AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

6-10-80
Vol. 45 No. 113
Pages 39237-39492

federal register

Tuesday
June 10, 1980

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39331 **Grant Programs** ED announces variable interest rate on loans in the Health Education Assistance Loan Program shall be at the annual rate of 13¼ percent

39343 **Grant Programs—Family Medicine** HHS/HRA announces that applications for FY 1981 Grants for Graduate Training in Family Medicine will be accepted until 8–4–80

39343 **Grant Programs—Medicine** HHS/HRA announces that applications for fiscal year 1981 grants for Faculty Development in Family Medicine are being accepted; apply by 9–4–80

39270 **Grant Programs—VISTA** Action publishes regulations on VISTA Volunteer Grievance procedures in response to suggestions from volunteers and program staff; effective 7–25–80

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Highlights

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

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Presidential Documents

Title 3—

The President

Proclamation 4762 of June 6, 1980

Petroleum Import Licensing Requirements

By the President of the United States of America

A Proclamation

By the authority vested in me as President by the Constitution and the laws of the United States, including Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), I hereby proclaim, effective immediately, that:

Any license for the importation of crude oil or gasoline as defined in Proclamation 4744 and issued thereunder shall remain valid, for purposes of Proclamation 3279, as amended, until 12:01 a.m. September 1, 1980, provided that the time period for which it was issued has not expired and that the volumes authorized to be imported under that license have not been entered into the United States.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of June, 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. 80-17677
Filed 6-9-80; 9:48 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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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 Marketing Service

7 CFR Part 1004

[Milk Order No. 4]

Milk in the Middle Atlantic Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This order suspends order provisions affecting the regulatory status of milk plants. It permits pool plant status for May through August 1980 for any plant that was a pool plant during the prior September through February period. This action was requested by a regulated handler and a cooperative association to facilitate continued pooling status for milk from dairy farmers who have been regularly supplying the plants in the market.

DATE: Order of suspension is effective June 10, 1980, with respect to milk marketed during the May 1980 through August 1980 period.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6273.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of proposed suspension—issued May 20, 1980, published May 23, 1980 [45 FR 34898].

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

Notice of proposed rulemaking was published in the **Federal Register** (45 FR 34898) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of May 1980 through August 1980 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1004.7(e) the words "of paragraph (e)(1)" and the words "paragraph (b) of" as they first appear in the paragraph.

Statement of Consideration

The suspension makes inoperative for May 1980 through August 1980 the provisions that limit the type of pool plant that is automatically qualified for pool plant status during the spring and summer months on the basis of being a pool plant during the prior September through February period. The suspension was requested by Michaels Dairies, Inc., a proprietary handler who operates a pool distributing plant, and by Lehigh Valley Cooperative Farmers who operates a pool distributing plant and a reserve processing plant.

Michaels Dairies, Inc., indicates that it expects its Class I disposition to be less than 40 percent of the milk supply associated with its distributing plant because of the loss of Class I milk sales volume. Lehigh Valley Cooperative Farmers indicates that it is reorganizing its operations, and its reserve processing plant, that has been qualified for pool plant status on the basis of being operated by the cooperative, will no longer be owned by Lehigh Valley Cooperative Farmers. The failure of proponents' plants to meet the regular pooling requirements would result in the milk of producers who are regular suppliers of their plants not being priced and pooled under the order, which could result in lower returns for their milk.

Maryland Cooperative Milk Producers, Inc., supports the suspension action. No opposition in the market to the proposed suspension was indicated.

The suspension action will make all plants that were pool plants during the September 1979 through February 1980 period eligible for automatic pool plant status during May through August 1980. This will afford the handlers time to make changes in their operations to meet the regular pool distributing plant and reserve processing plant requirements of the order. Without suspension action it is likely that producers supplying proponents' plants will not be able to share uniformly with other producers supplying the market in the proceeds from the Class I sales in the market. Thus, suspension action is necessary to promote orderly marketing conditions.

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

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

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

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective June 9, 1980.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of May 1980 through August 1980.

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

Signed at Washington, D.C., on June 5, 1980.

Jerry Hill,

Deputy Assistant Secretary for Marketing Services.

[FR Doc. 80-17553 Filed 6-9-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-32F]

Semiannual Adjustment of Fixed Cents per Gallon Markups for Gasoline Resellers, Reseller-Retailers, and Retailers

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby announces that the fixed cents per gallon markups for gasoline resellers, reseller-retailers, and retailers are increased to 8.2 cents for resales and 16.8 cents for retail sales to reflect inflation as measured by the GNP deflator.

EFFECTIVE DATE: June 15, 1980.

FOR FURTHER INFORMATION CONTACT:

William Webb (Office of Public Information), Economic Regulatory Adminstration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, (202) 653-4055.

Chuck Boehl (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 2134, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3202.

William Mayo Lee or William Funk (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6754 or 252-6736.

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I. Adjustments Adopted

On July 16, 1979 (44 FR 42541, July 19, 1979), DOE issued final regulations concerning the price rules for sales of motor gasolone by independent retailers. The rules adopted a different and much simplified method for retailers to calculate the maximum lawful selling price of each type or grade of gasoline. The DOE adopted similar rules for resellers and reseller-retailers effective May 1, 1980 (45 FR 29546, May 2, 1980). In effect, the new price rules state that the maximum lawful selling price for each type or grade of gasoline is the acquisition cost, plus a fixed cents per gallon markup, plus applicable taxes.

Independent retailers were permitted a 15.4 fixed cents per gallon markup. Effective December 15, 1979, the 15.4 fixed cents per gallon markup limitation was increased to 16.1 cents to reflect inflation as measured by the GNP deflator. Resellers and reseller-retailers are permitted a 7.7 fixed cents per gallon markup in resales of gasoline. Beginning June 15, 1980 this figure will be adjusted semi-annually to reflect the GNP deflator. Reseller-retailers who made no dealer tank wagon sales in the most recently preceding 30-day period were permitted a 23.8 fixed cents per gallon markup for retail sales.

DOE obtained the fixed cents per gallon markups by applying a standard measure of inflation to the average national margins and the maximum permitted passthrough of increased costs in gasoline sales at the particular level of distribution in the first quarter of 1974. The standard measure of inflation was derived from the GNP deflator as projected for the appropriate quarter in which the fixed cents per gallon markups were adopted.

DOE has calculated the adjusted markups in the same manner, except that the standard measure of inflation was derived from the first revision of the GNP deflator for the first quarter of 1980, as adjusted by the projected rate of inflation for the second quarter. DOE's calculations yield a retail fixed cents per gallon markup of 16.8 cents per gallon, a resale fixed cents per gallon markup of 8.2 cents per gallon and a 25 cents per gallon fixed cents per gallon markup for reseller-retailers who do not sell at dealer tank wagon. These markups are hereby adopted as the fixed cents per gallon markups for gasoline retailers and most resellers and reseller-retailers, effective June 15, 1980.

