious new questions of carcinogenesis raised by the [Taylor/Monlux] study, the Commissioner concludes that a study or studies adequate to dispel all such questions must be performed before the color additive can be found to be safe * * *

2. *Overall Findings Concerning the Taylor/Monlux Study* —(a) *Initial Decision.* The ALJ found that this study "demonstrated a carcinogenic effect from the ingestion of Red No. 2." ID, p. 16. The specific contentions of the parties concerning the study were not discussed in the main test of the Initial Decision, but the Appendix (ID App.) to the Initial Decision described the different conclusions that the parties believed the study supported:

> This study is cited by CCMA as demonstrating that Red No. 2 is not a carcinogen (Brief at 172). However, the Bureau characterizes the results as disturbing positive evidence of carcinogenicity (Brief at 26). ID App., p. 26

(b) *Exceptions.* CCMA maintains that the ALJ "entirely ignored" the opinions of scientists, including the FDA scientists who conducted the study and others, that the results of the study are negative. Ex., pp. 64–69 at 69. According to CCMA, the study met FDA's general guidelines and other generally accepted criteria, for evaluating the adequacy of a study. Ex., pp. 69–70. CCMA also states there is "no biological support" in the record for the ALJ's conclusion that this study demonstrates a carcinognic effect, nor any explanation for the finding in the Appendix "as to what constitutes the supposed 'disturbing positive evidence of carcinogenicity.'" Ex., p. 80.

The exceptions also criticize the "lack of organization" of the Initial Decision, and the "failure to make any express choice between the positions of the parties" with respect to the adequacy of this study. Ex., p. 80.

(c) *Bureau's Reply.* The Bureau maintains that the Taylor/Monlux study cannot provide a reasonable assurance of the noncarcinogenicity of Red No. 2, despite the adequacy of the design of the study, because there are deficiencies in some aspects of the execution of the study, notably the mix-up of animals in the study and the autolysis of animals. Moreover, presumptive evidence of carcinogenicity exists due to statistical analyses of the results of the study made by Dr. Gaylor and Dr. Marvin Schneiderman. G–226, G–227. The Bureau also argues that the opinions of FDA scientists were properly given "virtually no weight" by the ALJ, because the opinions were stated before the statistical analyses became available, and because the views were hearsay and CCMA failed to call the scientists as witnesses. Reply, pp. 12–14; Brief, pp. 26–44.

(d) *Analysis.* I believe that consideration and some weight should be given to the conclusion of the scientists from FDA who conducted the study, and others who may believe that its results are negative. These views should not be rejected solely as hearsay. Neither are these views controlling, however, when questions have been raised about the adequacy of the study. I have considered the views of the scientists cited by CCMA, but I believe it is also important to consider the contentions raised by the Bureau about the defects in the execution of the study and the presumptive evidence of carcinogenicity arising from the statistical analyses of its results. These specific points are examined below, as well as CCMA's disagreement with them. This discussion of the specific disputes will provide a format for examining the views of CCMA's experts that the defects in this test are too minor to invalidate the study, and that the presumptive evidence of carcinogenicity cited by the Bureau is statistically and biologically insignificant.

Before turning to these specific points, I should note some general matters. I believe that the Initial Decision is unclear when it states that this study "demonstrated a carcinogenic effect." ID, p. 16. If the ALJ meant that the Taylor/Monlux study establishes the carcinogenicity of Red No. 2, I reject the finding. As noted above, in denying the petition to list Red No. 2—the action that led to this hearing—FDA took the position, not that Red No. 2 was proven to be a carcinogen, but that there was questions about its carcinogenicity that needed to be resolved by a further study or studies before its safety could be established with reasonably certainty. At the hearing, the Bureau maintained that the statistical analyses of this study by Drs. Gaylor and Schneiderman created presumptive evidence of carcinogenicity, which needs to be explored in further studies. The Initial Decision's finding of a demonstrated carcinogenic effect and disturbing positive evidence of carcinogenicity appears to relate to this showing by the Bureau; and, as thus understood, I accept the basic finding.

I agree with CCMA that the Initial Decision suffers from organizational defects. A specific finding with respect to each of the major contentions involved in the hearing would have provided a better focus for exceptions, and for my analysis in reaching a final decision. The general nature and organization of the exceptions have also complicated their analysis, and made it difficult to identify the specific objections being made. As a result, the final decision has had to be more detained than it would ordinarily have been.

3. *Mix-up of Animals as a Defect in the Taylor/Monlux Study*—(a) *Initial Decision.* The Appendix states that "the extent of the mix-ups is unknown" and that "it would appear that the feeding mix-up reflects adversely on the calibre of this study." ID App., pp. 27, 28. The Appendix also referred to Dr. Taylor's hypothesis that assuming "the worst possible case," that is that the mix-up involved both controls and high dose animals, lasted a month and occurred near the end of the study, "it would require a potent carcinogen to induce the some degree of response in the controls as in the high dose," but, according to Dr. Taylor, the results of the study did not support such a conclusion. P–7, p. 29. The Appendix rejected this hypothesis that the mix-up was very limited in extent because the hypothesis assumed a dose-response effect. ID, App., p. 28. The following explanation was given:

> It may be that carcinogenicity does not present itself in a dose-related manner at the levels of exposure analyzed in this study but is observed as an all-or-nothing effect. The lack of a dose-effect profile can be an indication that the test group's dose levels did not include the dose levels necessary to delineate what may be an effect which can be observed over only a small range of doses. If this is the case in the present study, the mix-up could have a very substantial influence on the ability of the experiment to reveal a dose-related effect. ID App., p. 28.

(b) *Exceptions.* CCMA excepts to the finding that the mix-up reflects adversely on the study because (1) the only Bureau witness to comment on the mix-up was a statistician, who CCMA believes is not qualified to offer biological observations; (2) the FDA scientist who conducted the study and other FDA staff believed that the mix-up was limited to two animals misplaced for 1 week (P–7, p. 24, P–49, P–144, p. 2); (3) both FDA (P–140) and the Toxicology Advisory Committee (P–33) determined that the mix-up did not taint the results; (4) CCMA's experts testified that the mix-up was not extensive because, as one of the experts observed (P–157, p. 23), the controls had a low incidence of tumors, and, if any appreciable contamination occurred and if Red No. 2 were a carcinogen, a greater tumor incidence in the controls should have been observed; (5) a mix-up would not have obscured positive results because it was not extensive and because the high dose animals were not affected; (6) the discussion of dose-response effect in the Appendix to the Initial Decision is "simply incomprehensible." Ex., pp. 10–12, 82–84.

(c) *Bureau's Reply.* The Bureau maintains that the extent of the mix-up cannot be shown with reasonable certainty. The mix-up could only have reduced the chance of detecting carcinogenicity because the high dose group would have received less of the compound, and the control might have received some. Furthermore, the technician responsible for the feeding and housing of the test animals stated that the mix-up was extensive and long-lasting. The statements of Dr. Taylor and other FDA scientists provide an insufficient basis to ignore the mix-up due to the hearsay nature of the statements and CCMA's failure to call the scientists as witnesses. The Bureau states that the extent of the mix-up may never be known. CCMA must show beyond a reasonable doubt that the mix-up was inconsequential, which, the Bureau claims, CCMA has failed to do. Reply, p. 14–15, Bureau Brief, p. 26–27.

(d) *Analysis.* The fact that there was a mix-up in the rats appears in the report of the study and in FDA memoranda, submitted by the petitioner, describing investigations of rumors about a mix-up of animals in this study. These memoranda can be relied upon notwithstanding that they are hearsay, just as the written opinions of the FDA scientists who did the study should be given appropriate weight. The testimony of the Bureau's statistical witness (Gaylor, G–226) is also appropriately considered on this point, due to the witness' familiarity with carcinogenicity testing and because the impact of a mix-up on the ability of a test to detect an effect presents a matter on which statistics is relevant.

I have reviewed the material cited in the record to determine the basis of the differing views about the extent of the mix-up and its impact on the reliability of the study. Dr. Taylor, who was responsible for the study, referred to the mix-up, and concluded, on the basis of a "thorough study of the individual weight records," that it was minor and limited to two rats in the 94th week of the study and would not affect the outcome. P–7, P–144. She also offered the analysis discussed above, that the mix-up was limited based on the "worst possible case." P–7, p. 29.

The mix-up was described in more detail in a June 26, 1975 memorandum of meeting, which was accepted as correct by the signatures of all attending. P–41. The technician for the study gave the following explanation of the mix-up:

> [A]fter the study had been ongoing for over a year, he had noticed that, based on the numbers on the cages that certain rats were receiving improper diets. At that time he had noted that the mix-up involved the controls, the low level of 0.003%, and the middle levels of 0.03% and 0.3%. It did not involve the high level of 3%. He said that to his mind the mix-up was extensive and that he had no way of calculating how long this had been going on. P–41, p. 1.

CCMA points out in its exceptions that the technician did not state that the mix-up was long-lasting, as incorrectly reported in the Initial Decision, an example in CCMA's view of "the types of distortions of the evidence characteristic of the Initial Decision." Ex., p. 10. Instead, according to the memorandum, the technician reported that he did not know any way to calculate the duration of the mix-up. This discrepancy in the description given in the Initial Decision has no significant impact on the overall assessment of the mix-up, and certainly does not warrant designation as a "distortion" of the record.

In the same memorandum, Dr. Taylor reported that, to determine the extent of the mix-up, she had examined the weight gain and food intake data and

had "tried to arrive at points of discontuniuty, that is, points at which the rats obviously could not have gained or lost the amount of weight shown on the [computer] readouts." P–41, p. 1. The pattern of mix-ups between certain cages of animals that she detected "could not be the complete case," however, according to the memory of the technician, who believed that a different pattern of displacement occurred. P–41, p. 1. He recollected that "there was displacement not only laterally but vertically * * *. In addition, he had remembered at least two rats that were misplaced in still another rack." Id. Dr. Blumenthal told the meeting that he "could not gainsay the words of a first-hand observer whose powers of observation and long experience could not be discounted," and that unless there were other means of resolving the difficulties, he would conclude there was a mix-up of "unknown duration and unknown extent." P–41, p. 2. (Quotations are from the memorandum, and are not necessarily the words of the speaker).

I believe that I, too, must give great weight to the observations and recollection of the person most directly involved. Because the pattern of mix-up suggested by Dr. Taylor's analysis does not accord with the recollection of the technician involved, I find the extent of the mix-up uncertain, and am unable to conclude with reasonable certainty that the mix-up had no significnt impact on the ability of this test to detect any carcinogenic potential that Red No. 2 may have.

Moreover, the memorandum of meeting reports that Dr. Taylor's procedure was criticized at this meeting on the basis that "the rats were so near their growth plateau that they were all very similar in body weight. Thus, although some discontinuity had been noted, nontheless, many of the rats could have been mixed and because of the similarity in weight would not have been noted." P–41, p. 2. This criticism adds to my reluctance to rely on the body weight analysis.

The petitioner maintains that the mix-up should be viewed as limited because few controls had any tumors and, if Red No. 2 were a carcinogen and accidentally fed to the controls, more tumors would be expected. P–157, p. 23 (incorrectly cited as P–156 in Ex., p. 83). This analysis seems to rely on the historical incidence of tumors in the strain to provide a baseline for estimating whether the tumor rate was low. The circumstances of a study can affect the tumor rate, however, and that is why a well-designed study includes concurrent controls and does not rely on the historical incidence of tumors. In this case, primary reliance should be placed on the incidence observed in the actual concurrent controls. Dr. Smuckler's testimony, although not specifically directed at this particular question, provides a pertinent explanation of why it is "unwise" to ignore the tumor rate actually seen in concurrent controls and to rely instead on historical experience:

> The historical control group is subject to very differnt intercurrent conditions than are the current control group. Not only might the genetic pool change in these animals over a period of years, but the environmental conditions most certainly do, the infectious diseases to which they are subject most certainly do, and not to mention the dietary regimen with which they are maintained. G–217, p. 24; see G–226, pp. 41–43.

Since the historical rate can vary from the concurrent rate in the controls for the reasons indicated by Dr. Smuckler, it is inappropriate to assume the mix-up had no impact on the controls, based on a comparison with historical experience, in the absence of an adequate study showing with reasonable certainty no carcinogenic effect from Red No. 2.

Dr. Taylor also suggested (P–7, p. 29), as described above, that a mix-up occurring near the end of the study would have had an effect on tumor findings only if the substance were a potent carcinogen, which Red No. 2 did not appear to be from the study. This analysis assumes, though, that the "worse possible case" would involve a mix-up of both control and high dose animals but only for a month near the end of the study. However, the technician first noticed the mix-up "at some time after the study had been ongoing for over a year," and he did not know how to calculate how long the mix-up had been going on. P–41, p. 1. Thus, there is no reasonable certainty about the duration and point of initiation of the mix-up, and therefore no basis for being sure that Dr. Taylor's hypothesis reflects the "worse possible case."

CCMA also maintains that the tumor incidence in the high dose animals was not depressed by the mix-up in any way because the high dose animals were not involved. Ex., p. 83. CCMA does not cite the basis in the record for its position that the high dose animals were not involved, but the basis is probably the recollection of the technician, as described in the June 26, 1975, memorandum (P–41), discussed above, that the high dose animals were not affected. Although CCMA appears to rely on this aspect of the technician's recollection, CCMA does not credit the technician's recollection that the mix-up was more extensive than the pattern identified by Dr. Taylor from the weight records. Moreover, it should be noted that the pattern of mix-up found by Dr. Taylor involved high dose animals, according to the report given by Dr. Taylor to the Toxicology Advisory Committee:

> Dr. Taylor indicated that when she had checked all records, she could only find change cards for the high-level males which suggested that perhaps they were the only group involved in the mix-up. She also felt that the mix-up probably occurred for only two or three days and involved possibly four to five animals receiving the wrong dose. Dr. Taylor said that perhaps really only the high dose and the next to high dose levels were involved. She also pointed out, however, that the animal handler's account of what happened doesn't concur with the conclusions one can reach by examining the records. Dr. Mandel stated that one cannot eliminate the possibility that the low dose animals received a higher dose. Dr. Taylor agreed that this possibility does exist. Dr. Murphy observed that according to what has been stated, the control animals were not involved in the mix-up, contrary to the recollections of the animal handler. TAC Minutes, March 8–9, 1976, p. 4.

Thus, the possibility exists that some high dose animals were involved in the mix-up. If the mix-up affected some high dose animals, perhaps the mix-up affected other high dose animals even though the technician does not recollect their involvement. Perhaps there were two different mix-ups, the one detected by Dr. Taylor and the one recollected by the technician. The very fact that there was a mix-up creates some uncertainty about its nature, extent and duration, and the reliability of the study. The general uncertainty could be dispelled only if there were clear information to determine the bounds of the mix-up. On this record, however, it is simply impossible to determine, with the confidence the law requires, what the extent of the mix-up was and whether it has an impact of consequence on the ability of this test to detect a carcinogenic effect.

The opinions of the other experts cited by CCMA (see P–150, p. 59, P–156(2), pp. 29, 30) generally relied on what "appears" from the reading of FDA memoranda describing the extent of the mix-up, and thus these opinions add little to the analysis given above of the significance of the mix-up.

CCMA also cites in support of its view statements in memoranda of FDA staff and the TAC that the mix-up was limited and did not taint the results. Ex., pp. 65–66, 83. The FDA staff

memorandum cited by CCMA (P140),[3] written on June 6, 1975, reports that "it appears" that four animals "may have received" higher doses than they should have for one week. This evaluation may have been based on the body weight analysis done by Dr. Taylor although that analysis estimated that two animals rather than four were involved. In any case, as already discussed, I believe the recollection of the technician about a different pattern of mix-up of the test animals, described in a later memorandum of June 26, 1975 (P–41), creates uncertainty about the extent of the mix-up.

The report of the TAC (P–33, p. 1) cited by the petitioner is a November 25, 1975, internal FDA information memorandum to the Commissioner, which reports that there is "reason to believe" that the intermixing is irrelevant "since the biostatisticians would have combined control and low-dose animals, not expected to react, with high-dose animals." P–33.

The full minutes of the TAC meeting indicate that the FDA staff viewed the mix-up as being of "unknown extent," and that Dr. Gaylor, a statistician and member of the TAC, initially though that the study could be of use because the controls and low doses could be combined and compared with the high dose animals, which apparently showed no carcinogenicity. P–74, pp. 17–18. The TAC wanted more information on various matters before it reached a conclusion on carcinogenicity, however, including a statistical reappraisal by Dr. Gaylor. Id. Dr. Gaylor testified that an analysis limited to malignant tumors was suggested because of the large array of tumors observed; when Dr. Gaylor did this analysis of malignant tumors, he detected a positive effect. G–226, pp. 18–19.

The TAC, at its subsequent meeting, on March 8 and 9, 1976, formally agreed that the Taylor/Monlux study was of such quality that it could not be used to determine the safety of Red No. 2. Minutes, pp. 12, 36; 41 FR 15054. Thus, I reject the petitioner's contention that the TAC believed the mix-up did not taint the evaluation of this study. To the extent the TAC held this view, it was based on an expectation of the results of a future statistical analysis; but when the Committee reexamined the matter at its March 1976 meeting, it found, as noted above, that the study was inadequate to evaluate safety due to various defects. Moreover, a number of the members found some suggestive or evidentiary value in the data, including the statistical reappraisal of this study, to show that Red No. 2 may be a carcinogen. TAC Minutes, March 8–9, 1976, pp. 18–21, 36.

Dr. Gaylor also testified at the hearing that "[t]he extent to which this mix-up occurred is unknown. It may have been very minimal. It may have been substantial." G–226, p. 18. He also stated that "the effect of the mix-up of animals could only have been to lessen our chances of being able to detect the difference between the control and treated groups." G–226, p. 19.

I, therefore, find that it is not possible to ascertain with reasonable certainty the maximum extent of the mix-up. As a result, it is not possible to view the Taylor/Monlux study as providing reasonable assurance of the noncarcinogenicity of Red No. 2.

The petitioner has criticized the discussion of the dose-response relationship in the Initial Decision. The discussion in the Initial Decision may be based on Dr. Gaylor's testimony that, while a carcinogenic effect "generally" is dose-related, for several reasons, "this is not always the case." G–226, pp. 35–37 at 36. Although the analysis in the Initial Decision about the significance of a mix-up has some merit if Red No. 2 is the type of substance that does not exhibit a dose-response effect, I am independently relying on the analysis given above in this Decision. The analysis in this Decision provides an adequate basis for believing that the mix-up was of an unknown, but possibly significant, extent, even assuming the more usual case that any carcinogenic effect from Red No. 2 would appear as a dose-related effect.

4. *Autolysis as a Defect in the Taylor/Monlux Study.*—(a) *Initial Decision.* As noted in the Appendix to the Initial Decision, the pathology report for this study stated that the majority of the interim animals "were considered to be unsuitable for detailed histopathologic examination." ID App., p. 31. (Histopathological examination is examination through a microscope.) The Appendix also states, without a citation to the record, that the pathologists "indicated that the autolysis * * * did not affect their ability to determine any carcinogenic influence of Red No. 2." Ibid. The Initial Decision also found that the effect of autolysis "appears to be similar to the effect of the feeding mix-up in that autolysis interferes with accurate diagnosis. This would serve to strengthen any positive findings * * *." ID App., p. 32.

(b) *Exceptions.* CCMA excepts to the Initial Decision for finding that autolysis interferes with accurate diagnosis and strengthens positive findings, because it constitutes "[a] rejection of the FDA pathologists' judgment as to whether they could evaluate the tumors." Ex., pp. 9, 80–82. CCMA relies on the testimony of its experts that the study was adequate, and argues that autolysis is not necessarily an all-or-nothing matter and that an adequate pathologic examination may be possible despite some autolysis. Ex., pp. 66–67, 72.

(c) *Analysis.* There is no citation to the record in the Initial Decision or the exceptions for the statement that the FDA pathologists indicated that autolysis did not affect their ability to determine a carcinogenic influence. This indication by the pathologists seems not to have been an affirmative statement by them, but an inference that CCMA maintains should be drawn because the FDA pathologists reported detailed tumor figures and did not express concern that the degree of autolysis precluded them from reaching conclusions. CCMA Brief, p. 164.

The fact that the pathologists reported autolysis indicates that they considered autolysis of some relevance in evaluating the findings. In their conclusion they also stated that "[b]ased on histopathologic findings, no apparent effect" was produced. P–6, p. xi. Thus, the pathologists' conclusion about the study seems to be limited to the tissues available for microscopic examination. The need to have microscopic examination to detect certain tumors and to be sure about diagnosis also limits the reliance to be placed on findings made without a histopathological examination.

The National Cancer Institute (NCI) guidelines call for detailed histopathological findings on all control and treated animals in chronic studies. G–11, p. 55. Thus, the guidelines emphasize the importance of avoiding autolysis in order to be able to conduct histopathological examination.

A reading of the pathologist's report leads to the conclusion that the autolysis in this study was a serious problem. Although a histopathological examination was made in this study of tissues from 450 rats, 354 of these rats were "interim" animals, and a majority of these rats simply died during the interim period without being intentionally sacrificed. As the pathology report states,

> "almost all of the tissues from dead [interim] rats were found to be *in an advanced state of autolysis and were considered to be unsuitable, for detailed histopathologic examination.* From these rats, only the livers, kidneys, and gross tumor masses were

[3] CCMA cites Exhibit P–40 at page 65 of its exceptions, but this reference appears to be in error since Exhibit P–140 is cited at page 83 for the same point.

processed for histopathologic observation." P–6, p. vi. (Emphasis added.)

CCMA argues that autolysis is not an all-or-nothing matter, and that the proper procedure is to look at whether the tissues were actually readable. Ex., pp. 67, 72. Although this may be the case in some studies, the references to an "advanced state of autolysis" and a "high" loss to autolysis in the reports for this study (P–6, P–7) make it unreasonable to assumer that the autolysis in this study had no impact on the evaluation of tissues that had autolysis.

The remaining question is whether the number of animal tissues suffering from autolysis was sufficiently great to affect the adequancy of the test to detect a carcinogenic effect. The report of the study states:

> The number of rats lost to autolysis was high (see Tables 8 and 9), but as shown on Table 9, there was an average of 20.8 males and 31.4 female/level which had survived more than 78 weeks and were available for full histopathological study. P–7, p. 23.

In connection with the evaluation of another study at the hearing, there was testimony about the importance of having adequate histopathological evaluation. See pages 69–72 of this Decision. The testimony illustrates as well the impact that autolysis can have on the adequacy of a study when it prevents histopathological evaluation.

The autolysis in this study does not appear to have been biased since autolysis affected controlled and dosed animals proportionately. G–226, p. 39. The ability of the test to detect an effect is reduced, however, to the extent animal tissues cannot be fully examined to detect whether there was a greater effect in test animals. Ibid. The effect is the same as if a smaller number of animals has been used; a smaller test has less power to detect a carcinogenic response. Dr. Gaylor stated that "* * * because of the problems of autolysis, only about ⅔ of the animal tissues could be meaningfully examined. Therefore, the statistical significance level reported (in his analysis) is conservative." Ibid. Moreover, at the TAC Meeting, Dr. Monlux stated that there was "an average autolysis rate of 56 with some groups having an incidence of 100. This seriously hampered the accuracy of the diagnoses thus negating the value of any statistical approach." TAC Minutes, p. 6 (March 8–9, 1976).

I conclude that the Appendix to the Initial Decision was correct in finding that the autolysis in this test reduced its ability to detect tumors, and any positive findings could have been stronger if no autolysis had occurred, and more tissues had been available for full examination.

I recognize that the scientists who conducted the Taylor/Monlux study reported tumor findings for Red No. 2, and reported no observed differences between treated animals and controls in the incidence of lesions. P–6, P–7. However, the reports were based on the "apparent" findings in the histopathologic evalulation. The autolysis in this study, in my view, reduces the confidence to the placed in the adequacy of the study, and particularly so in view of the suggestive positive findings found in the statistical analyses discussed below. These statistical findings could possibly have been stronger if the study's power to detect a carcinogen had not been impaired by extensive autolysis.

5. *Presumptive Evidence of Carcinogenicity Based on Statistical Analysis of Taylor/Monlux Study.*—(a) *Introduction.* Several statistical analyses were made of the tumor findings in the Taylor/Monlux study, but two are of major interest: The first is an analysis of total tumors of various types in "terminal" female rats, i.e., those that survived to the end of the study. (Total Tumor Analysis.) This analysis was initially made by Dr. Gaylor in the fall of 1975 and subsequently revised to take account of revised tumor findings based on a review of the pathological work. The initial and revised analyses of Dr. Gaylor were discussed at the Toxicological Advisory Committee meetings, described above, and were taken into account in the FDA order denying the petition for permanent listing of Red No. 2. The revised tumor findings upon which this statistical analysis was based found no malignant tumors in 14 control terminal female rats, but malignant tumors in 6 of the 21 rats in the high dose feeding level of this group. G–226, p. 21.

The other statistical analysis of major interest was made of lymphosarcomas in the femal rats. ("Lymphosarcoma Analysis".) The percentages of female rats with lymphosarcomas were 4.5, 0, 6.7, 13.6 and 11.4 in the control, .003 percent, .03 percent, 0.3 percent, and 3.0 percent feeding levels, respectively. G–226, p. 25. Both Dr. Gaylor and Dr. Schneiderman testified about the importance of this analysis at the hearing. G–226, pp. 25–26; G–227, p. 18.

(b) *Initial Decision.* The Initial Decision found that the Taylor/Monlux study "demonstrated a carcinogenic effect from the ingestion of Red No. 2." ID, p. 16. I have discussed this finding in the Initial Decision in part III A(2)(d) of this Decision. The basis for this finding is not cited, but it apparently is the statistical analyses of total tumors and lymphosarcomas in female rats made by Dr. Gaylor (G–226) and Dr. Schneiderman (G–227). These analyses showed, according to the Bureau, "[d]isturbing positive evidence" of carcinogenicity. Bureau Brief, p. 26. The Initial Decision also contained a discussion of the reasons for accepting the statistical methods used by these witnesses and rejecting the statistical methods, such as a two-tail test, that CCMA regarded as appropriate. ID, p. 17.

(c) *Exceptions.* CCMA excepts on several grounds to the finding that this study has some positive evidence of carcinogenicity:

(i) *Toxicologists' Conclusions.* CCMA maintains that the ALJ ignored the conclusions of the FDA scientists who conducted the study and the CCMA expert witnesses that the study showed the noncarcinogenicity of Red No. 2. Ex., pp. 4, 18, 40, 66–69. These experts pointed out that the tumors found are not those usually associated with carcinogens, but are invariably found in old rats. Ex. pp. 66–68. Further, the high dose treated animals lived longer than the controls; if Red No. 2 were a carcinogen, it should have shortened survival time. Ex., p. 69.

(ii) *Tumor Rate in Terminal Females.* CCMA notes that the high dose female rats had essentially the same rate of cancer as seen in the other treatment levels, and the rate appears significant in the Bureau's total tumor statistical analysis only due to the unusual occurrence that the contorls had no tumors. Ex., pp. 78–79. According to CCMA, the absence of malignant tumors in the controls indicates an inadequately reported study or an aberrant control group. Ex., pp. 72–74, 78–79.

CCMA also believes that the Initial Decision distorted CCMA's position, since CCMA does not contend, as the Decision suggests, that historical controls should be substituted for concurrent controls. Ex., p. 14–15. Instead, CCMA believes that historical controls should be examined "with care" if the historical rate differs from the concurrent controls. In effect, CCMA seeks substitution of historical controls for the concurrent controls for purposes of analysis, but is not suggesting having no concurrent controls. This meaning, however, is clear from the Initial Decision.

(iii) *Site Specificity.* CCMA also contends that the study does not have the type of evidence "usually associated" with carcinogens, since there was not a target organ effect. Ex., pp. 8–9, 73, 84–85.

(iv) *Lymphosarcoma Analysis and Different Pathological Screens.* The statistical finding made by Dr. Schneiderman and Dr. Gaylor of a linear trend of lymphosarcomas in female animals—the only site specific target organ effect claimed by the Bureau—was made on the basis of different pathological screens. Ex., pp. 16–17, 88. Moreover, Dr. Schneiderman made 16 analyses of the data, and this lymphosarcoma finding is the only statistically significant positive finding he made, and many of the other analyses are negative. Ex., pp. 77–78, 86–87.

(v) *Statistical Methods in Total Tumor Analysis.* The Total Tumor Analysis in female animals made by Dr. Gaylor used the Fishers Exact Test, a test developed for use with "fixed ratios and columns," but this study did not have fixed ratios and columns. Ex., p. 77. Although it does not state it as a specific exception, CCMA also complains that the statistical procedure used in this analysis differed from the procedures originally used after the second pathological review reported fewer tumors than found in the first review. Ex., pp. 16, 77 n. 42. In its general exceptions, CCMA also maintains that the Initial Decision incorrectly reported that CCMA regarded a .05 level of statistical significance as an absolute measure of significance. Ex., p. 17. Instead, CCMA views Dr. Gaylor's findings of statistical significance weaker than .05 as insufficient to overcome the findings of the biological scientists. CCMA also excepts to the ALJ's concern with a rising total tumor rate in this study because the various analyses made by Dr. Schneiderman did not show statistically significant results other than for lymphosarcomas. Ex., pp. 86–90.

(d) *Analysis.*—(i) *Toxicologists' Conclusions.* I agree with the Initial Decision that the opinion of the toxicologists conducting the study that the test had negative results is not dispositive. That conclusion can be rebutted by other evidence, for example, evidence showing defects in the execution of the study, such as a mix-up of test animals and autolysis, which limit the confidence to be placed in the test, or a statistical analysis showing some positive results that need further investigation.

CCMA, at several points, criticizes the Bureau's position because it is based on statistical rather than biological evidence. Ex., pp. 15–18, 59. However, the statistical analysis relied on by the Bureau is not an abstract study but an analysis of the Taylor/Monlux study and its biological results. The analysis takes the biological findings as a given, and evaluates them by a mathematical procedure to determine trends and patterns not necessarily apparent to scientists who are not statisticians. A decision about safety involves consideration of all the relevant scientific information, and a valid statistical analysis of test results has an appropriate role in safety evaluation.

CCMA makes a similar general criticism that the Bureau's evidence in this proceeding consists of statistical evidence and is not supported by biological evidence, by the testimony of toxicologists, or by the views of the FDA scientists who did the studies. As discussed above, statistical analysis of a biological study is relevant and important information. Moreover, CCMA has the burden to show with reasonable certainty that Red No. 2 is not a carcinogen. In other words, the Bureau does not have to prove that Red No. 2 is a carcinogen; it is enough for the Bureau to show that the carcinogenicity of Red No. 2 has been placed in substantial doubt and that that doubt has not been resolved. If the data are inconclusive, CCMA has failed to make the necessary showing.

Furthermore, in support of its position the Bureau has introduced pertinent testimony of "biological" experts. Dr. Emmanuel Farber, a doctor, biochemist and specialist in pathology, testified that the variety of tumors seen in this study raises a suspicion of cancer and that one could not determine from this study whether or not Red No. 2 is a carcinogen. G–219, p. 7. Dr. Edward Smuckler, a pathologist and member of the Toxicology Advisory Committee, testified that this study "did not prove either safety or lack thereof," because the "incidence of intercurrent renal disease was particularly high." G–217, pp. 23–25. Dr. Smuckler also noted that the number of surviving animals was small, but the size of the surviving group reflects the design and conduct of this study.

The ALJ made the following relevant comment about the petitioner's obligation to show the safety of a color additive:

> Throughout this proceeding, CCMA has harbored the misconception that it is incumbent upon the Bureau to provide definitive studies to establish the lack of safety of Red No. 2. In its brief, CCMA quotes Dr. Smuckler as indicating that although the available data does not indicate the safety of Red No. 2, it also doesn't indicate that it's not safe. (Brief at 170 and 215). However, as previously indicated, the statute and its history indicate that a manufacturer seeking FDA certification for a color additive must prove its safety. Old studies have proven inconclusive in this matter, and more recent studies have raised serious doubts as to the safety of Red No. 2. ID. p. 19.

It could be that there are some scientists (perhaps including even some FDA staff scientists) who might conclude from the present information that Red No. 2 is not a carcinogen. The law requires a reasonable certainty about the absence of harm, and intuitive impressions are not sufficient if not adequately supported. The ultimate decision about the safety of a color is to be made by the Commissioner in light of the governing law, the evidence of record and his expertise, and is not to be made by those in a particular scientific discipline or by certain members of the staff. After reviewing the record, I believe that Dr. Schneiderman stated well the approach to be taken in this type of circumstance:

> I think the intuitive impressions of the pathologist ought to be paid attention to, and I think the results of the statistical computations ought to be paid attention to. I think we ought to find out on what basis the pathologist's impressions are developed and on what basis the statistics are developed and see if these can't be reconciled. In the end, though I think gut conclusions should be supported by the numbers. An intuition based on objective fact should carry much more weight. G–227, p. 20.

CCMA also maintains that the statistical findings should be overlooked because the biological scientists recognized that the rats had "garden-variety" tumors characteristic of aged rats, and the treated high dose rats lived as long as the controls. Ex., p. 84. The ALJ and the Bureau correctly point out that CCMA is wrong if it maintains that a substance should not be a considered a carcinogen simply because it causes an increase in a type of cancer that occurs epidemically in older animals or humans. A CCMA witness agreed on cross-examination that it is "an important fact" if a certain agent increases the incidence of a disease commonly found in old people. Tr., p. 251–52. This citation is supportive of the Bureau's and ALJ's position, despite CCMA's argument (Ex., p. 84) that no pertinent statement was made.

(ii) *Absence of Malignant Tumors in the Control Female Terminal Animals.* CCMA maintains that the "common scientific response" when a control group has an absence of malignant tumors is to believe "either (a) the study was not adequately reported, or (b) the control group was an aberrant group * * *" Ex., p. 74. On this basis, CCMA argues that no weight should be given to the statistical finding of a higher incidence of total tumors in high dose

female terminal animals as compared with the unusual absence of tumors in the controls in the total tumor statistical analysis made by Dr. Gaylor.

I disagree. If the absence of tumors indicated that the study may have been inadequately reported, it provides an additional ground for finding that the study is not adequate to show the noncarcinogenicity of Red No. 2 and that another study is needed to resolve the question.

I also believe the record adequately supports the conclusion that the actual findings observed in the concurrent controls should be relied on for comparison purposes. G–217, p. 24; G–226, p. 41. An absence of tumors in the controls can be questioned on the basis of historical experience, but the results in the concurrent controls cannot be completely ignored without a fully adequate study to provide further assurance that the control group was truly aberrant.

(iii) *Site Specificity/Target Organ.* It is true that most carcinogens cause cancer at a specific site. However, as the Bureau maintains (Reply, pp. 15–16) and the record shows, a substance can be considered a carcinogen even though it induces tumors at various sites. G–219, p. 7, G–227, pp. 22–23. The definition of "cancer" developed by an FDA advisory committee (G–61) does not require tumor site specificity. The "Shubick" subcommittee, which developed a report, entitled "General Criteria for Assessing the Evidence for Carcinogenicity of Chemical Substances" for the National Cancer Institute, adopted a similar position. G–8.

As CCMA points outs, FDA has stated, in the November 4, 1974 **Federal Register** (39 FR 28908), that the fact that tumors were of different kinds in a rat feeding study on acrylonitrile "suggest no relationship to the agent fed." The acrylonitrile study was inadequate for several reasons, though, and the ultimate FDA action at that point was to require further studies to resolve questions concerning the safety of the substance. Thus, the FDA action is not a precedent that a cancer finding should be ignored if the tumors do not have a specific site.

It is not unknown for carcinogens to cause tumors at various specific sites. Nitrosamines, are "a good example of chemicals that have more than one target organ," but "generally" carcinogens have a specific target organ. Newberne, Tr., pp. 920–21.

The absence of any target organ can warrant further investigation and studies before a firm conclusion is drawn about the carcinogenicity of a substance. However, I do not believe that site specificity should be regarded as an essential requirement before a substance is considered a carcinogen. Not enough is known about cancer to assume that it always has to be site specific. More importantly for the present case, I do not believe that positive cancer findings should be completely ignored because they lack a specific target organ. At the least, substantial question as to carcinogenicity remains and a further study is needed to resolve the question whether the substance is a carcinogen.

Lastly, the statistical findings of lymphosarcomas in female rats made by Schneiderman and Gaylor shows a site specific effect, although CCMA maintains that these lymphosarcomas are not sufficiently site specific. CCMA also argues the finding is invalid because it results from the use of different pathological screens. This objection is discussed in the next paragraph.

(iv) *Lymphosarcomas Analysis and Full Pathological review.* Dr. Schneiderman and Dr. Gaylor found a statistically significant dose-related linear trend for lymphosarcomas in female animals. Schneiderman, G–227, p. 18, Gaylor, G–226, p. 25.

The statistical analysis was done on the four feeding levels and control level involved in the Taylor/Monlux study, but only three levels had full pathological screens, and the other two levels had partial short screens. CCMA objects to any reliance on this statistical finding due to the different pathological screens. According to CCMA, Dr. Schneiderman recognized that using different screens presents "a real problem" and admitted that the trend would be "weak" if only the fully screened levels had been used. Tr., pp. 766, 834 as cited in EX., pp. 75–76. CCMA maintains that, if full screens had been done for the levels for which short screens were done, it is "likely" more tumors would have been found, and these findings would reduce the significance of the dose response trend that Drs. Gaylor and Schneiderman found.

In its reply, the Bureau points out that, if a certain number of additional tumors were found on a full screen in the levels partially screened, the trend would still be significant and linear. Moreover, if even more tumors were found in the partially screened middle levels, the trend would not be linear but would present a response pattern with a hump in the middle. Such a pattern would suggest that Red No. 2 induces more cancer at lower doses than has been believed. Reply, pp. 17–18.

I reject the CCMA position that the positive findings of lymphosarcomas in this study should be overlooked because the determination was made on the basis of different screens. CCMA urges that only the fully screened feeding levels be examined, and the trend for these levels disregarded as weak. Dr. Schneiderman in his testimony regarded the different pathological screens as a real problem but one that arises because:

> "anytime an experiment is done at less than the optimal way and the materials looked at not as fully as they should, what errors are named (sic) in this kind of thing, you will get less of an effect." Tr., p. 828.

Despite the drawback that full pathological screens were not available, Dr. Schneiderman thought an analysis for dose response could still be made on the basis of the available data from all the feeding levels. Tr., p. 827.

The lymphosarcoma trend was the only dose-response effect found in the study, and it is important because the presence of a dose-response effect makes scientists believe more strongly that a substance is a carcinogen. Schneiderman, G–227, p. 18. If a dose-response effect were not present for Red No. 2, but there were a significant increase in cancers in the treated animals with the controls, there would be less confidence that the substance is a carcinogen, but the results still could not simply be ignored. It would be appropriate at the least to require a full and adequate study to resolve the question whether there is a carcinogenic effect from the substance.

I believed that weight should be given to the positive finding even though it was not made on the basis of full screens and might have been different if more information had been available. I do not believe it is reasonable to consider Red No. 2 safe on the basis of hypothetical estimates of what the tumor findings could have been if full screens have been available, unless it is reasonably certain that no significant findings of cancer could have been made if all the information had been available. Instead, the matter is unclear; it is possible that there is a dose-response effect, or an unusual pattern of tumor findings. Thus, these results require additional study.

CCMA also disputes reliance on this finding of a dose-response effect because the trend was found only in female rats, and there is no explanation for why these tumors would occur in only one sex. However, as Dr. Gaylor reported, the male rats did not live as long as the females and did not have as extensive pathology as the female rats.

G–226, p. 25. this fact could account for the difference in effect. Moreover, it would be inappropriate to ignore an effect found only in one sex even though we do not know a reason why the effect is or should be sex-specific. A carcinogenic effect found in only one sex raises the question whether the substance is a carcinogen, even though until more information is available it is not possible to explain satisfactorily the limited scope of the effect.

I also agree with the Bureau that the statistically significant positive finding for lymphosarcomas deserves weight even though there are other analyses with negative findings for other tumor categories. Reply, pp. 18–19.

(v) *Total Malignant Tumor Trend in Female Rats.* Dr. Gaylor testified that there was a statistically significant increase at the .04 level in malignant tumor in the high dose female "terminal" animals (those that survived 30 months), as compared with the terminal control animials. G–226, p. 21. These controls had no tumors, an unusuál finding. If "interim" animals (those that did not survive 30 months) as well as terminal female controls are examined, the tumor rate is similar to the rate in other control groups in this study. A comparison of the .03 percent dose level terminal and interim female rats with these controls shows an increase in malignant tumors of all types, but the increase has a weaker level of statistical significance of .07. G–226, pp. 23–24. The high dose group in a similar comparison exhibited a statistical significance of .08. Ibid.

As already discussed, CCMA objects to this analysis due to the lack of specific tumor sites and the low rate of tumors in the controls. CCMA also objects to any reliance on this finding because it was made using "Fisher's Exact Test," a test developed for fixed row and column figures. The Bureau maintains that this test can appropriately be used for other purposes, and cites statistical authorities in support of its position. Reply p. 20, Tr., p. 966.

I find the Bureau's reply convincing, and I also accept Dr. Gaylor's explanation that the Fisher Exact Test is appropriately used here due to the small number of animals involved in the analysis. G–226, p. 38. Moreover, it is appropriate to take into account Dr. Gaylor's experience in carcinogenicity testing since this matter involves a judgment about which statistical procedure provides useful information for evaluation. Dr. Gaylor is chief of biometrics at the National Center for Toxicological Research.

Dr. Gaylor's analysis found an increase in tumors for terminal females at the .04 level of significance. Although the tumor increase in terminal female animals was within the 5 percent limit for statistical significance commonly used in the scientific community, the tumor increase for interim and terminal animals was outside it. CCMA criticizes reliance on the findings that fall begond the 5 percent limit.

The interim and terminal animals were combined for analysis in recognition of the argument that the results for the terminal animals were questionable due to the unusual absence of tumors in the controls. As already discussed, it is not clear that the zero incidence in the controls should be disregarded. Furthermore, I agree with Dr. Gaylor that the 5 percent level of statistical significance is often used as a benchmark, but it should not be given absolute significance. G–226, p. 3; see Cyclamates, Notice of Interlocutory Decision, 44 FR 47620 (August 14, 1979), and Benylin, Notice of Final Decision, 44 FR 51520–51521 (August 31, 1979). The positive findings, even though at a lower level of significance, merit some weight as suggesting a possible carcinogenic effect for Red No. 2 on this record, in light of the more significant positive finding for the terminal animals and in light of the lymphosarcoma findings.

Moreover, if the original pathological findings as reported in the Taylor/Monlux study were used, the positive findings in Dr. Gaylor's analysis would be of stronger statistical significance and within the .05 limit. Instead, Dr. Gaylor used the revised pathological figures that were developed when FDA reviewed the data sometime later.

CCMA seems to argue that Dr. Gaylor's revised analysis should be given little weight because different statistical procedures were used after the revised pathological tumor findings reduced the significance of the original findings, which resulted from other test procedures and significance levels, and were based on the original pathological review. It is not clear whether CCMA is raising this point as an exception, but since it is referred to at several places in CCMA's exceptions, I will address the matter. Ex., pp. 16, 77–78.

It should be borne in mind that the TAC requested Dr. Gaylor to consider biostatistical aspects of the study. P–74, p. 18. Dr. Gaylor on cross-examination acknowledged that he changed the procedure he used for statistical analysis of the original figures and the revised figures. Tr., p. 744. He used the two-tail test and a .05 level as the mark of statistical significance for the original figures. If these procedures were applied to the revised figures, the results would not be statistically significant at the .05 level. Dr. Gaylor maintained, nonetheless, that the .05 level is only a benchmark, not an absolute standard, and that a one-tail test is the appropriate test, and probably should have been used initially. I agree that the one-tail test is appropriately used when seeking to find out whether a substance causes a harmful effect. A two-tail test halves the significance of findings, and is appropriately used if the purpose of the test is to compare treatments. Schneiderman, G–227, p. 19. The purpose of the statistical test in this case is to detect the ability of a substance to cause an adverse effect, and it is important to use test procedures that will provide assurance of detecting an effect of this type. Therefore, I conclude that it is appropriate to rely on Dr. Gaylor's revised analysis and the statistical procedures used.

Lastly, CCMA appears to be criticizing Dr. Gaylor's total tumor analysis, and the references in the Initial Decision to total tumor increase, because Dr. Schneiderman did not report the same analysis. Ex., pp. 86–90. Dr. Schneiderman testified, however, that "by and large we agreed with what Dr. Gaylor had found." G–227, p. 19. Furthermore, Dr. Schnederman reported that he found an increase in total tumors in female rats, which was "barely significant" at the .048 level. When this finding was "corrected * * * for the survivial" of animals, the trend was below the .05 benchmark of statistical significance. G–227, p. 17. Similar results were found by Dr. Gaylor, who reported an increase in total tumors for terminal female rats (significant at the .04 level), but a less significant trend for terminal and interim rats. G–226, pp. 37–38. As Dr. Schneiderman also testified when tumor types were examined, a statistically significant increase in lymphosarcomas in females was found, a result also reported by Dr. Gaylor. G–266 pp. 25–26.

I believe the lymphosarcoma finding is a key finding that is sufficient by itself to raise a serious question about the carcinogenicity of Red No. 2. The finding of a total tumor increase in female rats is also important because it reinforces the concerns about the carcinogenicity of Red No. 2 arising from the other finding. This total tumor finding is appropriately relied on as part of the overall basis for concluding that Red No. 2 has not been shown with reasonable certainty not to be a carcinogen.

(vi) *Conclusion.* I conclude that there is disturbing evidence of possible carcinogenic effects from Red No. 2 based on the lymphosarcoma finding, singly and in combination with the total

tumor increase in female rats in the Taylor/Monlux study.

B. *Andrianova (Russia) Study (G–14).*—1. *Introduction.* The Andrianova study (G–14) was conducted in the USSR to test the carcinogenic potential of several dyes, including "amaranth," an internationally used name for the substance called FD&C Red No. 2. The Russian investigators concluded that:

> Administration of chemically pure amaranth to rats during 33 months resulted in the development of 15 malignant tumors in 13 rats out of 48 surviving at the time when the first tumor appeared * * *. In the control group, where the rats did not receive any dye, tumors were not discovered * * *. Chemically pure amaranth possesses carcinogenic activity of medium strength and should not be used in food industry. G–14, p. 7.

However, questions have long existed about the purity and identity of the substance tested in the Andrianova study. In the FDA decision denying the petition for permanent listing of Red No. 2—the action that led to this hearing—FDA stated that "questions remain as to the chemical equivalence of FD&C Red No. 2 to the amaranth used by the Russian investigators." 41 FR 15053 (April 9, 1976).

FDA made several efforts to obtain more information about the substance tested in the Andrianova study. These efforts, which proved to be unsuccessful, were described to the TAC as follows:

> With respect to the second Russian study which showed positive carcinogenic effects, Dr. Murphy asked if the Agency had approached the Russians to determine the composition of the material that they used. Mr. Gittes replied that in 1971, the FDA asked the State Department to find out the composition of the amaranth material used by the Russians and the spontaneous rate of tumor occurrence in the Russian rat. However, the FDA has received no response from the State Department to date on these questions. Other attempts through various Russian investigators, FDA personnel traveling to Russia, etc., to obtain answers to these questions have been similarly unsuccessful. P–74, pp. 3–4.

2. *Initial Decision.* The Initial Decision found that the Andrianova study (G–14), was conducted "to determine the tumorigenic effects of Red No. 2 on rats," and that "[p]ositive results were * * * obtained in this study." ID, p. 16. The Appendix states in connection with this study that "[a]bsent overriding factors, substantial weight" should be given to the conclusion of the researchers about their own study. ID App. p. 35.

The Appendix to the Initial Decision apparently rejected the CCMA argument that the Red No. 2 used in this test was impure and not the same as FDA-certified FD&C Red No. 2 because the papers suggesting the presence of an impurity were "hearsay" and "there is no evidence of record to indicate that the substance tested was anything other than chemically pure (Red 2)." ID App., p. 34. CCMA's objections based on the unusual factor that the controls had a zero tumor incidence rate were not given weight because spontaneous rates of tumors vary among test animals and suppositions about the expected rate cannot be based on historical patterns for a different strain of rat. ID App., p. 34.

3. *Exceptions.* CCMA believes that the ALJ was "completely in error in giving the slightest credence to the Andrianova study, which does not provide any evidence showing FD&C Red No. 2 could be carcinogenic." Ex., p. 109.

Memoranda in the record show that an FDA scientist, Dr. Herbert Blumenthal, who attended an international meeting held to "shed some light on the type of amaranth that was used," reported that there was "substantive evidence" to show that the color was not FDA certifiable Red No. 2. Ex., pp. 4, 5–6, citing P–145. The International Association for Research in Cancer has rejected the Andrianova study (P–145), as has the FAO/WHO, because the study used "samples of amaranth" with different specifications. P–16, pp. 13–14. The CCMA also maintains that there is "doubt in the scientific community" about the existence of controls in the study or that they actually had a zero incidence level of tumors." Ex., p. 108.

4. *Bureau Reply.* The Bureau argues that the uncross-examined written reports that the substance tested by the Russians may not have been Red No. 2 should be given "very little weight, if not totally ignored." Reply p. 25. In addition, it maintains that even if the amaranth used by the Russians differed from the FDA color no one knows whether the difference would affect the results in the carcinogenicity testing. Consequently CCMA has not met its burden to prove Red No. 2 safe.

5. *Analysis.*—(a) *Chemical Equivalence.* I reject the position in the Initial Decision and the Bureau reply that the criticism of the Russian study should be given little weight or ignored simply because the criticisms are found in written reports and have not been subject to cross-examination. FDA has long taken the position that the positive results in this Russian study do not establish that Red No. 2 is a carcinogen because of questions about "the chemical equivalence" of FD&C Red No. 2 to the amaranth used by the Russian investigators. 41 FR 15053 (April 9, 1976). The written material should be credited on the basis of what it reports, taking into account any factors that reduce its reliability.

In reviewing the written material cited in the exceptions as bearing on chemical equivalence, it should be noted that the questions relate to whether the amaranth used by the Russians was as chemically pure as FDA certified Red No. 2. The writers of these memoranda believe the Russians may have used a less pure version of Red No. 2 and not a totally different substance, as is evident from the quotations given above from the documents cited by the petitioner in its exceptions. Consequently, the fact that positive results were found creates a significant question as to whether the results are attributable to the impurities that may have been present in the Russian sample, or to FD&C Red No. 2 in its FDA-certifiable form. The material cited by CCMA does not provide definitive information to show that the results are attributable to impurities that may not occur in FDA-certified Red No. 2.

Thus, I find that due to the question about the chemical equivalence of the test substance to FDA certified FD&C Red No. 2, the positive findings in this study do not dispositively establish that Red No. 2 is a carcinogen. The study cannot be ignored entirely, however. Instead, it creates a concern that Red No. 2 may be a carcinogen. This concern needs to be resolved by an adequate test before Red No. 2 can be approved as safe for use.

(b) *Controls and General Unreliability.* CCMA has also urged that this study should be entirely ignored on the ground that it has been rejected by international groups such as FAO–WHO, because there is "doubt in the scientific community" about the zero incidence level of tumors reported for the controls in this study. Ex., pp. 108, citing, for example, P–157 at 27, P–11, P–16, pp. 13–15, P–62, P–65, P–68.

The "most important" question about this study concerns the chemical identity of the test substance, the matter already discussed, according to the memoranda cited in the exceptions (P–145). It is true that the FAO–WHO did not fully accept this study, and it retained a "temporary" acceptable daily intake level for Red No. 2, but it also expressed the hope that "international cooperative studies with standard samples may be undertaken to elucidate the reason for the reported discrepancies." P–16, pp.13–14.

I agree that the zero incidence level of tumors in the negative controls in the Andrianova study is unusual and gives rise to some questions, as discussed in

connection with the Taylor/Monlux study. A zero incidence level is possible, though, due to variations in spontaneous tumors.

Moreover, in the Andrianova study other red dyes were also tested, and amaranth had a high, statisically significant increase in malignancies at the 2 percent level compared with rats fed another dye, according to Dr. Gaylor's analysis of the results. G–226, p. 29. Those rats fed the other dye had tumors, and thus did not have the unusual absence of tumors reported for the negative controls. Consequently, the positive results observed from amaranth in comparison with a positive control group that had tumors tends to obviate any questions about the significance of the effects of amaranth compared with negative controls that had no tumors.

Nonetheless, there continues to be a question whether the design of the study meets current standards for a fully adequate study in view of its limitation to male rats. A variety of tumors were reported, and as discussed in connection with the Taylor/Monlux study, the presence of a site specific response increases the confidence that a substance is a carcinogen. But despite questions of this type a study with positive findings of carcinogenicity cannot be ignored in the absence of a completely reliable study that shows with reasonable assurance that the substance is not carcinogenic.

C. *Other Chronic Studies; Webb Rat (P–2), Mouse (P–3) and Dog (P–5) Studies.*—1. *Initial Decision.* The Initial Decision includes the following discussion about the Webb rat, mouse, and dog studies conducted by FDA:

> Several studies have been conducted in mammals in order to directly observe any tumoringenic tendencies of Red No. 2. Dr. Webb and his associates completed the studies on the dog, mouse, and rat in which the animal ingested Red No. 2 as some percentage of its food supply. The mouse and rat studies were very similar in test protocol and implementation. Two strains of animals were used with heavy mortality in one of the strains in each of the two tests. Limited histopathological examination was performed. In general, this examination was limited to those tissues which, on gross examination, appeared to contain a tumor or other lesion.
>
> In the Webb rat study, the Osborne-Mendel rats did not show tumor development associated with the ingestion of Red No. 2. However, among the Sprague-Dawley rats, there was a doubling of breast tumors in the treated animals as compared to the controls.
>
> In the Webb mouse study, there was an increase in lymphosarcomas in the treated as compared to the control animals. There was also a general increase in tumors in the treated male mice as compared to the control male mice. These two studies raise questions as to the carcinogenicity of Red No. 2 because positive results were partially demonstrated.
>
> Dr. Webb also conducted a study in five dogs to determine if the ingestion of Red No. 2 produced tumors. None were seen in this study. However, the dog is generally considered as being useful in revealing human carcinogens only in the case of bladder tumors. ID pp. 15–16.

2. *Webb Rat Study (Osborne-Mendel Strain).*—(a) *Exceptions.* CCMA maintains that the Webb rat study of the Osborne-Mendel strain of rats support the non-carcinogenicity of Red No. 2. It points out that the FDA scientists who did the studies regarded the results as negative. Ex., pp. 90–106. It disputes the Bureau's position that the histopathological examination in the rat study was inadequate on the ground that FDA scientists and advisory committees regarded the study as adequate for many years. CCMA maintains that the likelihood of "overlooking any important tumors was 'fairly low,'" despite the "limited histopathology," because tumors can usually be detected by gross examination. Ex., pp. 96–97. One of the petitioner's witnesses who helped develop the NCI guidelines testified that the "standard protocol" requires a microscopic examination of all the tissues from the high dose and control groups, and a microscopic look "only at grossly altered tissue and target organs from the low and intermediate levels." Busey, P. 152, p. 12. CCMA maintains that this type of examination is "precisely" what was done in the Webb study. Ex., p. 96.

(b) *Reply.* The Bureau in its reply maintains that current practice and the NCI guidelines with respect to histopathological examination were not followed. Reply, p. 22. The Bureau also regards the Webb rat study as deficient due to defects in gross pathology, the failure of CCMA to show Dr. Webb's qualifications, and other factors. Brief, pp. 12–16.

(c) *Analysis.*—(i) *Histopathological Examination.* In this study, "[a]bout 220 pieces of tissues" were sectioned and microscopically examined, "including all malignant and doubtful appearing masses, and various other lesions." P–2, p. 1. Under the NCI guidelines, a histopathological examination is to be made of all treated and control animals in chronic studies and the examination is to include over 20 specified tissue sites in addition to gross lesions and suspect tumors. G–11, p. 55. The Bureau maintains that, under current standards, full screens, under a microscope, are required of the high dose animals and controls, or at least a significant proportion of them, and a partial screen of tissues is needed of all the remaining animals. Reply, pp. 22–23. CCMA's pathology witness, Dr. Busey, also stated that full screens are needed for the high-dose and control groups, P–152, p. 12, see P–150, p. 35. However, in this study, no full screens were done of any feeding levels.

The Director of the Bureau's Division of Pathology (Weinberger G–218, p. 14) testified that "in some of the animals was a detailed or 'full screen' examination of tissues undertaken," and that "only a very small number of tissues" were examined. G–218, p. 14. In his opinion, the examination of "200 tissues" from 870 rats was "markedly deficient," and this methodology made it "almost impossible" to pick up small neoplasms, and "very difficult" to determine the primary site of others. Id. Because of these and other defects in this study, he doubted that the study could detect a weak carcinogen or subtle toxic effects, and had "strong reservations" about accepting its negative conclusions. G–218, p. 16.

At the intermediate dose feeding levels, CCMA believes that under the standard procotol it is sufficient to have a histopathologic examination of only "grossly altered tissues and target organs." P–152, p. 12. The Bureau believes that at least "partial screens" are necessary of 5–9 tissues from each remaining animal. Reply, pp. 22–23; Brief, p. 13. The NCI guidelines require an examination of a number of tissues in addition to those with obvious or suspect tumors. G–11, p. 55.

CCMA maintains that "representative samples" were examined in the Webb study in addition to abnormal tissues. Ex., p. 92. However, the sampling of "various other lesions" in the Webb study cannot be regarded as sufficient to satisfy current guidelines in view of the enormous difference between the number of tissues examined in the study (220 tissues) and the number examined in partial screening (4,000–7,000 tissues) of a full screening (11,000 tissues) in a study complying with NCI guidelines. Bureau Brief, p. 13 citing Weinberger. I find CCMA's position on whether the Webb study satisfies the NCI guidelines ambiguous. At some points CCMA states that the histopathology was "limited" and less than full (Ex., pp. 92, 96), but at another place it states that the NCI guidelines are "precisely what was done" in this study (Ex., p. 96). This description, however, may relate to a claim of compliance with the type of partial screening needed at intermediate feeding levels, rather than to the type of

full screening needed at high dose and control levels.

In any event, for the reasons discussed above, I find that the Webb rat study does not meet the current standards for histopathologic examinations as found in the NCI guidelines because of the failure to have any full screens, and the failure to have at least partial screens of all animals.

CCMA also argues that the histopathological evaluation can be adequate even when the histopathology is limited because most tumors can be spotted by gross examination. Petitioner's witnesses estimated that "about 90%," "most neoplasms," and "about 95%" as "a rough figure" of all tumors would be detected by gross examination, for example, P–150(2), p. 35, P–152(2), pp. 12–13; P–156, pp. 16–17. On the other hand, a Bureau witness estimated that about 20 percent of tumors could be missed if only grossly visible neoplasms are given a microscopic examination. G–218, pp. 6–7. There were no published studies to show the number of tumors that would be missed, but the Bureau's witness cited examples of misses of 12 percent and one of 27 percent. Weinberger, Tr. pp. 560–61. Moreover it is clear that leukemias would be missed without a microscopic examination. Ex., p. 100. Lymphosarcomas are harder to diagnose without a microscope. Newberne P. 161, p. 31. Thus, it is clear that the failure to meet the current standards for histopathology reduced the ability of this test to detect any carcinogenic potential of Red No. 2. This deficiency, while disturbing at any time, makes it especially inappropriate to rely on this study as showing the noncarcinogenicity of Red No. 2 in view of the other indications of possible carcinogenicity of the color found in the later Andrianova and Taylor/Monlux studies. See also ID App., p. 19.

(ii) *Pathology Work.* Furthermore, the pathology would have to be of high quality if test results were to be relied on despite a histopathological review of inordinately limited scope. Here, there is reason for regarding the pathology work as of questionable quality.

The gross pathology was done on shrunken, hardened and discolored tissues fixed in formalin, rather than on freshly killed tissue. G–218, p. 14. CCMA witnesses did not think this created a great deal of difference and stated that FDA currently has tissues examined in formalin. P–153, p. 17, P–161, pp. 12–13. A Bureau witness, however, believed that the tissue-fixing methods used in the Webb study made observations "of necessity limited." G–218, p. 14. Use of preserved tissues is not a preferred practice. Tr., p. 384. Thus, I find that the use of tissues of this type, in the absence of histopathological examination, reduces confidence that the gross examination was adequate.

Moreover, there were several differences between the diagnosis made in the study and the diagnosis made by the petitioner's pathology expert (Busey, P–152(2)) in a review of the tissues in preparation for the hearing. The Bureau's pathologist believed that a comparison of individual animal diagnoses of Drs. Busey and Webb showed essential agreement in 50 percent, and "substantial differences" in 50 percent Weinberger, G–272, p. 7. The petitioner's pathology expert thought the differences minor (P–152(2), p. 14), and another of its experts believed the differences involved "less than 18 percent" if the calculations were made on the basis of all the tissues actually examined, and if "similar" diagnoses were eliminated. Newberne, P–161, p. 6. Cross-examination showed, however, that there is some basis for regarding the "similar" diagnosis as having important differences. Tr., pp. 890–93.

Thus, more than 18 percent of the diagnosis could be considered to be of questionable quality. The Bureau also believes that a calculation based on differences in positive diagnoses in animals provides a better reflection of the quality of the pathology work than differences in the diagnoses of all slides, because a diagnosis of no tumors is easier to make than the classification of a tumor which is found. Bureau Brief, pp. 14–15. Consequently, there is a substantial basis for regarding the pathology work as being of questionable quality. It would be inappropriate to assume that the gross pathology was so well done that it can be relied on to provide a basis for estimating the tumor incidence in the Webb studies even though the histopathological review was limited.

I find it unnecessary to reach the issue of whether the Webb study should be disregarded as deficient solely because CCMA did not show Dr. Webb's qualifications as a pathologist. The Bureau maintains that CCMA has the burden of proof to show the qualifications of Dr. Webb because CCMA seeks to rely on the study done by him. Bureau Brief, p. 22. According to the Bureau, Dr. Webb was a Doctor of Veterinary Medicine (DVM), and the petitioner's witnesses recognize that DVM training is insufficient by itself to qualify an individual as a pathologist. Bureau Brief, p. 22 citing Radomski, Tr., p. 254, Busey, Tr., p. 351. On ther other hand, CCMA urges that "a pathologist qualified to be employed" by FDA should be assumed to be qualified, unless FDA affirmatively shows his lack of qualifications. Ex., p. 102. Although I find the record unclear on whether Dr. Webb was specifically employed by FDA as a pathologist, it is clear he was assigned to do pathology work in the Webb study. I agree that an individual assigned to do pathology work by the Bureau should be assumed to be qualified for the assignment, unless the Bureau shows his lack of qualifications. However, even assuming Dr. Webb's qualifications for the initial assignment, the Webb study cannot be considered adequate to show the safety of Red No. 2, due to the insufficient amount of histopathology, and the questionable quality of the diagnoses actually made in the pathological evaluation, as discussed above.

(iii) *Limitations of Detection under NCI Protocol.* CCMA also seems to maintain that the Webb study should be considered adequate because the Bureau's pathologist testified that the test could detect a potent carcinogen, but not a weak one, and the same results occur under the NCI's criteria because all that can be detected under the standard NCI protocoal is a potent carcinogen. Ex., p. 101–02, citing Gaylor, Tr., p. 780; Newberne P. 161, pp. 6–7.

As Dr. Weinberger testified (G–218, p. 13), the Webb study could probably have detected a potent carcinogen, but he had "strong reservations" about its ability to detect "a moderate or especially a weak carcinogen." G–218, p. 13. It is also true that bioassays conforming to the NCI guidelines are most able to detect potent carcinogens and have less ability to detect weak carcinogens. But this limitation on the capabilities of tests meeting the NCI guidelines does not mean that the Webb study had an equivalent capability to detect a carcinogenic effect as a study fully complying with the NCI guidelines on histopathology. Dr. Weinberger testified as follows on cross-examination in response to questioning on this matter by CCMA (Tr., pp. 570–71):

> [Answer] I think that it is hard to be absolute in these answers, but I think that if the NCI guidelines were followed exactly as indicated, the possibility of picking up a week carcinogen would be much better, greatly augmented, over this study. I am not saying it would pick it up in every situation. You have to qualify it, how weak and what percentage and so on.
>
> [Question] Let us just try, if we may, again. Pursuant to the NCI guidelines, if one conducted a carcinogenesis study, would it detect, considering what those quidelines are, would it detect a weak carcinogen?

[Answer] I think in many cases it would.

* * * * *

[Question] So you testimony is that a weak carcinogen would be detected—

[Answer] Yes, at 5 percent.

[Question]—by a carcinogenesis study—

[Answer] I do not say it always would, but I say it certainly could.

[Question] How often, Doctor, in your opninion? Do you have an opinion?

[Answer] I could not say. I have no opinion.

Dr. Schneiderman also testified that some NCI studies suffer from the defect seen in the Webb and other early FDA studies, "but not nearly as much." G–227, p. 16.

Thus, the difficulty in detecting weak carcinogens makes it important to have tests that are as adequate as possible. The Webb study was clearly not as adequate as tests meeting current guidelines.

(iv) *Conclusion as to Webb Rat Study.* I believe that the deficiencies shown by the Bureau on Webb Rat Study, notably those concerning the inadequacy of the histopathology and gross pathology, make it inappropriate to rely on this study as showing to a reasonable certainty that Red No. 2 is not a carcinogen. I accept the Initial Decision to the extent it makes this finding.

3. *Evaluation of Sprague-Dawley Strain of Rats.* In the Webb study, two strains of rats were tested. One of the strains (Osborne-Mendel) had an autolysis rate that was acceptable and a survival rate that was borderline-acceptable (Weinberger, G–218, p. 15), but the study of this strain of rats was inadequate due to the deficiencies discussed above. The study of the other strain of rats (Sprague-Dawley) had other deficiencies. CCMA concedes that "too few" of the Sprague-Dawley rats survived to permit "meaningful analysis." Ex., p. 104. Consequently, CCMA believes that the Initial Decision was incorrect in giving any significance to the doubling of the breast tumor rate seen in the Sprague-Dawley strain. Ex., p. 105.

CCMA excepts to the ALJ's "efforts to dream up" some positive findings in the Webb study by focusing on this increase in breast tumors in the Sprague-Dawley rats. Ex., p. 105. According to CCMA, the survival rate was not adequate in this strain to permit statistical analysis, the increase was not significant, and a Bureau's pathology witness (G–217, p. 14) did not find the tumors significant. Ex. p. 105–06.

A poor survival rate makes it more difficult to detect an effect. It is arguable, therefore, that the finding as to breast tumors is entitled to some weight. G–226, pp. 13–14. Nevertheless, I do not believe that the observation of breast tumors in this strain of rats should be relied on as a part of the basis in this record for suspecting the carcinogenicity of Red No. 2 due to the lack of significance attributed to the study and the type of tumor by a Bureau witness (G–217, pp. 14–15), and the fact that in its brief the Bureau made only passing references to the finding without any further explanation of the Bureau's position. Brief, p. 24.

4. *Webb Mouse Study.* CCMA discussed the Webb rat study in its exceptions, but did not discuss the Webb mouse study separately. According to CCMA, the studies "were conducted under the same protocols by the same scientists; produced the same negative results; and have been subject to the same criticism. Accordingly, we here discuss only the rat study, since the same views apply to the mouse study." Ex., p. 91, n. 53.

I agree and find no need for an extensive separate analysis. The Webb rat study and the Webb mouse study presented similar issues, as the petitioner has pointed out. The evaluation of the exceptions concerning the Webb rat study has provided an adequate opportunity to evaluate the significance of the Webb mouse study, and to conclude that the latter does not establish the safety of Red No. 2.

The findings of fact concerning the Webb mouse study proposed by the Bureau in its brief to the Administrative Law Judge have been reviewed and adopted with one change. I have omitted to make any finding concerning the presence of a suggestive increase in male mouse tumors in the Webb mouse study because it is unnecessary to reach that issue. The other findings adopted in this decision adequately support the conclusion that the Webb mouse study does not demonstrate the safety of Red No. 2.

5. *Dog Study (P–5).* CCMA in its exceptions describes the Fitzhugh/Kasza dog study as providing further evidence that Red No. 2 is not a carcinogen, Ex., p. 90.

The Initial Decision contained an extensive discussion of the parties' positions on this study, and a description of the limitations of the study. The study's usefulness is primarily limited to helping evaluate the risks of bladder cancer. ID App., p. 23–26. The Bureau's reply emphasizes that a 7-year dog study is not a lifetime study (G–217, p. 9, Tr., p. 901), and, despite use of studies of this length for economic reasons, longer studies should be used when needed to make an adequate toxicological evaluation. Reply, p. 27. Moreover, the study had too few animals to be an adequate study. G–226, p. 30, G–218, p. 18, G–217, p. 8. A dog study of this length in these circumstances does not provide a sufficient basis to prove safety. Accordingly, I agree with the Initial Decision Appendix that this study is not useful "as a general finding of safety." ID App., p. 26.

D. *Short-Term Screening Studies.*—1. *Introduction.* Several short-term screening studies were conducted on Red No. 2. These studies attempted to detect the ability of Red No. 2 to induce mutagenic changes in cells because mutagenesis "has been shown, to some extent, to be predictive of a chemical's carcinogenic potential in higher animals." ID, p. 12. Positive mutagenic responses were observed with Red No. 2 or its known metabolites in one or more tests in the following test systems: cytogenic, Oster Drosophilia, mouse lymphoma and dominant lethal. The Ames test and yeast studies were negative. The host mediated assay was apparently negative.

2. *Initial Decision.* The Initial Decision provided the following summary of the short-term screening tests conducted, and their results.

> One type of microbial mutagenesis test run on Red No. 2 was the Ames test. Two such studies showed that Red No. 2 was not a mutagen in this test system. The mutagenic effects of Red No. 2 on yeast were also analyzed. Two of these tests were conducted and while one initially indicated positive results, the researchers attributed this to a "contaminant." Ultimately, the tests showed negative results.
>
> The host mediated assay is designed to test the mutagenicity of microorganisms exposed to the chemical through the ingestion of the chemical by an animal which contains the microorganism in its peritoneal cavity. This test method more closely approximates the range of metabolites which occur in the whole animal system. Two tests were conducted by Stanford Research Institute (SRI). While positive results were obtained initially, this effect was attributed to a contaminant and the second test showed no positive results.
>
> Mouse lymphoma tissue culture cells were also used to test for any mutagenic effect of Red No. 2. The chemical was positive for mutagenicity in this test system, and demonstrated a dose response. A series of tests on higher animals was also conducted to determine if there was any mutagenic effect from exposure to Red No. 2.
>
> Three studies were conducted using rats to test for mutagenesis by the dominant lethal technique. The FDA study demonstrated positive results. The SRI study showed pre-implantation loss at high-dose levels. The Kennedy study showed the same effect as the SRI study at all dosing levels.
>
> Three Drosophila studies were conducted, each using different strains of the species. One of these showed a positive response, while the other showed negative results.

Mutagenicity of Red No. 2 was also tested by noting chromosomal damage to the bone marrow cells of treated animals in two studies. Positive results were obtained in the FDA study for Red No. 2 and amino-R-salt, while the SRI study did not show this effect. The SRI also conducted an anaphase study on human lung tissue. Mutagenic activity was noted in this study. ID, pp. 13–14.

The ALJ concluded:

The mutagenicity tests of Red No. 2 have culminated in mixed results. Some systems show consistently negative results, others show positive results, and a third class demonstrated results which varied from research group to research group. The apparently conflicting studies which used only a single test system often showed other differences, such as in the strain of the animal tested or a difference in the testing protocol. With such a variation in the results it is clear that the question of mutagenicity of Red No. 2 has not been definitively resolved. ID, p. 14.

3. *CCMA Exceptions.* In its original brief to the ALJ, CCMA argued that the short term tests showed Red No. 2 to lack carcinogenic potential. CCMA Brief, pp. 92, 137. In its exceptions, CCMA maintains solely that the tests, even if positive, only call for a chronic study, do not provide definitive answers, and cannot overcome the results in chronic feeding studies, which CCMA regards as negative. Ex., pp. 110–32. On this basis, CCMA excepts to the Initial Decision "insofar as it appears to find that the short term tests * * * raise serious questions with regard to possible carcinogenicity." Ex., p. 110.

CCMA also views the short-term screening studies as of "comparatively minor significance" and states that the Commissioner did not rely on these studies as the basis for denying the petition to list Red No. 2. Ex., p. 110. According to CCMA, greater weight be given to the chronic feeding studies, which in CCMA's view establish the noncarcinogenicity of the color. Ex., p. 23.

CCMA's exceptions contain 20 pages of discussion of the tests. In what seems to be the only summary of the basis for its objections, CCMA maintains that the mouse lymphoma test is unverified, and the "few" other positives are an "artifact of the testing procedure" or are "overcome" by the "more extensive negative tests" in the same system. Ex., p. 112.

CCMA also believes that ALJ distorted the record by viewing the short-term screening tests as relevant to mutagenicity when they should be viewed solely as a guide to carcinogenicity. Ex., p. 24.

4. *Bureau Reply.* The Bureau maintains that the positive findings show a "potential hazard" with respect to carcinogencity. The reply extensively discusses the CCMA's exceptions. Reply, pp. 28–41. The Bureau maintains that CCMA overemphasizes the negative Ames and yeast studies, which are not reasonably expected to be sensitive for Red No. 2, and that CCMA underestimates the significance of the positive results seen in some of the other tests.

5. *Analysis.* As the Bureau notes, the "mutagenicity of Red No. 2 is an issue in this proceeding only as the capacity of a chemical to cause mutations also demonstrates that it is, or may be, a carcinogen." Reply, p. 28, n. 15. I do not accept the Initial Decision to the extent it is interpreted as finding that mutagenicity is an independent basis for denying the petition since the parties agree that this basis for action is not an issue in this proceeding.

It is also clear that due to their limitations the short term screening studies cannot provide evidence to a reasonable certainty that Red No. 2 is not a carcinogen. CCMA does not assert in its exceptions that they could support such a finding even though it did maintain this position in its brief to the ALJ. CCMA now maintains simply that the studies are not definitive, even if positive, and cannot overcome the results of the chronic feeding studies, which CCMA views as negative. Ex., pp. 110, 112. Because I do not believe the chronic feeding studies done so far are fully adequate, the important issue is whether the positive findings in the short-term screening tests provide additional support for believing that a further chronic test is needed before the safety of Red No. 2 can be adequately evaluated. I believe that they do reinforce the conclusion from the review of the chronic feeding studies that the noncarcinogenicity of Red No. 2 has not been adequately shown.

It is unnecessary to discuss all the tests and exceptions in detail in view of the extensive analysis provided in the Initial Decision. ID App., pp. 1–17.

Instead, I will focus on the significance of the negative results in the Ames test, and the mixed results in the Drosophila tests on fruit flys the two test systems CCMA regards as having the most significance for evaluating the carcinogenic potential of Red No. 2, and the weight to be given overall to the results in the short-term screening study. Ex., p. 115.

(a) *Ames test.* The Ames test is rightly regarded as highly predictive of carcinogenic potential on this record with most experts considering it 90 percent or more reliable (G–224, P–151), but some believing it less reliable (G–223, p. 26, G–167, P–150(2), PP. 42–43.) The Ames tests on Red No. 2 were negative. As discussed in connection with CCMA's "general areas of exceptions," the Ames test is not a conclusive indicator of carcinogenic potential, and negative findings do not establish that a substance is safe. Dr. McCann of the Ames laboratory testified that negative results are not dispositive, despite the 90 predictive value of the tests observed in the experiments so far conducted:

One can never be sure that a negative response is a true negative, or whether it is one of the few kinds of carcinogens that the test doesn't detect very well.* * * I think in general a positive result carries more weight with it than a negative result. G–224, p. 6.

Furthermore, "complicating factors" reduce the reliability of the Ames test in predicting the carcinogenic potential of a substance like Red No. 2. Dr. McCann testified:

But in my personal opinion in trying to draw a conclusion for Red 2, I would feel much more confident in the negative after we have had a chance to test a number of the other azo dyes that have the larger ring structure and that do have good animal cancer data. G–224, p. 7.

Moreover, the metabolism of Red No. 2 in the gut, rather than in the liver, makes the Ames test less reliable. Dr McCann stated that the test "most likely does not perform" the gut-type reaction very well and that she thought the system would not detect metabolic changes that occur from this type of reaction. G–224, p. 8, Tr., p. 412.

CCMA, though, points out that the known metabolites of Red No. 2 have been tested in the Ames test and found negative. Ex., p. 116, citing P–90, p. 9, P–101. On this basis CCMA argues that the Ames test findings on the breakdown products of Red No. 2 provide assurance about the safety of the substance and its breakdonwn products as metabolized in the human gut. However, this argument does not provide assurance about the safety of the unknown metabolites of Red No. 2, which are discussed below.

Even though I have not generally resolved the "chemistry" issue in this proceeding, the metabolism of Red No. 2 is relevant to the evaluation of the mutagenicity testing of Red No. 2's metabolites. The record shows that 69 percent of Red No. 2's metabolites are fully identified, but that the other part has not been recovered and is unknown. G–68. The petitioner's expert thought that the unidentified metabolites of the R-amino-salt became irreversibly bound to other compounds and, although the breakdown products could not be recovered by him, they would be rapidly excreted and be harmless. P–157, pp. 32–

33. However, it is clear that at present nearly one-third of the metabolic breakdown products are unidentified. This lack of information precludes reliance on negative findings on the Ames tests conducted on Red No. 2 breakdown products because not all of the breakdown products of metabolism have been identified or tested. Moreover, as the Bureau suggests, the unaccounted for portion of the metabolic by-product R-amino-salt, whose breakdown is not fully understood, has only 2 sulfonic groups in it. If the R-amino-salt breaks down in more than 2 parts, some of these parts may not be sulfonated. Bureau Brief, p. 97. Accordingly, these breakdown products may not be as rapidly excreted and could be more potentially harmful than the other breakdown products of Red No. 2. Bureau Brief, pp. 96–97. Although this possibility is hypothetical, the possibility does underline the lack of reasonable certainty about the full identity of the breakdown products. Accordingly, it is inappropriate to rely on Ames tests done on the breakdown products of Red No. 2 when it is not fully established what the breakdown produts actually are when Red No. 2 is metabolized in the body.

CCMA suggests that the Bureau's witness, Dr. McCann, believed that the negative Ames tests on breakdown products of Red No. 2 were relevant because the metabolic by-products of Red No. 2 "were actually tested in the Ames system and found negative," Ex., p. 125, citing G–224, p. 8. Dr. McCann did testify that the breakdown products of Red No. 2 had been tested. However, it is clear from her full testimony that she testified about her expertise in the Ames test system, and that she did not claim to have expert knowledge about the metabolism of Red No. 2. G–224. It is also clear from the following testimony that she did not know whether all the metabolites of Red No. 2 have been found:

> Of course, there may be other metabolites that are generated in animals. And what proportion of those occur in the liver and what portion occur in the gut, I don't know. G–224, p. 8.

Thus CCMA is incorrect in suggesting that Dr. McCann's testimony establishes that there are negatives Ames test findings for all the actual metabolic by-products of Red No. 2.

(b) *Drosophila Tests.* As CCMA emphasizes in its exceptions, three laboratories conducted Drosophila tests and the results were negative in two of the tests and positive in one. According to CCMA the positive finding was "weak," the test involved many less fruit flies than the other tests and the controls in the positive test had an abnormally low rate of changes; therefore, the positive finding should not outweigh the negative findings in the same test series. Ex., pp. 118–21.

However, the positive result was seen in the "sex-linked lethal assay" (G–4) and this Drosophila test system is considerably more sensitive than the tests in which negative results were reported. Mayer, Tr. pp. 667–68, G–185, pp. 128–29, G–29, p. 277, G–28, p. 241, G–55, Brusick, Tr. 434. The smaller number of flies used in the positive test does not undercut its significance because the statistical evaluation took into account the smaller number of flies used and, nonetheless, the positive findings were statistically significant at the $P=.02$ level on first analysis, and above the $P=.03$ level in a later analysis. G–4, G–226, p. 45, Tr. pp. 415, 433.

The CCMA argument that the positive results should be discounted on the basis of a comparison with historical controls is not persuasive. The laboratory strain of flies used in the positive study had an historically low spontaneous rate, and the rate was consistent with those in the Red No. 2 experiment. Brusick Tr., p. 442; Mayer, Tr., p. 675. CCMA argues that the general historical experience in Drosophila should be used for comparison rather than the experience in one laboratory because all the flies belong to the same species, regardless of the strain. Ex., p. 120. The record indicates, however, that there are differences in strains. G–222, p. 28; see P–134, P–135.

Given the conflicts in results between positive and negative results in the same test system, I find that the negative results cannot outweigh the positive. More testing is needed to resolve the conflict, but in the absence of further testing with clear negative results, a question exists about the potential mutagenicity, and thus the potential carcinogenicity, of Red No. 2 on the basis of the positive results in the Drosophila test. G–222, p. 28.

(c) *Other Short-Term Screening Studies.* Positive findings were also reported in the cytogenetic, mouse lymphoma and dominant lethal tests. ID Ap., p. 5–10, 13–17. CCMA suggests that these positive findings in short-term screening studies are outweighed by the more numerous negative findings. Ex., pp. 112, 124. It would be inappropriate, however, to allow the positive findings in the Drosophila and other tests to be outweighed by the negative findings in the Ames test. As already discussed, the reliability of the Ames test for a substance like Red No. 2 is limited. The yeast test systems, which had negative results, may also be insensitive for a substance like Red No. 2 that is metabolized in the gut. G–222, p. 32. CCMA maintains that the host mediated study, which apparently had negative results, is sensitive for substances distributed to the "peritoneal cavity, i.e. gut" Ex., p. 126. However, the gut and peritoneal cavity are different. Reply, p. 33. Moreover, the insensitivity of this test is recognized by a CCMA witness (P–151, p. 26).

Furthermore, short-term screening studies have a limited sensitivity, and a chemical that produces a positive effect must be quite potent. Legator, G–223, pp. 19–20, Tr., 787. The positive finding in the cytogenetic test is particularly important because the test tends to be insensitive. Legator, G–223, pp. 20–21. The relative importance of the positive effects in the in vivo cytogenetic experiments is attested to by Dr. Legator, G–223, pp. 20–21:

> If I achieved negative results with every other test that one can do for mutagenicity, and if I had the cytogenetic evidence, I would say that that would be enough to declare a compound as a potential mutagen. In fact, probably the only criticism that can be made of the cytogenetic procedure is that it is likely to be insensitive. When you find a positive, that is sufficient to declare the compound as mutagenic. If I had a dozen or any number of in vitro tests that showed that the compound was or was not mutagenic, I would not list those in the same category as one good animal test such as the cytogenetic procedure.

Even though CCMA views the intraperitoneal route of administration as inappropriate in the cytogenetic test (Ex., p. 123, P–159), this route maximizes the effect, and is suitable for a short-term screening study of limited sensitivity. Tr., p. 806.

Thus, the positive findings in the short-term screening studies, which suggest a carcinogenic potential for Red No. 2, must be given considerable weight even though there are several negative tests. In view of the positive results, Red No. 2 should be regarded as a potential or actual mutagen, and thus a potential carcinogen. Mayer G–222, p. 38; Legator, G–223, pp. 20, 34.

E. *Conclusion on Carcinogenicity.* I find that the noncarcinogenicity of Red No. 2 has not been shown, due to the deficiencies in the Taylor/Monlux study and the Webb Rat Study, in combination with the questions of carcinogenicity arising from the Andrianova (Russian) study, and the lymphosarcoma finding in the Taylor/Monlux study singly and as reinforced by the total tumor findings in female rats in this test. These factors are sufficient to deny the petition for Red

No. 2. The results from the short-term screening studies provide additional support for that conclusion.

IV. Chemistry Issues

A. *Introduction.* In addition to providing a hearing on whether the data established that Red No. 2 is not a carcinogen, the Notice of Hearing provided a hearing on whether the statutory considerations support a determination that Red No. 2 is safe. 41 FR 29896, 29897 (July 20, 1976). At the hearing, the Bureau introduced evidence to show that Red No. 2 could not be considered safe due to questions about its purity, stability and metabolism. In its brief to the ALJ and in its exceptions to the Initial Decision, CCMA has maintained that the ALJ should have excluded the Bureau's evidence on these three matters. CCMA also argues that if the issues are reached, they should be resolved in CCMA's favor.

The issues concerning the purity, stability and metabolism of Red No. 2 have been characterized as the "chemistry issue," by CCMA. The Bureau regarded the purity issue as an aspect of the "carcinogenicity issue" rather than as part of the chemistry issue (Bureau Brief, pp. 48–50). All of the issues are discussed in this Decision as part of the chemistry issues because all of them are affected by similar considerations with respect to the appropriateness of a definite resolution in this proceeding.

Before discussing whether the chemistry issues should be resolved in this proceeding, I will summarize the Bureau's evidence with respect to each of these issues, and CCMA's reasons for believing the issues should be decided in its favor. Then, I will discuss the disposition made in the Initial Decision, CCMA's arguments for excluding the chemistry issues, the Bureau's reply, and my reasons for not resolving the issues at this point in this proceeding.

B. *Parties' Contentions on the Chemistry Issues.* 1. *Purity.* At the hearing, the Bureau introduced evidence about the presence of an impurity, alpha naphthylamine, in Red No. 2 and it primary intermediate, as detected by Canadian and FDA investigators. G–269, G–220. Although CCMA disputed the point (CCMA Brief, pp. 200–01), the Bureau introduced evidence showing alpha naphthylamine to be a suspect carcinogen. G–197, G–251–58. The Bureau stated that it was "unknown" whether the positive findings in the chronic feeding studies on Red No. 2 were due to the presence of this impurity. Bureau Brief, pp. 48–49.

CCMA suggested that Red No. 2 could be considered safe, even if alpha naphthylamine might be a carcinogen, because the manufacturers can "remove" the alpha naphthylamine down to any level set in FDA specifications, "even if the specifications were in parts per billion." CCMA Brief, p. 199. CCMA also noted that science cannot measure to zero to assure complete absence of a substance; "the best that science can do is to remove something to the extent that the level approaches zero." Id., P. 198 at n. 1 citing Tr. 652.

On the other hand, the Bureau maintained that "[t]he efforts made to eliminate alpha naphthylamine from Red No. 2 are interesting but, if they are of no avail, as they apparently have been, they are irrelevant in light of the Delaney Amendment." Bureau Brief, p. 12.

2. *Stability During Manufacturing and Storage.* The Bureau maintains that it is reasonable to require proof of Red No. 2's stability before ingestion under conditions of its most important uses in view of the showing that Red No. 2 is unstable in some foods under ordinary conditions of use, the sparse data on its stability in most uses, and the burden of proof on CCMA to show safety. Reply, pp. 49–50; Brief, pp. 93–96, 109.

The Bureau introduced evidence to show that Red No. 2 degraded substantially under ordinary conditions of use in chocolate pudding cookies, beef-flavored analogues, toffees and some other foods. G–5, G–7, G–10, G–17, G–221.

According to CCMA, it is "impossible to answer all questions regarding the stability of any color additive," but nonetheless a substantial amount of evidence showed that there were no legitimate concerns about this aspect of the safety of Red No. 2. Ex. p. 133. CCMA maintains that it is *undisputed* that in the color's "widest uses" (in soft drinks, frozen desserts, dairy products and candy), it is completely stable. Ex., p. 134 citing P–162, p. 8. The Bureau's stability evidence relates only to foods like baked cookies, beef analogues and pudding. Ex., p. 134. In its reply, the Bureau recognizes that Red No. 2 has been shown stable in "some" uses, but states that little information is available on "most" of its uses. Reply, p. 49. Until Red No. 2 is tested for stability "in all of its major proposed uses," it should not be approved generally. Id.

CCMA also argued that Red No. 2 would be safe, even if unstable, because breakdown occurs in the same way that it occurs during metabolism, (that is, at the azo linkage) and only harmless metabolites are produced. Ex., p. 135, citing G–221, p. 7 and P–157, p. 5). CCMA further argued that both halves of the azo linkage are sulfonated, and that, like all sulfonated compounds, the breakdown products are resistant to absorption in the bloodstream, are rapidly excreted from the body, and are rendered non-toxic. Ex., p. 135, citing P–107, p. 31; P–157, p. 37. The Bureau rebuts this arguments by pointing out that in the study cited by CCMA not all the breakdown products were identified. Reply, pp. 49–50; Brief, pp. 94–95, citing P–154, p. 14, P–157, p. 35.

CCMA also maintained that in the foods in which Red No. 2 breaks down it would break down in the same way in test animals and in humans. Therefore if ingestion of the color does not cause harm, as shown in tests on animals, "then the same breakdown which might occur in some few commercial uses would be equally harmless." Ex., p. 139.

According to the Bureau, however, even if animal tests showed Red No. 2 to be safe after ingestion, the tests would not be relevant to show that it is safe with respect to breakdown products prior to ingestion since the color may break down differently in the air than in the body. Brief, p. 95, citing P–157, p. 35; P–154, p. 14.

The Bureau also maintained that Red No. 2 had not been shown to be safe because studies showed that under some conditions Red No. 2 could "readily" desulfonate and could liberate alpha naphthylamine or other potentially harmful byproducts. G–1, G–221, pp. 11–14, P–157, pp. 30–31. The Bureau considered this evidence to be relevant to show concerns about both the stability and the metabolism of Red No. 2. Bureau Brief, pp. 95–96, Reply, p. 50. CCMA argued, though, that the Bureau's evidence to show desulfonation relies on a process that is unrelated to the actual conditions of use of the color and that did not in fact desulfonate the color. Ex., pp. 136–137, citing Tr. 599–657.

3. *Metabolism.* The Bureau maintains that the metabolism of Red No. 2. in animals and in humans is not understood. Reply, p. 50; Brief, pp. 96–97. In one study, researchers were able to recover only 69 percent of a dose administered orally to animals, thereby confirming that they do not fully know the metabolic pathways of Red No. 2 or its toxicity. Reply, p. 50; Brief, pp. 96–97, 109.

The Bureau urged the adoption of a finding that the metabolism of Red No. 2 provides no evidence of its safety because it is not well understood. Bureau Brief, p. 110. In its Brief, the Bureau maintains that Red No. 2 cannot be considered safe until the metabolites are "better identified" and the questions about its metabolism and the fate of

possible metabolites are satisfactorily resolved. Bureau Brief, p. 97. These questions apparently concern whether all the other metabolic by-products are excreted, as maintained by CCMA; whether Red No. 2 could be desulfonated by bacteria in the gut; and whether it could break down into several compounds, not all of which would be sulfonated. Reply, p. 50. CCMA regarded the possibility of desulfonation of Red No. 2 by bacteria in the gut as fairly "impossible." Ex., p. 138, citing Tr., p. 288.

C. *Initial Decision.* The ALJ noted that evidence concerning "the chemical properties" of Red No. 2 and "related chemicals" had been presented. Id., p. 18. He stated that the association of "related chemicals" to Red No. 2 "appears to occur" in three situations: (1) The dye "may contain some of its precursor chemical and breakdown products" before it is added to food; (2) the manufacturing processes and storage of food containing the color cause the formation of other chemicals from Red No. 2; and (3) Red No. 2 is modified or broken down when it is metabolized after ingestion. Id., p. 18.

The ALJ found that "consideration of the properties of Red No. 2 and its related chemicals raise additional unanswered questions as to the safety of the dye." Id., p. 19. The basis for this determination was the "suspicion" that certain metabolites of Red No. 2, formed by breakdown in the body after ingestion, are carcinogenic and that others are unidentified. Id., p. 18. The ALJ also referred to the "problems of degradation" of Red No. 2 during processing and storage, but it is unclear whether he regarded these problems as also creating "unanswered safety questions" or as ones that should be solved by the promulgation of definitive standards for the manufacture, storage, and use of Red No. 2. Id., pp. 18–19. The ALJ did not specifically rely on the purity issue.

D. *Exclusion of the Chemistry Issues; Exceptions.* CCMA objects to any consideration of the chemistry issues in this hearing because the issues were not specifically raised as a basis for the denial of the petition, and they were not set forth as issues for the hearing in the Notice of Hearing. Ex., pp. 43–58. Instead, the Bureau raised them at the Pre-Hearing Conference as issues to be considered as part of the general issue of the safety of Red No. 2 originally designated as a hearing issue at the request of CCMA. CCMA also maintains that adding the chemistry issues would violate the statutory procedures under which the Commissioner is to give his reasons for denying a petition before a hearing is held on objections to the decision. CCMA further argues that addition of the issues would also be inconsistent with the agency's regulations in 21 CFR 12.24 and 12.26 and the court decisions under which agency action must be justified on the grounds used by the agency and not on unasserted grounds.

In addition, CCMA maintains that it is improper to consider this issue in light of a statement in an FDA memorandum on the day after the hearing on Red No. 2 was granted by the then Commissioner. That memorandum stated that:

> Questions concerning stability cannot be answered with the current state of the act (sic) and, therefore, should not be a reason for not listing a color additive. It was agreed that listing regulations would be prepared for those color additives where stability under the conditions of use was the only remaining question to be answered. Ex., Attachment A.

CCMA believes that it would be "an unconscionable denial of fundamental fairness" to require it to resolve questions that cannot be resolved with the current state of the art. Ex., p. 58.

E. *Inclusion of Chemistry Issues; Bureau Reply.* The Bureau sets forth numerous reasons why the chemistry issues were proper issues in the hearing. Among other arguments, the Bureau maintains that if chemistry was an improper matter for consideration at the hearing CCMA should have raised an objection at the prehearing conference. CCMA's failure to object until its Brief before the ALJ was "much too late." Reply, p. 43. CCMA itself raised the chemistry issues in its objections to the Commissioner's order when it argued that the Commissioner failed to consider the statutory requirements of safety set forth in 21 U.S.C. 376(b)(3)(A), and that section requires the stability be considered an issue. Id., p. 44. The Bureau also argues that the stability issue is directly related to the cancer issue, which CCMA agrees is a proper issue in the hearing. Id., p. 45.

The FDA document cited by CCMA to show that stability was never intended to be an issue is double hearsay and is unclear as to whether it was intented to suggest that "stability could not be considered along with other safety considerations at a hearing even though not serving as a separate rationale for not listing a color." Id., p. 48.

Section 371(c)(2) of 21 U.S.C., cited by CCMA, does not state that the hearing may consider only those matters on which objections are filed. Id. Finally, the Bureau urges that notice is the only relevant issue, and that CCMA had ample notice and in fact introduced witnesses who testified on the stability issue. Id.

F. *Analysis.* I believe there is no legal obstacle to consideration of the chemistry issues, in all their aspects, even though they were not included as issues in the notice of hearing. However, even though it would be permissible to consider them, I believe I should not consider them here because it is unnecessary to do so, and because the issues need further examination on a better record and in a broader public proceeding.

I am not persuaded by the arguments of CCMA that the agency is precluded from considering a new issue at a formal hearing solely because it was not specifically included in the notice of hearing. The issues for the hearing were broadly stated, and the specific issues were expressly added by the presiding officer. FDA's current procedural regulations (21 CFR 12.35(b)) permit the presiding officer to add issues to those in the notice of hearing. Moreover, CCMA apparently agreed to the addition of the chemistry issues at the Pre-Hearing Conference, (Tr., p. 59, August 9, 1976) and fully litigated the issues. Consequently, the introduction of the issues into the hearing involved no lack of notice or other procedural unfairness to CCMA.

The Administrative Law Judge correctly rejected CCMA's argument that the hearing must review only the ground expressly asserted by the agency in the Notice of Hearing. Id., p. 6. The agency may rely on grounds not in the original complaint when the party has had notice and a full opportunity to defend. *Golden Grain Macaroni Co.* v. *FTC.* 472 F.2d 882, (5th Cir., 1972), cert. denied, 412 U.S. 918 (1973).

The court cases cited by CCMA, such as *SEC* v. *Chenery Corp.*, 318 U.S. 80 (1943), are not analogous. The cases require an agency to defend agency actions upon judicial review on the grounds articulated by the agency, rather than on post hoc rationalizations first stated in court after the completion of the administrative process. CCMA would apply that principle to preclude an agency from relying on any basis for an administrative decision that had not been expressly stated in the initial notice of hearing, even though the parties had been informed of the specific issue before the hearing and had litigated its relevance to the decision in the administrative process. The proposed extension of the *Chenery* line of cases is unwarranted. The purpose of the *Chenery* rule is to provide the court with the agency's contemporaneous reasons for its action. That purpose has no application to the

administrative process within an agency.

CCMA also cites in support of its position judicial decisions that an agency may not "change theories in midstream without giving respondents reasonable notice of the change." Ex., p. 56, citing *Rodale Press Inc.* v. *FTC.* 407 F.2d 1252, 1256 (D.C. Cir. 1968). Leaving aside the question of whether the agency has changed theories, it is clear that CCMA has had reasonable notice of the chemistry issues, and therefore these cases do not support its position.

The statute should not be interpreted as barring the addition of hearing issues. To do so would preclude the addition of issues that might be important to a sound decision, and that might eliminate the need for a subsequent, largely repetitive hearing. The added issue may grow out of the issues already present. The CCMA argument that FDA's regulations in 21 CFR 12.24 and 12.26 preclude addition without prior consideration by the Commissioner of the objections is in error in view of the clear provision in 21 CFR 12.35(b) permitting the addition of issues, and the fact that 21 CFR 12.26 relates to modification of a rule to eliminate or alter the need for a hearing, and not to the addition of issues after a hearing begins.

Nonetheless, although additional hearing issues "may" be added by the presiding officer, it is not always reasonable and appropriate to add them. I believe that it is not necessary to consider the chemistry issues at this point because the absence of chronic feeding studies adequate to show the safety of Red No. 2 provides, as already discussed, a sufficient basis for denying the petition for permanent listing of Red No. 2 as a color additive. Consequently, it is unnecessary to decide whether the chemistry issues provide separate grounds for denying the petition. If further testing is done that shows Red No. 2 to be safe, it will then be necessary to consider whether there are additional grounds, on the basis of chemistry or any other factor, for denying the petition.

The chemistry issues involve complicated and important matters, on which agency policy is still developing. These questions include the specifications to be set to detect impurities in a color additive when an impurity is a suspect carcinogen and a starting material in making the color, and the overall treatment of nonfunctional constituents of food and color additives. Because these matters were not set as hearing issues, the Commissioner did not need to state before the hearing the agency's position on them. Once the notice of hearing was issued, the agency's regulations imposed a separation of functions requirement, which precluded discussion of the policy issues between the Bureau and the Commissioner. 21 CFR 10.55. As a result, this proceeding did not have the benefit of the usual discussion that occurs when the agency is developing its policy in a new area prior to a hearing.

The record in this proceeding is limited to Red No. 2, and consequently the impact of any general resoluton of the chemistry issues upon other color additives is not apparent from this record. I am reluctant to establish precedent that could have a broad impact on many matters outside this record when it is not necessary to do so, and when deferral of this issue will permit both broader public comment and further deliberation within the agency on the general policy issues.

Moreover, these issues, important as they are, appear to have played a minor role in the hearing. The record is sketchy and less focused and informative than is desirable for a definitive resolution of these matters. For example, it is not clear whether the Bureau believes full metabolic data would be necessary if there were an adequate chronic feeding study that showed the safety of Red No. 2. The Bureau urged the ALJ to adopt a finding that the metabolism of Red No. 2 is not well understood, and, therefore, "provides no evidence of safety." Bureau Brief, p. 110. Although a lack of understanding of metabolism cannot contribute to a showing of safety, this proposed finding seems to stop short of maintaining that gaps in metabolic data necessarily and independently preclude a finding that a substance is safe.

Analogously, on the impurity issue, CCMA has suggested, as stated above, that Red No. 2 could be considered safe even if it is made from a starting material that may be a carcinogen because the manufacturers can "remove" the *alpha*-naphthylamine down to any level set in FDA specifications, "even if specifications were in the parts per billion." CCMA brief, p. 199. In its Brief to the ALJ, the Bureau stated that the efforts to eliminate *alpha*-naphthylamine are "interesting, but, if they are of no avail . . . they are irrelevant in light of the Delaney Amendment." Bureau Brief, p. 12.

Although the Bureau's position may be the correct one for the agency to adopt, because this issue of the level of specifications for impurities can arise with other colors, it is preferable to resolve this issue in a separate proceeding that permits broader public scrutiny.

Similarly, the stability issue is not ripe for decision. The Bureau has shown that certain uses of Red No. 2 are unstable, and states that other uses are stable but does not identify them. CCMA maintains that it is "*undisputed*" that Red No. 2 is stable in its "widest uses." Ex., p. 134. It is unclear whether or not the Bureau agrees with this statement. The issue is too important to resolve definitely on a record that is so unclear. The Bureau called for stability testing of Red No. 2 "in all of its most important uses" Reply, p. 49. Although some further testing appears desirable, I am unsure which food uses would be covered by the finding that more testing is needed and in which uses Red No. 2 has already been shown to be stable. Furthermore, CCMA suggests that changes in manufacturing practices and the conditions of use could eliminate the stability problems. Ex., p. 134, n. 70.

The Bureau also introduced evidence to show that Red No. 2 can break down before ingestion in a way that desulfonates it and may produce harmful by-products. G–1. CCMA maintained that the process of desulfonation used in this test is not reasonably related to the conditions in which Red No. 2 is used in food. Ex., p. 136, citing Bureau witness Link, Tr., pp. 606–57. The Bureau's response to this contention is not clear from the record. A Bureau witness also suggested that color changes in certain foods indicated desulfonation could be occurring (Link, G–221, pp. 13–14), but CCMA suggested another explanation for the color change. CCMA Brief, p. 193 citing G–22, Link, Tr., p. 623. I do not see in the record an explanation of why this particular color change is associated with desulfonation. It may be that the Bureau could make a better showing on this matter if it became the focused basis for a possible denial of approval. Consequently, I will refrain from making any further conclusions on this issue because the record is inadequate to resolve it with confidence.

For the reasons stated, I do not decide the chemistry issues, including the issues of stability, metabolism and purity.