II. Procedural Matters

Under section 501(e) of the Department of Energy Organization Act (DOE Act) DOE is not bound by the prior notice and hearing requirements of subsections (b)-(d) with respect to a rule upon DOE's determination that no substantial issue of law or fact exists and that the rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Where no such substantial issue or impact is foreseen, the proposed rule may be promulgated in accordance with section 553 of the Administrative Procedure Act (APA).

DOE has made such a determination with respect to our action concerning the markups for gasoline retailers, resellers, and reseller-retailers because this action is purely ministerial in nature. Sections 212.83(c) and 212.93 (a) and (b) require us to adjust the markups on a semi-annual basis and further require us to base these adjustments on the GNP deflator.

Section 555(b) of the APA provides that the notice requirements contained therein are inapplicable when the agency for good cause finds that notice and public procedure on a rule are impracticable, unnecessary or contrary to the public interest. DOE finds that the notice and public procedures of section 553(b) are unnecessary in this case, given the nature of DOE's action, as described above.

Subsection (d)(1) of section 553 of the APA provides that the required publication of a rule be made at least 30 days before the effective date of the rule unless the rule relieves a restriction. DOE's action relieves a price restriction and therefore fits the exemption in section 553(d)(1).

Executive Order 12044 (43 FR 12661, March 23, 1978) requires a public comment period of sixty days and the preparation of a regulatory analysis. In view of the ministerial nature of today's action, DOE has determined that the requirements of the Executive Order are not applicable to today's final rule.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, Pub. L. 95-70, Pub. L. 95-619, and Pub. L. 96-30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91, Pub. L. 95-509, Pub. L. 95-619, Pub. L. 95-620, and Pub. L. 95-621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective June 15, 1980.

Issued in Washington, D.C., June 3, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

1. Section 212.83(c)(1)(i)(C) is revised to read as follows:

§ 212.83 Price rule.

* * * * *

(c) *Allocation of increased costs.* * * *

(1) *Allocation of increased costs incurred in the period "t"—.* * * *

(i) * * *

(C) Notwithstanding any other provision of this subpart, a refiner which sells gasoline to independent retailers at dealer tank wagon prices, may not charge a price in retail sales of gasoline at a retail outlet which exceeds the refiner's most recent dealer tank wagon price to the nearest independent retailer

to that retail outlet, plus 16.8 cents per gallon, plus tax cost as defined in § 212.92. Beginning December 15, 1979, DOE shall adjust semi-annually the fixed cents per gallon amount to reflect the GNP deflator.

* * * * *

2. Section 212.93(a)(2) is revised to read as follows:

§ 212.93 Price rule.

(a)(1) * * *

(2)(i) With respect to retail sales of gasoline by retailers, a retailer may not charge a price in a sale of any type or grade of gasoline which exceeds the most recent acquisition cost, plus 16.8 cents per gallon, plus tax costs attributable to sales of that type or grade of gasoline. Beginning December 15, 1979, DOE shall adjust semi-annually the fixed cents per gallon amount to reflect the GNP deflator.

(ii) Except as provided in subparagraph (5) of this paragraph, a reseller-retailer may not charge a price in a retail sale of any type or grade of gasoline which exceeds its most recent dealer tank wagon price charged to the nearest independent retailer in the most recently preceding 30-day period, plus 16.8 cents per gallon, plus tax costs attributable to sales of that type or grade of gasoline. If the reseller-retailer has no dealer tank wagon sales to an independent retailer in the most recently preceding 30-day period, the price may not exceed the reseller-retailer's acquisition cost, plus 25 cents per gallon, plus tax costs attributable to sales of that type or grade of gasoline. Beginning June 15, 1980 the DOE shall adjust semi-annually the fixed cents per gallon amount to reflect the GNP deflator.

* * * * *

3. Section 212.93(a)(4) is revised to read as follows:

§ 212.93 Price rule.

(a)(1) * * *

(4) Except as provided in paragraph (a)(5) of this paragraph, with respect to reseller sales of gasoline by resellers and reseller-retailers, a seller may not charge a price in a sale for any type or grade of gasoline which exceeds the most recent acquisition cost, plus 8.2 cents per gallon, plus tax costs attributable to sales of that type or grade of gasoline. Beginning June 15, 1980, the DOE shall adjust semi-annually the fixed cents per gallon amount to reflect the GNP deflator.

* * * * *

4. Section 212.93(b)(1)(v) is revised to read as follows:

§ 212.93 Price rule.

* * * * *

(b) * * *

(1) * * *

(v) With respect to retail sales of gasoline by reseller-retailers which sell gasoline to independent retailers at dealer tank wagon prices, a reseller-retailer may not charge a price in retail sales of gasoline at a retail outlet which exceeds the most recent dealer tank wagon price the reseller-retailer charged to the nearest independent retailer to that retail outlet, plus 16.8 cents per gallon, plus tax costs. Beginning December 15, 1979, DOE shall adjust semi-annually the fixed cents per gallon amount to reflect the GNP deflator.

* * * * *

[FR Doc. 80-17549 Filed 6-9-80; 8:45 am]
BILLING CODE 6450-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Share Accounts and Share Certificate Accounts

AGENCY: National Credit Union Administration.

ACTION: Final Rule.

SUMMARY: The National Credit Union Administration Board has, in keeping with measures adopted by the Depository Institutions Deregulation Committee ("Committee"), promulgated regulations regarding both share certificates and money market certificates that adjust dividend rate ceilings to give members a market rate of return on their certificate accounts.

EFFECTIVE DATE: June 2, 1980.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: J. Leonard Skiles, Deputy General Counsel or Todd A. Okun, Senior Attorney, Office of General Counsel, both at the above address. Telephone: (202)-357-1030.

SUPPLEMENTARY INFORMATION: The Committee recently announced a series of actions for adjusting interest rate ceilings as a step towards providing the public with a market rate of return on its savings. For Federal credit unions, this adjustment of dividend rates is designed to enable more effective competition for deposits.

These amendments streamline and distill the individual actions taken by the Committee and reflect some basic principles about share certificates, money market certificates and the flexibility available to Federal credit unions in fashioning share certificate accounts. Under the new rule, share certificate accounts under § 701.35(g)(2) (and share certificates representing retirement funds under § 701.35(g)(3)) may earn a dividend rate of 9½ percent even when the average yield on 2½ year United States Treasury securities equals a figure of less than 9½ per cent. This figure is discretionary, however, and a Federal credit union may elect to offer such certificates at a lower rate. The overall ceiling of 12% has not been changed. However, in determining the appropriate ceiling rate, reference to 50 basis points below the average yield on United States Treasury securities has been deleted. While the maximum dividend rate for share certificate accounts may be based upon the average yield on the 2½ year United States Treasury securities (but not to exceed 12%), money market certificates may pay a maximum dividend based upon the discount rate (auction average on a discount basis) for 26 weeks United States Treasury bills. Since the Treasury bill rate and the average yield on 2½ year United States Treasury securities fluctuate, it is conceivable that share certificates issued pursuant to § 701.35(g)(2) may earn a greater rate than money market certificates issued under § 701.35(g)(5). This final rule recognizes that particular possibility. Accordingly, § 701.35(g)(5) has been amended to authorize the issuance of money market certificates with a ceiling rate tied to the greater of the maximum rate that would be paid under § 701.35(g)(2) at the time it is issued or the discount rate plus one quarter of one percent under § 701.35(g)(5). It should be noted, however, that if the basis chosen is the 2½ year United States Treasury securities, dividends may be compounded. On the other hand, if the basis chosen is the discount rate, compounding of dividends is not permitted.