V. *Topical Uses of Red No. 2 in Cosmetics.* A. *Initial Decision and Record.* The Commissioner's order denying the petition for permanent listing of Red No. 2 applied to its "use in food, drugs, and cosmetics." 41 FR 15053 (April 9, 1976). The original petition (CAP No. 36) filed in 1968 sought approval for use in foods, drugs, and cosmetics. Docket 76C 0033, No. 4, Letters to the Commissioner from Hazleton Laboratories, Inc., September

16, 1965. That the topical use of Red No. 2 was intended to be included in that petition is evidenced by a "Proposed regulation" attached to the petition and made part of it by reference wherein it is stated:

(b) Uses and Restrictions: The color additive is safe for general use in coloring foods, ingested or topically applied drugs, lipsticks, and other cosmetics * * *.

In addition, in a May 14, 1974 letter to the Commissioner, the CTFA, successor organization to one of the petitioners, amended the proposed regulations contained in the petition to state:

The color additive is safe for general use in coloring topically applied cosmetics including those intended to be used in the area of the eye.

Docket 76C 0033, No. 4, letter to the Commissioner from Cosmetic Toiletry, and Fragrance Assn., May 14, 1974. It is thus clear that the petition (CAP No. 36) included topical uses of Red No. 2 and that when the Commissioner denied the petition for the permanent listing of Red No. 2 as a color additive for use in foods, drugs, and cosmetics, his order included topical uses of the color.

CTFA objected to the denial of the petition to the extent it related to use in cosmetics applied topically, but CTFA did not request a hearing because it intended to file a new petition for use of Red No. 2 in externally applied cosmetics and request a hearing if that petition were denied. The Commissioner stated, however, that the CCMA's objections and request for a hearing concerning the Commissioner's finding that Red No. 2 has not been shown to be safe raised the color's safety for all intended uses. The Commissioner concluded that the issues raised by CTFA's objections would necessarily be aired at the evidentiary hearing and that a "separate and repetitive hearing on the same issues" would not be granted if a new petition were filed. 41 FR 29896, 29897 (July 20, 1976). The Commissioner granted a hearing on, among other things, whether Red No. 2, if not approvable for all petitioned uses, may be approvable for certain limited uses. Id.

Both CCMA and CTFA appeared at a prehearing conference and objected to the inclusion of topical uses as an issue. Transcript of Pre-Hearing Conference at 6–8, August 9, 1976. In a pre-hearing order, the ALJ ruled that the safety of the topical use of Red No. 2 was properly an issue in the hearing. Id. at 9–10.

Neither CCMA nor CTFA took an interlocutory appeal from this order, as each could have done. See 21 CFR 2.89 (1976) as modified by order of the ALJ. Id. at 5. CTFA later withdrew from the proceeding and stated that it was unnecessary for it to appear with respect to ingested cosmetics and that consideration in the evidentiary hearing of topical uses would be "inappropriate and unlawful." In its Withdrawal of Appearance, CTFA stated that CCMA's objections related to the other uses of Red No. 2 had been withdrawn to the extent they could be construed as applying to topical uses. Furthermore, CTFA argued that the safety of Red No. 2 for topical uses had not been properly evaluated by FDA, and the FDA denial of listing "was based solely on safety questions allegedly raised by studies relating to ingestion of the additive." Docket 76C 0033, No. 29, Withdrawal of Appearance of CTFA, p. 2.

The Initial Decision does not discuss the applicability of the proceeding to topical uses, but finds that Red No. 2 cannot be approved for certain limited uses (in effect prohibiting topical uses), and recommends an order that would completely deny the petition for permanent listing. Id, p. 20–21. No exceptions were taken on this point, but the Bureau in its reply suggested that it would be appropriate to discuss the evidence on topical uses in this decision. Reply, p. 3 n. 1.

The Bureau was the only participant to present information at the hearing about topical uses. Testimony indicated that Red No. 2 used in cosmetics would be expected to go through the skin but the amount could not be estimated without an experiment. Scheuplein, G–225, p. 10–11. Other evidence related to the inadequacies of animal skin painting studies on Red No. 2 to show its safety with respect to the risk of skin cancer. Weinberger, G–218, p. 20. CCMA introduced no evidence on topical uses and even proposed a conclusion of law that "no evidence was introduced in this hearing on the topical uses of FD&C Red No. 2, and accordingly, it was not shown to be safe for this use." CCMA Brief, p. 226.

B. *Analysis.* As indicated earlier, the order denying the listing of Red No. 2 applies to all its uses, including topical uses. 41 FR 15053 (April 9, 1976). Consequently, the order issued by the Commissioner applies to the topical uses of Red No. 2, and interested persons had an opportunity to obtain a hearing on the appropriateness of that order. Since no evidence was introduced at the hearing to show that Red No. 2 should be permitted to be used in topical applications, there is no reason to alter the original order that denies completely the petition to list permanently Red No. 2. In this proceeding, I have determined that Red No. 2 cannot be approved for use as a color additive because there is no adequate study that shows with reasonable certainty that it is not a carcinogen. I believe that a repetitive hearing on the same issues should be avoided in the future.

VI. Findings of Fact

Cancer

1. The Webb rat study (P–2) is deficient and cannot be considered as important evidence of the safety of Red No. 2 for the following reasons:

a. Insufficient histopathologic examination was conducted or animal tissues in this study. G–11, p. 51; Borzelleca, T. 114; Weinberger, G–0272, G–218, p. 14.

b. The gross pathology in the study was not acceptable because it was performed on shruken, hardened, and discolored tissues, which had been fixed in formalin. Weinberger, G–218, p. 14.

c. The test animals suffered from intercurrent disease, which was unrelated to the test chemical. This fact made attribution of any effect or lack thereof to Red No. 2 impossible. Smuckler, G–217, p. 15.

d. Due to low survivorship and a high rate of autolysis, the number of animal tissues examined in the study was insufficient to provide confidence that the study would have detected a carcinogenic effect of the chemical. Weinberger, G–218, p. 15; Smuckler, G–217, p. 15.

2. The 1961 Webb mouse study (P–3) cannot be deemed proof of safety of Red No. 2 for the following reasons:

a. Low survivorship and autolysis lowered the number of observable tissues to the extent that the study was unable to detect any but the stronger carcinogen. Weinberger, G–218, pp. 17–18; Schneiderman, G–227, p. 11.

b. The quality of the gross pathology in this study was unacceptable. Weinberger, G–218, p. 17.

c. The histopathology performed following sacrifice was inadequate. Weinberger, G–218, p. 17; Smuckler, G–217, p. 19.

d. Intercurrent disease, including parasites, pervaded the mouse population and thereby rendered impossible attribution of any effect or lack thereof to the chemical. Smuckler, G–217, p. 20.

3. The dog study (P–5) cannot be given any weight in proving the safety of Red No. 2 due to the small number of dogs administered the compound in the study. Gaylor, G–226, p. 30; Weinberger, G–218, p. 18; Smuckler, G–217, p. 8. Furthermore, the dog is not a good animal to use in such a study unless the

purpose of the study is specifically to look for bladder tumors. Smuckler, G–217, p. 9.

4. The results from the FDA Taylor/Monlux chronic feeding study (P–6, P–7, 1975) provide strong presumptive evidence of the carcinogenicity of FD&C Red No. 2. Gaylor, G–226, pp. 18 ff; Schneiderman, G–227, pp. 17–18.

5. In the Taylor/Monlux chronic feeding study there was a dose response concerning lymphosarcomas. Gaylor, G–226, pp. 25–6; Schneiderman, G–227, p. 18.

6. The so-called mix-up in the Taylor/Monlux chronic feeding study could only have meant that the true cancer rate caused by Red No. 2 may be greater than, but could under no circumstances be less than, that shown in the study. Gaylor, G–226, pp. 26, 41–43. The extent and impact of the mix-up cannot be determined with reasonable confidence. P–41, Minutes of Toxicology Advisory Comm., p. 4 (March 8–9, 1976).

7. The deficiencies in the Taylor/Monlux chronic feeding study, to the extent that they effectively decreased the number of tissues that could have been examined histopathologically after 24 months, could only cause greater concern about the carcinogenicity of Red No. 2, because the smaller a study that picks up a positive effect, the more potent that effect must be. Gaylor, G–226, p. 39; Schneiderman, G–227, p. 13.

8. The variety of tumors seen in the Taylor/Monlux chronic feeding study raise a suspicion of cancer and preclude a finding based on that study that the substance is not a carcinogen. Farber, G–219, p. 7.

9. The Taylor/Monlux chronic feeding study is inadequate to evaluate the safety of Red No. 2 due to the high incidence of intercurrent renal disease. Smuckler, G–217, p. 23.

10. The finding of a dose response in lymphosarcomas in the FDA chronic feeding study is important in light of the finding of lymphosarcomas in the Andrianova study. (G–14).

11. Simultaneous statistical inference is an inappropriate technique to use to analyze dose-response data because it ignores relevant biological information (Gaylor, G–226, p. 27, Tr., p. 949), and may increase the risk of a false negative to unacceptable levels (Tr., p. 971).

12. A one-tail test is more appropriate than a two-tail test for analyzing data from experiments to determine safety because a one-tail test will give the maximum information about the safety of the test compound. Schneiderman, G–227, p. 19.

13. The Russian study by Andrianova (G–14) supports the conclusion that FD&C Red No. 2 has not been shown with reasonable certainty not to be a carcinogen because the Russians obtained a highly statistically significant positive result for the amaranth, tested against both positive and negative controls. Gaylor, G–226, p. 29.

14. It is uncertain whether the Andrianova study tested a substance that is chemically equivalent to FD&C Red No. 2. P–16, pp. 13–14, P–145.

15. The other studies by Mannell and Grice (P–1), and Nelson (G–270) do not provide evidence of the safety of Red No. 2 because, inter alia, the studies were too small to allow confidence in a negative result. P–150(2), p. 52, G–208, p. 9.

16. One cannot conclude from the fact of long-time use of FD&C Red No. 2 in the food supply that it is safe. Legator, G–223, pp. 30–31.

Mutagenicity

17. A chemical that is a mutagen is also a potential carcinogen. G–222, p. 35; G–223, pp. 28–29; G–224, pp. 4–5; P–151, pp. 16, 30–31, 35, Tr., pp. 867–68.

18. Results achieved in cytogenetics experiments, a short-term screening study for mutagenic potential, indicate that Red No. 2 and a known metabolite are potential carcinogens.

a. Dr. Legator, witness for the Bureau, is a recognized expert in in vivo cytogenetic testing. G–223, pp. 6–7.

b. The in vivo cytogenetics experiment performed by Frances Moreland produced positive cytogenetic effects for the R-amino salt metabolite of Red No. 2 and for Red No. 2 itself. G–3, p. 4; G–223, p. 17; Tr., p. 792.

c. The in vitro anaphase cytogenetics test performed by the Stanford Research Institute also showed a cytogenetic effect caused by Red No. 2. P–90, pp. 36, 38; G–223, p. 19; Tr., p. 801.

d. The use of intraperitoneal administration in an in vivo cytogenetics experiment is appropriate (Tr., p. 806; G–223, pp. 15, 16), and in fact is advisable because it maximizes the chance of observing a positive effect. Tr., pp. 805–806.

e. Chromatid and chromosomal breaks, observed in the cytogenetic studies, are clear indications that the substances tested cause cytogenetic effects, since any substance that causes chromatid breaks will also cause the other types of aberrations observable in cytogenetic experimentation. Tr., pp. 786–787, 798, 857.

f. Dr. Brusick's criticism of the in vivo cytogenetics test results on the ground that the concurrent controls used for evaluation had an abnormally low spontaneous rate of cytogenetic effects, as compared to an average spontaneous rate in different strains in historical controls, as observed in other laboratories (Tr., pp. 430–31), is invalid. There is a great deal of variability between strains (Tr., pp. 428, 870) and between laboratories (Tr., p. 439) and between particular effects (Tr., p. 437) in evaluating the results of cytogenetic tests (Tr., p. 443). The historical control results against which Dr. Brusick was measuring concurrent controls in several tests were from averages or ranges using unspecified strains or sublines observed in different laboratories under unspecified conditions (P–151, pp. 42–43) or reflected a range of historical spontaneous background aberrations observed in other laboratories under unspecified conditions (P–151, p. 48). These are invalid comparisons for the purpose of establishing and utilizing a control for the evaluation of data from a particular experiment (Tr., pp. 77, 439). He also agreed that if a particular strain had a consistently low control level, the use of that control level value is proper. (Tr., p. 870).

g. The positive results achieved in the cytogenetics experiments suggest that a test substance, in this case, FD&C Red No. 2, is in fact a carcinogen. Tr., pp. 862, 868, 790–91, 795–96.

19. Mutagenesis testing in drosophila produced strong evidence that Red No. 2 is a mutagen.

a. The two drosophila tests that did not produce positive results with Red No. 2 do not invalidate the strong positive achieved in the Oster study because more than two non-positive tests would be required to negate a positive test even if the conditions under which all were performed were identical (G–227, p. 24; Tr., p. 669); and because (1) the test strains used in the three studies were different (G–222, p. 28) and (2) the test flies used in the Oster study were starved, providing a certainty, not present in the other two tests, that the flies actually consumed the Red No. 2 used (G.–222, p. 28).

b. Red No. 2 produced clearly positive mutagenetic results in two tests run by Dr. Oster (G–4, p. 1; G–226, pp. 44–45; G–222, pp. 21, 26–27), of particular importance in light of the admitted expertise of Dr. Oster in drosophila testing. P–151, p. 43.

c. The charge that the Oster study was too small is invalid in light of the fact that the statistical analysis of the study took into account the study size and still found a significant positive result. Tr., pp. 415, 443.

d. The Oster study results were based upon a valid concurrent control, which was in line with other control figures achieved by Dr. Oster in the same laboratory at about the same time, the most appropriate control group to use

for purposes of comparison (Tr., p. 442) in light of the fact that strains may vary in the levels of spontaneous mutations they produce (Tr., pp. 870, 872). The finding is particularly significant in light of the fact that statistical significance was found when the positive results observed were compared with the combined negative control figures for all of the experiments that Dr. Oster performed. Tr., p. 675.

e. In light of the fact that the sex-linked recessive lethal test is more sensitive than the other tests run by Dr. Oster (Tr., pp. 434, 667–68; G–185, pp. 128–29), it is not significant that the less sensitive tests performed by Dr. Oster do not show a mutagenetic effect for Red No. 2. Tr., pp. 667–68.

20. The R–amino salt of Red No. 2 produced a clearly positive result in the specific locus assay utilizing L5178Y mouse lymphoma.

a. The results achieved in the mouse lymphoma assay were clearly positive (G–165; G–223, p. 23; G–151, p. 70). If the mutagenetic effect observed is caused by the quinone of the R-amino salt, cause for concern remains since quinones are known to be formed in the body. G–165.

b. Results in the mouse lymphoma assay appear to correlate well with carcinogenesis. P–151, pp. 73–74.

21. The positive result observed in the dominant lethal assay, particularly in light of the insensitivity of that test, shows that Red No. 2 is mutagenic.

a. The dominant lethal assay is considered to be the least sensitive mutagenicity test. G–223, p. 22, Tr., p. 468.

b. A positive effect caused by the R-amino salt of Red No. 2 was observed in a dominant lethal assay. G–165; G–226, pp. 51–52.

c. Dr. Brusick's criticism of the positive finding as being caused by an abnormally low rate of spontaneous dominant lethal effects in the concurrent control is unsupported and may be the result of comparison with historical controls, which can vary in incidence of spontaneous dominant lethal effects due to several factors, including the solvent used. Tr., pp. 436, 477–78.

d. Dr. Brusick's criticism of the positive dominant lethal study as using too toxic a dose in the highest level of administration is speculative. Tr., p. 472.

e. Dr. Brusick's suggestion that the dominant lethal assay should be used as a "risk evaluation test" and his contention that the dominant lethal assay should use the relatively insensitive ingestion route of administration are not accepted in light of the fact that the dominant lethal assay is relatively insensitive (Tr., p. 468) and that, by Dr. Brusick's own admission, the finding of a negative in a dominant lethal test provides no assurance that the chemical tested is not a carcinogen. Tr., p. 868.

22. The failure of Red No. 2 and four of its known metabolites to produce a positive effect in the Ames bacteria test does not indicate that Red No. 2 is not a mutagen.

a. A negative response in the Ames test should not be taken as an indication that the chemical involved is clearly not a mutagen. G–224, p. 6; G–223, pp. 20, 25–26.

b. Since Red No. 2 is metabolized in the gut rather than in the liver (G–224, p. 8; P–151, p. 62), Red No. 2 may well need to be metabolized before it causes a carcinogenic effect (P–151, pp. 34–35), and would not be expected to cause a mutagenic effect in the Ames test, even if it were a mutagen and carcinogen. P–151, p. 35; G–224, p. 8.

c. The testing of the known metabolites of Red No. 2 in the Ames test does not show that Red No. 2, when metabolized in the body, would not be mutagenic because it is not known what all of the metabolites of Red No. 2 are. Tr., pp. 410, 505; G–224, p. 8; G–223, p. 25.

d. Because Red No. 2 requires bioactivation in an organ other than the liver, the Ames test is insensitive test for determining its mutagenicity. Tr., 412; G–223, p. 24–25; P–159, p. 6.

23. The yeast studies done with Red No. 2 and its metabolites do not show them not to be mutagens.

a. The yeast study may have the same need for proper bioactivation as the Ames test. G–222, p. 32.

b. Yeast cells are not as permeable to larger molecules as are, for instance, the modified bacteria used in the Ames system and thus may be less likely to show a mutagenic effect. G–222, p. 32; Tr., p. 500.

24. No other study shows Red No. 2 not to be mutagenetic.

a. Neither the test for teratogenicity nor the multi-generation reproductivity study is an acceptable study for mutagenicity, since it would be very unlikely that anyone would observe a mutation in them. Tr., p. 427.

b. The host-mediated assay is so insensitive that it has been discontinued as a screening tool in many testing laboratories. P–151, p. 26.

25. CCMA's suggestion that the positive results achieved with the R-amino salt in the Moreland cytogenetic tests, the FDA dominant lethal test, and the mouse lymphoma test could be ascribed to an impurity in the sample used is speculative (Tr., pp. 856–57) and conflicts with what evidence there is on this subject. Tr., pp. 808–09.

26. The range of results achieved with Red No. 2 in mutagenicity testing is not unusual for an active mutagen (G–223, p. 20; Tr., pp. 434–35; G–224, p. 7), and it is thus necessary to consider the entire set of results achieved. G–224, p. 6; G–223, pp. 26–27.

27. Expert opinion indicates that Red No. 2 has been shown by mutagenicity testing to be a potential carcinogen. Mayer, G–222, p. 38, Legator, G–223, p. 34.

Topical Uses

28. Petitioner submitted no evidence of safety of Red No. 2 for topical uses.

29. Red No. 2, when applied topically, is reasonably expected to be absorbed through the skin, although the amount that would be absorbed cannot be estimated without an experiment. Scheuplein, G–225, pp. 9–11.

30. The skin painting studies (G–118, 119) cannot serve as evidence of Red No. 2's safety in regard to skin cancer, since their duration was short (90 days), survivorship of the animals was low, and autolysis was unacceptably high. Weinberger, G–218, p. 20.

VII. Conclusion of Law

1. The burden of proof in this hearing rests upon the Petitioner, who must prove safety on all issues to a reasonable certainty.

2. Petitioner has not proven to a reasonable certainty that FD&C Red No. 2 is not a carcinogen in man or animals.

3. Petitioner has not proven to a reasonable certainty that FD&C Red No. 2 is safe for topical uses.

VIII. Order

The petition for permanent listing of FD&C Red No. 2 (CAP 36) is denied.

In accordance with sections 701(e)(3) and 706(d) of the act (21 U.S.C. 371(e)(3) and 376(d)) this order is made effective April 24, 1980.

Dated: January 15, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

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Friday
January 25, 1980

Part III

Interagency Regulatory Liaison Group (IRLG)

Report on IRLG: Recent Accomplishments and 1980/81 Plans

INTERAGENCY REGULATORY LIAISON GROUP

Report on IRLG; Recent Accomplishments and 1980/81 Plans

AGENCY: Interagency Regulatory Liaison Group (IRLG), representing the Consumer Product Safety Commission (CPSC); the Environmental Protection Agency (EPA); the Food and Drug Administration, Department of Health, Education and Welfare (FDA); the Food Safety and Quality Service, Department of Agriculture (FSQS); and the Occupational Safety and Health Administration, Department of Labor (OSHA).

TITLE: Interagency Regulatory Liaison Group Report—"IRLG: Recent Accomplishments and 1980/81 Plans."

AGENCIES: IRLG is composed of CPSC/EPA/FDA/FSQS/OSHA.

ACTION: Report on IRLG accomplishments and plans.

SUMMARY: This notice publishes and requests comments on a report of IRLG activity entitled: "IRLG: Recent Accomplishments and 1980/81 Plans." Comments are requested both on the plans and on specific activities which afford the most effective opportunities for public participation.

DATE: Written comments are requested to be submitted on or before April 9, 1980.

ADDRESS: Written comments should be addressed to Ms. Susan Guenette, Executive Assistant, Interagency Regulatory Liaison Group, Room 509, 1111 18th Street, N.W., Washington, D.C. 20207. Comments maybe examined in the IRLG Office located at the above address from 9:00 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION OR QUESTIONS CONTACT: Ms. Susan Guenette, 202–634–4356.

FOR COPIES OF THIS NOTICE CONTACT: Industry Assistance Office (TS 799), U.S. Environmental Protection Agency, 401, M Street, S.W., Washington, D.C. 20460; or telephone toll-free 800–424–9065 or in Washington 554–1404.

SUPPLEMENTARY INFORMATION:

Background

The Interagency Regulatory Liaison Group was formed in 1977 by the heads of four agencies—Consumer Product Safety Commission, Environmental Protection Agency, Food and Drug Administration and the Occupational Safety and Health Administration—to improve the public health through sharing of information, avoiding duplication of effort and developing consistent regulatory policy (see 42 FR 54856 for the original Interagency Agreement). In December 1978, the Food Safety and Quality Service, Department of Agruiclture, also joined the IRLG.

The IRLG has previously published reprints of their plans (see 43 FR 7174 for a copy of the original IRLG Work Plans) and accomplishments (see 44 FR 100).

Summary of Plans for 1980/81

The IRLG has prepared plans for activities to be undertaken in 1980/81. These plans, published below, describe eleven areas of activity aimed at improving cooperation and coordination among member agencies. The following are the seven areas IRLG particularly intends to emphasize.

I. Economic Analysis

The IRLG has initiated a major effort to improve the agencies' ability to analyze the economic consequences of their programs. This will include a review of the methodologies used in estimating the benefits of regulatory actions, a review of selected, existing regulations to compare actual with predicted economic consequences and an evaluation of the feasibility of a joint data base on the economic characteristics of the U.S. chemical industry. The last project's purpose is to support better and less costly economic impact analysis by member agencies.

II. Testing Standards and Guidelines

The IRLG intends to accelerate the completion of these guidelines and plans to prepare seventeen health effects guidelines and four others for public comment in FY 1981. In addition, the Work Group will attempt to determine if batteries of standard tests can produce an amount of data sufficient for an accurate toxicological characterization of a chemical at reduced cost. For ecological effects, the emphasis will be on completing nine gidelines and on exploring the use of short-term tests.

III. Inspection Referral System

In FY 1980, the agencies will complete the development of this system aimed at improving compliance and enforcement efforts. The action does include designing the final referral forms, developing referral instructions, publishing the inspector training guides, and detemining the most cost-effective methods of training agency inspectors. A public notice and comment period will be given for this system. Actual training of agency inspectors and implementation of the program in all the regions will also begin in 1980.

IV. Regulatory Development

The agecies will sponsor a number of joint public hearings, regulatory analyses and research projects. They also expect jointly to propose rules or promulgate joint or concurrent final rules.

V. Risk Assessment

Having completed the carcinogenicity risk assessment document, IRLG will focus on developing similar documents for mutagenicity, teratogenicity and other reproductive effects.

VI. Laboratories and Analytical Methods

This is a new project focusing on improving our capabilities for determining the presence of toxic substances in our environment. The project will evaluate the adequacy of existing analytical techniques to detect the presence of toxic substances in various types of samples and also the feasibility of jointly improving techniques to fill the most important existing analytical gaps. It will also include the supply of and demand for toxicity testing and analytical laboratories in both the public and private sectors.

VII. Regional Coordination

To improve regional coordination, particular emphasis will be placed on the areas of inspection referrals, emergency response, laboratory sharing and public information.

Request for Comments

The IRLG seeks comments on these plans and on what other actions it might take to most effectively promote our goals of avoiding duplication of effort and developing consistent regulatory policy. The IRLG is also interested in determining the possibilites of and interests in expanded public participation in these activities. To this end, we also seek comments on: (1) which of these activities the public would be most interested in participating in; and (2) how such public participation might best occur.

Dated: January 14, 1980.

Edwin H. Clark II,

Chairman, Interagency Regulatory Liaison Group.

IRLG: Report of Accomplishments and Plans for 1980/81

I. Economic Analysis

A. Focus of Activity. The focus of activity is to cooperate in collecting economic information and conducting economic analyses so as to improve the information available to the agencies

and to reduce the amount of resources they have to devote to undertaking economic analyses in support of regulatory actions.

B. Accomplishments to Date. A major study is underway of the benefit estimates sponsored by the agencies. The purpose of the study is to provide a summary of the existing benefit studies, to analyze the appropriateness of the methods used in these studies for supporting regulatory decisions, and to develop revised methodologies for making such estimates which are more accurate and better suited to the needs of the regulatory agencies.

EPA and OSHA are sponsoring a joint study of the economic impact of their regulations on the lead smelting industry. All of the agencies have exchanged information on economic studies they are sponsoring and economic data bases they have collected.

C. Planned Activities in Fiscal Year 1980. The IRLG will place particular emphasis on this area of activity in FY 1980. In addition to continuing to share economic data analyses, and looking for opportunities to sponsor joint economic impact analyses, the agencies will:

- Complete most of the phases of the recently initiated study analyzing the benefits and benefit estimating methodologies of the different agencies. This study should serve to improve the capabilities of the agencies to undertake adequate benefit analyses in conjunction with future regulatory proposals.
- Initiate a study of the economic consequences of selected regulations that are already implemented. The purpose of this study will be to determine what the actual impacts of the regulations were on such factors as industry compliance expenditures, innovation, plant closures, production, etc., and attempt to compare these actual impacts with those that were projected to occur when the regulations were initially proposed.
- Analyze the feasibility of developing a joint data base on the economic characteristics of the chemical industry which all of the agencies could use in conducting economic impact analyses of proposed regulations.

D. Planned Activities for Fiscal Year 1981. In FY 1981 the agencies will continue both to exchange information on economic studies and data bases and to search for opportunities for jointly conducting economic impact analyses of proposed regulations.

In addition, they will complete the analyses described under the FY 1980 plans and the individual agencies will evaluate the desirability and feasibility of incorporating the results of these analyses in their own regulatory development and economic, analysis programs.

II. Testing Standards and Guidelines

A. Focus of Activity. Among currently requires tests, differences exist primarily in details on methodology and not in fundamental toxicological principles. The goal of the Work Group is to resolve differences and develop guidelines which, when used appropriately, will generate data acceptable to all IRLG agencies. This consistent approach to testing will lessen the burden on regulated industries, and ensure that the different agencies receive consistent test results.

B. Accomplishments to Date. The Work Group completed five draft health effects testing guidelines. These have been reviewed by the staffs of the agencies and released for public comment. The guidelines cover testing for eye irritation, acute dermal toxicity, acute inhalation toxicity, acute oral toxicity and teratogenicity. Guidelines for an additional twelve health effects and nine environmental tests have been drafted in part or in total.

C. Planned Activities for Fiscal Year 1980.

(1) Complete the following health effects guidelines: acute eye irritation, acute dermal toxicity, acute inhalation toxicity, acute oral toxicity, and teratogenicity.

(2) Release the following health effects guidelines for staff and public comment: subchronic ingestion, subchronic dermal, reproduction, primary skin irritation, chronic toxicity, carcinogenicity, combined chronic/carcinogenicity, and subchronic inhalation.

(3) Release the following health effects guidelines for agency staff comments: perinatal, mutagenicity, metabolism, and multi-generation reproduction.

(4) Begin to develop guidelines for behavioral studies, neurological tests, and short term tests, which were proposed as long term goals in the original work plan. Development of a guideline determining chemical effects on immune systems will also be initiated.

(5) Release the following environmental testing guidelines for staff and public comment: vapor pressure; octanol/water partitioning coefficient; hydrolysis; Daphnia, acute life cycle toxicity; water solubility and Mayfly acute toxicity.

(6) Release the following environmental guidelines for staff review: biodegradation, four screening procedures; absorption/desorption; and soil thin layer chromatography.

(7) Explore the use of in vitro tests for environmental toxicology.

(8) Determine a battery of standard tests required to produce an amount of data sufficient for an accurate toxicological characterization of a chemical at the least possible cost. It is probable that different combinations will be required to meet specific purposes; for example, to characterize a food additive will probably require a different combination of standard tests than those required to characterize a pesticide.

(9) Begin to develop criteria for extrapolating animal test data to assess human health effects.

D. Planned Activities for Fiscal Year 1981.

(1) Complete the 12 health effects guidelines listed in #2 and #3 in Fiscal Year 1980 plan.

(2) Release the four health effects guidelines listed in #4 for public comment.

(3) Increase efforts on tasks listed in #8 and #9.

(4) Begin to compare data from IRLG guidelines to data from other test procedures to assess need for modification.

(5) Complete environmental guidelines listed in #5 and #6.

(6) Incorporate in vitro workshop recommendations into environmental work plan.

Status of Projects 3, 6, and 7—Standardization of Guidelines

Through agency technical review: Preamble review by general counsels	Through work group: Ready for agency technical review	Draft under work group review or in preparation
Health Effects		
Eye Irritation[1]	Subchronic Ingestion[2]	Subchronic Inhalation.[2]
Acute Dermal[1]	Subchronic Dermal[2]	Chronic Toxicity.[2]
Acute Inhalation[1]	Reproduction[2]	Perinatal.[2]
Acute Oral[1]	Primary Skin Irr.[1]	Combined Chronic—Carcinogenicity.[2]
Teratogenicity[2]		Carcinogenicity.[2]
		Mutagenicity.[3]
		Metabolism.[3]
		Multigeneration Reproduction.[4]

Environmental Effects

Vapor Pressure[1]	Octanol/Water Partitioning coefficient[1]	Mayfly Acute Toxicity.[2]
	Water Solubility[1]	Soil Thin Layer Chromatography.[2]
	Hydrolysis[1]	
	Daphnia, acute life cycle toxicity tests[1]	
	Biodegradation—four screening procedures[3].	
	Adsorption/Desorption[1]	

[1] Short Term Goal—Work Group action within 6 months (Project 3).
[2] Intermediate Goal Work Group action within 6–12 months (Project 6).
[3] Long Term Goal—Work Group action after 1 year (Project 7).

NOTE.—Work Group members are working with OECD committees developing international guidelines for toxicology.

III. Compliance and Enforcement

(Inspection Referral System)

A. Focus of Activity. This activity will improve the coordination of the agencies' compliance and enforcement efforts at both the headquarters and regional levels in order to use resources more effectively and efficiently in protecting public health.

B. Accomplishments to Date. A headquarters-based work group has developed all the components of a referral inspection system whereby inspectors from one agency will refer possible violations of another agency's regulations to that agency. The components of this system include training manuals summarizing all of the regulatory programs of the different agencies, inspection referral forms, and guidelines for appropriate use of inspection referrals. The training manuals have been field tested and are being published. All the regions have already begun to implement inspection referral programs in at least a limited way.

The headquarters work group also integrated the IRLG agencies into the EPA/DOT emergency response system at both headquarters and field levels. This will allow all the agencies to be notified of and included in efforts to respond to emergency situations involving hazardous substances. The procedures for notifying the agencies have been incorporated into the National Contingency Plan and all the agencies are now included on the National Response Team. The regions are working out the details on how they will coordinate the agencies at the regional and state level in such emergencies. This has already worked well in several situations.

The Work Group explored the feasibility and desirability of implementing joint inspection (where inspectors from two or more agencies work together) and crossover inspections (where an inspector from one agency actually conducts inspections for another agency). Joint inspections were found to be feasible and desirable in limited situations. They have begun to be used in many regions. Crossover inspections were not found to be feasible at this time because of the legal, substantive, and personnel problems they would entail.

C. Planned Activities for Fiscal Year 1980. The emphasis in compliance and enforcement in FY 1980 will be on implementing the field inspection referral system in all the regions. This involves finalizing the referral form and accompanying guidelines for using the forms, completing the publication of the training manuals, completing the recommendations for adequate cost-effective training programs in the regions, submitting the entire inspection referral package for public comment, and undertaking the training of the field inspections.

In addition to implementing the full inspection referral program, the agencies will ensure that effective emergency response networks have been established in all of the regions, complete the guidelines for conducting joint inspections, and continue to share expert witnesses, analyze compliance samples for one another, share information about the use and discharge of toxic substances, and undertake other cooperative activities in support of the agencies' compliance programs.

D. Planned Activities for Fiscal Year 1981. The agencies will continue to implement the referral inspection, joint inspection, and the emergency response system, and to cooperate on other aspects of their field compliance and enforcement efforts such as sharing expert witnesses, analyzing compliance samples for one another, sharing information about the use and discharge of toxic substances, etc.

In addition, the agencies will evaluate the inspection referral and joint inspection programs to determine whether they are working effectively and providing the expected benefits. On the basis of this review, they will evaluate: (1) the need for possible modifications in the existing system and (2) the feasibility and advantages of extending the system to the state level.

IV. Regulatory Development

A. Focus of Activity. The focus of activity is coordinating interagency regulatory activities on 27 potentially hazardous substances, including joint sponsoring or sharing research and regulatory analyses, sharing information on health and environmental effects, conducting joint public meetings and hearings, insuring that the agencies regulatory actions and plans are consistent and, where possible, develop joint rulemaking activities. With this activity is a commitment to inform the public on the rationale, activities and plans of the agencies for undertaking regulatory actions.

B. Accomplishments to Date. The Regulatory Development Work Group has identified 27 substances which are of concern to two or more of the IRLG agencies. These include: acrylonitrile, arsenic, asbestos, benzene, benzidine-type dyes, beryllium, cadmium, chloroform and related solvents, chlorofluorocarbons, chromates, coke oven emissions, dibromocholorpropane (DBCP), diethylstibestrol (DES), dioxins, ethylene dibromide (EDB), ethylene oxide (ETO) and its residues, formaldehyde, lead, mercury, nitrosamines, ozone, polybrominated biphenyls (PPB's), polychlorinated biphenyls (PCB's), radiation, sulfur dioxide, vinyl chloride and polyvinyl chloride, and waste disposal (sewage).

A special task group was established for each of these to ensure that the agency regulatory development activities and plans were coordinated. These groups, among other things, are sharing research projects, exchanging information on health and environmental effects, sharing regulatory options analyses, and developing consistent regulatory policy and joint/concurrent rulemaking. For example, in April 1979, by coordinated, interagency action, FDA and EPA concurrently, with CPSC assistance, banned non-essential uses of chlorofluorocarbon propellants in aerosols. Another example took place in September 1977 when EPA, OSHA and FDA took coordinated action to protect farmers, workers and the general public from the possible dangers of the pesticide dibromochloropropane (DBCP). The agencies set emergency temporary standards to limit worker exposure, proposed suspension of crop applications and other uses and started a food monitoring program to assure that the public was not consuming unsafe amounts of the substance.

To better inform the public about the regulatory activities of the agencies, in early 1979, the Work Group published "Hazardous Substances," a document describing the work plans for regulatory development for 24 hazardous substances. The document included sections on background, issues, regulatory authority, proposed actions/schedules, telephone contacts and recommendations. The information is being updated semiannually by the publication of the "Regulatory Reporter". The first issue was published in June 1979.

C. Planned Activities for Fiscal Year 1980. Increased cooperation will be placed on coordinated chemical development for specific chemicals of common concern. For each selected chemical (presently there are 27), task groups with interagency representation will meet at least quarterly to share information on developments in the individual agencies, analyze prospects for joint action, and ensure that the total hazard from the substances is being addressed. As new potentially hazardous substances are identified for regulatory action by two or more of the IRLG agencies, a new IRLG task group will be created to coordinate activities on each. To assure that appropriate interagency cooperation has taken place, any proposed rulemaking being considered for agency approval regarding one of the 27 substances and any new substances added to the list, will include certification of specific coordination which has occurred.

In addition, during FY 1980 the agencies plan to jointly fund research, have the appropriate interagency task group jointly analyze research results, and jointly assess regulatory options for a number of chemicals to address perceived health and safety problems. For selected substances, they will also hold joint public meetings, undertake a joint or concurrent Announcement/s Proposed Rulemaking, jointly propose rules or promulgate joint or conncurrent final rules.

D. Planned Activities for Fiscal Year 1981. Strong emphasis will continue to be placed on coordinating regulatory development for specific chemicals of interest to two or more of the IRLG agencies. With the completion in FY 1980 of research projects and regulatory options analyses related to specific chemicals, there will be greater opportunity to identify potential joint/concurrent rulemaking candidate than is possible at this time. Nevertheless, there ar numerous areas of interagency cooordination that can be reasonably forecast to occur.

Task groups handling interagency regulatory development coordination on approximately 27 chemicals will continue to meet at least quarterly in order to appraise their individual agencies of joint interagency regulatory progress. It is estimated that 3 or more new chemicals will be added to the present list of 27 and that a corresponding number of chemicals will be dropped from the list. There will be jointly funded research and joint analyses research results on several chemicals. For selected substances, there will also be jointly conducted public meeting/hearings, joint review of regulatory options, joint/concurrent Advanced Notices of Proposed Rulemaking, jointly promulgated proposed rules, and/or joint/concurrent final rules.

In addition, the agencies will evaluate the regulatory reform initiatives being considered by the Regulatory Council.

V. Risk Assessment

A. Focus of Activity. The focus of activity is to develop procedures, criteria and guidelines which the IRLG agencies will use consistently to characterize and, where appropriate, quantify different types of human health risks associated with exposure to toxic substances.

B. Accomplishments to Date. The Risk Assessment Work Group completed a document for assessing risk from carcinogens entitled, "Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks." This report (published in the *Journal of the National Cancer Institute* and the **Federal Register** in July) articulates, for the first time in a single document, the scientific concepts and methods currently in use by the IRLG agencies to identify and evaluate risks associated with substances that may pose a risk of cancer to humans. This document was the basis of the Regulatory Council statement on regulation of carcinogens released in September 1979. The document is currently undergoing public comment.

Planned Activities for fiscal year 1980. The IRLG plans to emphasize this area in 1980. The planned activities include: (1) responding to the public comments received on the carcinogen risk assessment document; (2) developing a similar document dealing with risks associated with substances that cause mutagenic effects; (3) initiating activities (a plan of work and support contracts) on similar documents dealing with teratogenicity and selected reproductive effects; and (4) initiating a survey of agency activities to measure and estimate exposure to toxic substances (long-range goal of this effort is to develop guidelines for exposure assessment).

D. Planned Activities for fiscal year 1981. This area will continue to be emphasized in 1981. The proposed activities include: (1) completing a risk assessment document for substances that cause mutagenic effects; (2) completion of interagency discussion draft documents on teratogenicity and selected reproductive effects; (3) continuing activities on a long-term project to develop exposure assessment guidelines; and (4) initiating activities (a plan of work and support contracts, interagency review of proceedings of FDA conference in FY 1980) on neurotoxins.

VI. Laboratories and Analytical Methods

A. Focus of Activity. This activity will coordinate the agencies' actions to make more effective and efficient use of both government and private sector laboratory facilities for toxicology testing. It aims to ensure that the member agencies have rapid access to adequate facilities. These functions are designed to supplement the coordinating activities of the National Toxicology Program.

B. Accomplishments to Date. EPA and FDA are cooperating in supporting two laboratories—one is the National Center for Toxicology Research (NCTR) and the other is the Neurotoxicology Program in North Carolina. Coordination on the former has been substantially improved and the latter was begun since the formation of the IRLG. Both labs are conducting research of interest to all the IRLG agencies.

In many regions there has been substantially increased sharing of laboratory facilities, with the regional EPA and FDA labs and OSHA's Salt Lake City lab conducting analyses on samples for the other agencies. In Regions II and V, there has also been extensive consideration given to the possibility of combining or co-locating field labs. Although the benefits of these moves would apparently not be as substantial as originally thought, they and other possible similar moves are still open for consideration.

Several regions have also initiated joint training seminars and programs for their laboratory personnel, have initiated quality control programs, and are sharing laboratory equipment and facilities.

Finally, a Task Force at headquarters has developed a computerized information system which lists the laboratory equipment in all of the agencies' labs under headquarters

control. This system, along with the skills inventory sponsored by the Information Exchange Work Group, should both assist the agencies in identifying where different types of analyses can be conducted and eliminate unnecessary duplication of costly laboratory equipment.

C. Planned Activities for Fiscal Year 1980. This will be an area of emphasis in FY 1980. In addition to continuing laboratory cooperation and sharing at the regional level and maintaining and continuing the various headquarters initiated laboratory programs, the IRLG intends to undertake the following projects:

- A study of the demand for and supply of toxicology testing facilities in both the public and private sectors. All of the agencies are likely to have increased toxicology testing needs over the next few years, and this study will attempt to estimate these needs and the ability of existing and planned facilities to fulfill them.
- An analysis of the adequacy of existing analytical procedures to efficiently measure small amounts of toxic substances in different types of samples, and a review of the work underway to develop improved analytical methods.
- An evaluation of the feasibility and desirability of jointly certifying private laboratories for conducting tests and analyses suitable to determine industry compliance with Federal regulations. Several agencies have or are considering formal or informal lab certification programs, and a joint certification program might create important cost savings.

D. Planned Activities for Fiscal Year 1981. In addition to continued cooperating and sharing at the regional level, and continuing the headquarters programs already begun, the agencies plan to develop joint proposals for filling the gaps in the availability of toxicology testing/analytical facilities and analytical methods identified in the studies initiated in FY 1980. They will also begin to implement the recommendations of the FY 1980 feasibility study on joint lab certification.

VII. Regional Coordination

(Most of the field operations have already been described under their substantive area of activity. However, because of the importance of these activities to the IRLG, they are described here as well.)

A. Focus of Activity. The focus of activity is to improve the coordination among the agencies' regional offices in all of the substantive and operational areas of interest to the IRLG in order to provide more effective public health protection with greater efficiency and reduced cost.

B. Accomplishments to Date. Most of the field offices have already instituted significant programs in compliance and enforcement, public information and education, information exchange and administration. Several have also implemented significant laboratory projects and have begun to explore the feasibility of extending the IRLG concept to the state level.

In compliance and enforcement, all the regions have begun at least limited use of inspection referrals, complaint referrals, identifying and evaluating potential common compliance problems, and implementing an emergency response system. Most of the regions have also begun at least limited use of joint inspections.

In public information and education, four regions have held major public meetings focusing on IRLG activities, and they all are cooperating on other public information activities and in the efficient referral of consumer inquiries.

In the area of information exchange, various regions are sharing data bases, coordinating their library resources, and sharing program management information.

With respect to administration, in various regions the agencies are sharing equipment, personnel, laboratory facilities, and in some instances, office space. Most of the regions have also instituted orientation programs to better acquaint their employees with the roles of the different agencies and the IRLG.

C. Planned Activities for Fiscal Year 1980. During fiscal year 1980, the major emphasis in regional IRLG cooperation will be in the areas of referral inspection, cross training of personnel, sharing of laboratory facilities and expertise, developing and implementing emergency response plans, and providing better public health information to consumers, professional groups and industry.

A major initiative planned for fiscal year 1980 is the implementation of the referral inspection training program. Training materials developed by the IRLG will be used by the regional offices to train inspectors from each of the IRLG agencies to recognize and refer possible violations of other agencies' regulations. This will require the training of approximately 7,500 inspectors from the five agencies. Training of the regional inspectional forces will be initiated in fiscal year 1980 and completed by the end of fiscal year 1981.

With the training of field inspectional personnel, the complete referral inspection program will be implemented in all regional offices by the end of fiscal year 1980. This coordinated inspection program will formalize existing interagency activities concerning the identification of potential violations and ensure appropriate follow-up in a timely manner. The program will be evaluated at the end of the first six months to determine the effectiveness and appropriateness of the procedures and guidelines.

The agencies will also emphasize laboratory coordination including developing an inventory of lab equipment and specialized capabilities. Further strengthening of the laboratory sharing program will be accomplished through written agreements between regional member agencies for mutual laboratory support.

A third area of emphasis will be the development, in all regions, of well organized systems for dealing with emergencies involving hazardous substances. While such plans and procedures are already in place and functioning in many regional offices, this area will be emphasized in fiscal year 1980 to ensure efficient utilization of available resources for emergency responses. This activity is heavily dependent on sharing of laboratory facilities and expertise since prompt sample analysis is a critical need during any emergency involving environmental contamination with hazardous or toxic materials.

A final area of emphasis will be the better dissemination of public health information to consumers and professional groups. This activity will be enhanced by the purchase of IRLG exhibits for use by the regional offices at conventions and annual conferences of unions, professional organizations, trade associations, etc. Use of these exhibits in conjunction with ongoing public information activities in the regions will provide sources of information on work place safety, health issues, environmental hazards and toxic substances to the public as well as professional and industry groups.

In addition to these areas of major emphasis, the regional offices will continue their cooperation in the other compliance and enforcement, laboratory, information exchange and administration activities that are already underway.

D. Planned Activities for Fiscal Year 1981. In fiscal year 1981, most regional IRLG activities will involve a continuation and maintenance of ongoing programs in compliance and enforcement, information exchange, laboratories, etc. The primary emphasis

will be on improving and expanding programs initiated in fiscal year 1980.

The referral inspection program will be expanded to include joint inspections by IRLG agencies. Where appropriate, joint inspections of regulated industries will be conducted by two or more agencies to reduce the frequency of visits by Government inspectors. This program will be developed from the experience gained from the referral inspections performed in fiscal year 1980. The inspection referral program will be evaluated to determine the effectiveness and appropriateness of the procedures and guidelines.

A number of regional work groups have begun efforts to acquaint their states with the IRLG program. These efforts will further the goals of increasing the efficiency of compliance and enforcement activities through coordination with state programs. As soon as the IRLG referral program becomes operational on a national basis, consideration will be given to the implementation of referral inspections at the state level. This will require the identification of state lead agencies and the training of state personnel. Under the current schedule, this could be implemented in fiscal year 1981.

VIII. Epidemiology

A. Focus of Activity. The focus of activity is to improve the quality of epidemiological studies in the agencies and to promote better coordination among the agencies in conducting and evaluating such studies.

B. Accomplishments. The Work Group collected information on all of the epidemiological studies being sponsored by the IRLG and selected other agencies and created a special computerized file summarizing these studies through the Smithsonian Scientific Information Exchange System. The group also prepared guidelines for documenting epidemiological studies. The purpose of these guidelines, which have been reviewed by the agencies and released for public comment, is to insure that the epidemological studies sponsored by the agencies meet a minimum acceptable standard for documentation.

The Work Group also has identified and is attempting to gain access to new data sources (such as the Social Security files) which could be used to undertake improved epidemiological studies.

C. Planned Activities for Fiscal Year 1980. The agencies will maintain the file of on-going epidemiological studies and will publish the guidelines for epidemiological studies for public comment. The Work Group will complete the guidelines and submit them to the agencies for their consideration. IRLG members will continue to provide assistance to each other for specific epidemiological tasks of immediate concern to the IRLG agencies' needs, and will continue to explore the possibility of obtaining access to new data bases that can be used in epidemiological studies.

D. Planned Activities for Fiscal Year 1981. Emphasis will be on continuing identification and accessing existing data bases and refining the criteria for conducting and evaluating epidemiological studies. The other activities begun in 1980 will be continued.

IX. Research Planning

A. Focus of Activity. Activity is focused on identifying toxics research being conducted and supported by the IRLG agencies and several research agencies including NCI, NIEHS, and NIOSH. The purpose is to provide information on areas which may already be adequately supported, areas which may require additional support, and areas where there is possible duplication of effort.

B. Accomplishments to Date. Three working documents have been completed. The first was a tabulation of research related to toxic substances which was incorporated in the report of the Toxic Substances Strategy Committee sponsored by CEQ. The second was an inventory of toxicology research, and the third was an inventory of metals research. Two of the agencies, FDA and EPA, jointly established a neurotoxicology laboratory at the EPA Reseach Triangle Park facilities. The agencies also prepared a document entitled "Preventive Health and the Environmental Sciences" which sets out a rationale and long range plan for future toxicology research related to human health.

C. Planned Fiscal Year 1980 Activities. The working documents on toxics and metals research will be revised for public release, and the agencies will explore possibilities for filling the gaps identified in these inventories, as well as some of the needs identified in the "Preventive Health Initiative." They will also support research projects suggested by the Regulatory Development Work Group, as well as specific proposals submitted to the IRLG by agency scientists.

D. Planned Fiscal Year 1981 Activities. Research planning activities will essentially follow the pattern that has been established and will support those areas described for FY 1980.

X. Information Exchange

A. Focus of Activity. The focus of activity is to identify common data and information requirments, survey current capabilities and modify or develop new capabilities as needed to promote efficient and effective data and information exchange among the IRLG agencies.

B. Accomplishments to Date. The Work Group completed studies evaluating the feasibility of developing:

(1) Joint monographs on chemical substances. The conclusion of the study was that there was little opportunity for such joint efforts.

(2) An information system which would indicate all the regulations, guidelines, court cases and other relevant regulatory information pertaining to specific chemical substances. The study concluded that the system was feasible and desirable. IRLG will fund development of this project.

(3) A computerized data bank containing information on the results of long-term chronic toxicity monitoring studies. The study recommended that no further work be done at this time since much of what was needed in such a system was being developed elsewhere.

(4) The linking of data files maintained by the individual agencies through the use of common codes. The work group concluded that such an approach is both feasible and desirable, and a contractor was hired to begin this process on the most important data bases.

(5) An inventory of the analytical and professional skills of the agencies' scientific staff. This was considered feasible and desirable and work was started on creating the system.

(6) Improved coordination of agencies' libraries. Various forms of coordination are being considered and a list of all the serials in the various libraries has been compiled.

Information sharing is also occurring in the regional offices. Most are, as a matter of course, sharing functional statements and operational plans. Several are also sharing information on various types of data bases. The most ambitious of these projects occurred in Region II where there was a test project to evaluate the feasibility and desirability of establishing common indentifiers for industrial facilities and other potential sources of toxic substances. With such a system, each agency could easily determine what actions—permits, inspections, and enforcement actions—the other agencies had taken with respect to specific sites and what information other agencies

might have (e.g., substances produced or discharged at the site) which might be relevant to its own regulatory programs. The prospects for such coordination are still being evaluated.

Since the formation of the IRLG, there has also been substantially more exchange of information among the agencies in the regional offices about issues and problems possibly of concern to the other agencies, referral of consumer complaints, etc.