The Board has adopted these amendments after considering the final rule adopted by the Committee referred to above. Because of the action taken by the Committee, the Board finds that application of the notice and public participation provisions of 5 U.S.C. 553 to this amendment is contrary to the

public interest and, because it relieves a restriction, publication 30 days prior to its effective date is unnecessary. Also, certain procedures provided for in NCUA's Report on Improving Government Regulations were not followed because the process is unnecessary for the public interest. This determination was made by J. Leonard Skiles, Deputy General Counsel.

Dated this 30th day of May 1980.

Rosemary Brady,

Secretary, NCUA Board.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

Sections 701.35(g)(2), (3) and (5) are amended to read as follows:

§ 701.35 Share accounts and share certificate accounts.

* * * * *

(g) * * *

(2) On a share certificate account, except as otherwise provided in this subsection, that is issued on or after Thursday of every other week up to the greater of (i) 9½% or (ii) the lesser of 12% or the average 2½ year yield for United States Treasury securities, as determined and announced by the United States Department of the Treasury immediately prior to such Thursday;

(3) On a share certificate account, except as otherwise provided in this subsection, which represents an investment of retirement account funds pursuant to § 721.4 or of public unit funds pursuant to § 701.32 that is issued on or after Thursday of every other week up to the greater of (i) 9½% or (ii) the lesser of 12% or the average 2½ year yield for United States Treasury securities, as determined by the United States Department of the Treasury immediately prior to such Thursday;

* * * * *

(5) In the case of a share certificate account of $10,000 or more having a fixed term or qualifying period of 26 weeks, the maximum dividend rate, which shall not be compounded during the term or qualifying period and may be rounded off only by rounding down, shall be the greater of the rate authorized in paragraph (g)(2) of this section or one quarter of one percent above the discount rate (auction average on a discount basis) for 26 weeks United States Treasury bills on or immediately prior to the date of purchase of the share certificate.

* * * * *

[FR Doc. 80-17547 Filed 6-9-80; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 305

Public Works Projects Involving Skill Training Center Facilities and Land Assembly

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Interim rule.

SUMMARY: EDA is making three changes to its regulations which set forth requirements for certain types of projects under its public works program. One change modifies its regulation regarding skill training centers to clarify the policy requirements and to add provisions regarding the funding of sheltered workshops to train and employ handicapped persons. The other changes affect two regulations regarding the use of funds for the acquisition of land. This interim rule eliminates the prohibition against funding projects involving land assembly for sale to private parties under certain limited conditions in order to obtain greater flexibility to fund those projects which hold the greatest potential for economic development.

DATES: Effective date: June 10, 1980. Comments must be received on or before: August 11, 1980.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Charles W. Coss, Director, Office of Public Investments, EDA, (202) 377-5265.

SUPPLEMENTARY INFORMATION: Under title I of the Public Works and Economic Development Act of 1965 (PWEDA), EDA may extend assistance for public works projects located in areas which meet certain criteria of economic distress. One type of project which EDA may fund under the Public Works and Development Facilities Program involves vocational or skill training centers. EDA's requirements for skill training center projects are found at 13 CFR 305.45.

EDA is amending § 305.45 to clarify the policy requirements which EDA will apply in considering projects for skill training centers. This interim rule also adds a provision to § 305.45 regarding sheltered workshops for training and employing handicapped persons. Since the Rehabilitation Services Administration, Department of Health and Human Resources, is the primary Federal agency involved in the construction and operation of sheltered workshops, requests for funding such projects will normally be referred to that agency. EDA may consider funding sheltered workshops when the project is a bona fide training center and otherwise meets the requirements of the regulation. In addition, projects for sheltered workshops must provide such training that at least 75% of the people receiving the training will move on to jobs in the private sector, or that no more than 25% of the persons will remain permanently in the workshop.

Another type of project which EDA may fund under title I of PWEDA involves land assembly projects to prepare industrial sites for sale to private firms in order to attract businesses to economically distressed areas. While PWEDA provides EDA with the statutory authority to fund such projects, subsection (a) of § 305.65 of the public works program regulations has prohibited such projects by making costs for the acquisition of interests in the project site eligible only if the interests would remain either in public ownership or for public use. In order to obtain greater flexibility to fund projects with the greatest potential for economic development, EDA is amending § 305.65(a) to eliminate the public ownership or use restriction. This rule adds a new subsection (d) to § 305.65 to set forth certain restrictions regarding these land assembly projects to ensure that proceeds from the sale of the land will be used for further economic development activities which are approved by EDA and to ensure that such projects will otherwise make a significant and cost-effective contribution to the economic development of the area.

This rule also adds a new subsection (c) to § 305.43 regarding industrial parks to conform to the changes made to § 305.65. § 305.43(c) is added to refer the reader to new § 305.65(d) which sets forth the limitations regarding industrial park projects involving land assembly.

Executive Order 12044 Determinations

This rule will not affect the overwhelming majority of projects funded by EDA. The changes proposed by the rule do not involve any major policy issues. EDA does not anticipate the changes to be a matter of controversy or of great public interest. Since the rule does not otherwise meet the criteria for determining the "significance" of a regulation of Executive Order 12044 on improving Government regulations, EDA has determined that this rule is not "significant". Accordingly, this rule is not subject to the procedural requirements imposed on "significant"

regulations by the Order. In the spirit of the Order, EDA is publishing this rule in interim form with 60 days to comment. EDA encourages interested organizations and individuals to comment in writing to the Assistant Secretary at the above address. EDA will consider all comments it receives before these regulations are published in final.

Accordingly, EDA amends the following sections of 13 CFR Part 305:

PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

1. § 305.43 is amended by adding a new paragraph (c) to read as follows:

§ 305.43 Industrial parks and sites.

* * * * *

(c) *Land assembly projects and other projects involving the acquisition of land for sale to private parties.* Where the purpose of the project is to assemble land for subsequent re-sale to private parties in order to attract businesses to an economically distressed area, EDA may provide financial assistance for such projects provided that the Assistant Secretary determines that the project meets the requirements of § 305.65(d) and this part.

2. 13 CFR 305.45 is revised to read as follows:

§ 305.45 Skill training center facilities.

(a) *General policies.* EDA may consider projects to provide for the construction or renovation of skill training centers only if:

(1) The skill center will improve the linkages between economic development activities and employment and training opportunities for the unemployed and underemployed.

(2) The skill center is an integral part of the local economic development strategy.

(3) The skill center program is designed in such a way that a major part of the program is focused on training unemployed and underemployed adults and out-of-school youths (the "target population").

(4) The skill center provides a direct linkage with the CETA program or State or local vocational education programs, and there is assurance of long-term operational support for the center from any of these programs.

(5) The skill center proposal will provide funds for developing skill center facilities by rehabilitating existing structures. Proposals for constructing new buildings will be considered only where there are no appropriate existing buildings or where it is more cost-effective than rehabilitating existing structures.

(6) The proposal does not involve secondary or post-secondary vocational schools or junior or community colleges, unless such institutions are the only ones available to provide training for the target population and the proposal otherwise meets the requirements of this section.

(7) The skill center facilities will be used for direct training purposes, including supporting offices. Unrelated facilities such as recreation buildings and office space for non-related purposes will not be funded as part of EDA's support for skill training centers.

(8) The skill center proposal is cost-effective, as determined by amount of EDA funds requested per annual training slots created.

(9) The proposal involves a bona fide skill training center—sheltered workshops will be considered if they are bona fide skill training centers.

(b) *Additional project requirements.* In addition to the general requirements set forth in subsection (a) of this section, a skill center project (or the component thereof funded by EDA) must:

(1) Be a top priority of the area's Overall Economic Development Plan (OEDP) or Comprehensive Economic Development Strategy (CEDS).

(2) Provide more than 50 percent of its hours of training to the EDA skill training target population (i.e., unemployed and underemployed adults and out-of-school youths).

(3) Provide training in needed skills that have been determined to be in short supply in the center's labor market area.

(4) Be included in the State vocational education plan, and, in the case of public institutions, be approved by the State Advisory Council or director for vocational education.

(5) Be located in an area which is easily accessible to the target population; and

(6) In the case of sheltered workshops, provide training where at least 75 percent of the people receiving such training will move on to jobs in the private sector, or no more than 25 percent of the persons trained will remain permanently in the sheltered workshop, whether or not they are working on "outside" contracts.

(c) *Applications.* Applications for skill training center projects must:

(1) Indicate that a working relationship and link to local private industry (e.g., through Private Industry Councils) has been established in order to maintain an ongoing supply-demand relationship for the trainees of the center.

(2) Include plans for job development and placement by using existing Employment Service programs and by establishing a formal staff function at the center. These plans must identify procedures for contacting potential employers and for placing trainees in appropriate jobs. Such plans must also indentify follow-up mechanisms for monitoring recently placed trainees.

(3) Establish the need for the facility by providing evidence sufficient to demonstrate that there are no similar institutions in the area which can provide the necessary services.

(4) Provide signed statements of intent for long-term support for the operation and administration of the center from the existing CETA or State or local vocational education programs.

(5) Include procedures for recruiting the target population as trainees.

(6) Include a transportation program which will provide adequate, economical and convenient transportation to serve the target population of the area where public transportation is not available.

(7) Provide a systematic plan for training a present and future labor force for identifiable jobs which includes—

(i) Training and retraining programs for the target population in regularly scheduled daytime, as well as afternoon-evening sessions where appropriate to the needs of the area;

(ii) An open entry/open exit program which allows trainees to enter programs at frequent intervals and to complete a course whenever fully trained; and

(iii) Remedial or compensatory programs designed to focus attention on the special needs of the educationally disadvantaged students. These programs should be run prior to, or concurrently with, skill training to allow the student to receive some of the basic educational skills necessary for effective training and gainful employment. The programs should include such services as intake, guidance and counseling and supporting services. In addition, they should provide concentrated courses in English, communication skills, and basic arithmetic.

(8) For a skill center already in existence, describe its past performance record including the number of trainees, the proportion of the trainees which were CETA trainees, the completion rate and the placement rate.

(9) Indicate that students will not be charged tuition fees. If tuition is required by State statute, funds must be made available to ensure that no member of the target population is denied any services of the skill center for economic reasons.

(10) Indicate that a high school diploma will not be an entry requirement.

(d) *Monitoring.* Projects funded under this section are subject to periodic monitoring by EDA during construction and after completion of the project.

3. 13 CFR 305.65 is amended by revising paragraph (a) and adding new paragraph (d), to read as follows:

§ 305.65 Land, easements, and rights-of-way as eligible costs.

(a) Costs necessary for project site acquisition, including, land, rights-of-way, and easements, may be eligible if they meet the requirements of this section and § 305.72, if applicable.

* * * * *

(d) *Land assembly projects and other projects involving the acquisition of land for sale to private parties.* Where the original purpose of the project is to acquire land for sale to private parties, costs associated with the acquisition of land and with site improvement (including demolition) may be eligible if the Assistant Secretary determines that:

(1) Federal assistance for land assembly is necessary for the successful implementation of the project;

(2) significant economic development impacts will occur and that there are plans to use the land within a reasonable length of time;

(3) costs for acquisition of the land are not prohibitive;

(4) the grantee has the capacity to market the land and to reuse successfully the proceeds of the sale;

(5) the sale cost of the land and the grantee's arrangements for the sale are adequate;

(6) the proceeds of the sale of the land will be placed in an escrow account to be used by the grantee for other economic development activities approved by EDA;

(7) the sale of the land will not provide windfall profits to private interests;

(8) when the land is sold it will be used for the original purpose of the project in accord with § 314.3 and § 314.6(a)(2) of this chapter; and

(9) the requirements set forth in Section 314 will be met.

(Section 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended))

Dated: June 3, 1980.

Robert T. Hall,

Assistant Secretary for Economic Development.

[FR Doc. 80-17575 Filed 6-9-80; 8:45 am]

BILLING CODE 3510-24-M

FEDERAL TRADE COMMISSION

16 CFR Parts 0, 1, 2, and 4

Organization; General Procedures; Nonadjudicative Procedures; and Miscellaneous Rules; Correction

AGENCY: Federal Trade Commission.

ACTION: Interim rules; correction.

SUMMARY: This document corrects a Commission document previously published as a separate part in the **Federal Register** on Thursday, May 29, 1980, relating to rules of practice.

DATE: These corrections are effective upon publication.

FOR FURTHER INFORMATION CONTACT: FTC/SSR, Gregory E. Hales, Washington, D.C. 20580. (202) 724-1185.

SUPPLEMENTARY INFORMATION: In FR Doc. 80-16538, appearing in **Federal Register** issue for Thursday, May 29, 1980, 45 FR 36337, the following errors should be corrected:

On page 36340, column 1, the first line should be changed to read, "proceedings subject to appropriate". The second line in the same column should start with the word "Commission". On the same page, column three, seven (7) lines from the bottom, the line should read, "Office of Policy Planning".