C. Planned Activities for Fiscal Year 1980. The major new project planned for FY 1980 is the development of the Chemical Regulations and Guidelines System which will reference all the regulations, guidelines, court cases and other relevant regulatory information pertaining to specific chemical substances. Phase I of the system which covers all of the relevant Federal agency regulatory information will be completed by the end of the year.

In addition to this project, the Work Group will continue to support interagency library coordination, will expand the skills inventory to include FSQS and maintain up-to-date skills information for the other four agencies, will continue the registration of chemical files maintained by the different agencies through the use of common chemical codes, and will continue its evaluation of additional projects under consideration.

The regional offices will continue their current level of informative exchange and will complete the evaluation of the demonstration project to use common identifiers for industrial facilities and other potential sources of toxic substances.

D. Planned Activities for Fiscal Year 1981. The Work Group will complete the second phase of the chemical regulations and guidelines system, and will continue the registration of chemical files, supporting interagency library coordination and maintaining the agency skills inventory. In addition, it expects to initiate an additional information exchange project depending upon the results of the evaluations being concluded in FY 1980.

The regional offices will continue their current level of information exchange and will initiate a project on using common site codes if the evaluation being completed in FY 1980 indicates that such a project is desirable.

XI. Public Information and Education

A. Focus of Activity. The focus of activity is to inform and educate the public on issues related to the regulation of hazardous substances, the roles of the individual IRLG agencies in this process, and how the IRLG agencies are working together to protect more effectively the public's health and the environment.

B. Accomplishments to Date. Several public information documents have been prepared and six public forums sponsored; four by the regions and two by headquarters. There has been increased cooperation in responding to consumer inquiries in all the regional offices. The IRLG prepared a "Joint Annotated Bibliography on Toxic Substances" which provides guidance to consumers on how to obtain information about toxic substances from IRLG agencies. A pamphlet entitled "Working Together", was completed describing the roles of the individual agencies and how they are working together to protect public health. A Task Force is developing safety and health curriculum guides for elementary and high schools. Another Task Force is reviewing the agencies' strategies, requirements, and policies regarding the labeling of hazards to explore the feasibility of developing a consistent labeling strategy among all of the IRLG agencies.

C. Planned Activities for Fiscal Year 1980. The agencies will continue to exchange and distribute one another's publications as appropriate, cooperate on IRLG and other press announcements of mutual interest, cooperate on public hearings and seminars dealing with issues of mutual interest and refer consumer inquiries.

In addition, the IRLG will:

- Prepare a public information booklet describing the problem of carcinogens, how these are identified, what actions the agencies are taking to protect the public from them, and what actions people can take to protect themselves.
- Complete and publish the curriculum guides.
- Update and republish the joint bibliography of agency publications including those issued by the Food Safety and Quality Service.

D. Planned Activities for Fiscal Year 1981. The agencies will continue to exchange and distribute one another's publications as appropriate, cooperate on IFLG and other press announcements of mutual interest, cooperate on public hearings and seminars dealing with issues of mutual interest and refer consumer inquiries.

In addition they plan to monitor the use and effectiveness of the toxics curriculum guides and prepare at least one additional public information booklet on the health problems associated with certain toxic substances.

[FR Doc. 80-1776 Filed 1-24-80; 8:45 am]

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federal register

Friday
January 25, 1980

Part IV

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, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona:	
AZ79–5100	Feb. 9, 1979.
California:	
CA78–5107	July 7, 1979.
Florida:	
FL79–1017	Jan. 26, 1979.
FL79–1024	Feb. 2, 1979.
FL79–1064	Apr. 13, 1979.
FL79–1068	Do.
FL79–1109	July 20, 1979.
FL79–1110	Do.
FL79–1118	Aug. 17, 1979.
Georgia:	
GA79–1148	Nov. 16, 1979.
Kentucky:	
KY79–1018	Feb. 2, 1979.
KY79–1023	Do.
KY79–1031	Feb. 9, 1979.
KY79–1034	Do.
KY79–1108	July 6, 1979.
KY79–1143	Nov. 9, 1979.
KY79–1144	Nov. 16, 1979.
KY79–1145	Do.
KY79–1159	Dec. 7, 1979.
Mississippi:	
MS80–1031	Jan. 11, 1980.
Montana:	
MT79–5129	Aug. 7, 1979.
Pennsylvania	
PA79–3009	May 4, 1979.

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.

Alabama:	
AL79–1001 (AL80–1043)	Jan. 26, 1979.
Louisiana:	
LA79–4069 (LA80–4014)	July 20, 1979.
Nebraska:	
NE77–4208 (NE80–4013)	Aug. 26, 1977.
South Carolina:	
SC80–1012 (SC80–1047)	Jan. 4, 1980.

Cancellation of General Wage Determination Decision

General Wage Determination Decision TN79–1006, Carter and Sullivan Counties, Tennessee, is hereby cancelled. Agencies with residential construction projects contemplated in the counties should utilize the project determination procedure by submitting Form SF–308 (See 29 CFR 1.5). Contracts for which bids have been opened shall not be affected by this notice. Consistent with 29 CFR Part 1, § 1.7(b)(2), inclusion of the above decision in contracts for which the bid opening is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this 18th day of January 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510–27–M

DECISION NO. AZ79-5100 - Mod. #8

(44 FR 8482 - February 9, 1979)
Statewide, Arizona

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians:					
Apache County (north of Interstate #40):					
Electricians	$15.06	.60	3%+.70		1/2%
Cable Splicers	15.69	.60	3%+.70		1/2%
Globe-Miami Area:					
Zone A:					
Electricians	15.07	.60	11%		1%
Cable Splicers	15.32	.60	11%		1%
Zone B:					
Electricians	15.81	.60	11%		
Cable Splicers	16.06	.60	11%		1%
Zone C:					
Electricians	16.44	.60	11%		1%
Cable Splicers	16.69	.60	11%		1%
Zone D:					
Electricians	17.19	.60	11%		1%
Cable Splicers	17.44	.60	11%		1%
Ironworkers:					
Central and Southern Areas	13.10	1.54	2.57		.11
Northern Area	15.36	1.54	2.57		.11
Mason Tender	9.80	.92	1.10		.06
Painters:					
Apache County (south half), Coconino Co. (south half), Gila, Graham County (north half), Greenlee Co. (north half), Maricopa County (northern two-thirds), Navajo County (south half), Pinal County (north half), Yavapai County (south of Wikieup-Woodruff Line):					
Zone A:					
Brush and Roller; Sandblaster (nozzleman); Sandblaster (Pot Tender)	11.50	.60	.40		.08

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Spray	$11.75	.60	.40		.08
Creosote Applier	11.83	.60	.40		.08
Swing Stage:					
Brush, Sandblaster	11.90	.60	.40		.08
Spray	12.15	.60	.40		.08
Steeplejack	12.36	.60	.40		.08
Steel and bridge, brush; Steel Sandblaster	12.43	.60	.40		.08
Steel and bridge, Spray	12.63	.60	.40		.08
Zone B:					
Brush and Roller; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	12.50	.60	.40		.08
Spray	12.75	.60	.40		.08
Creosote Applier	12.83	.60	.40		.08
Swing Stage:					
Brush, Sandblaster	12.90	.60	.40		.08
Spray	13.15	.60	.40		.08
Steeplejack	13.36	.60	.40		.08
Steel and bridge, brush; Steel Sandblaster	13.43	.60	.40		.08
Steel and bridge, Spray	13.63	.60	.40		.08
Zone C:					
Brush and Roller; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	14.00	.60	.40		.08
Spray	14.25	.60	.40		.08
Creosote Applier	14.83	.60	.40		.08
Swing Stage:					
Brush, Sandblaster	14.40	.60	.40		.08
Spray	14.65	.60	.40		.08
Steeplejack	14.86	.60	.40		.08
Steel and bridge, brush; Steel Sandblaster	14.93	.60	.40		.08

MODIFICATION PAGE #3

Page 3

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Steel and Bridge, Spray	$15.13	.60	.40		.08
Plasterers:					
Phoenix Area:					
Zone A	11.77	.95	1.30		.06
Zone B	12.52	.95	1.30		.06
Zone C	13.645	.95	1.30		.06
Plumbers; Steamfitters:					
Zone 1	14.24	.75	1.35		.13
Zone 2	14.64	.75	1.35		.13
Zone 3	15.09	.75	1.35		.13
Zone 4	16.59	.75	1.35		.13

MODIFICATION PAGE #4

DECISION NO. CA78-5107 - Mod. #11

(43 FR 2944 - July 7, 1978)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, Eldorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California					
Change:					
Sheet Metal Workers:					
Alameda, Contra Costa, Napa and Solano Cos.	$13.10	$1.23	$2.52	12%	.05
Alpine, Calaveras and San Joaquin Counties	13.16	1.03	1.70		.01
Amador, Butte, Colusa, Eldorado, Glenn, Plumas, Sacramento, Shasta, Sierra, Sutter, Tehama, Yolo and Yuba Counties	13.68	1.23	2.21		.13
Monterey, San Benito, Santa Clara and Santa Cruz Counties	14.85	1.20	3%+2.21		.03
Del Norte, Humboldt, Lake, Marin, Mendocino, San Francisco, Sonoma and Trinity Counties	14.78	1.38	2.00		.16
San Mateo County	14.14	1.03	2.04		.10
Fresno, Kings, Madera and Tulare Counties	13.74	1.23	1.38		.17

MODIFICATION PAGE # 5

DECISION NO. FL79-1017 - Mod. #8 (44 FR 5604 - January 26, 1979) Duval County, Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Wiremen	$11.15	.55	3% + .81	.81	.10
Cable Splicers	11.50	.55	3% + .81	.81	.10
Sprinkler Fitters	11.36	.75	1.05		.10
DECISION NO. FL79-1024 - Mod. #5 (44 FR 6865 - February 2, 1979) Alachua County, Florida					
Change:					
Cement Masons	7.30	.30	.30		.02
Sprinkler Fitters	11.36	.75	1.05		.10
DECISION NO. FL79-1064 - Mod. #7 (44 FR 22308 - April 13, 1979) Orange County, Florida					
Change:					
Asbestos Workers	12.10	.55	.65		.06
Bricklayers:					
Bricklayers	9.45	.50	.40		.04
Stonemasons	9.45	.50	.40		.04
Marble Masons	9.45	.50	.40		.04
Plasterers	9.45	.50	.40		.04
Cement Masons	9.45	.50	.40		.04
Plumbers	10.56	.50	.22 + .40	.50	.12
Sheet Metal Workers	10.96	.55 + 3%	.44		.08
Tile and Terrazzo Workers	9.45	.50	.40		.04
Roofers:					
Roofers	8.15	.35	.25		
Kettlemen	6.70	.35	.25		

MODIFICATION PAGE # 6

DECISION NO. FL79-1068 - Mod. #7 (44 FR 22309 - April 13, 1979) Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center and Melabar Radar Site, Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers:					
Bricklayers	$9.45	.50	.40		.04
Blocklayers	9.45	.50	.40		.04
Manhole Builders	9.45	.50	.40		.04
Plasterers	9.45	.50	.40		.04
Terrazzo Workers	9.45	.50	.40		.04
Tile Setters	9.45	.50	.40		.04
Cement Masons	9.45	.50	.40		.04
Masonry Cutting Machine Opr.	9.70	.50	.40		.04
Sprinkler Fitters	11.36	.75	1.05		.10
DECISION NO. FL79-1109 - Mod. #2 (44 FR 42856 - July 20, 1979) Martin and Palm Beach Counties, Florida					
Change:					
Ironworkers	10.95	.70	.93		.10
Painters:					
Brush	8.83	.55	.60		.05
Paperhanger; Roller	9.08	.55	.60		.05
Spray; Taper	9.33	.55	.60		.05
Sheet Metal Workers	10.70	.60	.33		.04
Sprinkler Fitters	11.36	.75	1.05		.10
DECISION NO. FL79-1110 - Mod. #4 (44 FR 42858 - July 20, 1979) Dade County, Florida					
Change:					
Refrigeration & Air Conditioning Mechanics:					
A/C Units over 10 tons	12.35	1.23	1.15		.15
A/C Units over 7.5 tons but under 10 tons	9.21	1.23	1.15		.15
Millwrights	11.27	.60	.70		.10
Sprinkler Fitters	11.36	.75	1.05		.10

DECISION NO. FL79-1118 - Mod. #3
(44 FR 48564 - August 17, 1979)
Pinellas County, Florida

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers/Blocklayers	$10.70	.45	.50		.10

DECISION #GA79-1148 - Mod. #1
(44 FR 66135 - November 16, 1979)
Chatham County, Georgia

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers, Stone masons, Marble masons, Tile setters, & Terrazzo workers	$10.05	.40	.45		.01
Carpenters & Soft floor layers	10.00	.55			.05
Cement masons	8.50				
Laborers:					
General laborers, traffic flagmen, track spotters;	5.82	.15	.13		.10
Operators of jack hammer, tamp, paving breaker, chipping hammer, spade, chain saw, vibrator, motorized buggy, mason tender, terrazzo helper, railroad or track laborers, walk behind compactor or roller, plasterer & carpenter tenders;	5.97	.15	.13		.10
Mortar mixers (hand or machine), pipelayers (harner, potman, etc.), flagman (cranes, derricks, etc.);	6.07	.15	.13		.10
Burner (torch) on demolition work, track or wagon drills used in blasting;	6.32	.15	.13		.10
Powderman or blaster.	6.82	.15	.13		.10
Millwrights	10.60	.55			.05
Piledrivermen	10.25	.55			.05
Sheet metal workers	10.53	.50			.04

MODIFICATION PAGE #9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KY79-1018 - Mod. #3 (44 FR 6866 - February 2, 1979) Fayette County, Kentucky					
CHANGE:					
Boilermakers	$11.80	1.175	1.20		.04
Plumbers & Pipefitters	12.85	.65	1.00		.05
DECISION #KY79-1023 - Mod. #3 (44 FR 6874 - February 2, 1979) Boyd County, Kentucky					
CHANGE:					
Boilermakers	$11.80	1.175	1.20		.04
DECISION #KY79-1031 - Mod. #4 (44 FR 8497 - February 9, 1979) McCracken County, Kentucky					
CHANGE:					
Boilermakers	$11.80	1.175	1.20		.04
Roofers	10.50		.10		
DECISION #KY79-1034 - Mod. #4 (44 FR 8504 - February 9, 1979) Henderson County, Kentucky					
CHANGE:					
Boilermakers	$11.80	1.175	1.20		.04
Millwrights	12.29	.60	.90		

MODIFICATION PAGE #10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KY79-1108 - Mod. #2 (44 FR 39905 - July 6, 1979) Hardin, Jefferson, & Meade Counties, Kentucky					
CHANGE:					
Boilermakers	$11.80	1.175	1.20		.04
Electricians	14.20	.60	3% + .85		½ of 1%
DECISION #KY79-1143 - Mod. #1 (44 FR 65308 - November 9, 1979) Franklin County, Kentucky					
CHANGE:					
Boilermakers	$11.80	1.175	1.20		.04
Plumbers & Pipefitters: 'Remainder of County' only	13.60	.65	1.00		.05
DECISION #KY79-1144 - Mod. #1 (44 FR 66137 - November 16, 1979) Fort Campbell, Kentucky (Located in Christian County, Ky. and in Montgomery County, Tn.)					
CHANGE:					
Boilermakers	$11.80	1.175	1.20		.04
Lathers	8.90		.20	.90	.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KY79-1145 - Mod. #1 (44 FR 66139 - November 16, 1979) Warren County, Kentucky					
CHANGE:					
Boilermakers	$11.80	1.175	1.20		.04
Cement masons	11.00				.01
Plasterers	11.00				.01
DECISION #KY79-1159 - Mod. #1 (44 FR 70635 - December 7, 1979) Boone, Campbell, Kenton, & Pendleton Counties, Kentucky					
CHANGE:					
Boilermakers	$11.80	1.175	1.20		.04
Decision # MS80-1031-Mod.#1 (45 FR-2492-January 11, 1980) Hancock, Harrison, Jackson and Pearl River Counties, Mississippi					
Change:					
Cement Masons	9.65		.50		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr
DECISION #MT79-5129-Mod. #2 (44 FR 48570 - August 7, 1979) Statewide, Montana					
Change:					
Carpenters:					
Cascade, Chouteau, Fergus, Glacier, Judith-Basin, Liberty, Meagher, Pondera, Teton and Toole Cos.					
Carpenters	$10.65	.80	.75		.02
Piledrivermen; Saw Filers; Sawmen	10.90	.80	.75		.02
Millwrights	11.65	.80	.75		.02
Blaine and Hill Cos.					
Carpenters	10.43	.80	.75		.02
Millwrights	11.43	.80	.75		.02
Piledrivers	10.68	.80	.75		.02
Broadwater, Lewis and Clark and Jefferson Counties:					
Carpenters	10.49	.80	.75		.02
Piledrivermen	10.74	.80	.75		.02
Millwrights	11.49	.80	.75		.02
Deer Lodge, Granite (all area lying south of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite county) and Powell (area lying south of the N.E. corner of Granite County) Cos.:					
Carpenters	10.87	.80	.75		.02
Piledrivers	11.12	.80	.75		.02
Millwrights	11.12	.80	.75		.02

MODIFICATION PAGE #13

DECISION NO. MT79-5129 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Flathead, Lincoln, Lake (northern area including Town of Ravalli from a point where Hwy. #10A and Hwy. #93 intersect), Mineral (northern area including the Town of Superior), Sanders (except S.E. corner portion) Counties					
Carpenters	$10.48	.80	.75		.02
Sawmen; Filers, Piledrivers; Carpenters working burned, charred, creosoted or similary treated material	10.73	.80	.75		.02
Millwrights and Machine Erectors	11.48	.80	.75		.02
Big Horn, Carbon, Garfield, Golden Valley, Musselshell, Petroleum, Rosebud, Stillwater, Treasure, Wheatland and Yellowstone Counties					
Carpenters	10.38	.80	.75		.02
Floor Sander; Sawmen	10.38	.80	.75		.02
Piledrivermen	10.53	.80	.75		.02
Millwrights	11.38	.80	.75		.02
Beaverhead and Silver Bow Counties					
Carpenters	10.88	.80	1.00	.75	.04
Millwrights and Piledrivermen	11.68	.80	1.00	.75	.04
Gallatin, Madison, Park and Sweetgrass Counties					
Carpenters	10.32	.80	.75		.02
Millwrights	11.32	.80	.75		.02
Piledrivermen	10.57	.80	.75		.02

MODIFICATION PAGE #14

DECISION NO. MT79-5129 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Granite (area lying north of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite County) Lake (southern area, south of and including the Town of Ravalli), Mineral (area southeast of Southeast City limits of the Town of Superior), Missoula, Powell (area lying north of the N.E. corner of Granite County), Ravalli and Sander (Southeastern portion) Counties					
Carpenters	$10.53	.80	.75		.02
Millwrights; Piledriver	11.58	.80	.75		.02
Carter, Custer, Daniels, Dawson, Fallon, McCone, Phillips, Powder River, Prairie, Richland, Roosevelt, Sheridan, Valley and Wilbaux Cos.					
Carpenters	10.24	.80	.75		.02
Piledrivermen	10.49	.80	.75		.02
Millwrights	11.24	.80	.75		.02

MODIFICATION PAGE #15

DECISION NO. PA79-3009
Mod. No. 5
(44 FR 26518 - May 4, 1979)
Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	$14.64	1.17	1.00		.02
ELECTRICIANS:					
ZONE 5					
COMMERCIAL	12.49	.78	3%+.30		.03
IRONWORKERS					
ALL OTHER WORK					
ZONE 3	12.42	1.24	1.86		.01

SUPERSEDEAS DECISION

STATE: Alabama COUNTIES: *See below
DECISION NUMBER: AL80-1043 DATE: Date of Publication
Supersedes Decision No. AL79-1001 dated January 26, 1979 in 44 FR-5601
DESCRIPTION OF WORK: Highway Construction Projects (does not include bridges over navigable waters; tunnels; building structures in rest area projects and railroad construction)

*Zone IV - Counties: Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Chambers, Cherokee, Chilton, Choctaw, Clark, Clay, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Cleburne, Dale, Dallas, DeKalb, Elmore, Escambia, Fayette, Franklin, Geneva, Greene, Hale, Henry, Houston, Jackson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, Sumter, Tallapoosa, Washington, Wilcox, and Winston Counties, Alabama.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	3.65				
Carpenters	4.90				
Concrete finishers	4.40				
Concrete saw	3.10				
Electricians	5.80				
Ironworkers:					
Structural	5.80				
Reinforcing	4.50				
Laborers:					
Air tool operators	3.25				
Asphalt raker	3.75				
Concrete laborers	3.27				
Pipelayers	3.75				
Powderman and blasters	4.00				
Saw	3.50				
Side rail or form setters	3.72				
Unskilled	3.10				
Wagon drill	4.00				
Painters	5.50				
Piledrivermen	4.80				
Truck Drivers:					
Under 1½ tons	3.25				
Single rear axle	3.25				
Multi-rear axle or heavy duty, off road, single axle	3.34				
Winch truck and A-Frame	3.25				
Welders - Receive rate for craft					

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Aggregate spreader operator	4.10				
Air compressors	3.15				
Asphalt spreader	4.25				
Asphalt mixers and pug mill & batch plants	3.30				
Asphalt plant driers	3.95				
Bulldozers	4.64				
Bull floats	3.25				
Concrete mixers (3-bags and under)	3.25				
Concrete mixers (over 3-bags)	3.95				
Concrete paving machine	3.95				
Concrete paving finishing machine	3.95				
Concrete paving spreaders	3.95				
Cranes, clamshells, back-hoes derricks, draglines or shovels	5.22				
Conveyors	3.25				
Crusher and screening plants	3.95				
Drilling machine	5.00				
Elevating graders, gradalls or trenching	3.85				
Firemen	3.25				
Form graders	3.25				
Hoist (2-drums or 2-cages or more)	3.95				
Hoist (1 drum)	3.25				
Mechanics	5.36				
Motor patrols	5.00				
Oilers and greasemen	3.60				
Paving subgraders	3.25				
Piledrivers	4.85				
Pumps	3.25				
Pumpcretes	3.25				
Rollers, self-propelled	4.17				
Rollers, self-propelled (on asphalt bases and pavements)	4.43				
Scale operators	3.25				
Scalemen	3.25				
Scrapers	4.32				
Seeding and mulching machine	4.00				
Striping machines (paint)	4.31				
Tractors & loaders (farm rubber tired)	3.35				
Tractor & loaders (80 H.P. or less)(draw-bar capacity)	3.78				
Tractors & loaders (over 80 H.P.)	4.00				

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: Louisiana PARISH: Statewide
DECISION NO.: LA80-4014 DATE: Date of Publication
Supersedes Decision No. LA79-4069, dated July 20, 1979 in 44 FR 42860.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories. Highway Projects (does not include Acadia, Ascension, East Baton Rouge, Iberia, Iberville, Lafayette, Livingston, Ouachita, Rapides, St. Landry, St. Martin, Vermilion, Vernon, Webster & West Baton Rouge Pars.; also not including building structures in rest area projects & airports in Bossier, Caddo, Calcasieu, Jefferson & Orleans Pars.)

		Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	ZONE 1	$ 12.32	.525	.90		.04
	ZONE 2	11.36	.70	.96		.03
	ZONE 3	10.90	.65	1.30		.05
	ZONE 4	11.64	.45	.50		

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes
ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Pars.

		Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS		11.05	.80	1.00		.02
BRICKLAYERS & STONEMASONS						
	ZONE 1	11.55	.80	1.15		.31
	ZONE 2	10.30	.53	.33		
	ZONE 3	12.25	.53	.67		.05
	ZONE 4	11.50	.60	.35		.035
	ZONE 5	11.25				
	ZONE 6	10.85	.40	.55		
	ZONE 7	10.50		.30		
	ZONE 8	11.70		.25		
	ZONE 9	11.50				

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Pointe Coupee, Rapides & St. Landry Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Hwy. 190) & Washington Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (BUILDING CONSTRUCTION)					
ZONE 1 - Carpenters	10.00	.50			
Millwrights	10.72	.50			
Piledrivermen	10.90	.50			
ZONE 2 - Carpenters, piledrivermen & soft floor layers	11.18	.60	.33		.07
Millwrights	12.88				.07
ZONE 3 - Carpenters	10.70	.65	.50		
Millwrights	11.75	.65	.50		
Piledrivermen	11.00	.65	.50		
ZONE 4 - Carpenters & piledrivermen	11.60	.50	.60		.05
Millwrights	13.325				7/10%
ZONE 5 - Carpenters & soft floor layers	11.02	.65	.50		.04
Millwrights	11.41	.65	.50		.04
Piledrivermen	11.12	.65	.50		.04
ZONE 6 - Carpenters & soft floor layers	10.855	.65	.50		.04
Millwrights	11.41	.65	.50		.04
Piledrivermen	11.12	.65	.50		.04
ZONE 7 - Carpenters & soft floor layers	10.70				
Millwrights	11.45				
Piledrivermen	11.20				
ZONE 8 - Carpenters & soft floor layers	10.45	.50	.40		.04
Millwrights	11.20	.50	.40		.04
Piledrivermen	10.70	.50	.40		.04

DECISION NO. LA80-4014

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 9 - Carpenters & soft floor layers	$10.70				
Millwrights	11.45				
Piledrivermen	11.20				
ZONE 10 - Carpenters & soft floor layers	10.40	.65	.35		.05
Millwrights	11.30	.65	.35		.05
Piledrivermen	10.90	.65	.35		.05

ZONE 1 - All of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafalaya River)
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) & Washington Parishes
ZONE 4 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Miss. River), West Baton Rouge & West Feliciana Pafs.
ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Pars. Parts of St. Tammany & Tangipahoa (south of I-12 from the Miss. State Line to the western boundary of Tangipahoa Par.) Parishes
ZONE 6 - Assumption, Iberia (east of the Atchafalaya River), Lafourche, St. James (south of the Miss. River), St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River) & Terrebonne Parishes
ZONE 7 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 9 - Natchitoches & Sabine Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN (HIGHWAY CONSTRUCTION):					
ZONE 1	10.96				
ZONE 2	11.96				
ZONE 3	11.375				
ZONE 4	9.85				
ZONE 5	9.30				

ZONE 1 - Bossier & Caddo Parishes
ZONE 2 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 3 - Calcasieu Parish
ZONE 4 - Bienville, Cameron, DeSoto, Jefferson Davis, Red River, Richland, St. James, St. John the Baptist, St. Tammany, Tangipahoa & Washington Parishes
ZONE 5 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (BUILDING CONSTRUCTION):					
ZONE 1	$10.71				
ZONE 2	9.45				
ZONE 3	9.75	.50	.75		.05
ZONE 4	11.045	.45	.40		.04
ZONE 5	10.35				
ZONE 6	8.00				
ZONE 7	9.90	.35			
ZONE 8	10.42		.25		
ZONE 9	9.25		.30		

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Pars
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (north to Interstate Hwy. 12) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (HIGHWAY CONSTRUCTION):					
ZONE 1	10.10	.45	.40		
ZONE 2	6.45				
ZONE 3	9.95	.35			
ZONE 4	10.30				
ZONE 5	9.80				
ZONE 6	9.30				
ZONE 7	9.30				
On concrete lined ditches	9.75	.50	.75		.05
ZONE 8	6.30				
ZONE 9	5.72				

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - U.S. Highway 61 in East Feliciana & West Feliciana Parishes
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Cameron & Jefferson Davis Parishes
ZONE 6 - Allen & Beauregard Parishes
ZONE 7 - St. Mary Parish
ZONE 8 - Assumption, Avoyelles, Bienville, Claiborne, DeSoto, East Feliciana (excluding U.S. Hwy. 61), Evangeline, Lafourche, Lincoln, Madison, Natchitoches, Pointe Coupee, Red River, Richland, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne Parishes
ZONE 9 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Morehouse, Sabine, Tensas, Union, Washington, West Carroll & Winn Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
ZONE 1 - Electricians	13.76	5%	8%		3/10%
Cable splicers	14.01	5%	8%		3/10%
ZONE 2 - Electricians	11.95	.45	3%		.02
Cable splicers	12.45	.45	3%		.02
ZONE 3 - Electricians	14.00	.35	3%+.40		1/10%
Cable splicers	14.25	.35	3%+.40		1/10%
ZONE 4 - Electricians	12.85	.70	3%		2/10%
Cable splicers	13.10	.70	3%		2/10%
ZONE 5 - Electricians	12.70	.45	3%+.40		.05
Cable splicers	12.70	.45	3%+.40		.05
ZONE 6 - Electricians	12.25	.85	3%		1/2%
Cable splicers	12.75	.85	3%		1/2%
ZONE 7 - Electricians	12.65	1.45	3%		1%
Cable splicers	13.15	1.45	3%		1%
ZONE 8 - Electricians	13.21		3%		1/2%
Cable splicers	13.46		3%		1/2%

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge, & West Feliciana Pars.
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles,Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS					
ZONE 1 - Mechanics	10.27	.745	.56	4%+a+b	.025
ZONE 2 - Mechanics	10.025	.895	.69	4%+a+b	.035

FOOTNOTES FOR ELEVATOR CONSTRUCTORS

a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate

b - Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; the Friday after Thanksgiving Day; Christmas Day

ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Pars.

ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS - ZONE 1	11.15				.02
ZONE 2	8.15				.01
ZONE 3	10.625	.17	.30		.01
ZONE 4	9.48		.30		.04
ZONE 5	6.80				
ZONE 6	8.10				

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Pars.

ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Jefferson, Lafourche, Livingston (south of Hwy 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes

ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River, Sabine & Webster Parishes

ZONE 5 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll (western 2/3, everything west of Rt. 65 inclusive), Franklin, Jackson, Lincoln, Madison (western half, everything west of Rt. 65 inclusive), Morehouse, Ouachita, Richland, Tensas (west 3/4 everything west of Rt. 65), Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winfield, excluding Winfield) Parishes

ZONE 6 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Route 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (BUILDING CONSTRUCTION)					
ZONE 1	$ 11.66	.63	.35		.04
ZONE 2	11.69	.45	.75		.04
ZONE 3	11.75	.45	.90		.06
ZONE 4	11.90	.45	1.15		.06
ZONE 5	10.35	.45	.85		.04
ZONE 6	11.78	.45	.65		.05

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Pars.; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, east of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)

ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Pars., Parts of Acadia, Evangeline, Lafayette, St. Landry, & Vermilion Pars. (east of a line drawn from the meeting point of the boundaries of the Pars. of Rapides, Avoyelles & Evangeline, southeast along the western city limits of Abbeville to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, west of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Pars. (south of a line drawn from Natchez through the city of Carter Point to the Rapides Par. Line, then west along the southern border of Rapides Par.)

ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (west of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Sabine Par. (north of a line drawn from the Natchitoches Par. boundary west through the city of Pleason to the Tex.-La. border)

ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (east of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Madison Par. (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia & LaSalle Pars. (north of a line drawn from Natchez through the city of Carter Point to the Rapides Par. Line)
ZONE 5 - That part of Madison Par. (including the cities of Mound, Delta & adjacent areas)
ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (southwest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (HIGHWAY CONSTRUCTION)					
ZONE 1	12.12				
ZONE 2	11.70				
ZONE 3	11.56				
ZONE 4	9.85				
ZONE 5	9.30				
ZONE 6	6.45				
ZONE 7	5.84				

ZONE 1 - Jefferson, Orleans. Plaquemines, St. Bernard & St. Charles Pars.
ZONE 2 - Calcasieu Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Cameron & Jefferson Davis Parishes
ZONE 5 - Allen & Beauregard Parishes
ZONE 6 - Bienville, DeSoto, Red River, Richland, St. James, St. John the Baptist, St. Tammany, Tangipahoa & Washington Parishes
ZONE 7 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (BUILDING CONSTRUCTION):					
ZONE 1 - Group 1	$ 7.00	.30			
Group 2	7.15	.30			
Group 3	7.25	.30			
ZONE 2 - Group 1	6.85	.25	.27		.05
Group 2	7.05	.25	.27		.05
ZONE 3 - Group 1	8.38	.25	.27		.05
Group 2	8.48	.25	.27		.05
Group 3	8.53	.25	.27		.05
Group 4	9.34	.25	.27		.05
Group 5	8.90	.25	.27		.05
Group 6	8.74	.25	.27		.05
Group 7	8.43	.25	.27		.05
Group 8	8.63	.25	.27		.05
ZONE 4 - Group 1	7.22	.25	.27		.05
Group 2	7.32	.25	.27		.05
Group 3	7.37	.25	.27		.05
ZONE 5 - Group 1	6.82	.25	.27		.05
Group 2	6.92	.25	.27		.05
Group 3	6.97	.25	.27		.05
ZONE 6 - Group 1	8.40	.25	.27		.05
Group 2	8.50	.25	.27		.05
Group 3	8.65	.25	.27		.05
Group 4	8.56	.25	.27		.05
Group 5	8.66	.25	.27		.05
ZONE 7 - Group 1	8.075	.25	.27		.05
Group 2	8.225	.25	.27		.05
Group 3	8.275	.25	.27		.05
ZONE 8 - Group 1	6.39	.25	.27		.05
Group 2	6.59	.25	.27		.05
Group 3	6.64	.25	.27		.05
Group 4	6.69	.25	.27		.05
Group 5	7.04	.25	.27		.05
ZONE 9 - Group 1	7.03	.25	.27		.05
Group 2	7.13	.25	.27		.05
Group 3	7.18	.25	.27		.05
Group 4	7.23	.25	.27		.05
ZONE 10 - Group 1	6.70	.25	.27		.05
Group 2	6.88	.25	.27		.05
Group 3	7.03	.25	.27		.05

LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)
GROUP 1 - Building and labor construction
GROUP 2 - Stone mason tenders, mechanical tool operators; sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. or over); tender of all crafts; sandblaster (nozzlemen); sandblaster (pot tender); laying non-metallic pipe over 4 ft. deep, including sewer, drain & underground tile; septic tank diggers & installers, over 4 ft. deep; gas & oil pipeline laborers & wrappers
GROUP 3 - Gunite tool operators
LABORERS - ZONE 2
GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewman
GROUP 2 - Mason mixer; plaster mixer; mechanical tool op.; sandblaster; laying concrete, clay, plastic, asbestos cement, casing & corrugated metal pipe, as sewer, drain & underground tile (caulkers, joint wrappers, hot pot & pipe layers); gas & oil pipeline laborers wrappers & dopers
LABORERS - ZONE 3
GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners
GROUP 2 - Air tool op. (except jackhammer); interior of closed tanks & vessels power equipped
GROUP 3 - Mortar mixers
GROUP 4 - Blasterers
GROUP 5 - Blaster tenders; concrete cutters behind paving machine & puddlers; form setters & liner asphalt worker
GROUP 6 - Wiping joints, laying pipe & tile from purpcrete
GROUP 7 - Interior of closed tanks & vessels manually
GROUP 8 - Jackhammer operators
LABORERS - ZONES 4 & 5
GROUP 1 - Building and general laborers, carpenter tenders
GROUP 2 - Power tool ops. (hammer men, tamper, vibrators, power buggies, concrete chippers or cutters, chain saw ops., etc); pipelayers (non-metallic)
GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement mixers (wet or dry)
LABORERS - ZONE 6
GROUP 1 - Laborers
GROUP 2 - Laborers handling steel pans, stone masons tenders,mechanical tool ops., sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. & over), sandblaster (nozzlemen & pot tender); laying non-metallic pipe over 4 ft. deep, septic diggers & installers over 4 ft. deep, gas & oil pipeline laborers & wrappers
GROUP 3 - Gunite tool operators
GROUP 4 - Bricklayers tenders and mason tenders
GROUP 5 - Hod carriers using prime mover to serve a bricklayer; mortar mixers
LABORERS - ZONE 7
GROUP 1 - Common laborers
GROUP 2 - Jackhammermen, sewermen, mason tenders, plasterer tenders, stone masons tenders, vibratormen
GROUP 3 - Mortar mixers
LABORERS - ZONE 8
GROUP 1 - Common laborers; carpenter tenders; mason tenders (other than cement); plasterers tenders; stone masons tenders;concrete workers; scaffold builders
GROUP 2 - Air tool ops. (jackhammer, vibrator & tamper); sewer pipe joiners & setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); Mortar mixer (wet or dry); motorized buggy op.; water proofers (mastic); form setters (steel paving forms)
GROUP 3 - Chain saw operator
GROUP 4 - Asphalt raker, tamper, smoother & shovelers; sewer pipelayers; blaster tenders

GROUP 5 - Powderman
LABORERS - ZONE 9
GROUP 1 - Laborers
GROUP 2 - Mason tenders, plaster tenders; asphalt rakers, asphalt smoothers
GROUP 3 - Mortar mixers
GROUP 4 - Air jack op., vibrator ops.; sewer pipelayers, sewer pipe wrappers
LABORERS - ZONE 10
GROUP 1 - Laborers, tenders (brickmasons, stonemasons, cement masons, carpenters, plasterers, stripping & dismantling; concrete form work; loading,unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artifical stone; building scaffolds; shoring
GROUP 2 - Mechanical tool op. (air, electric, motor, engine, etc.); sewer pipelayers; mortar mixers (hand or machine); gunite op.; tile, terrazzo & marble setters finisher
GROUP 3 - Pipe dopers & burners

ZONE 1 - St. Tammany (as far south as Bayou Lacombe & east to the Miss. State Line at Pearlington), Tangipahoa (all but southwestern corner) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary (excluding that part of Parish to the Calumet Locks west) & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars.;Parts of Assumption, St. James, St. John the Baptist Pars. (north of a line drawn from the southern limits of the town of St. James in St. James Par. to the northern limits of the town of Napoleonville in Assumption Par. & then directly west to the Par. line, all of St. James Par. except that part which is east of a line drawn from Lutcher to U. S. Hwy 61 (Airline Hwy). then west on U. S. 61 to Blind River & on a direct line to Manchac)
ZONE 5 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western Par. line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes
ZONE 6 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Miss. River & the portion of St. John the Baptist on the east bank of the Miss. River as far as the Sycamore Inn at Lutcher & north to Blind River & Manchac & St. Tammany (north as far as Bayou Lacombe, east to the Miss. State Line at Pearlington) Parishes
ZONE 7 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank & including the town of Vacherie), St. Mary (that part of Parish to the Calumet Locks west) & Terrebonne Parishes
ZONE 8 - Avoyelles, Evangeline, Grant, LaSalle,Natchitoches, Rapides & Winn Parishes
ZONE 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.

DECISION NO. LA80-4014

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HIGHWAY CONSTRUCTION)					
GROUP 1 - ZONE 1	$ 7.08	.25	.27		.05
ZONE 2	6.38	.25	.27		.05
ZONE 3	7.08	.25	.27		.05
ZONE 4	6.18	.25	.27		.05
ZONE 5	5.98	.25	.27		.05
ZONE 6	3.85	.15	.10		.05
ZONE 7	3.75	.15	.10		.05
GROUP 2 - ZONE 1	7.18	.25	.27		.05
ZONE 2	6.48	.25	.27		.05
ZONE 3	7.18	.25	.27		.05
ZONE 4	6.28	.25	.27		.05
ZONE 5	6.08	.25	.27		.05
ZONE 6	3.95	.15	.10		.05
ZONE 7	3.85	.15	.10		.05
GROUP 3 - ZONE 1	7.63	.25	.27		.05
ZONE 2	6.93	.25	.27		.05
ZONE 3	7.63	.25	.27		.05
ZONE 4	6.73	.25	.27		.05
ZONE 5	6.53	.25	.27		.05
ZONE 6	4.40	.15	.10		.05
ZONE 7	4.30	.15	.10		.05
GROUP 4 - ZONE 1	7.88	.25	.27		.05
ZONE 2	7.18	.25	.27		.05
ZONE 3	7.88	.25	.27		.05
ZONE 4	6.93	.25	.27		.05
ZONE 5	6.73	.25	.27		.05
ZONE 6	4.60	.15	.10		.05
ZONE 7	4.50	.15	.10		.05

GROUP 1 - Laborers, including but not limited to signalman, foundation driller & demolishing & dismantling man
GROUP 2 - Raker, concrete spreader, carpenter tenders, distributor man, finisher tenders, formsetter tenders, jackhammer op.; jetting laborer, painter tenders, pit man, pipelayer or tile layer, power monkey tender, tamper, tree pruner, stone mason tender, stoker, asphalt raker, concrete shovelers, power tool op. & motorized buggy op.
GROUP 3 - Formsetter, head or master--high type pavement
GROUP 4 - Powderman
ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Bossier & Caddo Parishes
ZONE 3 - Calcasieu Parish
ZONE 4 - Cameron & Jefferson Davis Parishes
ZONE 5 - Allen & Beauregard Parishes
ZONE 6 - Bienville, DeSoto, Red River, Richland, St. James, St. John the Baptist, St. Tammany, Tangipahoa & Washington Parishes
ZONE 7 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS					
ZONE 1	$10.08	.55	.35		.05
ZONE 2	10.23	.55	.35		.05
ZONE 3	10.48	.55	.35		.05
ZONE 4	10.83	.55	.35		.05
ZONE 5	11.85				.01
ZONE 6	10.60				.01
ZONE 7	12.435	.55			.01
ZONE 8	12.05				
ZONE 9	9.40				.01

ZONE 1 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars. which are 12.5 miles from center of New Orleans
ZONE 2 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars. which are within a 22.5 mile radius of New Orleans center.
ZONE 3 - That part of Jefferson, Lafourche (except that area southeast of Raceland to Bayou Lafourche), Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Tangipahoa Pars. which are within a 32.5 mile radius of New Orleans center
ZONE 4 - That part of Jefferson, Lafourche (including that area southeast of Raceland to Bayou Lafourche), Livingston (westward to Rt. 22 including towns of Maurepas, Killian & Springfield), Plaquemines, St. Bernard, St. James (including towns of Gramercy, Lutcher & Paulina), St. Tammany, Tangipahoa (northward to Rt. 16 including towns of Amite & Holton), Terrebonne (westward to Rts. 24 & 315 including city of Houma) & Washington (only northward to Rt. 10 to southern limits of towns of Bogalusa, Sheridan & Franklinton) Pars. outside 32.5 mile radius New Orleans Center

ZONE 5 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, (except lower Grand River), Livingston (western part), Pointe Coupee, St. Helena, St. James (only towns of Union, Hymel, Convent & Lutcher), St. Martin (only lower separted section), St. Mary (only Morgan City), Tangipahoa (north of Rt. 16 & west of Rt. 51 including Amite, Hammond & Ponchatoula), Washington (only north of Rt. 16 & west of Rt. 25), West Baton Rouge & West Feliciana Pars.
ZONE 6 - Acadia, Evangeline (northward to Rt. 10 including Ville Platte and Mamou), Iberia, Iberville (eastward to lower Grand River), Lafayette, St. Landry, St. Martin (excluding lower separated section), St. Mary (east to Berwick) & Vermilion Pars
ZONE 7 - Allen, Beauregard, Calcasieu, Cameron, Evangeline (excluding Ville Platte & Mamou), Jefferson Davis & Vernon (west of Rt. 117 & north of Rt. 8) Pars.
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River & Webster Pars.
ZONE 9 - Avoyelles, Caldwell, Catahoula, Concordia, Franklin, Grant, LaSalle, Morehouse, Ouachita, Rapides, Richland, Vernon (except west of Rt. 117 & north of Rt. 8) & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
ZONE 1 - GROUP 1	$12.70	.45	3%+.40		.05
GROUP 2	75%JR	.45	3%+.40		.05
GROUP 3	65%JR	.45	3%+.40		.05
GROUP 4	45%JR	.45	3%+.40		.05
GROUP 5	50%JR	.45	3%+.40		.05

GROUP 1 - Linemen
GROUP 2 - Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derrick working hot lines
GROUP 3 - Op. using hole truck & trailer or pole hauling & setting truck (not in energized lines)
GROUP 4 - Op. using truck without winch
GROUP 5 - Groundmen

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2					
Linemen, line equipment & line truck ops.	13.76	5%	8%		3/10%
Cable splicers	14.01	5%	8%		3/10%
ZONE 3 - Linemen, equipment ops.	14.00	.35	3%+.40		1/10%
Cable splicers	14.25	.35	3%+.40		1/10%
Groundmen	12.00	.35	3%+.40		1/10%
ZONE 4 - Linemen, equip ops.	12.85	.70	3%		
Cable splicers	13.10	.70	3%		
Groundmen	50%JR	.70	3%		
ZONE 5 - Linemen & equip., ops.	13.21		3%		1/2%
Cable splicers	13.46		3%		1/2%
Groundmen	60%JR		3%		1/2%
ZONE 6 - Linemen & equip., ops.	12.25	.85	3%		1/2%
Cable splicers	12.75	.85	3%		1/2%
Groundman	4.17	.85	3%		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7 - Linemen; Operators	12.65	1.45	3%		1%
Cable splicers	13.15	1.45	3%		1%
Groundmen	10.65	1.45	3%		1%

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern Segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Pars.
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE, TILE & TERRAZZO WORKERS & FINISHERS					
ZONE 1 - Marble setters	$11.50	.60	.35		.035
Tile & terrazzo workers	10.65	.40		.20	
Marble, tile & terrazzo finishers	7.90	.40		.20	
ZONE 2 - Marble & terrazzo workers	12.25	.53	.67		.05
Tile setters	9.05	.48	.67		.02
ZONE 3 - Marble setters	11.50				
Terrazzo workers	9.25				
ZONE 4 - Marble, tile & terrazzo workers	10.67		.25		
ZONE 5 - Marble, tile & terrazzo workers	9.65	.40			
ZONE 6 - Marble, tile & terrazzo workers	13.50				
Marble, tile & terrazzo finishers	7.90	.40		.20	
ZONE 7 - Tile setters	11.25				
Tile finishers	7.90	.40		.20	

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Pars.
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 7 - St. Tammany (northern half including Covington north of Hwy 190) & Washington Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS					
ZONE 1 - GROUP 1	$11.715		.30		
GROUP 2	11.915		.30		
GROUP 3	12.06		.30		
GROUP 4	13.505		.30		
ZONE 2 - GROUP 1	9.85		.25		.05
GROUP 2	10.92		.25		.05
ZONE 3 - GROUP 1	9.405	.525	.50		.07
GROUP 2	9.78	.525	.50		.07
GROUP 3	10.655	.525	.50		.07
ZONE 4 - GROUP 1	8.10				
GROUP 2	8.40				
GROUP 3	8.15				
GROUP 4	9.00				
GROUP 5	9.25				
GROUP 6	8.55				
GROUP 7	8.40				
ZONE 5 - GROUP 1	9.60				
GROUP 2	10.10				
GROUP 3	10.60				
ZONE 6 - Painters, tape & float, vinyl & paperhangers	10.25	.40	.30		.05
ZONE 7 - GROUP 1	7.80				
GROUP 2	8.30				
GROUP 3	8.80				

ZONE 1 - GROUP 1 - Painters brush, roller & buffer
GROUP 2 - Paperhanging, taping & floating
GROUP 3 - Spray, sandblasting, hydroblasting, spider op., rubberizing, & pyroflexing, steam jennies, taping & floating machines
GROUP 4 - Bridge work, water towers, radio & TV towers
ZONE 2 - GROUP 1 - Brush; taping; floating & texture
GROUP 2 - Sandblasting, industrial & steel
ZONE 3 - GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters
GROUP 2 - Structural steel painters of new buildings under construction; the following overall of 30 ft.: tanks, air conditioning, towers, smoke stacks sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painter
GROUP 3 - Industrial
ZONE 4 - GROUP 1 - Brush
GROUP 2 - Brush swing stage
GROUP 3 - Brush industrial
GROUP 4 - Spray; spray steel; sandblasting
GROUP 5 - Spray swing stage
GROUP 6 - Paperhanger
GROUP 7 - Sheetrock finishers
ZONE 5 - GROUP 1 - Painters, paperhangers, tapers, floaters; commercial steel, such as churches or any commercial building with closed roof deck or walls
GROUP 2 - Other commercial work brush spray, stage, window jacks, flagpoles & steeple work
GROUP 3 - All industrial work including sandblasting or power tools of any kind
ZONE 7 - GROUP 1 - Painters, paperhangers, tapers, floaters
GROUP 2 - Stage, window jacks, bosun chairs, structural steel, rollers, equipment painting; sandblasting, spray, stack, sign, tank painting, steeple jack
GROUP 3 - Structural steel brush

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22) East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Ascension (south of Hwy 22), Assumption (south of Hwy. 22), Lafourche, Livingston (south of Hwy. 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

ZONE 5 - Allen (northeastern most corner, north of Rt. 10), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Natchitoches (southern half, everything south of Rt. 6 including City of Natchitoches), Rapides, St. Landry (northern portion) & Winn (southern half from a line running east & west through the intersection of Rts. 84 & 71, including the town of Winnfield at that intersection) Parishes
ZONE 6 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to City of Natchitoches), Red River, Sabine & Webster Parishes
ZONE 7 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll (western 2/3, everything west of Rt. 65 inclusive), Franklin, Jackson, Lincoln, Madison (western half, everything west of Rt. 65 inclusive), Morehouse, Ouachita, Richland, Tensas (west 3/4, everything west of Rt. 65), Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winfield, excluding Winfield) Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS - ZONE 1	10.70				
ZONE 2	10.00				.01
ZONE 3	10.07				
ZONE 4	11.60				.01
ZONE 5	10.08	.60	.35		.08
ZONE 6	7.75				.01
ZONE 7	9.75			1.00	
ZONE 8	11.70		.25		
ZONE 9	10.50		.30		

ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Pars.
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (par. line on the west along U.S. Hwy. 190 through the lower limits of Covington & Abita Springs along State Hwy 435 to Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Pars.
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Pars.
ZONE 9 - Natchitoches & Sabine Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS - ZONE 1	11.60	.60	.90		.08
ZONE 2	11.95	.78	.875		.07
ZONE 3	11.65	.85	.80		.10
ZONE 4	11.46	.55	.80	1.00	.09
ZONE 5	12.48	.67	.72		.08

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Par.), St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Pars.
ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern ½ of Par), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 1/3 of Par), St. Martin (southern part of eastern ½ of Par), St. Mary, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches (south of Hwys. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Ouachita, Rapides, Richland, Tensas, Union, Vernon (northeast of Hwy. 10), West Carroll & Winn Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.; Parts of Natchitoches & Vernon Pars. (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Hwy. 111 between Anacoco & Haddens)
ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western ½ of Par.) Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermilion Pars.