On page 36341, column 1, the fifth (5th) line from the bottom should start with "(d)(6) *Requests* * * *". On the same page, column two, seven (7) lines from the bottom, the word "it" should be substituted with the words "the recommended decision".

On page 36342, column one, in the paragraph starting with "(a) *In general*", the last line should read "material involved.".

On page 36343, column one, paragraph "(a)", line twenty-eight (28), the first word should read "witness". On the same page, column two, under "§ 2.11 Orders requiring access.", line eight (8), the fourth word should read "right". On the same page, column three, item 18 should read as follows:

"18. Section 2.13(b)(1) is revised to read as follows:

§ 2.13 Non compliance with investigational processes.

* * * * *

(b) * * *

(1) to institute, on behalf of the Commission, an enforcement proceeding in connection with the failure or refusal of a person, partnership, or corporation to comply with, or to obey, a subpoena, or civil investigative demand if the return date or any extension thereof has passed;

* * * * *

On page 36345, column three, line nineteen (19), the first word should read "Requests". In the same column, line twenty-four (24), the second word should be changed to read "and".

Carol M. Thomas,

Secretary.

[FR Doc. 80-17586 Filed 6-9-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 22

[T.D. 80-153]

Notice That the Customs Service is Affirming the Standards it Uses for Orange Juice Products in Determining Same Kind and Quality Questions Under the Drawback Law

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final determination.

SUMMARY: In a notice published September 27, 1979 (44 FR 55690), the Customs Service invited comments on its use of the standards of identities of the Food and Drug Administration ("FDA") and the standards of grades of the U.S. Department of Agriculture ("USDA") for orange juice products as guidelines in determining same kind and quality questions for purposes of substitution under the drawback law. This notice informs the public and, in particular, the citrus industry, that after a review of the comments received in response to the September 27, 1979, notice, Customs has affirmed its use of FDA standards of identities and USDA standards of grades for orange juice products as guidelines in determining these questions.

FOR FURTHER INFORMATION CONTACT: Norman W. King, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5856).

SUPPLEMENTARY INFORMATION:

Background

"Drawback" denotes a situation in which a duty or tax, lawfully collected, is refunded or remitted, wholly or partially, because of a particular use made of the merchandise on which the duty or tax was collected. One of the more common types of drawback is that allowed, under section 313(a), Tariff Act of 1930 (19 U.S.C. 1313(a)), upon the exportation of articles manufactured or produced in the United States with the use of imported merchandise. Under section 313(b), Tariff Act of 1930, as

amended (19 U.S.C. 1313(b)), if domestic merchandise of the same kind and quality as imported merchandise is used in the manufacture of new and different articles, drawback may be allowed on the imported merchandise upon the exportation of the articles, notwithstanding the fact that none of the imported merchandise was actually used in the manufacture or production of the exported articles. Section 313(b) is often called the "substitution drawback law". The Customs Service has the responsibility to determine the same kind and quality questions under the substitution drawback law.

Customs has applied consistently the standards of identities of the Food and Drug Administration ("FDA") for orange juice products (21 CFR Part 146) as guidelines in determining whether one orange juice product is of the same kind as another. For example, 21 CFR 146.153 defines the standard of identity for "concentrated orange juice for manufacturing", and 21 CFR 146.145 defines the standard of identity for "orange juice from concentrate". Thus, two different orange juice products are defined by these standards.

Customs also has applied consistently the standards of grades of the Department of Agriculture ("USDA") for orange juice products (7 CFR Part 2852) as guidelines in determining whether products of the same kind are of the same quality. For example, two batches of orange juice from concentrate that meet the grade A standard under 7 CFR 2852.5681–5691 would be considered to be of the same quality.

An orange juice processor requested Customs to reconsider its ruling that fresh orange juice is not of the same kind and quality as orange juice from concentrate for substitution drawback purposes. The processor proposed to substitute fresh orange juice (identified under 21 CFR 146.135) for orange juice from concentrate (identified under 21 CFR 146.145) for use in the manufacture of pasteurized orange juice (identified under 21 CFR 146.140).

In order that the matter might receive full and fair consideration, Customs published a notice in the Federal Register on September 27, 1979 (44 FR 55690), inviting public comments on its use of FDA standards of identities and USDA standards of grades in determining same kind and quality questions for orange juice products under the substitution drawback law. Brief descriptions of the FDA standards of identities and USDA standards of grades, Customs reasons for using those standards, and Customs views as to the possible effects of not using those standards in determining same kind and quality questions, were included in the notice.

Present Procedures Compared With Processor's Proposal

An example of a situation in which a citrus processor may obtain drawback under the substitution drawback law when the FDA and USDA standards are applied under present procedures follows:

1. The processor obtains a batch of imported duty-paid "concentrated orange juice for manufacturing", as defined in the FDA standard of identity (21 CFR 146.153), which meets the grade A quality standard of the USDA (7 CFR 2852.2221–2852.2231).

2. The processor substitutes a domestic batch of "concentrated orange juice for manufacturing", as defined in 21 CFR 146.153 that meets the same grade A quality standard as the imported batch.

3. With the use of the imported and substituted domestic batches of concentrates, the processor manufactures a new product, such as "orange juice from concentrate", as defined in the FDA standard of identity (21 CFR 146.145), or "frozen concentrated orange juice", as defined in the FDA standard of identity (21 CFR 146.146).

4. Upon exportation of the new product, orange juice from concentrate, or frozen concentrated orange juice, manufactured with the use of the imported and/or substituted domestic concentrated orange juice for manufacturing, of the same kind and quality, drawback is allowed in the amount of 99 percent of the duty paid on the imported orange juice.

The orange juice processor, later joined by other processors, asked that Customs reconsider its present procedures and that drawback be allowed on the basis of duty paid on imported concentrated orange juice for manufacturing upon the exportation of pasteurized orange juice produced with the use of fresh orange juice extracted from domestic oranges. The proposal is as follows:

1. A processor would obtain imported duty-paid 65° Brix concentrated orange juice for manufacturing which meets the USDA grade A quality standard.

2. With the use of the imported concentrate, the processor would manufacture a single strength orange juice from concentrate of not less than 11.8° Brix.

3. The processor would substitute fresh orange juice extracted from domestic oranges for the orange juice from concentrate manufactured with the use of the imported concentrate.

4. The processor would export pasteurized orange juice produced with the use of fresh orange juice extracted from domestic oranges.

5. The processor would further process the orange juice from concentrate for domestic consumption, using a heat-treating or pasteurization process.

6. The processor would claim drawback for the duty paid on the imported concentrated orange juice for manufacturing.

In the ruling which Customs is asked to reconsider, Customs applied the FDA standards of identities and the USDA standards of quality grades in deciding that orange juice from concentrate and fresh orange juice extracted from domestic oranges are not of the same kind and quality for drawback substitution purposes. The ruling noted that "orange juice from fresh oranges may differ in degree Brix, color, and taste depending upon the type of orange, its maturity and the season" and is "primarily used to manufacture citrus products and used as 'cutback' in the manufacture of frozen concentrated orange juice". There are no USDA grades of quality standards for fresh orange juice.

On the other hand, orange juice from concentrate is a finished blended product that may be treated by heat, with a minimum degree Brix of 11.8°, ready for consumption and required by the FDA standards of identities to be labeled as "orange juice from concentrate" for the benefit of the consumer. Furthermore, USDA regulations establish standards of quality grades (A, B, and substandard) for orange juice from concentrate based on a scoring system for color, defects, and flavor.

Discussion of Comments

Comments were received from the Florida Citrus Processors Association, six Florida citrus processors, drawback consultants, Government agencies, and a Texas orange grower.

I. No commenter objected to the use of the USDA standards of grades for orange juice products. Several processors indicated that they did not want to lower the existing quality standards or to change or to lower the rate of duty on imported orange juice. However, most processors objected to Customs use of FDA standards of identities for orange juice products as guidelines in determining whether one orange juice product is of the same kind and quality as another for purposes of the substitution drawback law. They contended that the standards of identities are merely labeling

requirements concerning the form of the juice and proposed that Customs use "pounds solids" in combination with the USDA standards of grades to determine same kind and quality questions relating to orange juice products.

"Pounds solids" is a form of measurement, used by both the citrus industry and Customs, to determine the amount of soluble solids, primarily sugars, in orange fruit. "Brix" is a scale for measuring the concentration of the solids in an orange juice product. The "degree Brix" of concentrated orange juice is converted into pounds solids to determine its value. Pounds solids may be converted into gallons to determine the duty on imported concentrated orange juice and the drawback allowed on exportation of orange juice products made with the use of concentrated orange juice.

All orange juice products contain pounds solids. Therefore, under the proposal advanced by the processors (the "pounds solids proposal"), any two orange juice products would be of the same "kind" for purposes of the substitution drawback law, and if the products were of the same "quality", as determined under the USDA standards of grades, the same kind and quality requirements of the substitution drawback law would be satisfied. For example, under the pounds solids proposal, orange juice from concentrate and concentrated orange juice for manufacturing would be the same "kind" of products because they both contain pounds solids and are "used interchangeably" by the industry. Thus, if both products also would meet the USDA grade A quality standards, the "same kind and quality" requirements would be satisfied.

The pounds solids proposal, however, fails to address an essential requirement of the substitution drawback law which requires that in addition to being of same kind and quality, to be eligible for drawback, the merchandise must be used in the "manufacture or production of articles". In interpreting this requirement, the courts have held consistently that "a new and different article must emerge, having a distinctive name, character, and use". (*See Anheuser-Busch Brewing Association* v. *United States*, 207 U.S. 556, 562).

Under the pounds solids proposal, a domestic orange juice product of grade A quality would be substituted for an imported orange juice product of grade A quality, and an orange juice product of grade A quality would be exported. Because all three orange juice products mentioned would be of the same kind and quality, no new and different article of commerce would have emerged from a process of manufacture or production, and an allowance for drawback would be precluded by operation of law.

The USDA standards of grades for orange juice products incorporate by reference the FDA standards of identities. For example, 7 CFR 2852.1581 of the USDA regulations states that "frozen concentrated orange juice (or frozen orange juice concentrate) is the product as defined in the standards of identity (28 FR 10900, 21 CFR 146.146) issued pursuant to the Federal Food, Drug, and Cosmetic Act". According to the USDA submission, the USDA standards of grades, which incorporate the FDA standards of identities, "are used by the citrus producing industry, the Commodity Futures Act, supermarket buyers, consumers, and the State of Florida Department of Citrus to define quality levels of various forms of orange juice traded in the marketplace". Customs concludes, therefore, that the USDA and FDA standards represent industry standards.

For a half-century Customs has used industry standards in its administration of the substitution drawback law. During this extended period, there has not been a judicial challenge to Customs interpretation of the same kind and quality requirements. The pounds solids proposal, discussed above, would result in the abandonment of the FDA standards of identities and, in effect, could make the drawback substitution law inapplicable to orange juice products.

II. Some commenters not in the citrus industry expressed concern that Customs would change its longstanding practice of using industry standards as guidelines in determining same kind and quality. These commenters suggested if Customs compromises standards accepted by the citrus industry in making same kind and quality determinations relating to orange juice products, it would be granting special treatment to a specific item, and this in turn would endanger the entire drawback substitution program as now constituted. They noted that the standards used by Customs for orange juice products are in fact used by the industry and that is why Customs adopted them in the first instance.

A Texas orange grower commented that the difference between fresh orange juice and orange juice from concentrate is substantial. The commenter noted that fresh orange juice contains natural taste and flavor, but orange juice from concentrate is the derivative of adjustment by man to simulate the character which nature provides. The commenter suggested that to rule that fresh orange juice or pasteurized orange juice is the same kind as orange juice from concentrate would require a change in the FDA and USDA regulations.

A grower-processor from Florida commented that substitution of fresh orange juice for reconstituted orange juice from concentrate would encourage the importation of concentrated orange juice for manufacturing, would affect the domestic market, and a "processor could use this as a 'club' in lowering the field prices of the grower".

In light of Customs determination that the FDA standards of identities and the USDA standards of grades shall continue to be applied, it is unnecessary to address these comments.

III. One processor noted that unlike orange juice products, there are no FDA standards of identities for grapefruit products. This processor also questioned, as a practical matter, whether Customs present practice assists the citrus industry during a disastrous freeze, such as that of January 1977 in Florida, when the industry had to import concentrated orange juice to meet demand.

The commenter is correct in stating there are no FDA standards of identities for grapefruit products. However, the USDA quality grade standards for grapefruit products (7 CFR 2852.1221–1232, 2852.3481–3491 and 2852.6121–6133) define different kinds of grapefruit products. These standards are adaptable for drawback substitution purposes in determining same kind and quality questions in cases in which certain blending processes may produce new products to satisfy the manufacture or production requirements of the substitution drawback law. An FDA proposal to establish standards of identities for grapefruit juice based on the USDA standards and the standards developed by the Codex Alimentarius Commission is pending (43 FR 58575).

In response to the processor's second comment, the U.S. International Trade Commission, then the U.S. Tariff Commission, in 1969 reported on its study of the temporary entry provisions of title 19 of the United States Code, which permit exemption from duty or the recovery of duty, including the drawback law. On page 23 of Tariff Commission Publication 286, May 1969, the report states that "the concentrated juice on which duty was returned exceeded total imports of that material in 1965–67 and reflected some imports in 1964, following unusual weather damage to the Florida orange crop". A footnote explains that this is possible because "eight years can elapse from importation to the filing of a claim under drawback". This study indicated that Customs

present practice assists the citrus industry in times of natural disasters.