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - GROUP 1	$ 8.19	.65	.78		.05
GROUP 2	8.55	.65	.78		.05
GROUP 3	8.88	.65	.78		.05
GROUP 4	8.97	.65	.78		.05
GROUP 5	9.29	.65	.78		.05
GROUP 6	10.77	.65	.78		.05
ZONES 2 & 4 - GROUP 1	7.97	.65	.48		.05
GROUP 2	8.34	.65	.48		.05
GROUP 3	8.73	.65	.48		.05
GROUP 4	8.79	.65	.48		.05
GROUP 5	9.16	.65	.48		.05
GROUP 6	10.77	.65	.48		.05
ZONE 3 - GROUP 1	8.25	.65	.72		.05
GROUP 2	8.66	.65	.72		.05
GROUP 3	9.07	.65	.72		.05
GROUP 4	9.15	.65	.72		.05
GROUP 5	9.54	.65	.72		.05
GROUP 6	11.27	.65	.72		.05

		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 5 -	GROUP 1	$ 8.56	.65	1.00		.05
	GROUP 2	8.24	.65	1.00		.05
	GROUP 3	8.03	.65	1.00		.05
	GROUP 4	8.84	.65	1.00		.05
	GROUP 5	11.23	.65	1.00		.05
	GROUP 6	9.25	.65	1.00		.05
	GROUP 7	9.93	.65	1.00		.05
ZONE 6 -	GROUP 1	8.41	.65	1.00		.05
	GROUP 2	7.52	.65	1.00		.05
	GROUP 3	8.08	.65	1.00		.05
	GROUP 4	8.89	.65	1.00		.05
	GROUP 5	10.18	.65	1.00		.05
	GROUP 6	11.41	.65	1.00		.05
	GROUP 7	11.66	.65	1.00		.05
	GROUP 8	11.91	.65	1.00		.05
	GROUP 9	12.16	.65	1.00		.05
ZONE 7 -	GROUP 1	10.88	.65	1.00		.05
	GROUP 2	11.13	.65	1.00		.05
	GROUP 3	7.90	.65	1.00		.05
	GROUP 4	8.29	.65	1.00		.05
	GROUP 5	9.20	.65	1.00		.05
	GROUP 6	10.63	.65	1.00		.05

POWER EQUIPMENT OPERATORS - ZONES 1, 2, 3 & 4 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Oiler

GROUP 2 - Oiler-Driver

GROUP 3 - Scaleman

GROUP 4 - Air compressor; asphalt plant; bulldozers, D-4 & equivalent & under; bullfloats; concrete spreader; finishing machines; concrete mixer (16-s or less); concrete saw; distributors (bitum surface); dowell bar machine; farm-type tractor (with all attachments except backhoe); fireman; fork lifts (other than setting steel, machinery or pipe); hoist, 1 drum less than 4 stories; kolum buff machine; pull cats; pump (3" & over); pump, concrete (under 6"); rollers, except on asphalt or brick; straddle buggies; sweepers on streets & roads (motorized); winch truck, A-frame (other than handling steel or pipe)

GROUP 5 - Asphalt spreader; backhoe; bulldozer, over D-4 & equivalent; cableways; concrete mixer, over 16-s; cranes; derricks; ditching or trenching machines; draglines; fork lifts (setting steel, machinery or pipe); front end loaders (except farm-type tractors); grease serviceman; hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings), hoist, 2 drums & over; hydrolifts; heavy duty mechanic; motor patrols; piledrivers; pump, concrete (6" & over); road pavers; rollers on asphalt or brick; scoopmobiles; scrapers; sideboom cats; shovels; tractorvators; welder, journeyman; well point system; winch cats (hoisting); winch truck, A-frame (handling steel or pipe)

POWER EQUIPMENT OPERATORS - ZONE 5

GROUP 1 - Scale op.; oiler-driver on motor crane; batch plant

GROUP 2 - Pumps under 3 inch suction

GROUP 3 - Oiler

GROUP 4 - Fireman

GROUP 5 - Combination oiler-compressor; combination oiler-fireman; asphalt spreaders; backhoe (all types); bulldozers; cableways; cherry pickers (all types); concrete mixers (over 1 sack); cranes; deck winch (2 drums or over); derricks; ditching or trenching machines (riding type); draglines; dredges; fork lifts (other than farm type); outside warehouses; foundation drill; front end loaders (except farm type); grease serviceman; hoist-1 drum (4 stories or more on buildings); hoist-1 drum (over 40 ft. on structures other than buildings); hoist (2 drums or over); locomotives (all types); mechanic; mixer plant-central mix; motor patrols; piledrivers; pull cat; pump crete-6" & over discharge; push cat; road pavers; rollers (plant mix asphalt); scrapers; shovels; sidebooms; unit op.; welder, journeyman; well point system; whirleys; winch cats (Cat D-4 & over); winch truck with A-frame (5 ton & over); work boats-requiring licensed op.

GROUP 6 - Bush hog; compressor; concrete pump-under 6" discharge; concrete saw; deck winch (1 drum); distributors; ditching or trenching machines (non-riding type); dowel bar machine; farm-type tractors (when used to pull discs, grass-cutters, etc.); hoist-1 drum (under 4 stories on building); hoist-1 drum (40 ft. or under on structures other than buildings); Kolum buff machines; mixers (1 sack & under); motorized street sweepers self-propelled; pump (3" & over); test pump-internal combustion engine powered; water blast pumps

GROUP 7 - Asphalt plant; boom trucks; bullfloats; concrete spreader; farm-type front end loaders; finishing machines (roadway, riding type); roller (other than plant mix asphalt); straddle buggies; winch truck with A-frame (under 5 tons); workboat-not requiring licensed operator

POWER EQUIPMENT OPERATORS - ZONE 6

GROUP 1 - Snatch cat; pumps, 3 inch suction or more

GROUP 2 - Oiler

GROUP 3 - Batch plant operator

GROUP 4 - Air compressor; asphalt plant engineer; blade grader; distributor (bitum surface); finishing machine (concrete, paving); hoist-1 drum, less than 4 stories; concrete mixer under 16S; Oiler driver; pump crete; street & road sweeper; roller (except on asphalt or brick); roller, asphalt or brick (under 5 tons); post-hole digger; tractor operated bush hog & similar grass or bush cutting equipment

GROUP 5 - A-frame truck; crew boat op.; fireman; fork lift; straddle buggy; traxcavator; scoopmobile & similar front-end loading equipment with scoop or bucket under 1 cu. yd. capacity; locomotive; well point system; unit op.; hoist-1 drum, 4 stories or over

GROUP 6 - Backhoe; cableway; concrete mixer, 16S & up; derrick; crane; dragline; dredge; equipment maintenance mechanic; hoist-2 drums; locomotive crane; paving mixer; piledriver; road paver; roller on asphalt or brick (5 tons or over); shovel; sideboom cats; bulldozer; motor patrol; scraper; hydrolift crane, hydrolift truck, yard crane, cherry picker, etc.; foundation, boring & reaming machine; cement stabilizer; trenching machine; asphalt spreader; traxcavator & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; tug boat op.; turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; concrete pump (not pump crete)

GROUP 7 - Crane, 60 tons & over; crane, boom 100 ft. & over; piledriver, leads 100 ft. & over

GROUP 8 - Crane, 100 tons & over; crane, boom 150 ft. & over; piledriver leads 150 ft. & over

GROUP 9 - Crane, boom 250 ft. & over; piledriver, leads over 250 ft.

POWER EQUIPMENT OPERATORS - ZONE 7

GROUP 1 - Assistant master mechanic

GROUP 2 - Master mechanic

GROUP 3 - Oilers

GROUP 4 - Batch plant op.; Oilers (drivers)

GROUP 5 - A-frame truck, except when working with ironworkers or pipefitters; air compressors, asphalt plant engineers; asphalt finisher, screed men; blade graders; boat op.; bullfloats, concrete joining machines; concrete mixers, 16s & under; concrete spreader; crushers; deck winch (1); distributors, asphalt "Ditch Witch" & similar equipment; electric elevators (inside); finishing machine; fireman; form grader; fork lifts; hoist, 1 drum, under 4 stories; power subgrader; pug mill; pull tractors; pump, pump crete; rollers, except on brick & asphalt; rubber tired front end loaders (with or without blade attachments) less than 1 cu. yd. capacity; scale op.; scoopmobile; snatch cats; spray machines; stabilizers, less than 3 drums; straddle buggy; track mahines & equivalent machines; tractors or bulldozers smaller than D-6

GROUP 6 - A-frame truck, when working with ironworkers & pipefitters; bulldozers D-6 & larger; cableways; concrete mixers, over 16-s paving machines; cranes, derricks; draglines & clam shells; deck winches (2); gradealls; hi-ho & similar type equipment; hoist, 1 drum, 4 stories & over; hoist, 2 drums or more, hydro cranes; mechanic; motor patrols; piledrivers; rollers on brick & asphalt; rubber tired front end loader, with or without attachments, 1 cu. yd. capacity or more; scrapers; shovels; backhoes (all types); sideboom cats; stabilizers, 3 drums or more; traxcavators; trenching machines; unit op.; welder, journeymen; well point systems (gas, diesel, electric, etc.); concrete pump-boom combinations

ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine & St. Landry & Winn Parishes

ZONE 3 - All of Acadia, Lafayette & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of a line drawn from the city of Berwick to the Junction of Iberville-St. Landry Pars. border)

ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Pars.; Parts of Assumption & St. James Pars. (northwest of a straight line drawn from the city of Berwick to the city of Lutcher); Parts of Iberia & southern & northern St. Martin Pars. (east & west of a line from the city of Berwick north to the eastern boundary of the city of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Pars. (west of a line drawn north from the city of Lutcher to the east side of the city of Hammond to the La.-Miss. border)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Pars.; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Pars. (that portion of southeastern La. bounded on the north by the State of Miss., on the east by the State of Miss. & the Miss. Sound, on the south by the Gulf of Mexico & on the west by a line drawn as follows: beginning at a point on the La.-Miss. boundary in Washington Par., due north of the town of Hackley, thence southwesterly in a straight line to a point on the east bank of the Miss. River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to Atchafalaya Bay & in a line due south to the Gulf of Mexico)

POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1 - ZONE 1	$10.51	.65	1.00		.05
ZONE 2	9.98	.65	1.00		.05
ZONE 3	10.16	.65	1.00		.05
ZONE 4	8.20	.65	1.00		.05
ZONE 5	7.70	.65	1.00		.05
ZONE 6	6.14	.25	.30		.05
ZONE 7	5.53	.25	.30		.05
GROUP 2 - ZONE 1	10.76	.65	1.00		.05
ZONE 2	10.23	.65	1.00		.05
ZONE 3	10.41	.65	1.00		.05
ZONE 4	8.45	.65	1.00		.05
ZONE 5	7.95	.65	1.00		.05
ZONE 6	6.39	.25	.30		.05
ZONE 7	5.78	.25	.30		.05
GROUP 3 - ZONE 1	10.26	.65	1.00		.05
ZONE 2	9.73	.65	1.00		.05
ZONE 3	9.91	.65	1.00		.05
ZONE 4	7.95	.65	1.00		.05
ZONE 5	7.45	.65	1.00		.05
ZONE 6	5.89	.25	.30		.05
ZONE 7	5.28	.25	.30		.05
GROUP 4 - ZONE 1	9.01	.65	1.00		.05
ZONE 2	8.68	.65	1.00		.05
ZONE 3	8.69	.65	1.00		.05
ZONE 4	6.98	.65	1.00		.05
ZONE 5	6.48	.65	1.00		.05
ZONE 6	5.02	.25	.30		.05
ZONE 7	4.46	.25	.30		.05
GROUP 5 - ZONE 1	8.66	.65	1.00		.05
ZONE 2	8.09	.65	1.00		.05
ZONE 3	8.08	.65	1.00		.05
ZONE 4	6.46	.65	1.00		.05
ZONE 5	5.96	.65	1.00		.05
ZONE 6	4.48	.25	.30		.05
ZONE 7	3.97	.25	.30		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION) (Cont'd):					
GROUP 6 - ZONE 1	$ 7.66	.65	1.00		.05
ZONE 2	7.08	.65	1.00		.05
ZONE 3	7.08	.65	1.00		.05
ZONE 4	5.53	.65	1.00		.05
ZONE 5	5.03	.65	1.00		.05
ZONE 6	4.31	.25	.30		.05
ZONE 7	3.81	.25	.30		.05
GROUP 7 - ZONE 1	7.35	.65	1.00		.05
ZONE 2	6.74	.65	1.00		.05
ZONE 3	6.74	.65	1.00		.05
ZONE 4	5.24	.65	1.00		.05
ZONE 5	4.74	.65	1.00		.05
ZONE 6	4.31	.25	.30		.05
ZONE 7	3.81	.25	.30		.05
GROUP 8 - ZONE 1	8.71	.65	1.00		.05
ZONE 2	8.38	.65	1.00		.05
ZONE 3	8.39	.65	1.00		.05
ZONE 4	6.73	.65	1.00		.05
ZONE 5	6.23	.65	1.00		.05
ZONE 6	5.02	.25	.30		.05
ZONE 7	4.46	.25	.30		.05
GROUP 9 - ZONE 1	8.96	.65	1.00		.05
ZONE 2	8.63	.65	1.00		.05
ZONE 3	8.64	.65	1.00		.05
ZONE 4	6.98	.65	1.00		.05
ZONE 5	6.48	.65	1.00		.05
ZONE 6	5.27	.25	.30		.05
ZONE 7	4.71	.25	.30		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION) (Cont'd):					
GROUP 10 - ZONE 1	$ 7.60	.65	1.00		.05
ZONE 2	6.99	.65	1.00		.05
ZONE 3	6.99	.65	1.00		.05
ZONE 4	5.49	.65	1.00		.05
ZONE 5	4.99	.65	1.00		.05
ZONE 6	4.56	.65	1.00		.05
ZONE 7	4.06	.65	1.00		.05

GROUP 1 - 60 ton crane & over; crane with 125' boom
GROUP 2 - Crane with 175' boom
GROUP 3 - Crane all types; deck winches (2); hi-ho & similar type equipment; 3 drums (or more) stabilizers; pulls all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equipment welders; well point systems; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers, bulldozers, rubber-tired or track other than farm-type; scoopmobiles; motor patrol; gradall; rollers on hot mix; asphalt paving machines; front end loaders, other than farm-type, 1 cu. yd. or over; shovels & backhoes, all types,& equivalent equipment; piledrivers; sideboom cats; a-frame trucks when handling steel or pipe; work boats requiring licensed ops.; tugboats; fork, lifts over 10 ton capacity; foundation drilling machines
GROUP 4 - 2 drums stabilizers; front end loaders under 1 cu. yd.; A-frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; tow tractor (crawler type); 1 drum hoist under 40 vertical ft.; fireman; concrete spreader; pugmill; bituminous distributor on surface treatment & equivalent; bullfloats & equivalent; job grease man; unit op.; work boats not requiring licensed ops.; inboard motored crew boats
GROUP 5 - Single drum stabilizers; concrete mixer under 1 yd.; spray curing machines; rollers on subgrade; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher ops.; concrete jointing machines; concrete saw; tack machines & equivalent equipment; pump crete; electric elevator (inside); oiler-driver; farm-type; rubber-tired tractor, with attachments, except backhoes; kolum buff & similar equipment; fork lifts, 10 ton capacity & under; outboard crew boats
GROUP 6 - Batch plant operator
GROUP 7 - Oiler
GROUP 8 - Fireman
GROUP 9 - Fireman operating steam valve
GROUP 10 - Oiler on crane using air to drive piles
ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Bossier & Caddo Parishes
ZONE 3 - Calcasieu Parish
ZONE 4 - Cameron, Jefferson Davis & Red River Parishes
ZONE 5 - Allen & Beauregard Parishes
ZONE 6 - Bienville, DeSoto, Richland, St. James, St. John the Baptist, St. Tammany, Tangipahoa & Washington Parishes
ZONE 7 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, West Carroll, West Feliciana & Winn Parishes

DECISION NO. LA80-4014

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE 1 - Roofers	$11.13		.20		
ZONE 2					
Roofers	8.86	.75	.85	.28	.70
Preparers remove old roofing, place, stock or move materials, tools or equipment for the journeymen	4.40	.40			
ZONE 3					
Roofers	9.51	.60	.65		.04
Roofer helpers does not use the tools of the trade in removing & disposing of old roofing, stocking & unloading materials, hauling materials to the journeymen & sweeping	5.94	.60	.65		.04
ZONE 4 - Roofers	9.30		.30		
Kettlemen	8.05		.30		
ZONE 5 - Roofers	9.60		.20		.04
Kettlemen	6.65		.20		.04

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes
ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

SHEET METAL WORKERS -	ZONE 1	12.25	.52	.55		.14
	ZONE 2	11.35	3%+.65	1.11		.14
	ZONE 3	12.47	.55	.80		.16
	ZONE 4	11.19	3%+.59	.40		.19

ZONE 1 - Calcasieu Parish
ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Allen, Ascension, Assumption, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

DECISION NO. LA80-4014

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$11.94	.75	1.05		.08
TRUCK DRIVERS (BUILDING CONSTR.)					
ZONE 1 - GROUP 1	9.31				
GROUP 2	9.79				
GROUP 3	10.02				
GROUP 4	9.81				
GROUP 5	9.91				
GROUP 6	9.83				
GROUP 7	10.25				
ZONE 2 - GROUP 1	7.20				
GROUP 2	7.45				
GROUP 3	8.00				
GROUP 4	7.85				
GROUP 5	8.30				
GROUP 6	8.40				
GROUP 7	8.70				
GROUP 8	8.85				
ZONE 3 - GROUP 1	7.72				
GROUP 2	7.80				
GROUP 3	8.05				
GROUP 4	8.20				
GROUP 5	8.35				
GROUP 6	8.55				
GROUP 7	8.90				
ZONE 4 - GROUP 1	8.00				
GROUP 2	8.30				
GROUP 3	8.45				
GROUP 4	8.65				
GROUP 5	8.80				
GROUP 6	8.60				
ZONE 5 - GROUP 1	8.64	.45			
GROUP 2	9.25	.45			
GROUP 3	9.30	.45			
GROUP 4	9.56	.45			

TRUCK DRIVERS (BUILDING CONSTRUCTION):

ZONE 1 - GROUP 1 - Teamsters, Pick-up drivers
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Trucks trailer & dumps over 8 yds.; mixers on trucks over 3 yds.; Miss. wagons & Koehring dumpsters & similar dirt moving equipment (up to & incl. 8 yds.)
GROUP 4 - Mixers on trucks up to including 3 yds.
GROUP 5 - Winch trucks
GROUP 6 - Trucks, dump
GROUP 7 - Miss. wagons & Koehring dumpsters & similar dirt moving equip. over 8 yds

ZONE 2 - GROUP 1 - Teamsters, pick-up drivers
GROUP 2 - Stake bodies (all sizes); platform dump
GROUP 3 - Truck & trailer; dump
GROUP 4 - Mixers on trucks, up to and including 3 yds
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Miss. wagons & Koehring dumpsters, tandem dumps & similar dirt moving equipment, up to and including 8 yds.
GROUP 8 - Miss. wagons, Koehring dumpsters, tandem dumps & similar dirt moving equipment, over 8 yds.

ZONE 3 - GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch & water trucks over 3 tons, pickups with trailer
GROUP 5 - Miss. wagons, floats, tractor trailers; rubber tired tractors & wobble wheels
GROUP 6 - Eucilds, lowboys, dempsey dumpsters, Koehring-dumps, 5 axle trucks, transit mix over 3 yds.
GROUP 7 - Fork lift

ZONE 4 - GROUP 1 - Pick-ups
GROUP 2 - Over 1 ton, up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over including but not limited to: winch, dempsey dumpster, lowboy, semi-trailer, euclid, tournapull & similar equipment when used for transporting material
GROUP 5 - Larger trucks carrying capacity rear axles 50,000 lbs. & over
GROUP 6 - Winch truck with A-frame when used for transporting material

ZONE 5 - GROUP 1 - Truck drivers, up to but not including 1½ tons
GROUP 2 - Truck drivers, 1½ tons up to but not including 3 tons
GROUP 3 - Truck drivers, 3 tons up to but not including 5 tons
GROUP 4 - Truck drivers, 5 tons & over, including euclids, winch truck, dempsey dumpsters, lowboys, semitrailers, fork lifts, etc.

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermillion Pars.
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes

DECISION NO. LA80-4014

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (HIGHWAY CONSTRUCTION)					
GROUP 1 - ZONE 1	$ 7.13	.45			
ZONE 2	7.56				
ZONE 3	7.99				
ZONE 4	6.67				
ZONE 5	6.77				
ZONE 6	4.35				
ZONE 7	4.25				
GROUP 2 - ZONE 1	7.51	.45			
ZONE 2	7.66				
ZONE 3	8.12				
ZONE 4	6.80				
ZONE 5	6.90				
ZONE 6	4.46				
ZONE 7	4.36				
GROUP 3 - ZONE 1	7.57	.45			
ZONE 2	7.89				
ZONE 3	8.18				
ZONE 4	6.86				
ZONE 5	6.96				
ZONE 6	4.51				
ZONE 7	4.41				
GROUP 4 - ZONE 1	7.65	.45			
ZONE 2	8.10				
ZONE 3	8.25				
ZONE 4	6.93				
ZONE 5	7.03				
ZONE 6	4.57				
ZONE 7	4.47				
GROUP 5 - ZONE 1	7.84	.45			
ZONE 2	8.52				
ZONE 3	8.44				
ZONE 4	7.13				
ZONE 5	7.22				
ZONE 6	4.73				
ZONE 7	4.63				

TRUCK DRIVERS (Highway Construction):

GROUP 1 - 1 ton & under; warehouseman, material checker, receiving clerk, spotter & dumper

GROUP 2 - 1½ tons to & including 2 tons (exclusive of dump trucks)

GROUP 3 - Single axle dump trucks, single axle water trucks

GROUP 4 - Heavy equipment, tandem axle dump & tandem axle water trucks, winch lift, transit mix, floats, pole trailers, 4 axle trailers & truck mechanic

GROUP 5 - Special equipment, euclids & 5 axle moving equipment

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes

ZONE 2 - Bossier & Caddo Parishes

ZONE 3 - Calcasieu Parish

ZONE 4 - Allen & Beauregard Parishes

ZONE 5 - Cameron & Jefferson Davis Parishes

ZONE 6 - Bienville, DeSoto, Red River, Richland, St. James, St. John the Baptist, St. Tammany, Tangipahoa & Washington Parishes

ZONE 7 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, West Carroll, West Feliciana & Winn Parishes

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)).

SUPERSEDEAS DECISION

STATE: Nebraska

COUNTIES: Cass, Douglas, Sarpy, Washington, & that portion of Saunders County East of Highway #109

DECISION NO. NE80-4013

DATE: Date of Publication

Supersedes Decision No. NE77-4209 dated August 26, 1977 in 42 FR 43340

DESCRIPTION OF WORK: Heavy in all, but Washington County & Highway Construction (excluding bridges across navigable waterways).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Carpenters	$10.71	.50	.50	.60	.05
CEMENT MASONS	10.30	.67	.60		
IRONWORKERS: Reinforcing & Structural	11.15	.65	1.00	1.00	.05
LABORERS:					
Common Laborer	7.20	.60	.45	.33	.05
Towboat & Dredge Deckhands	7.31	.60	.45	.33	.05
Form Setter Helpers	7.41	.60	.45	.33	.05
Rackers & Screedmen on Asphalt work; Mortar Mixers; Chain Saw Operator	7.52	.60	.45	.33	.05
Pipelayers; Concrete Saw Operator	7.47	.60	.45	.33	.05
Form Setters & Precast Manhole Setter, Inlet Builders & Manhole Setters	7.87	.60	.45	.33	.05
LINE CONSTRUCTION:					
Linemen	11.98	.45	3%		½%
Cable Splicers	12.87	.45	3%		½%
Truck Driver	8.65	.45	3%		½%
Equipment Operator	10.78	.45	3%		½%
Groundmen	7.82	.45	3%		½%
POWER EQUIPMENT OPERATOR:					
Group 1	7.80	.60	.50		
Group 2	7.88	.60	.50		
Group 3	8.31	.60	.50		
Group 4	8.71	.60	.50		
Group 5	9.65	.60	.50		
Group 6	9.88	.60	.50		
Group 7	10.06	.60	.50		
Group 8	10.24	.60	.50		

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

Group 1 - Oilers; Greasers

Group 2 - Oiler Driver.
Group 3 - Tractor under 35 h.p.; Air Compressors; Pumps-welding machine; Spray machine; Form Trenchers; Belt machine.
Group 4 - Concrete Mixer; Concrete Pumps; Hydro-Hammer.
Group 5 - Spreader Oiler

Group 6 - Concrete Spreader; Concrete Finishing Machine; Bulldozer; Roller; Traxcavator; Forklift; One Drum Hoist; Oiler Distributor; Asphalt Roller.
Group 7 - Blade (patrol); Scraper.
Group 8 - Hoist, 2 drums; Trenching Machine; Paving Mixer; Piledriver; Heavy duty Mechanic; Welder; Shovel; Dragline; Clamshell; Orange Peel; backhoe; Derrick; Crane; Locomotive; Fireman on Boiler; Laydown Machine; Two Drum Winch Truck; Side Boom Cat; Pug Mill Operator on Asphalt Plant; Leverman on Dredge; Engineer on Dredge; Tugboat Operator; Gradall Operator; Rotary Well Drilling Operator; Hydrocrane; Cleveland type Backfiller; Self-propelled Spreader Vibrator; Slip Form Paver.

TRUCK DRIVERS:						
Group 1 - Single Axle, Jack & Spreader	7.73	.50	.50			
Group 2 - Tandem Axle Euclid Trucks, Power Lift Form Trucks & Jack & Spreader Trucks	7.79	.50	.50			
Group 3 - Lowboys-Tractor Trailer, Water Pulls	7.92	.50	.50			
Group 4 - Tandem Dump with Auxiliary End Dump Trailer	7.97	.50	.50			
Group 5 - Lumber Carrier	8.09	.50	.50			

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii).

SUPERSEDEAS DECISION

STATE: South Carolina COUNTY: Statewide
DECISION NUMBER: SC80-1047 DATE: Date of Publication
Supersedes Decision No. SC80-1012 dated January 4, 1980 in 45 FR 1376
DESCRIPTION OF WORK: Highway Construction (does not include airport runways and taxiways; tunnels; bridges designed to accommodate navigation; rest areas which include building structures; and railroad construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASPHALT RAKER	$ 3.10				
ASPHALT LAYDOWN MAN	3.10				
CARPENTER	4.69				
CARPENTER Helper	3.67				
CONCRETE FINISHER	4.25				
FORMSETTER ROAD	4.01				
IRONWORKERS Reinforcing & Structural	3.10				
LABORER, Common	3.10				
MASON	3.92				
MECHANIC	4.15				
MECHANIC Helper	4.00				
OILER	3.10				
PAINTER, Bridge	6.23				
PILEDRIVER, Leadman	4.75				
PIPELAYER	3.39				
SIGN ERECTOR	5.00				
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor	3.10				
Asphalt Paver	3.43				
Asphalt Plant	3.40				
Asphalt Plant Helper	3.10				
Bulldozer	4.41				
Bulldozer (utility)	3.58				
Cold Feed Attendant	3.36				
Concrete Finishing Machine	5.17				
Concrete Paver	4.63				
Crane, Backhoe, Dragline, Shovel: 1 yard & under	4.08				
Crane, Backhoe, Dragline, Shovel: over 1 yard	5.30				
Drill Operator	3.93				
Grade-all Operator	4.50				
Greaseman	3.36				
Hydro Seeder	4.38				
Loader Operator	3.63				
Motor Grader Oper. (fine grade)	4.35				
Motor Grader Oper. (rough grade)	3.96				
Power Tool Operator	3.10				
Roller Operator	3.10				
Roller Operator (finish)	3.41				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Scraper	$ 3.75				
Screed-asphalt	3.50				
Stone Spreader	3.10				
Striping Machine Operator	3.50				
Sweeper	3.10				
Tractor-crawler	3.25				
Tractor-utility	3.10				
Truck Driver -Light	3.10				
Truck Driver - Heavy Duty	3.44				
Weighman Scales (truck)	3.10				
Welder	4.77				

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)).

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federal register

Friday
January 25, 1980

Part V

Department of Health, Education, and Welfare

Food and Drug Administration

Nutritional Quality of Foods; Addition of Nutrients

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 104

[Docket No. 79N-0377]

Nutritional Quality of Foods; Addition of Nutrients

AGENCY: Food and Drug Administration.

ACTION: Final policy statement.

SUMMARY: This statement establishes a Food and Drug Administration (FDA) policy concerning the nutrient fortification of foods and is expressed as a series of guidelines which manufacturers are urged to follow if they elect to add nutrients to a manufactured or processed food. This final policy statement is to promote the rational addition of nutrients to foods in order to preserve a balance of nutrients in the diet of American consumers. It is not intended to encourage widespread nutrient fortification of foods but rather to provide a consistent set of guidelines to be followed when foods are nutritionally improved by the addition of discrete nutrients (vitamins, minerals, or protein). This statement establishes FDA's policy with respect to labeling claims that may be used to describe specific fortification mechanisms. In addition, it states that FDA considers it inappropriate to make claims about the addition of nutrients to foods that have been fortified to make them nutritionally equivalent to the foods for which they substitute and resemble. This policy statement omits the proposed requirement for a label statement that the addition of nutrients is unnecessary and inappropriate if the food has been fortified in ways not described in the policy statement. FDA will continue to determine in specific situations whether labeling claims about nutrient additions may be false or misleading in the case of foods fortified in ways not provided for in these guidelines.

EFFECTIVE DATE: February 25, 1980.

FOR FURTHER INFORMATION CONTACT: John E. Vanderveen, Bureau of Foods (HFF-260), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1064.

SUPPLEMENTARY INFORMATION: The analysis of evidence from food labeling hearings conducted in the summer and fall of 1978 indicates general public support for the principles expressed in this document. Policy changes with respect to labeling made in response to the hearings are not likely to affect the guidelines for the addition of nutrients to food set forth in this document. This document primarily provides guidelines for fortification and contains few labeling provisions. Nonetheless the issuance of these guidelines may provide additional background for those commenting on the food labeling plan proposal. In reviewing the comments on the food labeling plan, FDA will consider whether any changes are needed in these guidelines and will initiate the changes if warranted.

In the **Federal Register** of June 14, 1974 (39 FR 20900) FDA proposed to establish general principles governing the addition of nutrients to foods by amending Subpart A of Part 104 (21 CFR Part 104, formerly 21 CFR Part 100). That document described the history of developments that led to the proposal. The major reasons for initiating this proceeding are summarized below.

"Food fortification" or "enrichment" is defined as the addition of discrete nutrients such as vitamins, minerals, or protein to foods. Historically, the addition of nutrients to foods was first undertaken as a public health measure to prevent the development of deficiency diseases in large segments of the population, for example, the iodization of salt to prevent goiter and the addition of vitamin D to milk to prevent rickets. The addition of nutrients primarily for the purpose of restoring nutrients lost in processing, such as the enrichment of white flour and bread, has been a similar safeguard in preventing deficiencies and improving the nutritional quality of the national diet.

In the past, food intake was largely from conventional foods having an inherent nutritional quality dictated primarily through the forces of nature. In recent years the food supply has become more complex as an increasing volume of foods with new or processed ingredients and substitute foods have entered the marketplace. Because of these changes in the food supply and their effects on American eating habits, FDA has paid increasing attention to the need for maintaining the nutritional quality of the food supply.

FDA has established in recent years a number of regulations relating to the nutritional quality of foods. The regulations have included nutrition labeling under § 101.9 (21 CFR 101.9, formerly 21 CFR 1.17); special dietary foods under Part 105 (21 CFR Part 105, formerly 21 CFR Part 125); nutritional quality guidelines under Part 104 (21 CFR Part 104, formerly 21 CFR Part 100); and imitation food labeling under § 101.3 (21 CFR 101.3, formerly 21 CFR 1.8(e)).

Some of these regulatory initiatives were established in response to changes in food technology and dietary consumption patterns. They were necessary in order for FDA to cope with the dynamics of modern food technology and the development of new food products. At the same time, FDA sought by issuing these regulations to respond to recommendations generated by the 1969 White House Conference on Food, Nutrition, and Health; the Food and Nutrition Board of the National Academy of Sciences/National Research Council (NAS/NRC); and the Council on Foods and Nutrition of the American Medical Association.

One of the recommendations generated by the 1969 White House Conference on Foods, Nutrition, and health was that existing nutritional requirements in Federal regulations for foods be reviewed to take account of accumulated knowledge about nutritional needs and changing patterns of food consumption. In addition, there have been increasing consumer demands for improved nutrition information.

In the 1974 **Federal Register** proposal, FDA stated that during the development of regulations related to nutrition the need became apparent for a unifying set of principles or guidelines governing the addition of vitamins, minerals, and protein to food.

In the preamble to the proposal, FDA also emphasized that the proposed regulation was not intended to encourage the food industry to put vitamins, minerals, or protein into every food. Not every food is an appropriate carrier for additional nutrients, and unwarranted fortification of numerous foods could mislead consumers into believing such fortification is necessary or appropriate and could lead to public health problems.

FDA's policy continues to be that current nutrition surveys show that widespread fortification of the food supply is unnecessary. This document is not intended to encourage such a practice.

The fundamental premise underlying these guidelines is that food fortification should provide consumers with a reasonable benefit without contributing to nutritional imbalance in the diet and without misleading consumers into believing that the consumption of the fortified food per se will ensure a complete or nutritionally sound diet.

In the absence of a unifying set of principles or guidelines, random and arbitrary fortification of some foods is likely to occur. This may result in the overfortification of the food supply with some nutrients such as vitamin C, which

are inexpensive and technologically simple to add, and the underfortification with others such as some of the trace minerals. A balance of the essential nutrients is biologically necessary for proper nutrition; therefore, a reasonable balance of essential nutrients in the food supply is desirable. In addition, overfortification of the food supply by the random addition, and/or the addition of high levels, of some nutrients, such as vitamin D and the trace minerals, is undesirable because of the potential for toxicity.

This position has been further supported by comments received at the food labeling hearings conducted during the summer and fall of 1978. The analysis of comments from these hearings discloses a public belief that some, but not all, foods should be fortified. Particular support exists for fortification if the purpose is to replace nutrients lost in processing. Of those favoring fortification, some felt that the extent to which foods could be fortified should be closely regulated.

The 1974 proposal discussed the fact that some existing standards of identity permit or require the addition of vitamins, minerals, and/or protein to improve the nutritional quality of a product (for example, enriched flour) under 21 CFR 137.165 (formerly 21 CFR 15.10). The document concluded, however, that a separate standard of identity for each food to which a vitamin, mineral, and/or protein may properly be added is neither practical nor appropriate and that a single standard of identity listing all foods to which a vitamin, mineral, and/or protein may be added would be unnecessarily inflexible in light of developing knowledge about nutrition and changing food forms and consumption patterns.

In the past the addition of a vitamin or mineral to a food resulted in the food being classified as a "special dietary food." In the proposal for the nutrition labeling regulation (38 FR 2125; January 19, 1973), FDA concluded that a majority of fortified foods were intended for consumption by the general population and that with the development of nutrition labeling it was no longer necessary to regulate nutrient labeling of these general purpose foods as labeling for special dietary foods under section 403(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 343(j)).

As a result of the complexity and diversity of current regulations relating to the nutritional quality of foods, FDA considers it appropriate to combine in a single document those general nutrition principles and guidelines that serve as the basis for FDA's food fortification policy. FDA believes that there is a need for a clear statement of policy to serve as a guideline on food fortification.

Although, as a theoretical matter, most types of food can be fortified under the general principles expressed in this document, FDA emphasizes that, as a matter of policy, it does not consider it appropriate or reasonable to fortify certain classes of food such as fresh produce, fresh meat, poultry or fish products, sugars, or snack foods such as candies and carbonated beverages. In some cases, fortification of these foods is already restricted by a specific regulation that applies to that food. For example, the standard of identity for carbonated beverages (21 CFR 165.175) states that the addition of vitamins and minerals for nutritional purposes is not suitable for this food.

FDA sees no reason to add nutrients to fresh produce, meat, poultry, or fish products. The use of these foods is firmly established by customary dietary practice, and their role in a balanced diet is well understood by the public. FDA also believes it is inappropriate to fortify snack foods such as candies and carbonated beverages. These foods are not considered by the public as components of meals, and even if snack foods are used with meals, their nutritional contribution is, and is understood by the public to be, incidental. To date, neither the public nor the scientific community has considered snack foods to be appropriate carriers for added nutrients, given the general adequacy and diversity of the national food supply. Their fortification could readily mislead consumers to believe that substitution with fortified snack foods would ensure a nutritionally sound diet. Moreover, such fortification would disrupt public understanding about the nutritional value of individual foods and thereby promote confusion among consumers and make it more difficult for them to construct diets that are nutritionally neither excessive nor deficient. This policy is based on U.S. djetary practices and nutritional needs and may not be applicable in other countries.

Moreover, any fortification of these foods would raise other questions with respect to the labeling appropriate for them. The fortification of snack foods can be viewed, for example, as a basic change in the nature of the food. Consideration would be needed of the type of common or usual name that would adequately reflect the distinctive characteristics of the new food.

The following are the principal differences between the proposed regulation and the policy announced by this document:

a. The criteria for balancing nutrients to calories as a fortification mechanism have been changed so that the calorie base is reduced from 2,800 to 2,000 kilocalories. Two essential nutrients (potassium and manganese) not in the original list of nutrients have been included; and the addition of protein, vitamin D, or iodine has been made optional.

b. The definition for "restoration" has been changed so that partial restoration is no longer recommended. If the restoration mechanism is used, all nutrients originally present at more than 2 percent of the U.S. Recommended Daily Allowances (U.S. RDA) per serving, and which later are lost in storage and/or processing by an amount equal to at least 2 percent of the U.S. RDA per serving, should be restored to preprocessing levels.

c. Separate definitions for "enriched" and "fortified" have been deleted. The terms may be used interchangeably unless another regulation provides for use of a specific term, for example, 21 CFR 137.165 for enriched flour.

d. The proposed expansion of the use of the affirmative statement permitted by 21 CFR 104.5(b) (formerly 21 CFR 100.1(b)) for food complying with a nutritional quality guideline has been deleted along with labeling proscriptions not directly associated with a statement of policy.

e. This final policy statement deletes the proposed requirement in § 100.1(h) under which foods fortified in ways other than those in the proposal would have had to bear a label statement that the addition of the nutrients to this product has been determined by the U.S. Government to be unnecessary and inappropriate and does not increase the dietary value of the food. The final policy statement contains a new provision in § 104.20(h) that makes it clear that other labeling statements concerning food fortification may be made only if they are not false or misleading and are otherwise in accordance with the Federal Food, Drug, and Cosmetic Act and applicable regulations.

f. Section 104.20(a) has been added to provide an introductory statement of the purpose of the guidelines. Other editorial changes have also been made.

The reasons for these changes and modifications from the proposed course of action are individually discussed elsewhere in this document.

A total of 122 comments on the 1974 proposal were received from individuals, consumers and professional groups, trade associations, and industry and industry representatives. The comments generally favored the concept

of establishing rational guidelines for the addition of nutrients to foods. There were, however, several objections to the form and substance of the proposal and many more requests for clarification of specific provisions of the proposal. These comments and FDA's responses are discussed in the following paragraphs:

1. Several comments from industry objected to the length, complexity, and alleged unwieldiness of the proposal. One comment criticized the language of the proposal as vague and obscure and asked that the document be redrafted and published as a new proposal. A number of other comments reflected confusion and asked whether certain provisions of the proposal were applicable to all foods or only to the specific classes of food for which nutritional quality guidelines have been established. The U.S. Department of Agriculture asked that the conditions under which nutrients may be added to food be more clearly identified in the regulation to promote understanding and ease of implementation. Many comments opposed the proposal because of the requirements for label statements, particularly the requirement for a statement that the addition of nutrients in ways not provided for in the guidelines was "unnecessary and inappropriate."

It is acknowledged that the criteria to be used in determining whether nutrient addition would be appropriate were not clearly defined, and that all possible labeling was not dealt with in the proposal. Further, FDA has concluded that a substantive rule that would accommodate all eventualities involving food fortification and labeling of fortified foods is not feasible at this time.

The primary purpose of the regulation proposed in 1974 was to establish a general set of principles governing the addition of nutrients to foods to preserve a balance of nutrients in the diet and to prevent over- or underfortification of the food supply. The proposal also included a number of food labeling provisions. Thus the proposal was an attempt to cover, in a single document, both FDA's food fortification policy and the complex labeling issues related to fortified foods.

The proposed regulation and the comments received have been evaluated in relation to the FDA's existing nutrition regulation programs. After thorough review, FDA has concluded that the major objectives of the proposal can be achieved by recasting the final document as a statement of food fortification policy. Several labeling provisions have been deleted or revised. The final policy statement is a guideline that identifies the bases for fortification of foods that FDA considers reasonable. The appropriateness of the fortification of foods in ways not provided for in these guidelines and associated labeling problems will be considered as the need arises. FDA will continue to examine food labeling under the existing law and regulations and will take any necessary action concerning specific foods if the labeling is found false or misleading or otherwise in violation of the FD&C Act.

In reaching this conclusion, FDA has considered the large number of comments stating opposition to the restrictive nature of the labeling provisions of the proposal. These comments presented convincing arguments that all possible labeling and fortification circumstances cannot be addressed adequately in a single substantive rule at this time.

Much of the confusion and many of the objections with regard to the complexity of the 1974 proposal appear to have been related to its labeling provisions and their applicability to the various fortification principles. Most of these labeling provisions have been deleted from the final policy statement. In view of these changes and because this final policy statement is a guideline, it is not necessary to repropose it for additional comments. FDA guidelines "state procedures or standards of general applicability that are not legal requirements but that are acceptable to FDA for a subject matter which falls within the laws administered by the Commissioner." (See 21 CFR 10.90(b)(1).) Section 10.90(b) contains a general discussion of the legal status of a guideline.

FDA will continue to rely on the establishment of nutritional quality guidelines for particular classes of foods under 21 CFR Part 104 and on standards of identity for specific foods as the need arises. In addition, problems that arise concerning food labeling as it pertains to fortified foods can be considered independently; and appropriate actions, such as amendment of current food labeling regulations, can be taken when necessary.

2. A number of comments from industry objected to the labeling provisions of the proposal on the grounds that they exceed FDA's statutory authority and disregard procedural safeguards guaranteed by law. It was argued that sections 403(a) and 701(a) of the FD&C Act can only define "false or misleading" labeling and cannot be used to regulate truthful labeling claims. Other comments argued that the proposal was unlawful because it created a conclusive presumption that labeling that fails to conform to the regulations causes the food to be misbranded under the act without regard to whether, in any particular case, the food is actually misbranded. Other comments objected to the proposal on the grounds that as a substantive rule it was too restrictive and that it did not include all possible mechanisms by which foods may be appropriately fortified. Other comments stated that the proposal, in effect seeks to establish standards of quality for foods fortified with vitamins and minerals and that, accordingly, FDA is bound to follow the procedural requirements of sections 401 and 701(e) of the FD&C Act.

As stated earlier, FDA has concluded that the best way to achieve its objectives at this time is to issue a statement of policy regarding food fortification and to regulate misleading claims under the general statutory provisions and applicable regulations. Because FDA has decided to issue a statement of policy rather than a regulation, the merits of the above-described objections need not be determined. The issues raised concerning the legality of the proposal under the FD&C Act are now moot.

The following discussion of the provisions of the guidelines responds to specific comments on the 1974 proposal:

Addition of Nutrients as a Public Health Measure

3. A number of comments concerned proposed § 100.1(g)(1), which set forth certain criteria to be used whenever nutrients are added to foods for the purpose of reducing the prevalence of identified nutrient deficiency conditions. Several comments asked who determines whether the criteria set forth in proposed § 100.1(g)(1) (i), (ii), and (iii) have been met in any particular case. Other comments asked whether additional rulemaking would be needed before manufacturers could apply this principle. Still other comments suggested that proposed § 100.1(g)(1) be identified only as a statement of important criteria or indices against which all fortification policies can be evaluated.

The addition of specific nutrients to certain foods has served to correct deficiency conditions in large segments of the population. The addition of nutrients for the purpose of correcting identified dietary insufficiencies has been retained in the final policy statement because it remains an appropriate reason for adding nutrients to foods. In the past, FDA has endorsed this principle through the establishment of standards of identity for products

such as enriched flour, bread, and rice. Such public health measures may continue to be of importance in the prevention of nutrient deficiency diseases where sufficient information is available to identify a nutritional problem, to define affected population groups, and to designate suitable foods to act as vehicles for the added nutrients.

Identification of nutritional problems and implementation of measures to correct these problems require the combined efforts of many participants. Because FDA is responsible for the safety and nutritional adequacy of the food supply and the truthful packaging and labeling of food products, it is appropriate that FDA serve as a focal point for the identification of public health problems related to nutrition. In conjunction with other government agencies, research groups, the biomedical and nutrition communities, educational institutions, and informed consumer groups, FDA participates in the collection and exchange of information relating to nutritional problems.

Accordingly, the final policy statement provides for adding nutrients to foods to prevent identified nutrient deficiencies. The criteria found in proposed § 100.1(g)(1) (iv), (v), and (vi), because they are universally applicable to nutrient additions, have been transferred to new § 104.20(g).

Manufacturers may make labeling statements based on the criteria listed in this rule without awaiting further rulemaking by FDA. Before making a claim relating to fortification, a manufacturer should have the types of specific data identified in the guideline to document the appropriateness of the claim. If FDA believes that a claim for a particular food is false or misleading or otherwise in violation of the act, the agency will take appropriate enforcement action.

Nutrients Added in Accordance With Other Regulations To Raise the Nutritional Quality of a Food

4. The comments received on proposed § 100.1(g)(2), which dealt with nutrients added to raise the nutritional quality of the foods, were directed generally toward clarification of the intent and meaning of this paragraph.

One comment criticized this proposed principle as being too vague and theoretical to be used as a working guideline for industry. Other comments asked for clarification as to when it is necessary to raise the nutritional quality of a food and how to determine what is appropriate for a food. A city health department asked for clarification of the difference between proposed § 100.1 (g)(2) and (g)(4), which relates to restoration of nutrients to foods.

The principle proposed in § 100.1(g)(2) was intended to be a generalized principle that would permit the addition of nutrients to a food or class of foods when necessary to comply with a standard of identity, a nutritional quality guideline, a common or usual name regulation, or any other Federal regulation. In the absence of any applicable Federal regulation, § 100.1(g)(3) would have permitted nutrient addition on the basis of balancing nutrients to calories.

In the final policy statement, § 104.20(f) has been substituted for § 100.1(g)(2). Section 104.20(f) states that nutrients may be added to foods as permitted or required by applicable Federal regulations. Existing regulations prescribing the addition of nutrients to food are based upon the best available scientific data on food consumption patterns, nutritional needs and dietary habits of the general population and may encompass concepts of enrichment/fortification and restoration of nutrients. Nutrient addition based on balancing nutrients to calories, proposed in § 100.1(g)(3), is described in § 104.20(d).

Proposed § 100.1(g)(4) was intended to be a specific guideline for restoration of nutrients lost during storage or processing. This clarification has been made in the provision now designated as § 104.20(c).

The Nutrient-to-Calorie Balance Concept

5. Although there were objections to the concept of proposed § 100.1(g)(3) concerning the addition of nutrients to foods in proportion to their caloric content, it was evident from the many comments that its application was not fully understood. There were also a number of objections to specific criteria such as the 2,800-kilocalorie base for nutrient requirements.

This principle is established to provide a suitable general basis for fortifying foods for which no specific regulation exists concerning appropriate nutrient levels. A number of regulations already permit or require the addition of nutrients to foods; for example, several standards of identity exist for the enriched forms of certain basic foods including, but not limited to, flour, bread, degerminated corn meal, corn grits, corn meal, and rice. In addition, a nutritional quality guideline has been established for frozen heat-and-serve dinners, and nutritional quality guidelines have been proposed for other classes of foods. Section 101.3(e) (21 CFR 101.3(e), formerly 21 CFR 1.8(e)), provides that foods that substitute for and resemble traditional foods shall not be nutritionally inferior to such foods or shall bear an "imitation" label.

FDA will continue to develop regulations for specific foods and for classes of foods using 21 CFR Part 104, Subpart C—Nutritional Quality Guidelines; 21 CFR Part 102—Common or Usual Name regulations; and food standard regulations under authority of section 401 of the FD&C Act.

In the absence of an applicable regulation governing the enrichment of a food, the nutrient balance concept provides a suitable basis for adding nutrients to fabricated foods that may replace large portions of the total diet. This concept will be particularly useful for foods that are new or unique, and will assure that fortification results in a food of high nutritional quality.

Properly planned meals are composed of selections of foods that complement each other with respect to supplying the essential nutrients in the diet. When the specific use of new or unique products cannot be predicted, it is not possible to anticipate a specific and limited nutrient content or profile. Therefore, when products cannot be categorized as substitutes or replacements for a particular food and a manufacturer elects to add nutrients to such products, the nutrient additions should conform to a profile reflecting all the foods which the product might substitute for or replace in the diet. Because it is impractical to develop such a profile for each food, a logical alternative is a profile that would sustain a balance in the average person's overall nutrient intake by relating nutrient content to caloric content. As stated in the preamble to the 1974 proposal, this approach can also serve as an alternate means for establishing nutritional quality for fabricated foods.

6. There were several objections to the proposed establishment of a 2,800-kilocalorie baseline as a daily standard. Most of those commenting objected on the basis that the 2,800-kilocalorie figure was unrealistically high and not consistent with the reported caloric requirements of a majority of the population. Those commenting urged that a lower figure be adopted, and several comments specifically requested that the calorie standard be lowered to 2,300 kilocalories. Others requested that a 2,000-kilocalorie figure be adopted. A majority of those commenting cited two fundamental reasons for opposing the proposed calorie standard: (1) Setting a caloric standard at an unrealistically high intake would mislead a majority of consumers as to a proper caloric requirement; and (2) Consumers who

normally consume many fewer calories (for example, 1,500 kilocalories per day) would not be receiving adequate amounts of nutrients.

Upon reconsidering the issues, FDA has decided to revise the final policy statement to use a caloric standard of 2,000 kilocalories. The 2,800-kilocalorie value proposed was consistent with the development of the U.S. RDA's in that it approximated the highest mean value listed in the 1968 Recommended Dietary Allowances of the Food and Nutrition Board, National Academy of Sciences/National Research Council (NAS/NRC). There was also concern about unduly high levels of fortification, and by using a higher calorie base this problem would have been reduced. However, after consideration of the comments, FDA has concluded that a 2,800-kilocalorie base is not appropriate for a majority of consumers and may contribute to misunderstanding about the daily caloric requirements of individuals. The 2,000 kilocalorie base is further supported by the recently published food intake analysis from the 1971–1975 Health and Nutrition Examination Survey (DHEW Pub. No. 79–1221), which substantiates the decline in average caloric intakes of Americans.

The 2,000-kilocalorie base, though more realistic, is not intended for use as a uniform daily caloric requirement for individuals. Energy requirements of individuals vary over a wide range, and depend on factors (such as sex, age, state of health, level of physical activity) that differ from one individual to another. The caloric standard is to provide a baseline for fortification in relation to calories, not to provide a recommended caloric requirement for individuals.

A caloric base of 2,000 kilocalories per day will allow nutrients to be added to foods so that each nutrient is present at a level equal to at least 1/20th of the U.S. RDA per 100 kilocalories of food rather than 1/28th of the U.S. RDA per 100 kilocalories of food as originally proposed. The nutrient-to-calorie ratio established is adequate to ensure that most individuals, regardless of their individual calorie requirements, will receive adequate proportions of vitamins and minerals from these foods. It is also adequate to ensure that individuals with caloric intakes above average levels will not be exposed to an excessive intake of any nutrient as a result of consuming foods fortified in this manner.