IV. One commenter cited a Customs memorandum dated September 15, 1977, to support the proposal to substitute fresh orange juice for orange juice from concentrate. The memorandum indicated that Customs would allow the substitution of domestic single strength pineapple juice for single strength pineapple juice from concentrate. However, the menorandum did not discuss what criteria the juice would have to meet to safisfy the same kind and quality requirements, noting that the applicant should indicate the specifications in his drawback statement. The ruling then issued by Customs after receiving the applicant's drawback statement, authorized the substitution of single strength domestic pineapple juice for single strength pineapple juice, both of which met the USDA quality grade standards of 7 CFR 2852.1761–1772. The provisions of 7 CFR 2852.1761 state that canned pineapple juice "means such product as defined in the standard of identity for canned pineapple juice (21 CFR 146.185(a)) issued pursuant to the Federal Food, Drug, and Cosmetic Act." Canned pineapple juice meeting the FDA standard of identity and the USDA grade quality standard was substituted for canned pineapple juice of the same kind and quality. The substituted canned pineapple juice was used to produce a juice medium for packing pineapple. The canned pineapple juice (a non-citrus product) also was used in a blending process with citrus juices, such as orange and grapefruit juices, to produce different products, i.e., blended fruit juices and drinks. This is in accord with present Customs guidelines for orange juice products.

Determination

The Customs Service affirms its use of FDA standards of identities and USDA standards of grades for orange juice products as guidelines in determining same kind and quality questions for these products under the substitution drawback law (19 U.S.C. 1313(b)). Customs previous ruling [1] to this effect is affirmed.

Dated: June 2, 1980.

Donald W. Lewis,

Director, Office of Regulations and Rulings.

[FR Doc. 80-17378 Filed 6-9-80; 8:45 am]

BILLING CODE 4810-22-M

[1] The ruling was not published in the Federal Register.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 102

[Docket No. 80N-0140]

Diluted Fruit or Vegetable Juice Beverages; Common or Usual Names for Nonstandardized Foods

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is establishing a common or usual name for diluted fruit or vegetable juice beverages other than diluted orange juice beverages. The common or usual name will be a descriptive name, for example, "diluted grape juice beverage", with a percent declaration. This regulation will give consumers more information and help them make value comparisons.

EFFECTIVE DATE: Effective July 1, 1981 for all affected products initially introduced or initially delivered for introduction into interstate commerce.

FOR FURTHER INFORMATION CONTACT: Howard N. Pippin, Bureau of Foods (HFF–312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–3092.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 14, 1974 (39 FR 20908), FDA proposed a common or usual name for diluted fruit or vegetable juice beverages other than diluted orange juice beverages.

Twenty-two comments were received from consumers, consumer organizations, a State agency, manufacturers, and trade associations. Seven comments favored the proposed regulation and recommended it be adopted; the remaining comments requested modification, clarification, additional requirements, or objected in principal to the establishment of common or usual names regulations.

The isues raised in the comments and FDA's responses follow:

1. One comment indicated that the proposed regulation is unnecessary, stating that it simply restates the requirements of § 102.5 (21 CFR 102.5).

FDA has never regarded the percentage declaration provision of § 102.5 as self-executing for a specific food or class of foods. Therefore, issuing this diluted juice beverage regulation is necessary for specifically regulating the percentage labeling of diluted juice beverages.

2. Three comments objected to establishing common or usual names without resort to sections 401 and 701(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 341 and 371(e)). These comments also questioned FDA's statutory authority under the act to promulgate common or usual name regulations.

FDA's legal authority to issue common or usual name regulations under section 701(a) of the act has been upheld in *American Frozen Food Institute* v. *Califano*, 413 F. Supp. 548 (D.D.C. 1976), affirmed per curiam, 555 F. 2d 1059 (D.C. Cir. 1977).

3. Three comments objected to the proposal because it would require the percent juice declaration on noncarbonated diluted juice beverages but not on carbonated beverages, which sometimes contain fruit juices.

FDA disagrees with these comments. The juice content of noncarbonated diluted juices, which varies from 0 percent to nearly 100 percent, is a significant factor in determining the price and consumer acceptance of the product. But carbonated beverages do not vary broadly in juice content, nor does the price of a carbonated beverage depend, to any great extent, on the amount of juice used to flavor the product. It is thus appropriate for noncarbonated diluted juice beverages, but not carbonated ones, to bear as part of the common or usual name a statement of the percent of juice.

4. One comment requested clarification of the basis for determining the percent of the characterizing ingredient in a diluted juice beverage. The comment questioned whether the percentage of the single-strength juice in a diluted juice beverage should be calculated and expressed on a weight/weight basis as in the stayed orange juice drink standards (21 CFR 146.155, 146.161, and 146.165) or on a volume basis as set forth in § 102.5(b)(1). (The stayed orange juice drink standards were revoked October 14, 1977 (42 FR 55204)). The comment recommended that the calculation of the percent would be mathematically simpler and more logically expressed on a weight/weight basis because the percentage is to be an expression of the amount of single-strength juice contained in the diluted beverage and single-strength juice is expressed in terms of percent fruit or vegetable soluble solids by weight.

The calculation of a percent declaration for a diluted juice beverage would be mathematically simpler when declared on a weight/weight basis. However, the consumer's interest is best served when the percent declaration is on a volume/volume basis. This is the type of dilution the consumer would make in the home and, therefore, the one

most likely to be understood. Therefore, the percent declaration for diluted juice beverages should be a volume/volume dilution calculated from the fruit or vegetable juice soluble solids content of single-strength juice. Thus, the requirement for volume/volume percent declaration remains unchanged.

5. Two comments objected to the 5-percent increment declarations for the juice content in lemonade.

The use of 5-percent increments for percentage declaration of juice for all diluted juice beverages, including lemonade, will allow for natural variations in the composition of single-strength juice of specific fruits or vegetables and for analytical limitations. Thus, manufacturers using reasonable controls and working within the variables found in good manufacturing practices will be able to label their products accurately. Furthermore, the need for 5-percent increment declarations will be reevaluated when data are submitted under paragraph 7 of this preamble for use in establishing constant values for single-strength juices.

6. One comment requested that "grape juice drink" be included in paragraph (a)(1) of the proposal as an additional example of a descriptive phrase.

The descriptive phrase "grape juice drink" may be used under the provisions of paragraph (a)(1) to describe a diluted grape juice beverage. Therefore, it has been included in the regulation to clarify the agency's position on the use of the term "drink" as applied to a diluted juice beverage.

7. Several comments objected to the use of single-strength juice as the basis for determining the percent declaration, since the proposed regulation did not specifically define or give average figures for the soluble solids content of each single-strength juice which might be diluted. Therefore, it was suggested that standards or average values for percent soluble solids content of each single-strength juice be established as part of the regulation. One manufacturer suggested that, prior to the promulgation of any regulation requiring a percent juice content declaration, specific soluble solids values for each juice be published for comment.