7. Several comments also objected to the mandatory addition of all 20 nutrients in proposed § 100.1(g)(3)(v), where fortification using a balance of nutrients to calories is described.

Manufacturers expressed concern about the technical difficulties involved in providing all 20 nutrients, especially protein, in precise amounts in a single food. Several of those commenting stated that such inflexibility will curtail development of new, nutritious food products and reduce the number of foods now being fortified with vitamins and minerals. One company suggested that, instead of a single nutrient profile that would require all 20 nutrients, it would be more beneficial to establish a separate nutrient profile for each of several food groups, somewhat analogous to the Basic Four food groups. Another comment suggested that the nutrient balance concept be applicable when four or more nutrients are added in proportion to the caloric contribution of the food.

After reviewing these comments, FDA believes that many of them did not consider the entire range of options encompassed within the proposed regulatory approach. The addition of nutrients to food in proportion to the caloric contribution is only one of several ways in which nutrients might be added to food under these guidelines:

(1) Nutrients may be added to foods in accordance with standards of identity established under section 401 of the FD&C Act. Such standards expressly permit or require the addition of such nutrients.

(2) Dietary supplements may be formulated as provided for in section 411 of the FD&C Act.

(3) Nutrients may be added to foods in order to comply with an applicable nutritional quality guideline established in Part 104, Subpart C.

(4) Nutrients may be added to foods as provided for in an applicable common or usual name regulation established in 21 CFR Part 102.

(5) Nutrients may be added to foods if required to restore nutrients lost in storage and/or processing if all the conditions established by the new § 104.20(c) have been met.

In the absence of a specific regulation, a food that substitutes for and resembles another food must provide nutrients at levels nutritionally equivalent to the food it resembles or bear an "imitation" legend in accordance with 21 CFR 101.3(e) formerly 21 CFR 1.8(e).

In addition to these bases for fortification, nutrients may be added to a food in proportion to its caloric content if the food satisfies all the conditions established by new § 104.20(d).

The addition of nutrients to foods based on proportioning nutrients to caloric content is not appropriate in cases where the nutrient addition or composition for a food or class of foods has already been established by an applicable Federal regulation. In addition, fortification pursuant to this concept may not be appropriate if the food is represented as a substitute for and made to resemble traditional food. Representation plays an important part in determining an appropriate fortification mechanism. For example, a product represented as a "formulated meal replacement" designed to be used in a weight reduction program is more appropriately fortified to replace those vitamins and minerals normally provided by a traditional meal that contains more calories. If it were fortified on the basis of its caloric contribution it would not, in all cases, provide appropriate amounts of necessary vitamins and minerals. The proposed regulation establishing a nutritional quality guideline for formulated meal replacements and formulated meal bases (39 FR 20905; June 14, 1974) would provide more appropriate guidance for formulating such foods.

The comment requesting that several distinct nutrient profiles be established for basic types of foods based on nutrient compatibility and technological ease of adding certain nutrient groups did not provide any data or rational basis for establishing such profiles, other than suggesting a parallel to the Basic Four food groups.

FDA concludes that for the concept of "nutrient balance" to be preserved, all the vitamins, minerals, and protein listed in the original proposal should be present at the levels specified in § 104.20(d), except that the addition of vitamin D, iodine, and protein is optional.

There is a relatively narrow range of safety for vitamin D and a sufficient amount of this nutrient already is in the diet. The Total Diet Study by the FDA indicates that average dietary iodine intakes, though considered safe, are several-fold above the U.S. RDA. Hence there is no nutritional reason for the addition of these nutrients when the nutrient balance mechanism is used, and making these nutrients optional is highly unlikely to lead to, or change significantly, an imbalance of these nutrients in the diet. The optional status of protein is explained in paragraph 8 below.

Because of the many ways provided for food fortification, these fortification principles should not result in a reduction in the number of foods being rationally fortified. FDA is also confident that there is sufficient flexibility in this approach so as not to

hamper the development of new nutritious food products.

8. Several comments objected to the inclusion of protein among the required nutrients in proposed § 100.1(g)(3)(v). One trade association objected to protein being considered an "added nutrient" under the general principles because it is itself a food and not added on the same basis as micro-nutrients. Several comments cited the technical difficulties involved with adding protein on the same basis as other nutrients, and most stated that it would be impossible to add protein to some classes of food because of the amounts of protein required and because protein itself contributes substantially to the caloric value of the food.

FDA has found these comments to be persuasive, and it has made protein optional when nutrients are added to food on the basis of the "nutrient balance" concept. Because protein is a macro-nutrient, like carbohydrate and fat, its addition to a food would not, per se, require the addition of vitamins and minerals. Moreover, for most American consumers, there is no deficit of protein in the diet and therefore little justification for addition of protein. Also, it does not appear reasonable to advise against addition of vitamins and minerals to specific foods merely because they do not contain useful amounts of protein. However, if protein alone is added to a food, or protein content is highlighted in any way so as to state or imply nutritional value, the food would still be required to provide nutrition labeling under 21 CFR 101.9 (formerly 21 CFR 1.17) whether or not other nutrients have been added.

9. Some comments expressed concern that proposed § 100.1(g)(3) dealing with fortification using a "nutrient balance" principle would result in dietary imbalances because the nutrient list is limited. One comment recommended that the nutrient list be open-ended so that other nutrients may be added in the future. Another comment recommended that potassium, manganese and linoleic acid be included in the list of nutrients because they were included in the proposal for a formulated meal replacement nutritional quality guideline and have been added to such foods for years.

The general concern for a complete and balanced diet expressed by those commenting is one of the major underlying reasons for promulgating this policy statement. For this reason the list of nutrients specified in § 104.20(d) of the final policy statement should be considered subject to modification as new nutrition knowledge makes changes advisable. It is reasonable to anticipate that FDA will propose a number of additional U.S. RDA's for minerals, such as selenium, molybdenum, and chromium, taking into consideration the recommendations of the Food and Nutrition Board, NSA/NRC, in their new ninth edition of *Recommended Dietary Allowances* (1979, in press).

The minerals potassium and manganese have been added to the list of nutrients in new § 104.20(d), which describes the "nutrient balance" concept. Even though no U.S. RDA has been established for these minerals, they are both recognized as essential nutrients in the diet of man. The levels for these nutrients are based upon safe and adequate dietary intakes as reported in the ninth edition of *Recommended Dietary Allowances.* Manganese is widely distributed in foods of plant and animal origin, but is often lost in processing these foodstuffs. Food for which fortification in proportion to caloric content is appropriate will often contain highly processed ingredients; therefore, it is appropriate to include manganese in the list of nutrients. Potassium is also widely distributed in foods, and a diet of conventional foods usually provides adequate amounts of this nutrient. However, the potassium content of fabricated foods is uncertain. Because these foods may constitute a major part of a diet, it is desirable that they contribute reasonable amounts of potassium.

Linoleic acid has not been added because of the extreme unlikelihood of any dietary deficit of essential fatty acids. Linoleic acid is associated with fat in essentially the same manner that amino acids are associated with protein. Therefore, it is expected that foods fortified using a "nutrient balance" concept will contain linoleic acid if fat is present, but there is no nutritional justification for suggesting it be added to a wide range of foods. In the case of formulated meal replacements and formulated meal bases, linoleic acid is appropriately required because such foods may be used as the sole item of the diet for extended periods of time; and in such cases there is a need to ensure that essential fatty acid requirements are met. Even in this case, however it is unlikely that the requirement will be difficult to meet in view of the ubiquitous nature of fat in the food supply.

10. A number of comments suggested that protein content, as well as calories, could be used as a basis for nutrient density fortification. One comment stated that nutrient additions should be allowed only on the basis of protein content. Another comment agreed with the proposal to exclude protein as a basis for the addition of nutrients, on the ground that difficulties with such a mechanism would be compounded by uncertainties about protein quality.

In the preamble to the 1974 proposal, it was stated that protein as a basis for the addition of other nutrients was considered as an alternative fortification mechanism but was rejected. The use of such a mechanism would not allow for the fortification of protein-free products that may contribute significantly to the caloric value of the diet, and also could encourage the unnecessary addition of protein to foods.

11. One comment pointed out that proposed § 100.1 (g)(3)(iv) would prohibit a product meeting the June 14, 1974 proposed nutritional quality guideline for formulated meal replacements from being labeled as "calorically balanced." Other comments objected to the use of the term "calorically balanced" to describe fortified foods where the nutrients were added in proportion to calories.

A product meeting the requirements of a nutritional quality guideline may properly bear label claims that indicate that it meets the requirements of the guideline. The proposed nutritional quality guideline for formulated meal replacements is intended for a class of foods that may vary in calories per serving but still carry the same complement of vitamins and minerals appropriate for that class of foods. Related to this latter situation is the problem of calorically reduced or low calorie foods (21 CFR 101.66). For calorically reduced foods it would be deemed appropriate to use the normal caloric value of the food for purposes of applying the nutrient/calorie mechanism of enrichment/fortification. The term "calorically balanced" may be confusing and possibly misleading in describing this particular fortification mechanism, and the agency considers the use of "vitamins and minerals (and 'protein' when appropriate) added in proportion to calorie content" more appropriate than "calorically balanced." The policy statement has been revised accordingly.

12. A number of comments objected to the "calorie balance" concept on the basis that it is too rigid in its requirements and that any nutrient or combination of nutrients should be permitted to be added to a food if such nutrient(s) is added in proportion to the caloric content. One comment argued that the addition of vitamin A, thiamine, riboflavin and niacin to potato chips in proportion to calories is rational food fortification. The comment stated that these specific vitamins were selected on

the basis of dietary shortages in children as well as on the assumption that teenagers are not getting adequate thiamine, riboflavin and niacin from enriched grain products.

FDA does not agree that a variety of different combinations of several nutrients added to a food is advisable as a general approach to fortification, even though these nutrients are added in proportion to caloric content, because such a policy does not ensure or promote a balance of all nutrients in the general diet. Accordingly, FDA is continuing to recommend that the full complement of nutrients be added when the addition is being made to balance nutrients with the caloric contribution of the food.

The type of fortification of potato chips suggested by the comment more closely resembles the addition of nutrients as a public health measure to correct for a specific nutrient deficiency. As discussed earlier, any application of this principle must follow the identification of a condition of dietary insufficiency in a segment of the population or evidence that nutrient deficiencies are likely to occur, and the designation of a suitable food or foods that will be consumed by the "target" population to act as vehicles for the added nutrients. Also as discussed, manufacturers should be able to document their findings in this regard to avoid possible sanctions based on a finding that their claims are false or misleading or otherwise in violation of the Federal Food, Drug, and Cosmetic Act.

13. A few comments suggested that to be more flexible the regulation should permit nutrients to be added to foods at a higher density than that permitted by the proposed "nutrient balance" concept. As proposed, nutrients could be added to foods at levels equivalent to 1/28th of the U.S. RDA for each nutrient per 100 kilocalories of food. Those commenting suggested that higher nutrient densities should be allowed for technically feasible formulations, but were opposed to the requirement that all 20 vitamins and minerals listed be added because such formulations are not technically feasible.

Except for the modest increase inherent in changing to the 2,000 kilocalorie base, FDA advises that the higher nutrient density formulations referred to by those commenting may be more accurately described as special dietary foods and labeled accordingly.

The rationale for requiring the addition of all the vitamins and minerals under the "nutrient balance" concept has been discussed in the preceding paragraphs on caloric balance. It is pointed out, again, that this mechanism for food fortification is not appropriate for foods to which regulations with more specific fortification profiles are applicable.

14. Several comments objected to the proposed 56-kilocalorie-per-serving figure as a minimum criterion for foods to which nutrients can be added on the basis of caloric content. Part of the comment's arguments related to justifying the enrichment/fortification of foods below the caloric limit on the basis of their multiple consumption during the day.

FDA has changed the 56-kilocalorie-per-serving minimum to a 40-kilocalorie-per-serving minimum because the other changes in the guidelines, taken together, automatically lead to a 40-kilocalorie-per-serving minimum. Using the base of 2,000 kilocalories, nutrients may be added to foods at levels equivalent to 1/20 or 5 percent of the U.S. RDA for each 100 kilocalories of food. Because nutrients should not be added in amounts less than 2 percent of the U.S. RDA, nutrients should not be added to a product supplying less than 40 kilocalories per serving because of the 2,000-kilocalorie-per-day base. An addition of nutrients in amounts of less than 2 percent does not constitute a nutritionally useful addition of nutrients and could misleadingly suggest the addition is important when it is not.

FDA recognizes that if a substantial number of food items, each contributing a small number of calories, is consumed on a regular daily basis, these foods may become nutritionally significant for some consumers. However, it is not appropriate to fortify foods based on multiple consumption. Eating habits are so varied that it would be almost impossible to establish norms for these foods so that their caloric contribution to the daily diet could be gauged.

Therefore, FDA is retaining a 40-kilocalorie-per-serving minimum with no provision for multiple consumption of food servings that fall below the 40-kilocalorie-per-serving minimum.

Restoration

15. Most comments supported the part of the proposal permitting nutrients lost in processing to be restored to foods. Several comments, however, questioned specific aspects of this fortification mechanism. Several comments suggested that the definition of "restoration" in proposed § 100.1(g)(4) be expanded to include losses prior to processing, and that the standard of reference for restoration should be the nutrient content of the food or food ingredients at the time of harvest.

Losses of some nutrients may occur under normal storage and handling conditions, in addition to those that may occur during processing; hence, it is reasonable that restoration of nutrients include all losses of nutrients that occur after harvesting. The principle has been revised to allow restoration, where applicable, to include nutrient losses incurred during storage and handling of the freshly harvested food or ingredients of a food.

16. Several comments asked for interpretation of proposed § 100.1(g)(4). They pointed out that the proposed regulation permitted restoration generally, but that proposed § 100.1(g)(4)(iii) appeared to prohibit restoration without a negative label statement as required by 21 CFR 104.5(f) if there is a nutritional quality guideline for the food that calls for higher nutrient levels. Other comments also asked whether restoration would be permitted for conventional foods such as cereals if there were nutritional quality guidelines for their fortified counterparts (for example, fortified ready-to-eat cereal).

FDA advises that when a regulation prohibits, permits, or requires the addition of nutrients to a food or class of foods the nutrient levels specified in that regulation generally take into account concepts of enrichment/fortification and restoration. Therefore, the policy statement specifically states that restoration as a mechanism for food fortification is appropriate only in the absence of an applicable Federal regulation that specifically prohibits, permits, or requires the addition of nutrients to the food in question. However, FDA believes it should be permissible to restore nutrients to foods in the circumstances raised in the comments, that is, in the case of a food that may be, but has not been, voluntarily fortified in accordance with a Federal regulation. Federal regulations such as nutritional quality guidelines provide for fortification on a voluntary basis in a nutritionally appropriate way. Nutrients may be restored to these foods in accordance with the general principles in this document only when the food could have, but has not, in fact, been fortified in accordance with another Federal regulation that voluntarily permits fortification. A clarification of this point has been included in § 104.20(c)(4).

17. One comment requested that the criteria and specifics of restoration be further defined so that manufacturers would know whether it is required that all nutrients reduced in processing be restored or whether a particular nutrient could be selected for restoration. Other

comments requested additional information as to the specific levels of the nutrient additions. One comment requested that restoration be permitted at levels equivalent to 1.5 times the preprocessed levels to take into account and guard against any additional losses that may occur from storage and handling after leaving the manufacturing plant.

FDA has concluded that all nutrients, including protein, iodine and vitamin D, lost in measurable amounts (that is, at least 2 percent of the U.S. RDA per serving) during processing, storage, and handling should be restored if the restoration mechanism is used. This change has been made because of concern that partial restoration may result in restoration of only those nutrients that are least expensive, or technologically easiest to add, or only those required to be listed in nutrition labeling. Without this amendment, restoration practices could contribute to nutrient imbalance in the food supply.

The restoration principle permits the addition of vitamins, minerals, and proteins to a food to restore such nutrients to levels representative of the food before storage, handling, and processing if: (1) The nutrient(s) is shown by adequate scientific documentation to have been lost in a measurable amount equal to at least 2 percent of the U.S. RDA in a normal serving of the food; (2) Good manufacturing practices and normal storage and handling procedures cannot prevent the loss of such nutrients; (3) The food is not the subject of any other Federal regulation for a food or class of foods that requires or prohibits nutrient addition(s), or the food has not been fortified in accordance with any other Federal regulation that permits voluntary nutrient addition(s); (4) All nutrients that are lost in measurable amounts are restored; (5) All ingredients of the food product that contribute nutrients are considered in determining restoration levels; and (6) Nutrients are restored to levels representative of such food before storage, handling, and processing within good manufacturing limits.

Blanket restoration of all nutrients to 1.5 times preprocessing levels in consideration of future losses that may occur during storage and handling is considered by FDA to be inappropriate. One proviso for restoration is that normal storage and handling procedures cannot prevent the loss of a nutrient(s). Under normal conditions, such losses should be minimal for minerals and the more stable vitamins such as niacin. For the less stable vitamins, such as vitamin C, addition of reasonable amounts in excess of the restoration and declared level is acceptable to account for possible losses during normal storage and handling but not the extent of blanket overages for all nutrients. Except as discussed above, any addition in excess of actual restorative levels would not be considered restoration.

Labeling Statements, Claims, and Definitions

The 1974 proposal contained several provisions dealing with permitted or required label statements. In summary, the proposal would have extended the use of the affirmative statement, previously permitted only for those foods that comply with all the requirements of a nutritional quality guideline under 21 CFR 104.1(b) (formerly 21 CFR 100.1(b)), to foods meeting the requirements of an applicable food standard promulgated under section 401 of the act that "prescribes the nutrient additions to a food." The affirmative statement permitted reads: "This product provides nutrients in amounts appropriate for this class of foods as determined by the U.S. Government." The proposal only considered expanding use of the statement already permitted under 21 CFR 104.1(b). Thus comments objecting to the use of this statement for products meeting the requirement of a nutritional quality guideline or urging that the statement itself be modified for these foods are not relevant to the proposal. The proposal to expand the use of the statement is being withdrawn for the reasons discussed below.

18. A few comments objected to the positive label statement permitted by proposed § 100.1(b) on the ground that such a statement would be viewed by consumers as a Federal "stamp of approval" for certain products, and that such an assumption might mislead consumers into believing that such products are superior to traditional foods, without added vitamins, such as those the consumer prepares from raw ingredients. Another comment objected to such affirmative labeling statements because a majority of foods, unable to use such a statement, do in fact provide nutrients in appropriate amounts. Still other comments urged that additional classes of foods be allowed to use such a statement, when factual, and that expanded use of the statement be extended to raw agricultural commodities, foods restored to preprocessing levels, and foods with nutrients added in proportion to calories, in addition to extending its use to standardized foods when nutrient additions have been prescribed by the standard.

Some of the comments objecting to these provisions of the proposal were similar to those received in response to the initial proposal of general principles for the establishment of nutritional quality guidelines, published in the **Federal Register** of December 23, 1971 (36 FR 24822) and were discussed in the preamble to the nutritional quality guideline regulations published in the **Federal Register** of March 14, 1973 (38 FR 6969).

FDA concluded at that time, on the basis of consumers' expressed desires to be informed of which foods meet guideline requirements, that the affirmative statement would be permitted. To minimize the possibility of unwarranted or misleading use of such a statement, the scope of the statement was narrowed and a type size limit was imposed on the use of the statement.

All these comments have been considered carefully, and FDA has concluded that a comprehensive substantive rule governing the labeling of fortified foods is not feasible at this time because there are simply too many potential food labeling issues involved. These issues are both diverse and complex, and solutions to some of the problems concerning the labeling of fortified foods cannot be provided in this document. Therefore, a course of action has been chosen that will provide manufacturers with guidance on nutrient additions if they elect to fortify foods with proteins, vitamins and/or minerals.

Most labeling issues involving fortified foods can more realistically be dealt with individually, as specific problems become more clearly identified. Therefore, the expansion of the use of the affirmative statement will not be considered until more experience is gained concerning its effectiveness with nutritional quality guidelines.

19. One comment requested clarification of the affirmative labeling statement. It asked when "natural foods" that meet an applicable nutritional quality guideline are eligible to carry the affirmative statement.

It is assumed that the term "natural food" as used in this comment refers to food without added nutrients. FDA advises that any food that complies with an applicable nutritional quality guideline is eligible to bear the guideline statement regardless of whether such food naturally contains the appropriate nutrients or the nutrients were added separately. There is no difference in nutritional quality between two foods simply because nutrients are added as discrete substances in the one case and are naturally present in the other. One

of the reasons a positive statement is useful is that it informs consumers in a positive manner that a food meets an appropriate nutritional profile for that particular food.

20. The proposal also would have extended the use of the negative statement previously required under 21 CFR 100.1(f) for products within a class of foods for which a nutritional quality guideline has been established and to which a discrete nutrient or nutrients have been added but which fail to comply with the provisions of the guideline. The proposal would have extended the requirement for the negative labeling statement to any food to which discrete nutrients have been added but which fails to comply with any of the various fortification mechanisms established by the "general principles" regulation.

A number of comments opposed this requirement of a disclaimer statement for any food on the ground that such a provision is beyond FDA's statutory authority. Others argued that the extension of the disclaimer statement to other foods fortified with vitamins and minerals is actually assumption of "preclearance authority" for food formulation, which is not granted to FDA by any statute.

In the preamble to the proposal it was emphasized that the regulation was not intended to encourage the food industry to put vitamins, minerals, or protein into every food. Certainly not every food is an appropriate carrier for additional nutrients. Indiscriminate fortification of foods could lead to confusion about the necessity or propriety of food fortification. It could mislead consumers about the overall nutritional value of various kinds of foods and could lead to potentially serious health problems.

FDA does agree, however, that an across-the-board requirement to provide a disclaimer statement is not justified. It would impose considerable restrictions on manufacturers and would create a large administrative burden as well because manufacturers probably would file many petitions to amend the regulations. FDA has concluded that specific problems with regard to labeling of fortified foods are more appropriately addressed apart from this document.

Other labeling provisions in the proposal were not adopted in this document because this document provides guidelines for nutrient additions rather than labeling regulations. One proposed provision would have permitted certain labeling claims when particular fortification mechanisms are employed. Specific label statements were also proposed for food fortified under restoration, enrichment/fortification, or caloric balance principles. Another proposal would have proscribed certain labeling claims such as those in proposed § 100.1(i)(1), which reads: "No claim or statement may be made on the label or in labeling that any vitamin, mineral, or protein has been added to a food, either in general terms, e.g., "fortified", or in specific terms, e.g., "added", if it is added pursuant to § 1.8(e) of this chapter (now § 101.3(e)) except that a nutrient addition shall be declared by common or usual name in the ingredient statement." Proposed § 100.1(i) (2) and (3) contained similar provisions for labeling claims.

21. Several comments supported the definitions for "enrichment," "fortification," and "restoration" in § 100.1(j) of the proposal. Some comments, however, expressed doubt that consumers would be likely to distinguish between "enriched" and "fortified" and urged a more general definition.

FDA advises that, since these definitions were proposed in June of 1974, the U.S. Department of Agriculture has published the results of a survey "Homemakers, Food and Nutrition Knowledge, Practices, and Opinions," Home Economics Research Report No. 39. This survey found that many people apparently view "enriched" as being synonymous with "fortified," and that both are viewed as meaning simply the addition of nutrients. Therefore, FDA concludes that for label and labeling purposes it will be less confusing to consumers if no distinction is made between these terms. The statement of policy, therefore, permits the term "enriched," "fortified," or similar terms to be used interchangeably, unless an applicable Federal regulation requires more specific words or statements.

The definition of "restoration" has also been amended to include the nutrient loss from harvesting to processing and is discussed in paragraph 15 above.

22. Several comments objected to the prohibition of labeling claims for foods to which nutrients are added to make them nutritionally equivalent to the foods they resemble and for which they substitute. The objections declared that the proposed prohibition was an unnecessary restriction on making truthful and nonmisleading statements.

FDA rejects that argument. The preamble to the proposed regulation explained that the labeling claims would be prohibited on such foods to protect consumers from being misled into thinking that processed foods with nutrients added to make them nutritionally equivalent to foods they resemble and substitute for are nutritionally superior to these foods. A special labeling announcement declaring that nutrients have been added is inappropriate because they had to be added to achieve the nutritional comparability and avoid the imitation label. The revised policy statement continues to state FDA's position that it is inappropriate to make claims about the addition of nutrients to a food that has been fortified to make it nutritionally equivalent to the food it replaces. Further, FDA points out that consumers can learn of the added nutrients, which must be included by common or usual name in the ingredient list.

23. A few comments requested clarification of proposed § 100.1(d) and (i)(2) concerning prohibitions of certain label claims. Those commenting stated that the two paragraphs apparently conflicted in that § 100.1(i)(2) permits comparative statements and § 100.1(d) prohibits comparative statements. Other comments simply expressed confusion as to the exact meaning of proposed § 100.1(d).

FDA agrees that these provisions were not clear. They were intended to prevent a labeling distinction being made between products to which nutrients had been added and those that did not require such additions to meet the requirements of applicable nutritional quality guidelines. The nutritional quality guidelines regulations already contain a provision (21 CFR 104.5(d)) essentially the same as proposed § 100.1(d). Any distinction between natural and synthetic vitamins will continue to be prohibited under § 101.9(i)(6), and claims for nutritional superiority will be controlled by § 101.9(c)(7)(v). Therefore, these restrictions have not been included in this statement of policy.

Miscellaneous Comments

24. One comment suggested that the "general principles" apply to the addition of amino acids to improve the protein quality of foods.

FDA advises that amino acids, when added to a food to improve its protein quality, are considered food additives and are regulated under 21 CFR 172.320 *Amino acids* (formerly 21 CFR 121.1002). There is no need for repetition of the requirements of § 172.320.

25. One comment from industry requested clarification as to whether the proposal applies only to human food or whether it includes animal food.

The proposed "general principles" regulations apply only to food for human consumption and not to animal food. The recodification in the **Federal**

Register of March 15, 1977 (42 FR 14302) assigns these regulations to 21 CFR Chapter I, Subchapter B—Food for Human Consumption.

This final order was proposed prior to Executive Orders 11821 and 12044, requiring agencies in the executive branch to review regulatory and legislative proposals they initiate for economic impact, and so does not require economic impact review.

Therefore, in accordance with the foregoing discussion, and under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403(a), 701(a), 52 Stat. 1041 and 1047 as amended, 1055 (21 U.S.C. 321(n), 343(a), 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 104 is amended by adding new Subpart B consisting at this time of § 104.20, to read as follows:

PART 104—NUTRITIONAL QUALITY OF FOODS

Subpart B—Fortification Policy

§ 104.20 Statement of purpose.

(a) The fundamental objective of this subpart is to establish a uniform set of principles that will serve as a model for the rational addition of nutrients to foods. The achievement and maintenance of a desirable level of nutritional quality in the nation's food supply is an important public health objective. The addition of nutrients to specific foods can be an effective way of maintaining and improving the overall nutritional quality of the food supply. However, random fortification of foods could result in over- or underfortification in consumer diets and create nutrient imbalances in the food supply. It could also result in deceptive or misleading claims for certain foods. The Food and Drug Administration does not encourage indiscriminate addition of nutrients to foods, nor does it consider it appropriate to fortify fresh produce; meat, poultry, or fish products; sugars; or snack foods such as candies and carbonated beverages. To preserve a balance of nutrients in the diet, manufacturers who elect to fortify foods are urged to utilize these principles when adding nutrients to food. It is reasonable to anticipate that the U.S. RDA's as delineated in § 101.9 of this chapter and in paragraph (d) of this section will be amended from time to time to list additional nutrients and/or to change the levels of specific U.S. RDA's as improved knowledge about human nutrient requirements and allowances develops. The policy set forth in this section is based on U.S. dietary practices and nutritional needs and may not be applicable in other countries.

(b) A nutrient(s) listed in paragraph (d)(3) of this section may appropriately be added to a food to correct a dietary insufficiency recognized by the scientific community to exist and known to result in nutritional deficiency disease if:

(1) Sufficient information is available to identify the nutritional problem and the affected population groups, and the food is suitable to act as a vehicle for the added nutrients. Manufacturers contemplating using this principle are urged to contact the Food and Drug Administration before implementing a fortification plan based on this principle.

(2) The food is not the subject of any other Federal regulation for a food or class of food that requires, permits, or prohibits nutrient additions. (Other Federal regulations include, but are not limited to, standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act, nutritional quality guidelines established in Subpart C of this part, and common or usual name regulations established in Part 102 of this chapter.)

(c) A nutrient(s) listed in paragraph (d)(3) of this section may appropriately be added to a food to restore such nutrient(s) to a level(s) representative of the food prior to storage, handling, and processing, when:

(1) The nutrient(s) is shown by adequate scientific documentation to have been lost in storage, handling, or processing in a measurable amount equal to at least 2 percent of the U.S. RDA (and 2 percent of 2.5 grams of potassium and 4.0 milligrams of manganese, when appropriate) in a normal serving of the food;

(2) Good manufacturing practices and normal storage and handling procedures cannot prevent the loss of such nutrient(s),

(3) All nutrients, including protein, iodine and vitamin D, that are lost in a measurable amount are restored and all ingredients of the food product that contribute nutrients are considered in determining restoration levels; and

(4) The food is not the subject of any other Federal regulation that requires or prohibits nutrient addition(s), or the food has not been fortified in accordance with any other Federal regulation that permits voluntary nutrient additions.

(d) A nutrient(s) listed in paragraph (d)(3) of this section may be added to a food in proportion to the total caloric content of the food, to balance the vitamin, mineral, and protein content if:

(1) A normal serving of the food contains at least 40 kilocalories (that is, 2 percent of a daily intake of 2,000 kilocalories);

(2) The food is not the subject of any other Federal regulation for a food or class of food that requires, permits, or prohibits nutrient additions; and

(3) The food contains all of the following nutrients per 100 kilocalories based on a 2,000-kilocalorie total intake as a daily standard:

Nutrient and unit of measurement	U.S. RDA [1]	Amount per 100 kilocalories
Protein (optional), gram (g)	[2] 65	3.25
	45	2.25
Vitamin A, international unit (UI)	5000	250
Vitamin C, milligram (mg)	60	3
Thiamine, milligram (mg)	1.5	0.075
Riboflavin, milligram (mg)	1.7	0.085
Niacin, milligram (mg)	20	1.0
Calcium, gram (g)	1	0.05
Iron, milligram (mg)	18	0.9
Vitamin D (optional), international unit (IU)	400	20
Vitamin E, international unit (IU)	30	1.5
Vitamin B-6, milligram (mg)	2	0.1
Folic acid, milligram (mg)	0.4	0.02
Vitamin B-12, microgram (mcg)	6	0.3
Phosphorus, gram (g)	1	0.05
Iodine (optional), microgram (mcg)	150	7.5
Magnesium, milligram (mg)	400	20
Zinc, milligram (mg)	15	0.75
Copper, milligram (mg)	2	0.1
Biotin, milligram (mg)	0.3	0.015
Pantothenic acid, milligram (mg)	10	0.5
Potassium, gram (g)	[3]	0.125
Manganese, milligram (mg)	[3]	0.2

[1] U.S. Recommended Daily Allowance (U.S. RDA) for adults and children 4 or more years of age.

[2] If the protein efficiency ratio of protein is equal to or better than that of casein, the U.S. RDA is 45 g.

[3] No U.S. RDA has been established for either potassium or manganese; daily dietary intakes of 2.5 g. and 4.0 mg., respectively, are based on the 1979 Recommended Dietary Allowances of the Food and Nutrition Board, National Academy of Sciences-National Research Council.

(e) A nutrient(s) may appropriately be added to a food that replaces traditional food in the diet to avoid nutritional inferiority in accordance with § 101.3(e)(2) of this chapter.

(f) Nutrient(s) may be added to foods as permitted or required by applicable regulations established elsewhere in this chapter.

(g) A nutrient added to a food is appropriate only when the nutrient:

(1) Is stable in the food under customary conditions of storage, distribution, and use;

(2) Is physiologically available from the food;

(3) Is present at a level at which there is a reasonable assurance that consumption of the food containing the added nutrient will not result in an excessive intake of the nutrient, considering cumulative amounts from other sources in the diet; and

(4) Is suitable for its intended purpose and is in compliance with applicable provisions of the act and regulations governing the safety of substances in food.

(h) Any claims or statements in the labeling of food about the addition of a

vitamin, mineral, or protein to a food shall be made only if the claim or statement is not false or misleading and otherwise complies with the act and any applicable regulations. The following label claims are acceptable:

(1) The labeling claim "fully restored with vitamins and minerals" or "fully restored with vitamins and minerals to the level of unprocessed ——" (the blank to be filled in with the common or usual name of the food) may be used to describe foods fortified in accordance with the principles established in paragraph (c) of the section.

(2) The labeling claim, "vitamins and minerals (and "protein" when appropriate) added are in proportion to caloric content" may be used to describe food fortified in accordance with the principles established in paragraph (d) of this section.

(3) When labeling claims are permitted, the term "enriched," "fortified," "added," or similar terms may be used interchangeably to indicate the addition of one or more vitamins or minerals or protein to a food, unless an applicable Federal regulation requires the use of specific words or statements.

(i) It is inappropriate to make any claim or statement on a label or in labeling, other than in a listing of the nutrient ingredients as part of the ingredient statement, that any vitamin, mineral, or protein has been added to a food to which nutrients have been added pursuant to paragraph (e) of this section.

Effective date. This policy statement is effective February 25, 1980.

(Secs. 201(n), 403(a), 701(a), 52 Stat. 1041 and 1047 as amended, 1055 (21 U.S.C. 321(n), 343(a), 371(a)).)

Dated: January 18, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

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Friday
January 25, 1980

Part VI

Department of Health, Education, and Welfare

Health Care Financing Administration
Social Security Administration

Fiscal Disallowance for Erroneous Payments in Aid to Families With Dependent Children and Medicaid Programs; Calculating Reduction in Federal Financial Participation for Incorrect Payment by States After September 1980

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Social Security Administration

42 CFR Part 431

45 CFR Part 205

Fiscal Disallowance for Erroneous Payments in Aid to Families with Dependent Children and Medicaid Programs; Calculating Reduction in Federal Financial Participation for Incorrect Payment by States After September 1980

AGENCY: Department of Health, Education, and Welfare.

ACTION: Policy Statement on Final Rules and discussion of comments.

SUMMARY: These final regulations implement a directive in Sec. 201 of the Labor-HEW Appropriation bill for Fiscal Year 1980 (H.R. 4389), as referenced in the Continuing Resolution for Fiscal Year 1980 (Pub. L. 96–123). Sec. 201 directs the Secretary of HEW to issue regulations requiring States to reduce their payment error rates in Aid to Families with Dependent Children (AFDC) and Medicaid to 4 percent by September 30, 1982. States must make one-third progress to the 4 percent goal by September 30, 1980 and two-thirds progress by September 30, 1981. Federal matching will be denied for erroneous expenditures in excess of the standards.

On September 25, 1979, a notice of proposed rulemaking was published in the **Federal Register** (44 FR 55314). Comments were received on Medicaid issues from 34 State and local welfare and health departments, and 3 private organizations, and from nearly the same number of commenters on AFDC issues. All comments were considered in preparing the final rule. These comments and responses are discussed below. Changes from the proposed rule resulting from comments received are indicated in the discussion.

DATES: The standards established in these regulations become effect October 1, 1980, when they will supercede the standards promulgated March 7, 1979. The March 7, 1979 standards will remain effective through September 30, 1980.

FOR FURTHER INFORMATION CONTACT: For AFDC: Sean Hurley, Division of AFDC Quality Control (202) 245–8999.

For Medicaid: John Berry, Bureau of Quality Control (301) 597–1354.

SUPPLEMENTARY INFORMATION: A major issue in the history of quality control in AFDC and Medicaid has been the Federal government's authority to extend Federal financial participation to erroneous expenditures, particularly in instances where the level of erroneous expenditures exceeds prescribed tolerance levels. The current payment accuracy standards were promulgated March 7, 1979 after extensive consultation with State and local governments and other affected parties.

In the course of deliberations on the Fiscal Year 1980 Labor-HEW Appropriation bill (H.R. 4389), the House-Senate conferees added a provision (Sec. 201) directing the Secretary of HEW to issue regulations requiring States to reduce their AFDC and Medicaid payment error rates to 4 percent by September 30, 1982. Although the conference bill is still awaiting Senate passage, the Congress has acted through a Continuing Resolution (P.L. 96–123) to appropriate Fiscal Year 1980 funds to HEW "to the extent" and "in the manner of" H.R. 4389, as adopted by the House of Representatives on August 2, 1979, including the directive contained in Sec. 201. The regulations now being issued implement the new error rate standards.

1. *Description of new error rate standards.*—The new standards require States to maintain a 4 percent payment error rate in AFDC and Medicaid by September 30, 1982 and to make progress from a base period payment error rate towards the 4 percent standard "in equal amounts each year beginning in Fiscal Year 1980." The base period is April–September 1978 for AFDC and July–December 1978 for Medicaid. The requirement of a phased reduction to 4 percent establishes interim goals of one-third progress to be attained by September 30, 1980 and two-thirds progress to be attained by September 30, 1981. For example, if a State had a payment error rate of 10 percent in the base period, the congressional directive would require the State to reduce its payment error rate to 8 percent by September 30, 1980 (constituting one-third progress from 10 percent to the 4 percent goal), to 6 percent by September 30, 1981, and to 4 percent by September 30, 1982.

The Department will retain its current quality control measurement systems in AFDC and Medicaid. These measurement systems provide error rate estimates for the semi-annual periods October–March and April–September, rather than for a specific point in time (e.g., September 30). In determining State compliance with an error rate target to be reached by a calendar date, the Department will use the weighted average of the State's error rates for the two six-month reporting periods that follow the target date. The weights will be established as the percent of total annual payments that occur in each of the six-month periods. This procedure permits a State to benefit fully from error reduction that occurs near the end of a fiscal year.

Since error rates will presumably decline over time, it would be unfair to hold a State to a standard for a calendar period if that target is not to be met until the end of the period. Thus, the requirement that one-third progress be achieved by September 30, 1980 establishes a first interim standard to be applied in a succeeding period (i.e., October 1980–March 1981 and April–September 1981). The requirement that two-thirds progress be achieved by September 30, 1981 establishes a second interim standard, to be applied in October 1981–March 1982 and April–September 1982. The 4 percent goal will then become the standard for October 1982–March 1983 and April–September 1983, and for all succeeding annual assessment periods.

Continuing the above example, if a State's base period rate were 10.0 percent, the following schedule would apply:

Quality control reporting period	Progress toward 4 percent	Error rate target [1]
a. October 1980–March 1981 and April–September 1981	one-third	8.0
b. October 1981–March 1982 and April–September 1982	two-thirds	6.0
c. October 1982–March 1983 and April–September 1983, and each succeeding year		4.0

[1] This assumes a base period error rate of 10.0 percent. Compliance will be determined on the basis of a weighted average of error rates for the two semi-annual reporting periods in each fiscal year.

2. *Transition from current standards.*—Prior to the implementation of these targets, the Department will maintain the disallowance policy established in the regulations issued on March 7, 1979. To revoke the present set of standards and then impose targets that are ultimately stricter would be inconsistent with the congressional mandate. Furthermore, the Department believes that the present policy is a reasonable approach to improved management in AFDC and Medicaid. Accordingly, the provisions of the current regulation will be retained for the quality control reporting periods April–September 1979, October 1979–March 1980, and April–September 1980.

3. *Criteria for waiving disallowances.*—Section 201 of the Fiscal Year 1980 Labor-HEW Appropriation bill states that "the

requirements pertaining to AFDC and Medicaid error rates . . . shall be carried out except where the Secretary determines, in certain limited cases, that states are unable to reach the required reduction in a given year despite a good faith efort." The Statement of Conference Managers states the intention of the conferees that the "waiver process is to be limited to extraordinary circimstances." The March 7, 1979 regulations allow the Department to waive or reduce a fiscal disallowance if the State can establish a good reason for not meeting the error target. To grant a waiver under the March 7, 1979 regulations, the Secretary must find that "factors beyond the control of the State" precluded the State from achieving the error rate standard. The March 7, 1979 regulations give a number of examples of mitigating circumstances considered sufficient to justify a waiver.

- Disasters such as fire, flood, or civil disorders, that required the diversion of significant personnel normally assigned to eligibility administration, or destroyed or delayed access to significant records needed to make or maintain accurate eligibility determinations;
- Strikes of State staff or other government or private personnel necessary to the determination of eligibility processing of case changes;
- Sudden and unanticipated workload changes which result from changes in Federal law and regulation, or rapid, unpredictable caseload growth in excess of, for example, 15 percent for a 6-month period; and
- State actions resulting from incorrect written policy interpretation to the State by a Federal official reasonably assumed to be in a position to provide such interpretation.

In implementing the provision on "good faith effort" in the appropriation bill, the rules now being published establish a waiver provision that is broader than the one contained in the March 7, 1979 regulations. In particular, the basis on which the Secretary may grant a waiver is being broadened from (a) a finding that factors beyond the control of the State precluded achievement of the error rate standard to (b) a finding that, despite a State's good faith effort, the State was unable to attain the error rate standard. Such a finding will be limited to extraordinary circumstances. Both the criteria and the list of examples in the March 7, 1979 regulations imply a finding that intervening external forces made achievement impossible. Given the criteria in the March 7, 1979 regulations, the Secretary would be unable to waive or reduce a penalty in a State that made an all-out, conscientious effort that substantially reduced its error rate, but nevertheless did not fully achieve the error rate standard. Thus, in the new rules we are adding the following to the illustrative list of qualifying situations:

- The State developed and implemented, in a timely manner, a corrective action plan reasonably designed to meet the target error rate, but the target error rate was not met.

In evaluating whether the State has made a good faith effort in these circumstances, the Department will consider the following factors:

- Demonstrated commitment by top management to the error reduction program, e.g., priorities and goals clearly enunciated to staff, accountability for performance, availability of resources;
- Sufficiency and quality of operational systems designed to reduce errors, e.g., BENDEX, IDEX, monthly reporting, retrospective budgeting, error prone profiles, local agency monitoring systems, computer clearances;
- Use of effective systems and procedures for the statistical and program analysis of QC and related data, e.g., statistical tests, tabulations and cross-tabulations, error prone profiles, corrective action committees, special studies; and
- Effective management and execution of the corrective action process, e.g., assignment of responsibilities, milestones for completing tasks, completion of tasks, monitoring of progress.

4. *Changes from September 25, 1979 Notice of Proposed Rulemaking.*—These final regulations do not significantly differ in any respect from the Notice of Proposed Rulemaking published September 25, 1979. Some minor language changes have been made to clarify the meaning. Some of these clarifications are discussed below in the Department's responses to public comments.

HEW Response to Public Comments on Notice of Proposed Rulemaking Issues Common to Both Medicaid and to Aid to Families With Dependent Children Programs

Counting Client Errors

Comment: Many State and local welfare and health departments objected to including client errors in the error rate because these errors are not controllable.

Response: Client errors have been included in the QC measurement system since its inception in 1970. Past QC findings show that client errors are controllable and can be reduced. In AFDC, these errors have been reduced by 51.6 percent nationwide since 1973. Moreover, there is no indication in section 201 of the Labor-HEW Appropriation Bill (commonly known as the Michel Amendment) or its legislative history that Congress intended to have client errors excluded in computing AFDC and Medicaid error rates. Accordingly, we will not change the current definition of error to exclude client errors.

Performance Standards on a State-by-State Basis

Comment: Several States and other commenters believe that performance standards should be set on a State-by-State basis because of the variation among States in program complexity, caseloads, State plan requirements, and quality control procedures, and the variation in Federal re-reviews. Comments included the following: some States devote more resources and manhours to QC audits and are likely to find more errors; monetary consideration should be given to States which offer more optional services; States with high benefit levels and broad scope of program coverages are disadvantaged in relation to other States; States that have done a poor job in error reduction will be rewarded with waivers and a lengthy "phase-in"; QC should not cite errors when a State fails to follow a State plan issue which is not required by regulations; regulations do not address difference in QC procedures among States, therefore, QC procedures should be in the regulations; the regulations should be amended to provide consistency between the Medicaid and AFDC programs; a study should be done to measure State-by-State expectations; consideration should be given to a level of improvement that is cost effective; and the wide variance in Federal re-reviews does not assure equal treatment to the States.

Response: The Michel Amendment sets a single 4 percent national standard. Although the Department questions whether such a standard should be set without an empirical base, we must nevertheless carry out the mandate of the Congress.

The differences among States, in State plan requirements, caseload demographic characteristics, and quality control procedures are areas that we are continuing to analyze in a current Departmental study. Among other purposes, this study seeks to determine whether such differences affect the ability of States to reduce their payment error rates to a national standard in a cost effective manner. We expect to provide recommendations to Congress

on this issue after the study is completed.

Appeal Process/Waiver

Comment: Several States and other commenters believe that the final regulations need to define "good faith" precisely, describe the appeals and waiver process in more detail, and broaden the examples of good faith exceptions.

Comments and recommendations on these subjects were as follows: the final regulations should define good cause precisely and clarify that the good faith provisions are not exhaustive but will be considered as examples; the regulations should specify that the development and submittal of corrective action plans alone are not sufficient basis for a good faith exception; the department should remove the word "unanticipated" from the examples in 45 CFR 204.42(g) (2) (B) (iii) and 42 CFR 431.802(e) (B) (iii) of when good faith applies; good faith examples should be broadened to include staffing ratios and the rate of staff turnover, rapid but short term increases in workload due to lay-offs, strikes, etc.; the time for requesting a good faith appeal should be 90 days, not 65 days; the duration of the waiver process and the level of our review and judgment should be addressed in the regulations; States should be given sufficient time to make necessary budgetary changes before FFP is withheld; and the federal government should be restricted to the same time limits to decide a disallowance appeal as the States have to make such an appeal.

Response: The examples of good faith effort provided in the regulations are not intended to be exhaustive or exclusive. They are intended to provide examples that identify for States the kinds of circumstances for which the Secretary would grant a waiver. The examples cited cover broad general areas: (1) circumstances beyond the State's control, and (2) employment of all appropriate management measures. States may request a waiver whenever they believe they have made a "good faith" effort to meet the target error rate or 4 percent standard, but have not met the appropriate target.

The decision to grant a good faith waiver will be made based on the documentation presented by the State, and on recommendations made by Regional and headquarters operating components.

We have not established a formal administrative process for the Secretary's review of the State's good faith request because we believe this process must be informal, allowing a free interchange between the Secretary and the State.

These regulations provide a State with 65 days to request a good faith waiver after notification of our intended action to reduce Federal matching funds. We believe this period is adequate. If a State is granted a good faith waiver, we will adjust the disallowance, as appropriate. If a State does not agree with the disallowance decision, it will have 30 days from the date of that decision to request an appeal through existing appeal procedures, including review by the Grant Appeals Board. (See 45 CFR 201.14 and 45 CFR Part 16.) We believe this provides States with an adequate time to appeal the Secretary's decision and to make necessary budgetary adjustments.

We intend to respond to disallowance appeals in a timely manner. However, it would not be feasible at this time to set time limits within which appeals must be decided.

Technical Assistance to States

Comment: Several States indicated that we should make further attempts to provide technical assistance to them instead of imposing unrealistic penalties.

Response: We are providing technical assistance to States and will make every effort to expand this assistance, especially in States that may have difficulty meeting error rate reduction targets.

Regulation Revision Date

Comment: One commenter suggested that Federal regulations should only be revised October 1 of each year with no retroactive implementation of administrative decisions.

Response: While it might be easier for us and States if regulations were revised only on one set day of the year, it is usually not administratively possible. In many instances, a regulation needs to be revised because of a recent law, a court decision, or a State request. Also, if a law requires that a regulation go into effect immediately or be implemented retroactively, we must follow this directive.

The 4% Standard Is Unreasonable

Comment: Most States were against the use of the 4 percent standard. They cited the lack of any data to support this goal and suggested that no goal be established until the Department's study on national standards is completed. Some States suggested that a hold harmless margin above 4 percent be established to protect against seasonal and other limited fluctuations in error rate performance which would initially disadvantage low error rate States. A few States questioned whether our authority to promulgate these regulations was limited to one year because of their linkage to an appropriation bill.

Response: We recognize that the 4 percent standard represents a more stringent error reduction goal than that provided for in the March 7, 1979 regulations. We have, however, been directed by the Congress to publish regulations providing for a 4 percent standard. We will be continuing our study to determine what level of error performance can be achieved cost effectively and whether that level is the same for all States. Although Congress has established 4% as the absolute goal for all States, this study will seek to provide the Department and Congress with data on which to base any future evaluation of that standard.

We have no authority to establish a hold harmless margin above 4% for States with low error rates. Furthermore, we do not believe that States which have error rates just above the 4 percent standard will be at a disadvantage when compared to States with high error rates. For these States, achieving the 4 percent standard will not involve such an ambitious effort as those with higher error rates. The good faith provisions of the regulations are equally applicable to all States.

The fact that the Michel Amendment appears in an annual appropriation act does not limit its applicability to the current fiscal year. Appropriation acts, at times, include provisions which are applicable beyond a particular fiscal year, e.g., provisions that constitute permanent legislation.

Interim Targets and Their Calculation

Comment: Many commenters objected to the nature of and basis for the interim error reduction targets. Specifically these commenters suggested the following: change the base period; measure error reduction on a national average rather than an individual State performance basis; provide for hold harmless margins around interim targets; use of semi-annual measurement period rather than an annual weighted average to determine compliance; extend the reduction target dates to provide more time for corrective action planning and implementation; provide incentive payments for States that exceed error reduction targets; and clarify the impact of fluctuation of error rates below the targets.

Response: We have been directed by Congress to publish regulations that require States to reduce payment error rates in equal annual increments down

to 4 percent by September 30, 1982. The first reduction period begins in fiscal year 1980. The Michel Amendment directed that the base period to be used shall be the April–September 1978 sample period for the AFDC program and the July–December 1978 sample period for the Medicaid program. We believe the schedule of phased reduction provided in these regulations gives States the maximum time period in which to accomplish error reductions, given the constraints of the Congressional mandate. For example, attainment of the interim target error rate for September 30, 1980 will be measured by data obtained in the sampling periods following that date, i.e. the October 1980–March 1981/April–September 1981 sampling periods. The same procedure will be used to determine compliance with the 1981 and 1982 target error rates. In addition, we do not believe that these regulations limit the time allowed for corrective action. Corrective action is an ongoing process. It is not merely based on analysis of data obtained at the end of a sample review period. Error trends should be identified on a monthly basis and corrective actions should be implemented immediately upon identification of a problem.

We believe that an annual assessment period rather than a semi-annual assessment period is more consistent with the intent of Congress. We also believe that it is the most advantageous alternative, because it provides the States more time to demonstrate that a target had been reached in a prior period.

We do not have the latitude to provide for a hold harmless margin around the interim target error rate. We also have no authority to apply the one-third reduction to the national mean, because to do so would be inconsistent with the Michel Amendment.

There is no statutory basis for giving incentive payments to States for achieving error rates below their interim targets other than those provided in Section 403(j) of the Social Security Act. The final regulations for implementing these incentive provisions (45 CFR 205.43) were published in the **Federal Register** November 26, 1979. These regulations provide that States with AFDC overall dollar error rates below 4 percent will receive a percentage share of Federal savings as a result of reduced erroneous expenditures.

We will not penalize States if their error rates increase but remain below their interim target rate. For example, if a State's error rate was 10 percent in the base period and was reduced to 5 percent for the first annual assessment period (October 1980–September 1981) and as long as the rate did not increase above 6 percent for the second annual assessment period (October 1981–September 1982), the State continues to meet interim reduction requirements. States with less than 4 percent error rates will not be penalized if the error rate increases, but remains below 4 percent.

Payments to Clients Should Not Be Curtailed

Comment: A number of States expressed the opinion that despite the statement of the Conference managers on the Michel Amendment that payments to eligible recipients not be curtailed or delayed, States may be forced to cut benefit levels and services due to disallowance of Federal funds.

Response: We are currently exploring various alternatives that may be available to protect recipient's benefit levels in the event disallowances are assessed.

Michel Amendment Directive to Issue Regulations

Comment: One commenter asked whether the Department is legally obligated to implement the Michel Amendment directive to issue regulations, since the 1980 Appropriations Act has not been enacted.

Response: The Department is required to implement the Michel Amendment directive. Even though the FY 1980 Appropriation Bill, which includes the Michel Amendment directive in section 201 has not been enacted, imposition of the directive is law by virtue of the provisions of the Continuing Resolution (Pub. L. 96–123) which appropriates funds for HEW for FY 1980. Section 101(g) provides funds for HEW "to the extent and in the manner" provided for in the Labor-HEW Appropriation Bill as adopted by the House of Representatives on August 2, 1979. Since the Appropriation Bill includes the Michel Amendment directive, we are obligated to issue regulations in implementation of that directive.

Medicaid Issues

Remove Third Party Liability (TPL) Errors From Fiscal Sanctions

Comment: One commenter recommended that we remove TPL errors from fiscal sanctions because these are a reason for many errors that occur in the Medicaid Quality Control (MQC) systems.

Response: Third Party Liability errors have never been included as part of the State payment error rate in determining if a State is subject to a FFP disallowance. The definition of State payment error rate under the March 7, 1979 regulation and this regulation is the rate of eligibility payment errors detected under the MQC system for an annual assessment period or a review period.

Percentage Improvement Goal for MQC Should be Based on MQC Data, Not on Aid to Families With Dependent Children-Quality Control (AFDC–QC) Data

Comment: One commenter recommended that if a percentage improvement goal is necessary for MQC, it should be based on the rate of improvement in comparing the initial MQC reviews, not on AFDC–QC data.

Response: The target error rates are based on State MQC data, not AFDC–QC data.

Type of Error Rate Used for Fiscal Sanctions

Comment: One commenter said that the regulations do not specify which type of error rate will be used as a basis for fiscal sanctions.

Response: The regulations specify that the State payment error rate will be used as the basis for a FFP disallowance. This is included in § 431.802(b) in the definition for the State payment error rate.

Setting the State Payment Error Rate

Comment: One commenter indicated that the procedures listed for disallowance of FFP in § 431.802(e)(2) are not clear. The procedures do not indicate that we are excluding erroneous eligibility determinations made by the Social Security Administration (SSA) of Supplemental Security Income (SSI) eligibility in our determination of the State's payment error rate. The reason for this is that the dollar base cited for disallowance includes those Medicaid cases whose eligibility was based upon SSI eligibility determinations.

Response: The dollar rate for the disallowance will not include Medicaid cases where eligibility is determined by SSI. The dollar amount to be disallowed will be calculated as the weighted rate using error data from AFDC and Medical Assistance Only or Medical Assistance and Others strata. The Medical Assistance Only stratum includes medical assistance cases for recipients who do not receive AFDC or SSI payments. The Medical Assistance and Others stratum includes Medical Assistance only cases and SSI cases for States where Medicaid eligibility was not determined by SSA. In the final

regulation, we have changed the wording in § 431.802(e)(3) to clarify this point.

Comment: This commenter also stated that the precise methodology to be used in this determination is unspecified; therefore, it appears that at least two methods can be used to determine the payment error rate. These two methods are as follows:

Method 1—Determine the mispayment rate by considering only cases from the AFDC eligible and medically needy strata, disregard the SSI eligible stratum, and apply the disallowance of FFP as stated in the regulation.

Method 2—Consider all three strata (AFDC eligible, medically needy, and SSI eligible strata) in the determination of the payment error rate, but deem the SSI strata to have a zero mispayment rate.

Response: The dollar base for the disallowance will only include Federal matching funds for expenditures made for the AFDC and Medical Assistance Only or Medical Assistance and Others universes. The disallowance will be calculated by subtracting the target error rate from the computed weighted error payment rate for the two appropriate universes. If the difference is greater than zero, it will be multiplied by the Federal matching funds for the AFDC and Medical Assistance Only or Medical Assistance and Others universes. This product will be the amount of the disallowance. This clarification has been included in the final rule as a new § 431.802(e)(4) and (5)(i), (ii).

Fiscal Liability Policy Should be Reexamined

Comment: Some commenters believe we should be made responsible for erroneous SSI eligibility determinations which lead to the erroneous payment of State Medicaid dollars. One commenter also believes State losses due to erroneous SSI eligibility determinations in Medicaid should be used to offset fiscal sanctions.

Response: This regulation is confined to implementation of the Michel amendment directive that a regulation be issued requiring the States to reduce their AFDC and Medicaid error rates and providing for disallowances against the States for failure to achieve the prescribed reductions. Erroneous Medicaid payments resulting from erroneous SSI eligibility determinations will not be included in the State's Medicaid payment error rate. The issue of Federal liability for erroneous State Medicaid payments resulting from erroneous SSI eligibility determinations is outside the scope of this regulation. That issue was the subject of negotiations between HEW and the States before an agreement was reached on Federal Medicaid eligibility determinations. The agreement does not call for Federal liability for erroneous SSI eligibility determinations.

AFDC Issues

Complexity of Eligibility Rules and Inconsistency Between Programs

Comment: Several States cited the contributing role that complex eligibility requirements play in error rates. Also noted was the inconsistency between AFDC and Food Stamps requirements.

Response: We are recodifying the AFDC regulations to identify the Federal requirements more clearly and concisely. To this end we have also been working with the Department of Agriculture to identify inconsistencies in eligibility standards between the Departments and develop administrative remedies where possible.

Counting Technical and Underpayment Errors

Comment: Most respondents were against the inclusion of "technical" errors such as the absence of WIN registration, a child support assignment, or a social security number as part of the payment error rate on the grounds that such errors would not have affected the eligibility or benefit determination if corrected. A number of respondents cited a colloquy between Senators Magnuson and Javits in the Senate on September 24, 1979 as indicating that the intent of the conferees was not to include technical errors in the 4 percent error rate standard. One respondent suggested that underpayment errors not be included as part of the standard.

Response: We have determined to include so-called "technical" errors in the payment error rate because the Michel Amendment seeks reduction of payments to ineligible persons. Registration for WIN, assignment of child support rights, and furnishing social security numbers are statutory conditions of eligibility for making this determination. We have taken into account the colloquy between Senators Magnuson and Javits. While the Senators concluded that "administrative procedural" errors should not be counted as errors, the colloquy does not indicate that the Senators construed the Michel Amendment to require the exclusion from the error rate definition of payments to ineligibles, i.e., persons who did not comply with the statutory condition of eligibility. We believe, moreover, that while elimination of technical errors may not result in immediate savings, they may well result in long term savings. For example, the failure of a recipient to assign child support rights to the State could result in future loss of funds to the AFDC program. If the State had this assignment, it could pursue the collection of child support and recoup benefit payments. Underpayment errors are recorded but are not included in calculating a State's payment error rate.

Federal Technical Assistance in Computer Support

Comment: Several respondents suggested that we should provide greater availability of computerized systems for detection of unreported income and benefits.

Response: The 1977 amendments to the Social Security Act provide States with access to wage information maintained by State unemployment compensation agencies or the Social Security Administration. Social Security benefit information is available to States through the Bendex system. We have initiated action to evaluate and help States upgrade existing information systems. Additionally, we have proposed legislation to increase the Federal matching for AFDC management information systems.

Appeal of Individual Case Findings

Comment: Several States requested that effective appeal procedures on individual quality control case findings be developed.

Response: There are informal procedures for States to register disagreement with individual Federal re-review findings. These procedures have routinely been used by States to appeal individual case differences. They have been revised and will be formally issued in the near future as part of the AFDC–QC Manual.

Computation of the Disallowance

Comment: One State questioned the fairness of the proposed method of computing a disallowance where a State's Federal matching funds are based on the regular formula.

Response: We have addressed this comment by revising sections 205.41(f) and 205.42(f). If a State uses the regular Federal percentage for FFP and has an average monthly payment per recipient of more than $32 in a 6-month sample period, an adjustment will be made to the State's error rate for purposes of determining the amount of reduction in our matching funds.

Offset of Reduction by Recoupment

Comment: Several States thought we should consider reducing the

disallowance of Federal matching funds by the amounts States recovered from overpaid or ineligible beneficiaries.

Response: We are currently studying our policies on the subject of recoupments in general in the AFDC program and will give serious consideration to this comment.

Use of Point Estimate

Comment: Several respondents suggested that error rates be calculated using the lower limit of the point estimate in recognition of sampling error.

Response: The point estimate is the most accurate estimate of a State's true error rate and it is the estimate generally used in conventional statistical practice. We will continue to use the point estimate to calculate error rates.

Valid Sample

Comment: One respondent questioned the procedure that will be used when a State failed to complete a valid sample.

Response: States failing to complete a valid and reliable sample will normally be assigned an error rate based on the average of their last three official error rates unless this average error rate is at or below their required target. When this average is at or below the required target, we may still use the average of the last three official error rates; or a special Federal sample, audit, or Federal subsample will be used.

If a State does not follow the directions prescribed in the AFDC QC manuals and does not conduct its sample in accordance with its approved or an approvable sampling plan, its results may be invalid, unreliable, or both. Similarly, if a State does not complete its federally prescribed minimum number of reviews, the sample will be considered incomplete.

Dated: January 15, 1980.

W. J. Driver,

Commissioner of Social Security.

Dated: January 15, 1980.

Earl M. Collier,

Acting Administrator, Health Care Financing Administration.

Approved: January 21, 1980.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

[FR Doc. 80-2533 Filed 1-24-80; 8:45 am]

BILLING CODE 4110-07-M

Health Care Financing Administration

42 CFR Part 431

Medicaid Program; Quality Control System Error Rate

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: Current Medicaid Quality Control regulations provide for a reduction of Federal matching funds under title XIX, Social Security Act, to any State that has an eligibility determination error rate exceeding a specified target. The changes implement a directive in Section 201 of the Labor-HEW Appropriation Bill for Fiscal Year 1980 (H.R. 4389), as adopted by the House of Representatives on August 2, 1979, and the Continuing Resolution for FY 1980 (Pub. L. 96-123), to the Secretary of HEW to issue Medicaid error rate regulations, requiring the States to reduce their payment error rates to 4 percent by September 30, 1982, in equal steps beginning in FY 1980.

DATE: Effective January 25, 1980.

FOR FURTHER INFORMATION CONTACT: John Berry, 301-597-1354.

SUPPLEMENTARY INFORMATION: Comments and responses are addressed in the Policy Statement and Discussion of Comments on Proposed Rules which is contained in this issue of the Federal Register.

42 CFR Part 431, Subpart P, is amended as set forth below.

1. Section 431.801 is amended by revising the title, paragraph (a), and paragraph (c) to read as follows:

Subpart P—Quality Control

§ 431.801 Disallowance of Federal financial participation for erroneous State payments (effective through September 1980).

(a) *Purpose and applicability.*

(1) *Purpose.* This section establishes rules and procedures for disallowing Federal financial participation (FPP) in erroneous Medicaid payments due to eligibility errors, as detected through the Medicaid Quality Control (MQC) system required under § 431.800 of this subpart.

(2) *Applicability.* This section applies to States through the end of the April-September 1980 MQC review period. After September 30, 1980, HCFA will apply the performance standards specified in § 431.802.

* * * * *

(c) *Setting the State's error rate.* An error rate for each State will be determined for each MQC review period, in accordance with instructions issued by HCFA. Erroneous eligibility determinations by the Social Security Administration (SSA) of Supplemental Security Income (SSI) eligibility will not be included in determining the State's error rate. (If a State fails to complete a valid MQC review as required for any review period, HCFA will assign the State an error rate based on either the weighted average of its error rate in the last three review periods, a special Federal sample or audit, or Federal subsample.)

* * * * *

2. A new § 431.802 is added as follows:

§ 431.802 Disallowance of Federal financial participation for erroneous State payments (effective beginning October 1, 1980).

(a) *Purpose and applicability.* (1) *Purpose.* This section establishes rules and procedures for disallowing Federal financial participation (FFP) in erroneous Medicaid payments due to eligibility errors, as detected through the Medicaid Quality Control (MQC) system required under § 431.800 of this subpart.

(2) *Applicability.* This section will apply to States for each 12 month annual assessment period beginning with the October 1980-September 1981 period.

(b) *Definitions.* For purposes of this section—"Annual Assessment Period" means the 12 month period, October 1 through September 30 and includes two 6-month review periods (October-March and April-September).

"Base period" means the 6 month MQC sample period from July through December 1978, used to calculate each State's error rate.

"Eligibility errors" has the same meaning as specified in § 431.800(b).

"National standard" means a 4 percent payment error rate.

"State payment error rate" means the rate of eligibility payment errors detected under the MQC system for an annual assessment period or a review period.

"State target error rate" means the error rate that a State must achieve in order to avoid a disallowance of FFP under this section.

(c) *Setting the State's payment error rate.*

(1) A payment error rate for each State will be determined for each annual assessment period in accordance with instructions issued by HCFA.

(2) The State's payment error rate will not include erroneous eligibility determinations made by the Social Security Administration (SSA) of Supplementary Security Income (SSI) eligibility.

(3) If a State fails to complete a valid MQC review as required for any review period, HCFA will assign the State a payment error rate based on either—

(i) The weighted average of its payment error rate for the last three review periods;

(ii) A special Federal sample or audit; or

(iii) The Federal subsample.

(d) *Establishing the target error rate.* (1) Each State with a base period payment error rate in excess of 4 percent must reduce its payment error rate to 4 percent by the October 1982–September 1983 annual assessment period.

(2) This reduction must be made in three equal increments for each October–September annual assessment period beginning with the October 1980–September 1981 period.

(3) HCFA will establish each State's target error rate for the October 1980–September 1981 annual assessment period as follows:

(i) Multiply one-third times the amount by which the State's base period error rate exceeds 4 percent; and

(ii) Subtact this product from the State's base period error rate.

(4) HCFA will establish each State's target error rate for the October 1981–September 1982 annual assessment period as follows:

(i) Multiply two-thirds times the amount by which the State's base period error rate exceeds 4 percent; and

(ii) Subtract this product from the State's base period error rate.

Example

Assume HCFA is establishing target error rates for the October 1981–September 1982 annual assessment period, and that the State in question has a base period error rate of 16 percent. HCFA will use the following formula to compute the State's target error rate:

(i) Four percent (the national standard) subtracted from sixteen percent (the State's base period error rate) equals 12 percent;

(ii) Twelve percent multiplied by two-thirds equals 8 percent; and

(iii) Eight percent subtracted from 16 percent equals an 8 percent target error rate.

(5) The State must meet the 4 percent national standard for all annual assessment periods after September 30, 1982.

(6) States with error rates in the base period at or below the 4 percent national standard must maintain that standard as their target error rate; but the rate may increase without penalty as long as it does not exceed the 4 percent national standard.

(7) Beginning with the October 1980–September 1981 annual assessment period and for all subsequent annual assessment periods, HCFA will notify each State agency of its progress in achieving the target error rates.

(e) *Computation for disallowance of FFP.* (1) If a State fails to meet its target error rate, HCFA will disallow FFP, as provided in this section, for each annual assessment period as appropriate (see paragraph (f) of this section for good faith examples).

(2) If a State fails to meet its target error rate, HCFA will compute the dollar amount to be disallowed.

(3) The dollar amount to be disallowed will be calculated as the weighted rate using error data from the AFDC and Medical Assistance Only or Medical Assistance and Others strata. The Medical Assistance Only stratum includes medical assistance cases for recipients who do not receive AFDC or SSI payments. The Medical Assistance and Others stratum includes Medical Assistance Only cases and SSI cases for States where Medicaid eligibility was not determined by SSA.

(4) The dollar amount to be disallowed will only include Federal matching funds for expenditures made for the AFDC and Medical Assistance Only or Medical Assistance and Others universes.

(5) HCFA will compute the dollar amount to be disallowed as follows:

(i) Subtract the target error rate from the computed weighted error payment rate;

(ii) If the difference is greater than zero, it will be multiplied by the Federal matching funds for the AFDC and Medical Assistance Only or Medical Assistance and Others universes. This product will be the amount of the disallowance.

(6) A State payment error rate for an annual assessment period will be the sum of the weighted payment error rates in the two 6-month review periods.

(7) The weights will be established as the percent of total annual payments that occur in each of the six month periods.

Example

The State's target error rate was 8 percent. During the first 6-month review period the payment error rate was 10 percent and the total payments made during that 6-month period were $20 million. During the second 6-month review period, the payment error rate was 9 percent and total payments were $30 million. The total payments in the annual assessment period were $50 million.

(i) The weight applied to the payment error rate for the first 6-month period would be .4 ($20 million divided by $50 million).

(ii) The weight applied to the payment error rate for the second 6-month period would be .6 ($30 million divided by $50 million).

(iii) Therefore, the payment error rate for the annual assessment period would be 9.4 percent or 4 percent (.4 x 10 percent for the first 6-month period) plus 5.4 percent (.6 x 9 percent for the second 6-month period).

(iv) Since the target error rate was 8 percent and the payment error rate was 9.4 percent, HCFA would disallow 1.4 percent of the amount of FFP claimed by the State for its Medicaid program for the annual assessment period.

(f) *Notice to States and showing of good faith.*

(1) HCFA will notify a State that it will disallow matching funds because the State does not meet its target error rate.

(i) The State will have 65 days from the date on this notification to show that this disallowance should not be made because it made a good faith effort to meet the target error rate.

(ii) If the Secretary finds that the State did not meet its target error rate despite a good faith effort, HCFA will reduce the disallowance in whole, or in part, as the Secretary finds appropriate under the circumstances shown by the State.

(iii) A finding that a State did not meet the target error rate despite a good faith effort will be limited to extraordinary circumstances.

(2) Some examples of circumstances under which the Secretary may find that a State did not meet the target error rate despite a good faith effort are—

(i) Disasters such as a fire, flood, or civil disorders that—

(A) Require the diversion of significant personnel normally assigned to Medicaid eligibility administration, or

(B) Destroyed or delayed access to significant records needed to make or maintain accurate eligibility determinations;

(ii) Strikes of State staff or other government or private personnel necessary to the determination of eligibility or processing of case changes;

(iii) Sudden and unanticipated workload changes which result from changes in Federal law and regulation, or rapid, unpredictable caseload growth in excess of, for example, 15 percent for a 6 month period;

(iv) State actions resulting from incorrect written policy interpretation to the State by a Federal official

reasonably assumed to be in a position to provide such interpretation; and

(v) The State timely developed and implemented a corrective action plan reasonably designed to meet the target error rate, but the target error rate was not achieved. In evaluating whether the State made a good faith effort in these circumstances, the Secretary will consider the following factors—

(A) Demonstrated commitment by top management to the error reduction program, e.g., priorities and goals clearly enunciated to staff, accountability for performance, availability of resources;

(B) Sufficiency and quality of systems designed to reduce errors that are operational in the State, e.g., BENDEX, SDX, monthly reporting, error prone profiles, local agency monitoring systems, computer clearances;

(C) Use of effective system and procedures for the statistical and program analysis of QC and related data, e.g., statistical tests, tabulations and cross-tabulations, error prone profiles, corrective action committees, special studies; and

(D) Effective management and execution of the corrective action process, e.g., assignment of responsibilities, milestones for completing tasks, substantial completion of tasks, monitoring of progress.

(3) The failure of a State to act upon necessary legislative changes or to obtain budget authorization for needed resources is not a ground for a waiver.

(4) A State may request reconsideration of a disallowance under this section in accordance with the procedures specified in 45 CFR Part 16.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302))
(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Dated: January 15, 1980.

Earl M. Collier,

Acting Administrator, Health Care Financing Administration.

Approved: January 21, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-2534 Filed 1-24-80; 8:45 am]

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Social Security Administration

45 CFR Part 205

General Administration; Public Assistance Programs; Calculating Reduction in Federal Financial Participation for Incorrect Payment by States After September 1980

AGENCY: Social Security Administration (SSA), HEW.

ACTION: Final rules.

SUMMARY: These regulations change the quality control standards published on March 7, 1979 (44 FR 12579) for the reduction of incorrect payments in Aid to Families with Dependent Children (AFDC). The changes implement a directive in section 201 of the Labor-HEW Appropriation Bill for fiscal year 1980 (H.R. 4389), as adopted by the House of Representatives on August 2, 1979, and the Continuing Resolution for FY 1980 (Pub. L. 96–123) to the Secretary of HEW to issue AFDC error rate regulations, requiring the States to reduce their payment error rates to 4 percent by September 30, 1982, in equal steps beginning in FY 1980. Federal financial participation will not be made for incorrect payments exceeding the amounts allowed.

DATES: These regulations are effective on January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Sean Hurley, Division of Quality Control, telephone (202) 245–8999.

SUPPLEMENTARY INFORMATION: Comments and responses are addressed in Policy Statement and Discussion of Comments on the Proposed Rules which is contained in this issue of the **Federal Register.**

45 CFR Part 205 is amended as follows:

1. Section 205.41 is amended by revising the title and revising paragraphs (a)(1), (d)(1), and (f), and by adding paragraph (a)(3) to read as follows:

§ 205.41 Reduction of FFP for incorrect payments by States (effective through September 1980).

(a) *Purpose and applicability.* (1) This section provides the rules we will use to determine whether we will reduce the amount of Federal matching funds (Federal financial participation or FFP) we give to a State, and, if so, the amount of the reduction. We will reduce the amount of our matching funds if a State makes more incorrect payments in its AFDC program than allowed under the rules in this section. These rules apply to all States which have AFDC programs.

(2) * * *

(3) The rules in this section apply to all States through the end of the April–September 1980 quality control sample period. Beginning with the October 1980–March 1981 quality control sample period and for subsequent 6-month sample periods, we will apply the performance standards described in § 205.42.

* * * * *

(d) *How we establish a national standard.* (1) *Information we will use.* We will use the information provided by the Federal/State quality control system. This system measures the dollar amount of incorrect payments for every 6-month period (April–September and October–March). If a State fails to complete a valid and reliable sample for any 6-month sample period, we will assign to the State an error rate based on either the weighted average of the State's payment error rate for the last three sample periods, a Federal sample, an audit, or a Federal subsample.

* * * * *

(f) *If a State fails to meet the established rate.* If a State does not meet the national standard or its target error rate for either of the required 6-month periods and cannot show a good reason for it, we will reduce our matching funds to the State for those 6 (12) months, using the following formula. We will reduce our matching funds by the amount we would not have paid if the State had reached its goal (the national standard or the target error rate). If the State uses the regular Federal percentage for FFP and has an average monthly payment per recipient of more than $32 in a 6-month sample period, an adjustment will be made to the State's error rate for purposes of determining the amount of reduction in our matching funds.

Example—If the State's target error rate was 10 percent and the State's actual payment error rate was 12 percent, we will reduce our matching funds by 2 percent of the Federal share of the dollars the State paid under its AFDC program.

2. A new § 205.42 is added to read as follows:

§ 205.42 Reduction in Federal financial participation (FFP) for incorrect payments by States after September 1980.

(a) *Purpose and applicability.* This section provides the rules we will use beginning with October 1980 to determine whether we will reduce the amount of Federal matching funds (Federal financial participation or FFP) we give to a State, and, if so, the amount of the reduction. We will reduce the amount of our matching funds if a State makes more incorrect payments in its AFDC program than allowed under the rules in this section. These rules apply to all States which have AFDC programs.

(b) *Definitions.* For the purposes of this section—

"Annual assessment period" means the 12-month period October 1–September 30.

"Base period" means the April–September 1978 quality control system review period.

"Incorrect payments" means payments to people who are ineligible for a payment and overpayments to eligible people.

"National standard" means a 4 percent payment error rate.

"Payment error rate" means the dollar amount of incorrect payments a State has made expressed as a percentage of the State's total payments.

"We," "us" or "our" means the Department or the Social Security Administration as appropriate.

(c) *General.* In these rules we are establishing a national standard for incorrect payments in the AFDC programs. This standard will be used to measure performance of the States in each annual assessment period beginning with the October 1980–September 1981 period. A State whose payment error rate is below the national standard in the base period must not go above the standard, without risking reduction in Federal matching funds. A State whose payment error rate is above the standard must reduce its error rate to the national standard or to the State's target error rate established under these rules.

(d) *How we establish acceptable levels for State performance using the national standard.* (1) *Target error rates for States above the national standard in the base period.* (i) Each State with a base period payment error rate in excess of 4 percent must reduce its payment error rate to 4 percent by the October 1982–September 1983 annual assessment period in 3 equal increments for each October–September annual assessment period beginning with the October 1980–September 1981 period.

(ii) We will establish each State's target error rate for the October 1980–September 1981 annual assessment period by multiplying one-third times the amount by which the State's base period payment error rate exceeds 4 percent; this product is then subtracted from the State's base period payment error rate. To establish the target error rate for the October 1981–September 1982 annual assessment period, we will multiply two-thirds times the amount by which the State's base period payment error rate exceeds 4 percent; this product is then subtracted from the State's base period payment error rate. For all annual assessment periods after September 30, 1982, the State must meet the 4 percent national standard.

Example. The State's payment error rate during the base period is 10 percent. Therefore, the amount by which the State's payment error rate exceeds the 4 percent national standard is 6 percent (or 10 minus 4). The State must reduce this 6 percent by one-third, or 2 percent (8 percent target error rate) for the October 1980–September 1981 annual assessment period. For the October 1981–September 1982 annual assessment period, the State's target error rate would be 6 percent. For all annual assessment periods after September 30, 1982, the State must meet the 4 percent national standard.

(2) *States that have achieved the national standard.* States that have achieved the 4 percent national standard in the base period must maintain that standard.

(e) *Information we will use.* We will use the information provided by the Federal/State quality control system.

This system measures the dollar amount of incorrect payments for every 6-month period. (April–September and October–March). A State's payment error rate for the annual assessment period will be the sum of the weighted payment error rates in the State for the two corresponding 6-month sample periods. The weights will be established as a percentage of the total annual payments that occur in each of the 6-month periods. If a State fails to complete a valid and reliable sample for any 6-month sample period, we will assign to the State an error rate based on the weighted average of the State's payment error rate for the last three sample periods, a Federal sample, an audit, or a Federal subsample.

(f) *If a State fails to meet the established rate.* If a State does not meet the national standard or its target error rate for any 12 month annual assessment period, we will reduce our matching funds to the State to those 12 months, unless the State can show that it made a good faith effort to meet the target rate. We will reduce our matching funds by the amount we would not have paid if the State had reached its goal (the national standard or the target error rate). If a State uses the regular Federal percentage for FFP and has an average monthly payment per recipient of more than $32 in a 6-month sample period, an adjustment will be made to the State's error rate for purposes of determining the amount of reduction in our matching funds.

Example. The State's target payment error rate was 8 percent. During the first 6-month sample period the actual payment error rate was 10 percent and the total payments made during that 6-month period were $20 million. During the second 6-month sample period, the payment error rate was 9 percent and total payments were $30 million. The total payments in the annual assessment period were $50 million.

The weight applied to the payment error rate for the first 6-month period would be 0.4 ($20 million divided by $50 million) and the weight applied to the payment error rate for the second 6-month period would be 0.6 ($30 million divided by $50 million).

Therefore the payment error rate for the annual assessment period would be 9.4 percent or 4 percent (10% x 0.4 for the first 6 months) plus 5.4% (9% x 0.6 for the second 6 months).

Since the target error rate was 8 percent and the payment error rate was 9.4 percent, we will reduce our matching funds by 1.4 percent of the Federal share of the dollars the State paid under its AFDC program.

(g) *When we will reduce a disallowance because a State has made a good faith effort.* (1) We will notify a State that we are going to reduce (or disallow) matching funds because the State did not meet the national standard or the target error rate established for the State. The State will have 65 days from the date on this notification to show that it made a good faith effort to meet the established error rate target. If we find that the State did not meet the national standard or the target error rate despite a good faith effort, we will reduce the funds being disallowed in whole or in part as we find appropriate under the circumstances shown by the State. A finding that a State did not meet the target error rate despite a good faith effort will be limited to extraordinary circumstances.

(2) Some examples of circumstances under which we may find that a State did not meet the target error rate despite a good faith effort are—

(i) Disasters such as fire, flood or civil disorders, that—

(A) Require the diversion of significant personnel normally assigned to AFDC eligibility administration, or

(B) Destroyed or delayed access to significant records needed to make or maintain accurate eligibility determinations;

(ii) Strikes of State staff or other government or private personnel necessary to the determination of eligibility or processing of case changes;

(iii) Sudden and unanticipated workload changes which result from changes in Federal law and regulations, or rapid, unpredictable caseload growth in excess of, for example, 15 percent for a 6-month period;

(iv) State actions resulting from incorrect written policy interpretation to the State by a Federal official reasonably assumed to be in a position to provide such interpretation; and

(v) The State timely developed and implemented a corrective action plan reasonably designed to meet the target error rate but the target error rate was not met. In evaluating whether the State has indeed made a good faith effort in these circumstances, we will consider the following factors—

(A) Demonstrated commitment by top management to the error reduction program e.g., priorities and goals clearly enunciated to staff, accountability for performance, availability of resources;

(B) Sufficiency and quality of systems designed to reduce errors that are operational in the State, e.g., BENDEX, IDEX, monthly reporting, retrospective budgeting, error prone profiles, local agency monitoring systems, computer clearances;

(C) Use of effective system and procedures for the statistical and program analysis of QC and related data, e.g., statistical tests, tabulations and cross-tabulations, error prone profiles, corrective action committees, special studies; and

(D) Effective management and execution of the correction action process, e.g., assignment of responsibilities, milestones for completing tasks, completion of tasks, monitoring of progress.

(3) The failure of a State to act upon necessary legislative changes or to obtain budget authorization for needed resources is not a basis for finding that a State failed to meet the target error rate despite a good faith effort.

(h) *Disallowances subject to appeal.* If a State does not agree with our decision to reduce (disallow) FFP, it can appeal to us within 45 days from the date of our decision. The regular procedures for appeal of disallowance will apply, including review by the Grant Appeals Board (see 45 CFR Part 16).

(Section 1102 of the Socail Security Act, 49 Stat. 647, as amended; 42 U.S.C. 1302; and Pub. L. 96–38).

(Catalog of Federal Domestic Assistance Program Nos. 13.714—Medical Assistance Program; 13.808 Assistance Payments—Maintenance Assistance (State Aid).)

Dated: January 15, 1980.

William J. Driver,

Commissioner of Social Securtiy.

Approved: January 21, 1980.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

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January 25, 1980

Part VII

Department of the Interior

Geological Survey

Geological and Geophysical (G & G) Explorations of the Outer Continental Shelf

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 251

Geological and Geophysical (G & G) Explorations of the Outer Continental Shelf

AGENCY: Department of the Interior, U.S. Geological Survey

ACTION: Final rule.

SUMMARY: This rule incorporates the modifications required to conform 30 CFR Part 251 with the Outer Continental Shelf (OCS) Lands Act, as amended, 43 U.S.C. 1331 et seq. (herein referred to as the "Act"). A proposed rule was published on February 9, 1979, in the **Federal Register** (44 FR 8302). The proposed rule described new procedures and, to the extent required by the Act, modifications to existing practices and procedures that govern prelease geological and geophysical explorations of the OCS.

EFFECTIVE DATE: This rule shall become effective March 25, 1980.

ADDRESSES: A copy of this rule may be obtained from the following offices of the Geological Survey:

Deputy Division Chief, Offshore Minerals Regulation, U.S. Geological Survey, National Center—Mail Stop 640, 12201 Sunrise Valley Drive, Reston, Virginia 22092

Conservation Manager, Eastern Region, U.S. Geological Survey, 1725 K Street NW., Suite 204, Washington, D.C. 20006

Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, 131 Imperial Office Building, P.O. Box 7944, Metairie, Louisiana 70010

Conservation Manager, Pacific OCS Region, U.S. Geological Survey, 1340 West Sixth Street, Room 160, Los Angeles, California 90017

Assistant Conservation Manager, Alaska Area, U.S. Geological Survey, 800 "A" Street, Anchorage, Alaska 99501.

FOR FURTHER INFORMATION CONTACT: Gordon D. Burton, Branch of Marine Evaluation, Conservation Division, U.S. Geological Survey, Mail Stop 640, 12201 Sunrise Valley Drive, Reston, Virginia 22092, (703) 860–7564.

SUPPLEMENTARY INFORMATION:

Background

Rules establishing practices and procedures under which the U.S. Geological Survey (herein referred to as the "Survey") administers geological and geophysical exploration activities on the OCS were effective June 11, 1976 and were published as Part 251 of Title 30 of the Code of Federal Regulations on June 23, 1976 (41 FR 25891). The Survey published a proposed revision of 30 CFR Part 251 in the **Federal Register** on February 9, 1979 (44 FR 8302). The proposed revisions incorporated modifications required to bring the provisions of Part 251 into conformance with the Act and to implement a decision by the Secretary of the Interior to allow the drilling of prelease onstructure deep stratigraphic tests. The most important changes related to: (1) Giving permittees the option of drilling deep stratigraphic tests either onstructure or offstructure; (2) Requiring the submittal of an Environmental Report prior to drilling a deep stratigraphic test; (3) Allowing a penalty for late participation in a deep stratigraphic test after the Director issues a public notice of significant shows or a possible discovery of up to 200 percent of the cost to any of the original participants; (4) Requiring deep stratigraphic tests to be completed no later than 3 months prior to the month in which the relevant Proposed Notice of Sale appears on the Secretary's currently approved OCS Leasing Schedule; (5) Requiring all deep stratigraphic tests to be considered expendable and to be permanently plugged and abandoned; (6) Clarifying what will be released to the public by the Director in the event hydrocarbon accumulations are encountered in a deep stratigraphic test; and (7) Allowing the Director to disclose information or data to independent contractors, with a promise to maintain its confidentiality, for analysis or processing on the Government's behalf.

This final rule puts into effect most of these changes and incorporates additional changes which can be summarized as follows: (1) The requirement for the filing of notices for scientific research has been modified so that filing of a notice is required before any shallow test drilling for scientific research may commence; however, permits will continue to be required for scientific research which involves the use of solid or liquid explosives or a deep stratigraphic test; (2) In order to comply with section 402(b) of the Act, a provision pertaining to the Fishermen's Contingency Fund has been added; (3) The maximum allowable penalty for late participation in a deep stratigraphic test after the Director has announced a hydrocarbon occurrence has been raised from 200 to 300 percent; (4) Language requiring permittees to notify the Director of all hydrocarbon occurrences detected in the drilling of a deep stratigraphic test and allowing the Director to make a public announcement of occurrences considered significant has been added; (5) Subsections 251.11(a) and (b) and 251.12(a) and (b) have been expanded to require the submission, upon request by the Director, of interpreted geological and geophysical information; (6) The proprietary term for data relating to a deep stratigraphic test that is not within 50 miles of an OCS oil and gas lease has been extended from 5 to 10 years; (7) Procedures dealing with the manner in which privileged or proprietary information or data will be provided to the designated representative of a Governor pursuant to section 8(g) of the Act have been added; and (8) The provisions pertaining to the disclosure of data and information relating to specific contractual commitments have been clarified.

Comments

A total of 39 parties submitted timely comments in response to the invitation contained in the notice of the proposed rule published February 9, 1979. These comments represented the views of 2 private citizens, 3 environmental organizations, 8 State and local Governments, and 26 oil and gas companies and trade organizations.

Public Hearings

Oral testimony concerning the proposed revisions of 30 CFR Part 251 was also taken at a public hearing held in Washington, D.C., on May 8, 1979.

Discussion of Format Change

As part of the Survey's effort to comply with Executive Order 12044, all of its OCS regulations have been rewritten to make them as simple and clear as possible. As a result, the format and contents of 30 CFR Part 251 have been significantly restructured since they were published as a proposed rule on February 9, 1979. This final rule is organized in such a way as to clarify the procedures to be followed and the requirements to be met by those parties conducting prelease geological and geophysical activities on the OCS. In general, the format has been altered to reflect the sequence of activities which comprise the permitting process. Also, related procedures have been grouped together in a more easily understood manner.

Discussion of Major Comments

Deep stratigraphic test: Numerous comments were received on the Department's decision to expand the definition of "deep stratigraphic test" to include the option of allowing either the drilling of onstructure or offstructure deep stratigraphic tests. The major concerns expressed in comments were:

The impact of this decision on the proposed lease sale schedule; The environmental and economic implications of the increased potential for the discovery of hydrocarbons during prelease onstructure tests; The impact on competition within the oil and gas industry; The threat of increased Federal involvement in presale drilling operations; and The statutory authority of the Government to permit onstructure tests.

Many respondents opposed allowing onstructure drilling because they felt it would delay OCS leasing in the most promising frontier areas. They argued that the Department would be under increasing pressure to wait until frontier areas are thoroughly evaluated before offering them for sale. Other commenters expressed concern that this would increase pressures for the Government to begin drilling deep stratigraphic tests, which they regarded as the first step toward the creation of a Federal oil and gas company. We disagree with both of these viewpoints. First, there is nothing new or unusual about drilling deep stratigraphic tests in advance of offshore lease sales. The deep stratigraphic test program is already in place and is well known. Although deep stratigraphic tests, whether they are drilled on- or offstructure, increase the amount of prelease information available to the Government, we recognize the limitations associated with the use of this information. The Department does not foresee delay or cancellation of sales on the basis of information gained from deep stratigraphic tests. In fact, the regulations specifically state that all deep stratigraphic tests must be completed 3 months prior to a Proposed Notice of Sale, if the test is within 50 geographic miles of tracts to be included in the sale. Second, the final rule simply allows the Secretary to authorize industry to drill stratigraphic tests onstructure as well as offstructure. Industry, and not the Government, will initiate proposals for the drilling of onstructure tests.

Some respondents expressed concern over the environmental risks associated with the increased potential for the discovery of hydrocarbons during onstructure tests. In response to this concern, the final rule has been modified to state that the permittee must utilize the best available and safest technologies for drilling activities as prescribed or approved by the Director. Also, it should be noted that hydrocarbons have been encountered in two offstructure deep stratigraphic tests, the COST B–3 in the Mid-Atlantic and the Point Conception test off the coast of California, and adequate precautions were taken by industry to prevent any damage to the environment.

Some commenters insisted that the public announcement of hydrocarbon occurrences will have an adverse economic impact on a lease sale. They presume that a positive announcement would inflate lease bids, and no public announcement would reduce bids. We do not agree. The economic impact will occur primarily as a result of the information and data which participants derive from the test well rather than from the Director's announcement of a significant hydrocarbon occurrence. The information that hydrocarbons are or are not present is only one of many factors considered by private industry and the Government in estimating the resource potential of an area. It is hoped that the announcement will encourage expanded group participation in sharing the cost of deep stratigraphic tests because participants will benefit by having early access to all information derived from the drilling activities. The additional information will also provide potential bidders (and the Federal Government) a better basis on which to assess the value of individual offshore tracts prior to a lease sale. This should enable industry to better utilize its capital assets and provide Federal revenues that more fully reflect the resources that eventually may be discovered in the OCS lands.

Several commenters expressed the view that onstructure tests will, contrary to the Department's point of view, decrease industry competition and discourage participation by smaller, independent companies. We continue to believe that prelease onstructure test drilling will enhance competition for offshore tracts by providing smaller companies additional information to somewhat reduce risks associated with participation in offshore lease sales.

Several commenters contended that the Department does not have the authority to permit onstructure drilling activities before a lease is issued. They base their argument on the fact that the Act does not specifically authorize such activities. Departmental policy is based on existing legal authority which states:

> Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the Outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not unduly harmful to aquatic life in such area. (43 U.S.C. 1340)

This matter was discussed during congressional debate over the proposed amendments to the OCS Lands Act of 1953. During the deliberations, the Department made it clear that it believed it could authorize onstructure drilling activities prior to the issuance of a lease.

The House-Senate Conference Report makes it clear that the conferees accepted this argument:

> The conferees' action does not indicate any intention to limit, modify, or expand whatever authority the Government has under existing law to grant permits to applicants to conduct drilling operations (Conference Report on OCS Lands Act Amendments of 1978, Report No. 95–1091, page 101).

The Secretary's decision to allow onstructure drilling was made in an effort to obtain additional information about the hydrocarbon potential of an OCS sale area, information which cannot be obtained by drilling only offstructure.

Several commenters endorsed the policy of prelease onstructure tests and agreed that these will provide more information with which to evaluate the resource potential of an area prior to leasing.

Some respondents recommended that onstructure tests be required in all areas prior to offering tracts at a lease sale. We have not adopted this suggestion. This approach was vigorously debated by Congress during its consideration of amendments to the OCS Lands Act of 1953 and was not adopted.

Drilling plan and environmental report: Numerous comments were received on the requirements for a Drilling Plan and Environmental Report contained in § 251.6–2 of the final rule. Several respondents argued that the stated requirements are too stringent. We do not share this point of view. Both the Drilling Plan and Environmental Report are necessary to enable the Survey and affected States to monitor activities associated with the drilling of deep stratigraphic tests and to identify and evaluate the environmental consequences that may result from the proposed drilling.

Furthermore, the information required in the Environmental Report coincides with the information that may be provided to States when required by approved coastal zone management programs for use by the State in evaluating the permittee's consistency certification.

Several respondents did not feel it necessary to include a description of the proposed drilling rig in the Drilling Plan if this information has previously been submitted to the Director. We have adopted this suggestion and have accordingly modified the final rule.

One commenter objected to the requirement that an oil spill contingency plan be part of the Drilling Plan because of the short term duration of test drilling. Because onstructure drilling increases the possibility that a deep stratigraphic test will detect hydrocarbons, an oil spill contingency plan is required in case there is an accidental spill. We chose, instead, to expand this requirement by accepting the recommendation that the oil spill contingency plan include a description of the onshore disposal procedures for spilled oil and oil-soaked debris. Improper disposal of spilled oil and oil-soaked debris can cause greater environmental problems than the original incident and must be considered in a comprehensive contingency plan.

One respondent requested that the Director establish special regulatory requirements to address varying regional conditions to ensure protection of the marine environment. We have rejected this suggestion. The evaluation of specific regional considerations falls within the scope of the Environmental Report and, we feel, is best administered through the proposed procedure which grants the Director the authority to issue special orders governing activities under specific regional conditions.

The same respondent recommended that the regulations require the use of the best available and safest technologies during prelease drilling activities. We have adopted the suggestion to insure maximum protection of the environment during drilling activities.

Several commenters requested that the nonproprietary portions of the Drilling Plan and Environmental Report be made available to interested Federal Agencies and to affected States or affected local jurisdictions. Subsection 251.6–2(c) states that the Director will make copies of the Environmental Report available to the public, in accordance with established Departmental practices and procedures. This section has been expanded to allow the Director to transmit copies of the Drilling Plan (except for those portions which the Director determines are exempt from disclosure) and the accompanying Environmental Report to the Governors of affected States.

We have adopted the suggestion to allow cross-referencing of recent applicable Environmental Impact Statements in the Environmental Report in order to avoid redundancy.

Several commenters questioned the need for the Director to require permittees to file Coastal Zone Management Act consistency certification with their Drilling Plan. The Coastal Zone Management Act provides that when OCS permit activites impact on the land use or water use of a State with an approved coastal zone management program, the applicant for a permit must obtain the State's concurrence in a consistency certification prior to permit approval of the Director.

Some respondents expressed concern that costly delays might result from the requirement that modifications to the Drilling Plan must receive the Director's, rather than the Supervisor's approval. Specifying the Director as the approving authority is not intended to change the present practices and procedures under which the Area Oil and Gas Supervisors and District Supervisors administer the provisions of 30 CFR Part 251. The Survey intends, through a Delegation of Authority, to delegate line authority for this program to the appropriate field supervisory level. We have adopted this approach so that the pending administrative reorganization within the Survey's Conservation Division can be accomplished without the need to subsequently modify the contents of this final regulation.

Disclosure of data and information submitted under permit: Many comments were received with regard to the provision in the proposed rule which required immediate public notice of "hydrocarbon shows" or "hydrocarbon discoveries" when the Director determines that shows or discoveries are "significant." After analyzing the comments, we agree with those that believe this provision, as proposed, is too ambiguous. To counter this problem, we have reworded the text to discuss only "hydrocarbon occurrences" and have provided a definition of this term in section 251.2. We did not, however, adopt the recommendation that the public announcement be dropped altogether. We believe this type of notice will lead to increased participation in the deep stratigraphic test program and in increased competition at the time of a lease sale.

Comments were received requesting extension of the period for protection of proprietary data from deep stratigraphic tests that are not within 50 miles of an OCS oil or gas lease. This recommendation has been adopted. The time period for protecting proprietary information and data has been extended from 5 to 10 years after completion of the drilling activities. The new time period conforms with the time period established in subsection 251.14–1 for protecting other geological information and data. The disclosure provisions have been revised to state that, in addition to test data, all information and data obtained from, and submitted in support of, an application for a deep stratigraphic test will also be available to the public.

Several comments were received relating to 30 CFR Part 252 suggesting that the regulations implementing section 8(g) of the Act should be in Part 251. This suggestion has been adopted. Subsection 251.14–3 has been expanded to include provisions required to implement section 8(g) of the Act.

Several comments addressed the need for a provision in the regulations to control the release of information and data where such release is specifically prohibited under a contractual commitment. In response to these comments, subsection 251.14–4 has been added to protect privileged and proprietary information and data from disclosure if the release is specifically prohibited under a contractual commitment.

Section-by-Section Discussion

Section 251.1 Purpose

No comments were received on § 251.1. However, the wording was changed to clarify that these regulations encompass geological and geophysical activities, not authorized by a lease, both for exploration for mineral resources and for scientific research which involves the use of solid or liquid explosives or drilling activities.

Section 251.2 Definitions

The definitions have been alphabetized and some have been rewritten so that they conform to the format and substance of the definitions contained in 30 CFR 250.2, 30 CFR 252.2, and 43 CFR 3300.0–5.

One respondent recommended the inclusion of a definition for "cultural resource." We have adopted this suggestion. The language used was derived from the cultural resource stipulations inserted in recent oil and gas leases.

We have modified the definition for "notice" because of our decision to require the filing of notices only for scientific research which involves shallow test drilling. Also, we revised the definition for "geological or geophysical scientific research" to include only those scientific research activities which involve the use of solid or liquid explosives or drilling activities.

We have adopted the suggestion of one commenter to modify the definition of "analyzed geological information" to include the results of formation fluid tests (i.e., wire-line formation samplers and drill-stem tests).

We have added a definition for the term "hydrocarbon occurrences" which is used throughout the regulations in place of the terms "significant hydrocarbon shows" and "possible hydrocarbon discoveries." The regulations now require permittees to report all hydrocarbon occurrences detected during drilling operations. Subsection 251.14–1(c)(1) requires the Director to determine if the reported occurrences are significant and, if they are, to make a public announcement. The announcement will be in a form and manner prescribed by the Director. We recognize that the Director's determination of the "significance" of hydrocarbon occurrences is subjective. However, flexibility is important because a hydrocarbon occurrence that may be judged significant in one area may not be considered significant in another area. The geographic location of the borehole, water depth, economic factors, the position of the test on a geologic structure, and other factors must enter into the determination of "significance."

Two comments were received on the definition of "geological exploration for mineral resources" requesting the deletion of the phrase "including, but not limited to." This recommendation has not been adopted. The phrase in question emphasizes that the activities listed are examples rather than an all inclusive listing of the activities.

Several commenters objected to the use of the term "sonic" in the definition of "analyzed geological information" because it is also a registered trademark name. We have, therefore, substituted the term "acoustic" for "sonic" in the definition and throughout the text of the regulations.

Numerous comments were received on the Department's decision to expand the definition of "deep stratigraphic test" to include the option of allowing onstructure drilling of tests as well as offstructure drilling of tests. This issue was discussed previously in the "Discussion of Major Comments" section.

Section 251.3 Adminstrative Authority and Applicability

Section 251.2, "Applicability" in the proposed rule, has been moved to § 251.3 and retitled. The regulations in this final rule are applicable to any permit issued after or unexpired as of the effective date of this rule. Notices filed after the effective date of this final rule shall also be subject to the regulations in this Part.

One commenter suggested that this section should specifically authorize the Director to prescribe stipulations on onstructure drilling permits. The commenter expressed the belief that stipulations are better suited to specific situations than an OCS Order. We have not adopted this suggestion. It should be noted, however, that the Director may incorporate any conditions (stipulations) into a permit that the Director determines to be necessary to protect the environment or to meet special local conditions.

We have decided to eliminate the requirement for the filing of notices for scientific research activities on the OCS which do not involve shallow test drilling. The original provision was included so that the Survey could keep track of all scientific research activities on the OCS, but we now feel that this approach is impractical. However, we will continue to require permits for scientific research which involves the use of solid or liquid explosives or deep stratigraphic test drilling. Moreover, we have not adopted the suggestion that a provision be included under this subsection that permits archeologists to examine the results obtained from geological or geophysical exploration for mineral resources. We feel that subsection 251.6–2(e), which relates to cultural resources, adequately covers the review by the Department of cultural resources detected under permit activities.

One commenter suggested expanding the language of § 251.3–5(a)(6) to set specific requirements for identifying and reporting adverse effects on cultural resources. This recommendation was not adopted because these procedures are discussed under § 251.6–2(e). Also, one commenter suggested deleting the reference to cultural resources in this section. This recommendation was not adopted. It is the responsibility of the Department of the Interior to insure, to the extent practicable, that cultural resources are not disturbed by activities under the jurisdiction of the Department on the OCS.

Section 251.4 of the proposed rule, "Functions of Director," has been incorporated into § 251.3 of the final rule. One respondent recommended that the authority for issuing permits be retained by the Supervisor. As we indicated before, the modification in the text of these regulations is not intended to significantly change the present practices and procedures under which the field supervisors administer the provisions of Part 251.

Also, we have not adopted the suggestion of one commenter to add the words "the environment" after "or waste of" in this section. This sentence states that the Director may issue orders to prevent the waste of natural resources. We believe the language of the regulation is clear, as written, and it is not clear to us what "waste of the environment" means.

One commenter recommended the addition of cultural resources to the language of this section as one of the things protected under the Orders issued by the Director. We have not adopted this suggestion. The provisions necessary to prevent damage to cultural resources are adequately covered under § 251.6–2(e).

Several respondents suggested modifying § 251.3–5(b) by deleting the requirement for reporting "possible hydrocarbon discoveries." This recommendation, as we mentioned earlier, has been modified to require the reporting of all hydrocarbon occurrences to the Director.

Subsection 251.3–5(b) has been expanded to require the reporting of environmental hazards to the Director. This is intended to encompass hazards encountered during exploration activities which constitute an imminent threat to human activity on the OCS.

Section 251.4 Geological and Geophysical Activities Requiring Notices or Permits

Section 251.5 of the proposed rule, "Requirement of notices and permits," has been retitled "Geological and geophysical activities requiring notices or permits" and moved to § 251.4 of the final rule. This section has been rewritten to modify the requirement for the submission of notices for certain types of scientific research. The primary purpose of these regulations is to insure that geological and geophysical exploration for mineral resources on the OCS is conducted in a timely and environmentally sound fashion. We recognize, however, our responsibility to insure that particular activities conducted for scientific reasons are also conducted in an environmentally sound fashion. Accordingly, scientific research which involves the use of solid or liquid explosives or test drilling will be subject to the requirements of the provisions of § 251.4.

Several commenters objected to the issuance of permits being at the "discretion" of the Director. We believe those commenting misunderstood the meaning of this language. Before approving a permit application, the Director must determine that it is in conformance with the applicable laws, regulations, and OCS Orders prior to issuance. We have, however, eliminated the language because the section makes it clear that activities must be approved by the Director before they can commence.

We have not adopted the suggestion to require cultural resource surveys before issuance of permits for scientific research. Departmental policy specifically states that it is an objective of the OCS program not to disturb cultural resources. We feel that § 251.6–2(e) adequately addresses the protection of cultural resources. This subsection provides that cultural resource studies will be conducted, if required by the Director, prior to the commencement of a deep stratigraphic test regardless of whether the test is drilled under a permit for the exploration for mineral resources or a permit for scientific research.

Finally, the last sentence of § 251.4–1 has been rewritten in response to the suggestion that any statement of rejection shall (as opposed to may) advise the applicant of changes necessary to make the application acceptable.

Section 251.5 Applying for Notices or Permits

Section 251.6, "Forms for notices and permit applications," in the proposed rule has been moved § 251.5, and retitled "Applying for notices or permits" in the final rule. We have adopted the recommendation of several respondents that more flexibility be built into the requirement that permittees indicate the commencement and completion dates for exploration activities in the drilling plan. We have included wording to indicate that proposed dates of commencement and completion are to be submitted with the application for a permit. We have not adopted the suggestion that permittees be exempt from complying with any statutes, regulations, or orders enacted, promulgated, issued, or amended after a permit is issued. This would be contrary to the requirements of section 5(a)(1) of the Act. For OCS exploratory activities to be conducted in the safest manner practicable, compliance with all applicable statutes, regulations, and orders is necessary, including those issues during the course of operations.

A new § 251.5–5, has been added to include a provision required by section 402 of the Act which relates to the Fishermen's Contingency Fund. As required by the Act, this provision will apply only to permits issued for geological and geophysical activities related to oil and gas exploration.

Section 251.6 Test Drilling Activities

Section 251.9 in the proposed rule, "Test drilling under notices and permits," has been moved to § 251.6 and retitled "Test drilling activities." The recommendation that the requirement that permittees gather and submit high-resolution geophysical data be deleted has been rejected. This information is necessary for the Director to insure the safety of drilling operations and the protection of the environment. Accordingly, this final rule allows the Director to require submission of geophysical information and data sufficient to determine shallow structural detail prior to approval of drilling activities.

Several new subsections were added to incorporate the Coastal Zone Management Act requirements. When a State with an approved coastal zone management program has included in its program or in writing an indication that a proposed activity subject to a Federal permit is likely to affect the land uses and water uses of the State's coastal zone, the Director will transmit copies of the permit application and the appropriate consistency certification to the State and shall make copies available to appropriate Federal Agencies and the public. The State must concur or be conclusively presumed to concur in the applicant's consistency certification, or the Secretary of Commerce must make the finding authorized by section 307(c)(3)(B)(iii) of the Coastal Zone Management Act, before the Director may issue the permit.

Several commenters requested deletion of § 251.6–2(e), which pertains to cultural resources, because the required surveys are an economic burden. These recommendations have not been adopted. It is the responsibility of the Department of the Interior to insure that there is a minimum disturbance to cultural resources by OCS activities approved by the Department.

One commenter suggested deleting the requirement in § 251.6–2(g) that deep stratigraphic tests be permanently plugged and abandoned after the completion of the test. We have not adopted this recommendation. To assure maximum protection of the marine environment, these boreholes will continue to be considered expendable.

One commenter requested that § 251.6 be amended to provide for review and concurrence by the State agency before permits are issued for onstructure shallow or deep tests in areas within 3 miles of the seaward boundary of the State. We have not adopted this recommendation. However, the Survey will forward a copy of the applicant's Drilling Plan and Environmental Report to the State, for review, prior to approving drilling operations. If the State has an approved coastal zone management program, the applicant may also have to receive the State's concurrence in a consistency certification prior to the commencement of operations.

Several comments were received concerning the regulations dealing with group participation. Most of these commenters felt the penalties for late participation in a deep stratigraphic test should be increased. We agree in part with these suggestions. We have decided not to change the maximum penalty (i.e., 100 percent of the cost to each original participant in addition to the original share cost) for late entry into a deep stratigraphic test. We feel that this amount is sufficient to encourage the early participation of most interested parties, but is not overly burdensome to others, such as smaller companies, which may take longer to acquire sufficient funds in order to enter the group. We have, however, raised the maximum penalty for late participants who wait until after the Director announces a hydrocarbon occurrence to enter the group to 300 percent of the cost to each original participant in addition to the original share cost. We feel that this provision will protect those involved in the initial drilling consortium from companies that want to buy into the consortium only after hydrocarbon occurrences are detected in a test and will encourage early participation in such a consortium.

The comment was also made that the penalties should be assessed by the participants and shared by all parties who participated as of the time the hydrocarbon occurrence is announced. We believe that the amount and distribution of monetary penalties should be spelled out in the initial agreement between the participants as a further stimulus for early participation. For clarity, we have adopted the suggestion to reword subsection 251.6–3(d) to read "if the applicant proposes changes" to indicate that the applicant and not the Director proposes the changes.

One commenter suggested adding the following language to the last sentence of the above cited section: ". . . unless a significant show has been encountered in which case they shall be considered late participants." This commenter felt this change would protect the rights of the original participants. We have reworded this subsection to make it clear that if an applicant changes the original permit application and the Director determines that the change is significant, the applicant must readvertise the activity in order to allow others to participate. Participants entering under this readvertisement must be considered original participants.

We have modified § 251.6–4 to require a corporate surety bond of $50,000 instead of $100,000. This was done in order to parallel the bonding requirements that the Bureau of Land Management imposes on lessees under 43 CFR 3318.

Several respondents requested that provision be made in § 251.6–5 for flexibility in the requirement that drilling of deep stratigraphic tests be completed at least 3 months prior to the first day of the month in which the Proposed Notice of Sale is listed on the currently approved OCS Leasing Schedule. In order to allow for unexpected delays after the commencement of drilling operations, we have added the following: "However, the Director may extend the expiration date of a permit if it is determined that such an extension is in the national interest."

Section 251.7 Inspection and Reporting of Progress and Results of Activities Conducted Under Permits

Section 251.10, "Observation of exploration conducted under permits" has been retitled and moved to § 251.7–1 in the final rule. Two commenters asked for clarification of the terms "advisor" and "Federal representative." For clarity, we have combined the two terms into "Federal representative." The Federal representative, who is appointed or approved by the Director or a subordinate authorized to act on the Director's behalf, will observe or inspect operations conducted pursuant to a permit. The contents of § 251.8, "Report of operations conducted under notices and permits," have been moved to § 251.7. As we pointed out earlier, permittees will not be required to report "possible hydrocarbon discoveries." However, any "hydrocarbon occurrences" must be reported to the Director who will then determine their significance.

Section 251.8 Suspension and Cancellation of Authority to Conduct Activities Under Permit

Section 251.15, "Termination, suspension, and revocation of authority to operate under notices and permits," has been modified and incorporated into § 251.8.

This section has been rewritten to define cancellation as a permanent revocation of a permit. Cancellation notices will be issued 30 days prior to becoming effective. A suspension is of a temporary nature and shall require all operations conducted under a permit to cease immediately. In order to permit immediate implementation of an order, language has been added to allow the Director to suspend permits either orally or in writing. Oral suspensions will be followed by written confirmation.

Several comments were received objecting to the right of the Director to terminate permits without cause. In the revision of this section, the Director is required to state the reason for the cancellation of a permit.

Section 251.9 Penalties.

Section 251.16, "Penalties," has been moved to § 251.9. No comments were received on this section and only minor editorial changes were made.

Section 251.10 Appeals

Section 251.17, "Appeals," has been moved to § 251.10. No comments were received on this section and only minor editorial changes were made.

Section 251.11 Inspection, Selection, and Submission of Geological Information and Data

Section 251.12, "Inspection, selection, and submission of data and information," has been subdivided into § 251.11, "Inspection, selection, and submission of geological information and data," and § 251.12, "Inspection, selection, and submission of geophysical information and data." In implementing the requirements of section 26 of the Act, and in conformance with the procedures contained in 30 CFR Part 252, §§ 251.11 and 251.12 have been expanded to include the inspection, selection and submission of interpretations as part of the information and data requirements.

We do not agree with comments that state that § 251.11(b)(7), which allows the Director to specify other geological data and analyzed or interpreted geological information, is too broad and "open-ended." Section 26(a)(1)(A) of the Act requires a permittee conducting exploration pursuant to the Act to ". . . provide the Secretary access to all data and information (including processed, analyzed, and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request." We believe the latitude afforded to the Secretary by the Act is properly reflected in the language of the regulations.

Section 251.12 Inspection, Selection, and Submission of Geophysical Information and Data

Several commenters questioned whether permittees will be required to submit original information and data to the Director for inspection, rather than copies. Section 26(a)(1)(A) of the Act requires lessees or permittees to provide copies of information and data as the Secretary may request. We have not adopted the suggestion of one commenter that permittees be reimbursed for shipping costs incurred in submitting information and data to the Director for inspection. Section 26 of the Act requires the Secretary to reimburse the permittee for reproducing and processing information and data. Shipping costs do not fall into that category.

Several commenters recommended deleting § 251.12(b) which allows the Director to contract with parties outside the agency in order to reproduce data. We have not adopted this recommendation. The situation may arise where it would be more convenient or more economical for the Director to arrange for an independent contractor to reproduce the information or data. Several comments were received requesting that any third party reproducing information or data agree to protect the confidentiality of these materials. Subsection 251.14–2 has been rewritten to require an independent contractor, retained by the Director to reproduce information or data, to sign a written commitment not to use the information or data in a manner other than is called for in the contract, and not to disclose the information or data to any third party without the written consent of the Director.

We have added "digital navigational data" as one of the items to be included with geophysical survey data in § 251.12(d)(1). These data are required by the Survey for use in constructing digital maps of geophysical surveys.

Several commenters recommended that language be added to § 251.12(d)(3) to indicate that the method of processing must be of a nature commonly available from geophysical contractors. We have not adopted this suggestion. We feel the Director needs access to the same processed and reprocessed information as is available to permittees.

Section 251.13 Reimbursement to Permittees

One commenter asked how the Department would establish a reimbursement rate for processing and reprocessing costs if no late participants had purchased data establishing such a rate. We feel that § 251.13(b), as stated, indicates that it is up to the permittee to justify the rate which the Director or any late participant will pay for processing or reprocessing of the data.

One comment was received objecting to the specific reference to fraudulent and collusive activity. Although fraudulent and collusive activity will continue to be prohibited, we have

dropped the specific reference and have adopted language which reflects similar provisions in 30 CFR 252.3.

251.14 Disclosure of Information and Data Submitted Under Permits

The comments received regarding this section have been previously considered under "Discussion of Major Comments."

Authors: Thomas McCloskey, Office of the Assistant Secretary—Energy and Minerals, U.S. Department of the Interior (202/343-4457), Gordon D. Burton, Daniel S. Palubniak, and Leaman D. Harris, Geological Survey, U.S. Department of the Interior (703/860-7564).

ENVIRONMENTAL IMPACT AND REGULATORY ANALYSIS: The Department of the Interior has determined that the revision of the regulations in 30 CFR Part 251, in accordance with this notice, is not a major Federal action significantly affecting the quality of the human environment and will not require preparation of an Environmental Impact Statement. The Department has also determined that this document is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: January 22, 1980.

Charles L. Eddy,

Acting Assistant Secretary of the Interior.

Part 251 of Title 30 of the Code of Federal Regulations is revised to read as follows:

PART 251—GEOLOGICAL AND GEOPHYSICAL (G & G) EXPLORATIONS OF THE OUTER CONTINENTAL SHELF.

Sec.

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251.13 Reimbursement to permittees.
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251.14-1 Disclosure of information and data to the public.
251.14-2 Disclosure to independent contractors.
251.14-3 Sharing of information with affected States.
251.14-4 Disclosure of information and data relating to specific contractual commitments.

Authority: Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq., as amended, 92 Stat. 629; National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. (1970); Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 et seq.

§ 251.1 Purpose.

The Act authorizes the Secretary to prescribe rules and regulations necessary to carry out the provisions of the Act. The primary purpose of the regulations in this Part is to prescribe policies, procedures, and requirements for conducting geological and geophysical activities not authorized under a lease on the Outer Continental Shelf (OCS). These activities may take place on unleased lands or on lands under lease to a third party. These activities are limited to geological and geophysical exploration for mineral resources and geological or geophysical scientific research which involves the use of solid or liquid explosives or drilling activities. The requirements of the regulations in this Part implement the provisions of sections 5, 8(g), 11 (a) and (g), 19, 24, and 26 of the Act. Federal Agencies are exempt from the regulations in this Part.

§ 251.2 Definitions.

When used in this Part, the following terms shall have the meaning given below:

(a) "Act" means the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.).

(b) "Affected local government" means the principal governing body of a locality which is in an affected State and is identified by the Governor of that State as a locality which will be significantly affected by oil and gas activities on the OCS.

(c) "Affected State" means, with respect to any program, plan, lease sale, or other activity proposed, conducted, or approved pursuant to the provisions of the Act, any State:

(1) The laws of which are declared, pursuant to section 4(a)(2)(A) of the Act, to be the law of the United States for the portion of the OCS on which such activity is, or is proposed to be, conducted;

(2) Which is, or is proposed to be, directly connected by transportation facilities to any artificial island or installation or other device permanently or temporarily attached to the seabed;

(3) Which is receiving, or in accordance with the proposed activity, will receive oil for processing, refining, or transshipment which was extracted from the OCS and transported directly to the State by means of vessels or by a combination of means including vessels;

(4) Which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment or a State in which there will be significant changes in the social, governmental, or economic infrastructure resulting from the exploration, development, and production of oil and gas anywhere in the OCS; or

(5) In which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oil spill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities.

(d) "Analyzed geological information" means data collected under a permit or a lease which have been analyzed. Analysis may include, but is not limited to, identification of lithologic and fossil content, core analyses, laboratory analyses of physical and chemical properties, well logs or charts, results and data obtained from formation fluid tests, and descriptions of hydrocarbon occurrences or hazardous conditions.

(e) "Coastal environment" means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone.

(f) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States. The coastal zone includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches. The coastal zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shoreline to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act.

(g) "Coastal Zone Management Act" means the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.).

(h) "Cultural resource" means a site, structure, or object of historical or archeological significance.

(i) "Data" means facts and statistics or samples which have not been analyzed or processed.

(j) "Deep stratigraphic test" means drilling which involves the penetration into the sea bottom of more than 50 feet (15.2 meters) of consolidated rock or a total of more than 300 feet (91.4 meters).

(k) "Director" means the Director of the Geological Survey, U.S. Department of the Interior or a subordinate authorized to act on the Director's behalf.

(l) "Exploration" means the process of searching for minerals. Exploration activities include but are not limited to: (1) Geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of minerals, and (2) Any drilling, whether on or off a geological structure.

(m) "Gas" means any fluid, either combustible or noncombustible, which is extracted from a reservoir and which has neither independent shape nor volume, but tends to expand indefinitely; a substance that exists in a gaseous or rarefied state under standard temperature and pressure conditions.

(n) "Geological exploration for mineral resources" means any operation conducted on the OCS which utilizes geological and geochemical techniques, including, but not limited to, core and test drilling, well logging techniques, and various bottom sampling methods to produce information and data on mineral resources, including information and data in support of possible exploration and development activity. The term does not include scientific research.

(o) "Geophysical exploration for mineral resources" means any operation conducted on the OCS which utilizes geophysical techniques, including, but not limited to gravity, magnetic, and various seismic methods, to produce information and data in support of possible exploration and development activity. The term does not include scientific research.

(p) "Geological or geophysical scientific research" means any investigation conducted on the OCS using solid or liquid explosives, or drilling activities for scientific research purposes involving the gathering and analysis of geological or geophysical information and data which are made available to the public for inspection and reproduction at the earliest practicable time.

(q) "Governor" means the Governor of a State, or the person or entity designated by, or pusuant to, State law to exercise the powers granted to a Governor pursuant to the Act.

(r) "Human environment" means the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the OCS.

(s) "Hydrocarbon occurrences" means the direct or indirect detection during drilling operations of any liquid or gaseous hydrocarbons by examination of well cuttings, cores, gas detector readings, formation fluid tests, wireline logs, or by any other means. The term does not include background gas, minor accumulations of gas, or heavy oil residues on cuttings and cores.

(t) "Information," when used without a qualifying adjective, includes analyzed geological information, processed geophysical information, interpreted geological information, and interpreted geophysical information.

(u) "Interpreted geological information" means knowledge, often in the form of schematic cross sections and maps, developed by determining the geological significance of data and analyzed geological information.

(v) "Interpreted geophysical information" means knowledge, often in the form of seismic cross sections and maps, developed by determining the geological significance of geophysical data and processed geophysical information.

(w) "Lease" means (1) any form of authorization which is issued under section 8 or maintained under section 6 of the Act and which authorizes exploration for, and development and production of, minerals, or (2) the area covered by such authorization, whichever is required by the context.

(x) "Lessee" means the party authorized by a lease, or an approved assignment thereof, to explore for, develop, and produce the leased deposits in accordance with the regulations in Part 250 of this Chapter. The term includes all parties holding such authority by or through the lessee.

(y) "Marine environment" means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the OCS.

(z) "Minerals" includes oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from "public lands" as defined in Section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(aa) "National Environmental Policy Act" means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(bb) "Notice" means the statement of intent to conduct geological scientific research which involves shallow test drilling activities.

(cc) "OCS Order" means a formal numbered Order, issued by the Director, that implements the regulations contained in this Part and specifically applies to operations in an area in the Order.

(dd) "Oil" means any fluid hydrocarbon substance other than gas which is extracted in a fluid state from a reservoir and which exists in a fluid state under the existing temperature and pressure conditions of the reservoir. Oil includes liquefiable hydrocarbon substances such as drip gasoline or other natural condensates recovered or recoverable in a liquid state from produced gas.

(ee) "Operator" means the individual, partnership, firm, or corporation having control or management of operations on the leased area or a portion thereof. The operator may be a lessee, designated

agent of the lessee, or holder of rights under an approved operating agreement.

(ff) "Outer Continental Shelf" means all submerged lands which lie seaward and outside the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

(gg) "Permit" means the contract or agreement, other than a lease, approved for a specified period of not more than 1 year under which a person acquires the right to conduct (1) geological exploration for mineral resources, (2) geophysical exploration for mineral resources, (3) geological scientific research, or (4) geophysical scientific research.

(hh) "Permittee" means the person authorized by a permit issued pursuant to this Part to conduct activities on the OCS.

(ii) "Person" means a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States as defined in 8 U.S.C. 1101(a)(20), a private, public, or municipal corporation organized under the laws of the United States or of any State or territory thereof, and associations of such citizens, nationals, resident aliens, or private, public, or municipal corporations, States, or political subdivisions of States. The term does not include Federal Agencies.

(jj) "Pollution contingency plan" means the National Multi-Agency Oil and Hazardous Materials Pollution Contingency Plan or any successor plan thereto.

(kk) "Processed geophysical information" means data collected under a permit or a lease which have been processed. Processing involves changing the form of data so as to facilitate interpretation. Processing operations may include, but are not limited to, applying corrections for known perturbing causes, rearranging or filtering data, and combining or transforming data elements.

(ll) "Secretary" means the Secretary of the Interior or a subordinate authorized to act on the Secretary's behalf.

(mm) "Shallow test drilling" means drilling into the sea bottom to depths less than those specified in the definition of a deep stratigraphic test.

(nn) "Third party" means any person other than a representative of the United States or the permittee.

(oo) "Violation" means a failure to comply with any provision of the Act, or a provision of a regulation or order issued under the Act, or any provision of a lease, license, or permit issued pursuant to the Act.

§ 251.3 Administrative authority and applicability.

§ 251.3-1 Administrative authority.

Exploration or scientific research activities authorized or conducted under this Part shall be performed in accordance with the Act, the regulations in this Part, OCS Orders, other orders of the Director, and other applicable statutes and regulations, and amendments thereto.

§ 251.3-2 Functions of Director.

The Director shall regulate all operations and other activities under this Part and perform all duties prescribed by this Part. The Director is authorized to issue OCS Orders and other written and oral orders and to take all other actions necessary to carry out the provisions of this Part and to prevent harm or damage to, or waste of, any natural resource (including any mineral deposit in areas leased or not leased), any life (including fish and other aquatic life), property, or the marine, coastal, or human environment. The Director shall confirm oral orders in writing as soon as possible.

§ 251.3-3 Geological and geophysical activities under a lease.

The regulations in this Part shall not apply to geological and geophysical exploration conducted by or on behalf of the lessee on a lease on the OCS. Those exploration activities shall be governed by the regulations in Part 250 of this title.

§ 251.3-4 Geological and geophysical activities not under a lease.

The regulations in this Part are applicable to permits for geological and geophysical activities issued after or unexpired as of the effective date of this final rule. Notices filed after the effective date of this final rule shall also be subject to the regulations in this Part.

If the regulations in this Part conflict with the provisions of a permit which was issued under regulations published in the **Federal Register** on June 23, 1976 (41 FR 25893), the requirements of the permit shall govern, except for any requirements limiting the Director's authority to inspect and require the submission of interpretations derived from information and data acquired under those permits issued after January 27, 1978, as established by Part 252 of this title.

§ 251.3-5 General requirements of notices and permits.

(a) Geological or geophysical activities for mineral exploration or scientific research activities authorized under this Part shall be conducted so that those activities do not:

(1) Interfere with or endanger operations under any lease issued or maintained pursuant to the Act;

(2) Cause harm or damage to aquatic life;

(3) Cause pollution;

(4) Create hazardous or unsafe conditions;

(5) Unreasonably interfere with or harm other uses of the area; or

(6) Disturb cultural resources.

(b) Any person conducting geological or geophysical activities for mineral exploration or scientific research under this Part shall immediately report to the Director when these activities:

(1) Detect hydrocarbon occurrences;

(2) Encounter evironmental hazards which constitute an imminent threat to human activity; or

(3) Adversely affect the environment, aquatic life, cultural resources, or other uses of the area in which the exploration activity is conducted.

(c) Any person conducting shallow test drilling or deep stratigraphic test drilling geological activities under a permit for mineral exploration or scientific research under this Part shall utilize the best available and safest technologies which the Director determines to be economically feasible.

(d) Authorization granted under this Part to conduct geological and geophysical exploration for minerals or for scientific research shall not confer a right to any discovered oil, gas, or other minerals, or to a lease under the Act.

§ 251.4 Geological and geophysical activities requiring notices or permits.

§ 251.4-1 Geological and geophysical exploration for mineral resources.

Geological or geophysical exploration for mineral resources may not be conducted on the OCS without an approved permit unless such activities are being conducted pursuant to a lease issued or maintained under the Act. Separate permits must be obtained for geological exploration for mineral resources and for geophysical exploration for mineral resources. If the Director disapproves an application, the statement of rejection shall state the reasons for the denial, and shall advise the applicant of those changes needed to obtain approval.

§ 251.4-2 Geological or geophysical scientific research.

Geological or geophysical scientific research may not be conducted by any person on the OCS without an approved permit or filing of a notice unless such activities are being conducted pursuant to a lease issued or maintained under the Act.

(a) Separate permits must be obtained for geological scientific research and for geophysical scientific research which involves the use of solid or liquid explosives or the drilling of a deep stratigraphic test. If the Director disapproves an application, the statement of rejection shall state the reasons for the denial, and shall advise the applicant of the changes needed to obtain approval.

(b) A notice must be filed with the Director at least 30 days prior to the commencement of scientific research activities which involve shallow test drilling. Within 21 days of the filing of the notice, the Director may disapprove the notice by sending a statement of disapproval by certified mail to the person who filed the notice. If the Director disapproves the notice, the statement shall state the reasons for disapproval and shall advise the applicant of recommended changes.

§ 251.5 Applying for notices or permits.

§ 251.5-1 Permit forms.

(a) An application for a permit shall be submitted in a form and manner prescribed and approved by the Director. Each application for a permit shall include:

(1) The name of any person who will conduct the proposed exploration or research activity;

(2) The name of any person who will participate in the proposed exploration or research activity;

(3) The type of exploration or research activity and the manner in which the activity will be conducted;

(4) The location on the OCS where the exploration or research activity will be conducted;

(5) The purpose for conducting the exploration or research activity;

(6) The dates on which the exploration or research activity is proposed to be commenced and completed; and,

(7) Such other relevant information and data as the Director may require.

(b) This reporting requirement has been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 (042-5777002).

§ 251.5-2 Notices.

A notice shall not be on a standardized form, but shall be signed and shall state:

(1) The name of the person conducting or participating in the proposed research;

(2) The type of research and manner in which it will be conducted;

(3) The location, designated on a map, plat, or chart, where the research will be conducted;

(4) The dates, which shall designate a period of not more than 1 year, on which the research activity is proposed to be commenced and completed;

(5) The proposed time and manner in which the information and data resulting from the research will be made available to the public for inspection and reproduction, such time being the earliest practicable time;

(6) An agreement that the information and data resulting from the research will not be sold or withheld for exclusive use; and

(7) The name, registry number, registered owner, and port of registry of vessels used in the operation.

§ 251.5-3 Filing locations for permits to conduct exploration for mineral resources.

Each application for a permit to conduct geological or geophysical exploration for mineral resources in the OCS shall be filed, in duplicate, at the following locations:

(a) For the OCS off the Atlantic Coast—the Area Oil and Gas Supervisor for Resource Evaluation, Atlantic Area, U.S. Geological Survey, 1725 K Street NW, Suite 204, Washington, D.C. 20006.

(b) For the OCS in the Gulf of Mexico—the Area Oil and Gas Supervisor for Resource Evaluation, U.S. Geological Survey, Gulf of Mexico Area, P.O. Box 7944, Metairie, Louisiana 70010.

(c) For the OCS off the coast of the States of California, Oregon, or Washington—the Area Oil and Gas Supervisor, U.S. Geological Survey, Pacific Area, Room 160, 1340 West Sixth Street, Los Angeles, California 90017.

(d) For the OCS off the State of Alaska—the Area Oil and Gas Supervisor, U.S. Geological Survey, Alaska Area, P.O. Box 259, Anchorage, Alaska 99510.

§ 251.5-4 Filing locations for notices or permits to conduct scientific research.

Each notice or application for a permit to conduct geological or geophysical scientific research on the OCS shall be filed, in duplicate, at the locations indicated in subsection 251.5-3 of this section.

§ 251.5-5 Fishermen's Contingency Fund.

Upon the establishment of an account under the Fishermen's Contingency Fund for any area of the OCS pursuant to subsection 402(b) of the Act, the holder of a permit for geological or geophysical exploration activities for mineral resources in the area covered by the account shall pay an amount specified by the Secretary of Commerce for the purpose of the establishment and maintenance of an account for the area. At the time of issuing a permit, the Director shall collect the amount specified and deposit it in the Fund to the credit of the appropriate account.

§ 251.6 Test drilling activities.

§ 251.6-1 Permit or notice requirements for shallow test drilling.

The Director, prior to the commencement of shallow test drilling for exploration for mineral resources or for scientific research, may require for permits or recommend for notices the gathering and submission of geophysical information and data sufficient to determine shallow structural detail across and in the vicinity of the proposed test. Other information and data may include, but is not limited to, seismic, bathymetric, side-scan sonar, and magnetometer systems, across and in the vicinity of the proposed test. When required, §§ 251.6-2(c)(1) and (e) and 251.6-3 will apply to permits issued and notices filed for shallow test drilling.

§ 251.6-2 Permit requirements for a deep stratigraphic test.

(a) No deep stratigraphic test drilling activities shall be initiated or conducted until a Drilling Plan has been submitted by the applicant and approved by the Director. The Drilling Plan shall include:

(1) The proposed type and sequence of drilling activities to be undertaken together with a timetable for their performance from commencement to completion;

(2) A description of the drilling rig proposed for use, unless a description has been previously submitted to the Director, indicating the important features thereof, with special attention to safety features and pollution prevention and control features, including oil spill containment and cleanup plans and onshore disposal procedures;

(3) The location of each deep stratigraphic test to be conducted, including the surface and projected bottomhole location of the borehole;

(4) The types of geophysical instrumentation to be used;

(5) Geophysical information and data sufficient to determine shallow

structural detail across and in the vicinity of the proposed test, and other information and data from, but not limited to, seismic, bathymetric, side-scan sonar, and magnetometer systems, collected across any proposed drilling location, and other geophysical data from the area of the proposed test location, and processed geophysical information and interpreted geophysical information therefrom, so as to allow evaluation of structural detail to the total depth of the proposed test; and

(6) Such other relevant information and data as the Director may require.

(b) At the same time the applicant submits a Drilling Plan to the Director, an Environmental Report shall be submitted. The report shall be in summary form and should include information available at the time the related Drilling Plan is submitted. Such information is to be accurate, current, and applicable to the geographic area and the proposed activities covered by the plan. The applicant shall refer to information and data contained in the related plan, other Environmental Reports, and other environmental analyses and impact statements prepared for the geographic area by identifying the information and indicating a source for obtaining copies of the cited materials. Information and data which are site-specific, or which are developed subsequent to the most recent Environmental Impact Statement or other environmental analyses in the immediate area, shall be specifically considered. Specific guidelines for implementing this section will be issued by the Director. The Environmental Report shall include the following:

(1)*(a)* A list and description of new or unusual technologies that are to be used; *(b)* The location of travel routes for supplies and personnel; *(c)* the kinds and approximate quantities of energy to be used; *(d)* The environmental monitoring systems that are to be used; and *(e)* Suitable maps and diagrams showing details of the proposed project layout.

(2) A narrative description of the existing environment. This section shall include the following information on the area: *(a)* Geology; *(b)* Physical oceanography; *(c)* Other uses of the area; *(d)* Flora and fauna; *(e)* Existing environmental monitoring systems; and *(f)* Other unusual or unique characteristics which may affect or be affected by the drilling activities.

(3) A narrative description of the probable impacts of the proposed action on the environment and the measures proposed for mitigating these impacts.

(4) A narrative description of any unavoidable or irreversible adverse effects on the environment that could be expected to occur as a result of the proposed action.

(5) Such other relevant information and data as the Director may require.

(c)(1) When required under a coastal zone management program approved under the Coastal Zone Management Act, the activities proposed by an applicant for a permit to conduct geological or geophysical exploration for minerals or for geological or geophysical scientific research must receive State concurrence in its coastal zone consistency certification prior to the Director's approval of any of the activities covered under the permit.

(2) The applicant shall submit a sufficient number of copies of the Drilling Plan and Environmental Report to permit the Director to transmit copies of each to the Governor of each affected State and the coastal zone management agency of each affected State that has a coastal zone management program approved under the Coastal Zone Management Act. The Director shall also make the Drilling Plan and accompanying Environmental Report available to appropriate Federal Agencies and the public, in accordance with established Departmental practices and procedures.

(d) Any revisions to an approved Drilling Plan must be approved by the Director.

(e) A permittee authorized to drill a deep stratigraphic test shall, if requested by the Director, conduct studies to determine whether any cultural resources exist in the area that may be affected by such drilling, and shall report the findings of those studies to the Director. A permittee authorized to perform shallow test drilling may be required to conduct similar studies if required by the Director. The study shall include a full description of any cultural resources detected. The permittee shall take no action that will result in the disturbance of cultural resources without the prior approval of the Director and, if any cultural resource is discovered after submission of the study (i.e., during site preparation or drilling), the permittee shall immediately report the discovery to the Director and make every reasonable effort to protect the cultural resource from damage until the Director has given directions as to its preservation.

(f) All OCS regulations relating to drilling operations in Part 250 of this title and all OCS Orders relating to the drilling of wells apply, as appropriate, to drilling activities authorized under this Part.

(g) At the completion of the test activities, the borehole of all deep stratigraphic tests shall be permanently plugged and abandoned by the permittee prior to moving the rig off location in accordance with the requirements of the regulations in Part 250 of this Chapter and applicable orders. If the tract on which deep stratigraphic test drilling has been conducted is later leased for exploration and development, the lessee will not be held responsible for the test hole, provided the lessee has not reentered or otherwise disturbed the borehole.

§ 251.6-3 Group participation in test drilling activities.

(a) In order to minimize duplicative geological exploration activities involving the penetration of the seabed of the OCS, a person proposing to drill a deep stratigraghic test shall afford all interested persons, through a signed agreement, an opportunity to participate in the drilling on a cost-sharing basis. The provisions of the agreement for sharing the cost of a deep stratigraphic test may include a penalty for late participants of not more than 100 percent of the cost to each original participant in addition to the original share cost. The participants shall assess and distribute penalties in accordance with the terms of the agreement. If the Director releases a public notice announcing a significant hydrocarbon occurrence, the penalty for subsequent late participants may be raised to not more than 300 percent of the cost of each original participant in addition to the original share cost.

(b) An applicant proposing to conduct shallow test drilling activities shall, when ordered by the Director or when provided in the permit, afford all interested persons an opportunity to participate in the test activity on a cost-sharing basis with a penalty for late participation of not more than 50 percent of the cost to each original participant.

(c) To allow for group participation in shallow or deep test drilling activities, the applicant shall:

(1) Publish a summary statement describing the proposed activity in a manner approved or prescribed by the Director;

(2) Forward a copy of the published statement to the Director;

(3) Allow at least 30 days from the date of publishing the summary statement for other persons to join as original participants;

(4) Compute the estimated cost to an original participant by dividing the estimated total cost of the program by the number of original participants; and

(5) Furnish the Director with a complete list of all participants under

the permit prior to commencing operations, or at the end of the advertising period if operations begin prior to its close. Also, the names of all late participants shall be forwarded to the Director.

(d) If the applicant proposes changes to the original application and the Director determines that such changes are significant, the Director shall require a republication of the changes and an additional 30 days for other persons to join as original participants.

§ 251.6–4 Bonds.

Before a permit authorizing the drilling of a deep stratigraphic test will be issued, the applicant shall furnish to the Bureau of Land Management a corporate surety bond of not less than $50,000 conditioned on compliance with the terms of the permit, unless the applicant maintains with or furnishes to the Bureau of Land Management a bond in the sum of $300,000 conditioned on compliance with the terms of the permit issued to him for the area of the OCS where the applicant proposes to conduct the drilling of a deep stratigraphic test. The Director may require the submission of a bond before authorizing the initiation of shallow test drilling. Any bond furnished or maintained by a person under this section shall be on a form approved or prescribed by the Director, Bureau of Land Management.

§ 251.6–5 Duration of exploration activities.

If a deep stratigraphic test well is drilled within 50 geographic miles of any tract tentatively selected for a lease sale as listed on the currently approved OCS Leasing Schedule, all drilling activities must be completed, and the information and data submitted to the Director, at least 3 months prior to the first day of the month in which the Proposed Notice of Sale is listed. However, the Director may extend the expiration date of a permit if it is determined that such an extension is in the national interest.

§ 251.7 Inspection and reporting of progress and results of activities conducted under permits.

§ 251.7–1 Inspection and observation of exploration activities.

(a) A permittee, upon request by the Director, shall furnish food, quarters, and transportation for Federal representatives. Upon request, the permittee will be reimbursed by the United States for the actual costs incurred as a result of providing food, quarters, and transportation for a Federal representative's stay of more than 10 hours. The Federal representative shall observe or inspect operations conducted pursuant to the permit and determine whether operations are having any adverse effects upon the environment, aquatic life, cultural resources, or other uses of the area.

(b) The Federal representatives shall be appointed or approved by the Director.

§ 251.7–2 Progress report on activities conducted under a permit.

Each permittee shall submit status reports on a weekly basis in a manner approved or prescribed by the Director. This shall include a daily log of operations.

§ 251.7–3 Final report on activities conducted under a permit.

Each permittee shall submit to the Director a final report of exploration or scientific research activities under the permit within 30 days after the completion of operations. The final report shall contain the following:

(a) A description of the work performed.

(b) Charts, maps, or plats depicting the areas and blocks in which any exploration or scientific research activities were conducted, specifically identifying the lines of geophysical traverses or the locations where geological exploration or scientific research activities were conducted, including a reference sufficient to identify the data produced during each activity.

(c) The dates on which the actual exploration or scientific research activities were performed.

(d) A narrative summary of any: (1) Hydrocarbon occurrences or environmental hazards, and (2) Adverse effects of the exploration or scientific research activities on the environment, aquatic life, cultural resources, or other uses of the area in which the activities were conducted.

(e) Such other descriptions of the activities conducted as may be specified by the Director.

§ 251.8 Suspension and cancellation of authority to conduct activities under permit.

(a) The Director may suspend or temporarily prohibit the permittee's authority to conduct exploration or scientific research activities under a permit by notifying the permittee either orally or in writing when the Director determines that there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environment. Such suspensions shall be effective immediately upon receipt of the notice. Suspensions issued orally shall be followed by a written notice confirming the action, and all written notices will be sent by certified mail. A suspension shall remain in effect until the basis for the suspension has been corrected to the satisfaction of the Director.

(b) The Director may suspend or temporarily prohibit the permittee's authority to conduct exploration or scientific research under a permit either orally or in writing when the Director determines the permittee fails to comply with a provision of the Act or of any applicable law, the provisions of the permit, provisions of these and other applicable regulations, OCS Orders, or any other written orders or field rules including orders for the filing of reports and well records or logs within the time specified. Such suspensions shall be effective immediately upon receipt of the notice. Suspensions issued orally shall be followed by a written notice confirming the action and all written notices shall be sent by certified mail. A suspension shall remain in effect until the basis for the suspension has been corrected to the satisfaction of the Director.

(c)(1) The Director may cancel, or a permittee may relinquish, a permit to conduct exploration or scientific research activities at any time by sending a notice of cancellation or a notice of relinquishment. Such notices shall state the reason for the cancellation or relinquishment and shall be sent by certified mail to the other party at least 30 days in advance of the date the cancellation or relinquishment will be effective.

(2) Cancellation of a permit to conduct exploration or scientific research activities shall not relieve the permittee of the obligation to abandon any drill sites in accordance with the requirements of paragraph 251.6–2(g) of this Part and to comply with all other obligations specified in this Part or in the permit.

§ 251.9 Penalties.

All persons conducting geological or geophysical exploration activities for mineral resources or scientific research shall be subject to the penalty provisions of section 24 of the Act (43 U.S.C. 1350), the procedures contained in § 250.80 of this Chapter for noncompliance with any provision of the Act, or any provision of the permit, or for any violation of the provisions of any regulation or order issued under the Act. The penalties prescribed in this section shall be in addition to any other

penalty afforded by any other law or regulation.

§ 251.10 Appeals.

Orders or decisions issued under the regulations in this Part may be appealed as provided in Part 290 of this Chapter.

§ 251.11 Inspection, selection, and submission of geological information and data.

(a) Each holder of a permit for geological exploration activities for mineral resources or scientific research shall notify the Director immediately, in writing, of the acquisition, analysis, or interpretation of any geological information and data collected under the permit. All geological data, analyzed geological information, and interpreted geological information collected by the permittee shall be available for inspection by the Director. At any time within 1 year after receiving a notice of the acquisition, analysis, or interpretation of any geological information and data, the Director may select all or part of the geological data, analyzed geological information, and interpreted geological information. However, a longer period of time may be specified in the permit. The permittee shall submit reproducible copies of the information and data selected to the Director within 30 days following receipt of the Director's request, unless the Director authorizes a longer time period for the submission of the information or data.

(b) Each submission of geological data, analyzed geological information, and interpreted geological information shall contain, unless otherwise specified by the Director, the following:

(1) An accurate and complete record of all geological (including geochemical) data, analyzed geological information, and interpreted geological information resulting from each operation;

(2) Paleontological reports identifying microscopic fossils by depth, unless washed samples are maintained by the permittee for paleontological determination and are made available upon request for inspection by the Geological Survey;

(3) Copies of well logs or charts;

(4) Results and data obtained from formation fluid tests;

(5) Analyses of core or bottom samples or a representative cut or split of the core or bottom sample;

(6) Detailed descriptions of any hydrocarbons or hazardous conditions encountered during operations, including near losses of well-control, abnormal geopressures, and losses of circulation; and

(7) Such other geological data, analyzed geological information, and interpreted geological information as may be specified by the Director.

(c) In the event that geological data, analyzed geological information, or interpreted geological information is transferred from the permittee to a third party, or from a third party to another third party, the transferor shall notify the Director and shall require the receiving party, in writing, to abide by the obligations of the permittee as specified in this section as a condition precedent to the transfer of information or data.

§ 251.12 Inspection, selection, and submission of geophysical information and data.

(a) Each holder of a permit for geophysical exploration activities for minerals or scientific research shall notify the Director immediately, in writing, of the acquisition, processing, reprocessing, or interpretation of any geophysical information or data collected under the permit. All geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information collected by the permittee shall be available for inspection by the Director. At any time within 1 year after receiving a notice of the acquisition, processing, reprocessing, or interpretation of any geophysical information and data, the Director may select all or part of the geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information. However, a longer period of time may be specified in the permit.

(b) The Director shall have the right to inspect geophysical data, processed geophysical information, reprocessed geophysical information, or interpreted geophysical information prior to final selection. This inspection shall be performed on the permittee's premises unless the Director requests that the permittee deliver the information or data to the Director for inspection. Such delivery shall be within 30 days following the receipt of the Director's request unless the Director authorizes a later delivery date. At any time prior to final selection, the Director may return any or all geophysical information or data following either its inspection and detailed assessment of its quality, or the establishment of a price to the Government for the processing or reprocessing of the geophysical information or data. If the Director decides to keep all or a portion of the geophysical information and data, the Director shall notify the permittee, in writing, of this decision. If the inspection is done on the permittee's premises, the permittee shall submit the geophysical information or data selected within 30 days following receipt of the Director's request, unless the Director authorizes a longer period of time for delivery. The Director shall have the right to arrange, by contract or otherwise, for the reproduction, without the consent of the permittee, of geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information.

(c) In the event that geophysical data, processed geophysical information, reprocessed geophysical information, or interpreted geophysical information is transferred from the permittee to a third party, or from a third party to another third party, the transferor shall notify the Director and shall require the receiving third party, in writing, to abide by the obligations of the permittee as specified in this section as a condition precedent to the transfer of information or data.

(d) Each submission of geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information, shall contain, unless otherwise specified by the Director, the following:

(1) An accurate and complete record of each geophysical survey conducted under the permit, including digital navigational data and final location maps of all survey stations;

(2) All seismic data developed under a permit presented in a format and of a quality suitable for processing;

(3) Processed geophysical information derived from seismic data with extraneous signals and interference removed, presented in a format and of a quality suitable for interpretive evaluation, reflecting state-of-the-art processing techniques; and

(4) Other geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information obtained from, but not limited to, shallow and deep subbottom profiles, bathymetry, sidescan sonar, gravity and magnetic surveys, and special studies such as refraction and velocity surveys.

§ 251.13 Reimbursement to permittees.

(a) After the delivery of geophysical data, processed geophysical information, and reprocessed geophysical information selected by the Director in accordance with § 251.12(b) of this Part, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the

permittee or third party shall be reimbursed for the cost of reproducing the selected information and data at the permittee's or third party's lowest rate or at the lowest commercial rate established in the area, whichever is less.

(b) After the delivery of processed and reprocessed geophysical information selected by the Director in accordance with § 251.12(b) of this Part, and upon receipt of a request for reimbursement and determination by the Director that the requested reimbursement is proper, the permittee or third party shall be reimbursed only for the reasonable costs attributable to processing and reprocessing, as distinguished from the cost of data acquisition, as follows: (1) If the processing or reprocessing has been done by the permittee in the form and manner which is used by the permittee in the normal conduct of business, the Director shall pay the reasonable costs at the lowest rate at which the processed or reprocessed information is made available by the permittee to any party; or (2) If the processing or reprocessing has been done in a form and manner as the Director may request other than that used in the normal conduct of the permittee's business, the Director shall pay the costs of processing and reprocessing such data.

(c) Requests for reimbursement are to contain a breakdown of costs in sufficient detail to allow separation of processing and reprocessing costs from acquisition costs.

§ 251.14 Disclosure of information and data submitted under permits.

§ 251.14-1 Disclosure of information and data to the public.

(a) The Director shall make information and data available in accordance with the requirements and subject to the limitations of the Freedom of Information Act (5 U.S.C. 552) and the implementing regulations (43 CFR Part 2), the requirements of the Act, and the regulations contained in 30 CFR Part 250 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf), this Part, and 30 CFR Part 252 (Outer Continental Shelf Oil and Gas Information Program).

(b) Except as specified in this section or in Parts 250 and 252 of this Chapter, no information or data determined by the Director to be exempt from public disclosure under (a) of this section shall be provided to any affected State or be made available to the executive of any affected local government or to the public unless the permittee and all persons to whom such permittee has sold the information or data under promise of confidentiality agree to such an action.

(c) The Director shall disclose geological data, analyzed geological information, and interpreted geological information submitted under a permit as follows:

(1) The Director shall immediately issue a public announcement when any significant hydrocarbon occurrences are detected or environmental hazards are encountered on unleased lands during drilling operations. In the case of significant hydrocarbon occurrences, the Director will announce such occurrences in a form and manner that will further the national interest without unduly damaging the competitive position of those conducting the drilling. Other information and data pertaining to the permit will be released according to the schedule provided in paragraphs (c)(2) or (3) of this section.

(2) The Director shall make available to the public all geological data, analyzed geological information, and interpreted geological information, except geological data, analyzed geological information, and interpreted geological information obtained from the drilling of a deep stratigraphic test, 10 years after the date of issuance of the permit under which the information and data was obtained.

(3) The Director shall make available to the public all geological data and information obtained from drilling a deep stratigraphic test 10 years after the completion date of the test or 60 calendar days after the issuance of the first OCS oil and gas lease within 50 geographic miles (92.6 kilometers) of the site of the completed test, whichever is sooner. The Director shall make available to the public all geological information and data submitted in support of an application for a permit to drill a deep stratigraphic test well at the earlier of the following times: (*a*) 10 years after completion of the test; or (*b*) 60 calendar days after the issuance of the first OCS oil and gas lease within 50 geographic miles (92.6 kilometers) of the site of the completed test.

(d) The Director shall disclose geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information submitted under a permit, and retained by the Director, as follows:

(1) The Director shall make available to the public geophysical data 10 years after the date of issuance of the permit under which the data is obtained.

(2) The Director shall make available to the public processed geophysical information, reprocessed geophysical information, and interpreted geophysical information 10 years after the date it is submitted to the Director.

(3) The Director shall make available to the public processed geophysical information, reprocessed geophysical information, and interpreted geophysical information submitted in support of an application for a permit to drill a deep stratigraphic test, or which the permittee is required to obtain in order to conduct the drilling of a deep stratigraphic test, at the earliest of the following times: (*a*) 10 years after completion of the test; or (*b*) 60 calendar days after the issuance of the first OCS oil and gas lease within 50 geographic miles (92.6 kilometers) of the site of the completed test.

§ 251.14-2 Disclosure to independent contractors.

The Director reserves the right to disclose any information or data acquired from a permittee to an independent contractor or agent for the purpose of reproducing, processing, reprocessing, or interpreting such information or data. When practicable, the Director shall notify the permittee who provided the information or data of intent to disclose the information or data to an independent contractor or agent. The Director's notice of intent will afford the permittee a period of not less than 5 working days within which to comment on the intended action. When the Director so notifies a permittee of the intent to disclose information or data to an independent contractor or agent, all other owners of such information or data shall be deemed to have been notified of the Director's intent. Prior to any such disclosure, the contractor or agent shall be required to execute a written commitment not to transfer or to otherwise disclose any information or data to anyone without the express consent of the Director. The contractor or agent shall be liable for any unauthorized use by or disclosure of information or data to third parties.

§ 251.14-3 Sharing of information with affected States.

(a) At the time of soliciting nominations for the leasing of lands within 3 geographic miles of the seaward boundary of any coastal State, the Director, pursuant to the provisions of § 252.7(a)(4) and 252.7(b) of this Chapter and sections 8(g) and 26(e) of the Act, shall provide the Governor of the State the following information that has been acquired by the Director on such lands proposed to be offered for leasing:

(1) All information on the geographical, geological, and ecological

characteristics of the areas and regions proposed to be offered for leasing;

(2) An estimate of the oil and gas reserves in the areas proposed for leasing; and

(3) An identification of any field, geological structure, or trap located within 3 miles of the seaward boundary of the State.

(b) After the time of receipt of nominations for any area of the OCS within 3 geographic miles of the seaward boundary of any coastal State and tentative tract selection in accordance with the provisions of 43 CFR Parts 3313 and 3314, the Director, in consultation with the Governor of the State, shall determine whether any tracts being given further consideration for leasing may contain one or more oil or gas reservoirs underlying both the OCS and lands subject to the jurisdiction of the State.

(c) At any time prior to a sale, information acquired by the Director that pertains to the identification of oil or gas pools or fields underlying both the Outer Continental Shelf and lands subject to the jurisdiction of any coastal State on tracts selected for leasing within 3 geographic miles of the seaward boundary of any such State will be shared, upon request and pursuant to the provisions of § 252.7(a)(4) and 252.7(b) of this Chapter and sections 8(g) and 26 of the Act, with the Governor of such State.

(d) Knowledge obtained by a State official who receives information under subsections (a) and (b) of this section shall be subject to the requirements and limitations of the Freedom of Information Act (5 U.S.C. 552) and the implementing regulations (43 CFR Part 2), the Act, the regulations contained in 30 CFR Part 250 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf), the regulations in this Part 251 (Geological and Geophysical Explorations of the Outer Continental Shelf), and the regulations contained in 30 CFR Part 252 (Outer Continental Shelf Oil and Gas Information Program).

§ 251.14-4 Disclosure of information and data relating to specific contractual commitments.

All information and data already received by the Director and covered by a specific contractual commitment concerning its release shall be handled in a way consistent with the contractual commitment. In the event of any conflict between this provision and a provision of any other regulation in this Part 251, or of any regulation in Part 250, this provision shall govern.

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REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

A complete listing for the first session of the 96th Congress was published in the Reader Aid section of the issue of January 17, 1980.

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