FDA agrees that the publication of average values for the soluble solids content of each single-strength juice is desirable and would simplify enforcement of this regulation. However, FDA does not consider the lack of such established average values a persuasive reason to delay the implementation of this regulation. Further delay in implementing this regulation would not be in the public interest because it would deprive the consumer of valuable information about these beverages for an undefined period of time. Therefore, the common or usual name for diluted juice beverages shall include a percentage declaration based on single-strength juice without an attempt to establish constant or average values for the various single-strength juices. The agency will consider any data submitted to aid in establishing average soluble solids figures for use in setting values for single-strength juices. Until such data can be accumulated and reviewed and values established, the percent declaration will be based on the soluble solids content of the single-strength juice used to prepare the final beverage.

8. Two comments requested that the proposed regulation be clarified as to the effects of the addition of sweeteners, spices, or flavoring to single-strength juices. They stated that it is their understanding that the proposal was meant to cover only the dilution of the juices with water.

This regulation pertains only to diluted beverages prepared by diluting single-strength or equivalent fruit or vegetable juices with water. The addition of a dry soluble solid, such as a dry sweetener, to a single-strength juice does not ordinarily result in dilution of the juice. Of course, the addition of any sweetener to a juice should be reflected in the name, e.g., sweetened grape juice, and the addition of spice or flavoring to a single-strength juice is required to be stated on the label of the juice. Additionally, if a sweetened, flavored single-strength juice is diluted with water, the percent declaration required by this regulation will be calculated on the soluble solids content of the single-strength juice alone, with any appropriate corrections to account for the soluble solids contributed by the addition of any sweeteners, spices, or flavors.

9. Several comments objected to the requirement that a percentage declaration be made for each juice in a mixture of two or more juices. All expressed the opinion that percentage declaration of the total amount of juice present would be more informative than a list of several juices all perhaps declared as less than 5 percent. Furthermore, the comments stated that to list the percentage of each juice in a "punch" product could lead to disclosure of trade secrets, would be of little or no benefit to consumers, could result in overcrowding the principal display panel, and would require a new label with each modification of the ratios of juice present in the product formula.

A statement of the percentage of each juice in a multi-juice (punch) beverage is not necessary unless the individual fruits, or their juices, are referred to on the label or labeling. As provided in the regulation dealing with declaration of flavors (21 CFR 101.22), the designation of the type of flavor in a food other than in the statement or ingredients results in that flavor being considered a characterizing flavor, so that declaration of each designated flavor may be required in the common or usual name. However, FDA acknowledges that listing the percentage of each of several juices could, in extreme cases, lead to over-crowding of the principal display panel. Further, to some extent, the required percent declarations could reveal a manufacturer's general formulation and in some instances could require new labels if large modifications are made in the juice ratios. Therefore, if no representation concerning the presence of individual fruit juices is made other than in the ingredient statement, only a declaration of total juice content of such beverages will be required. However, if representation is made (other than in the ingredient statement) that such a beverage contains a particular juice(s), the consumer is entitled to know how much of that juice(s) is present. Therefore, the regulation has been revised to require a more informative declaration of juice content in a multi-juice beverage, followed by individual juice percentages when the individual juices are represented as being present (other than in the ingredient statement) by such things as use of a fruit name or vignette on the label or labeling. For example, "Mixed Fruit Punch —% Fruit Juice" or "Pineapple-Grapefruit Drink —% Fruit Juice, (—% Pineapple Juice, —% Grapefruit Juice)" or a mixed fruit punch with apples, grapes, and cherries pictured on the vignette, "Mixed Fruit Punch —% Fruit Juice (—% Apple, —% Grape, —% Cherry)."

10. Two comments dealt with the placement on the label of the percent declaration and suggested alternatives to the method given in the proposed regulation to avoid any overcrowding of the principal display panel. One comment suggested the percent declaration of individual juices be placed on the information panel rather than the principal display panel. The other comment suggested including the percent of total juice content as part of the name with the individual juice percentage in parentheses following the name of the juice in the ingredient statement.

The possibility of such overcrowding has been considered, and the revision of the regulation as discussed in paragraph 9 above will, in most instances, avoid such overcrowding while providing a uniform and informative percent declaration of juice content. Further, it is necessary for the percentage declaration to be on the principal display panel as part of the name of the beverage in order to facilitate value comparisons by consumers.

11. Some comments were concerned that beverages containing juice derived from different varieties of one type of fruit, such as two varieties of grapes each with a different soluble solids content, would require label declarations of the same percentage content of single-strength juice even though the diluted beverages would contain different amounts of fruit juice soluble solids. According to the comments, this difference in soluble solids content would lead to a market advantage for those manufacturers using a single-strength juice with an indigenously lower soluble solid content than its counterpart would lead to consumer confusion and deception, and would present difficult enforcement problems.

FDA is aware that the fruit soluble solids content of the juice of a particular fruit will vary, depending on factors such as variety and maturity. The agency is also aware that variation in the soluble solids content would make enforcement difficult without the cooperation of the manufacturers. However, FDA believes that the consumer is interested in a percentage declaration that is uniformly applied to diluted juice beverages. A declaration which reveals the amount of a single-strength juice that has been diluted to produce the final beverage regardless of the percent soluble solids in the particular variety of juice used is meaningful and can be understood by the consumer. Although label declaration based on single-strength juice may create a market advantage for manufacturers using juices with naturally differing soluble solids contents, the economics of such market advantages do not outweigh the consumer benefits that will be derived from uniformly applied percentage of juice declarations.

12. Several comments questioned the use of the soluble solids content of single-strength juice as a basis for the calculation of the percentage of juice in diluted beverages made from high-acid juices, i.e., lemon, lime, and cranberry, because the current method used by industry is based on a Brix-acid ratio. It was also stated that for the industry to change the basis for determining juice content to soluble solids rather than acid content per unit of volume would require a complete change in the entire selling system of the lemonade, limeade, and cranberry juice industry.

The agency is aware that manufacturers of diluted high-acid juice beverages have traditionally based juice content of such products on the citric acid content per unit volume in combination with the Brix-acid ratio rather than total soluble solids. However, to avoid consumer confusion the percentage declaration should be applied to all juices as uniformly as possible. Furthermore, no data have been submitted to support the use of a Brix-acid ratio as the basis for calculating the percentage of juice in diluted high-acid juice beverages. The agency is also aware that the acid content of these high-acid juices is an important economic factor in determining the saleability of the juice and that the acid content of the juice varies with the size, age, and variety of the fruit.

Also, the usual methods for determining soluble solids result in values for high-acid juices that must be adjusted because of erroneous readings caused by the citric acid content of the juice. For example, soluble solids determined by the Brix hydrometer will be higher than the actual soluble solids content of the juice, while the same soluble solids determined by refractometer will be lower than the actual soluble solids content of the juice. It is apparent that either determination must be corrected to account for the citric acid in the juice in order to obtain a true soluble solids content for the juice.

Therefore, the percent declaration for diluted high-acid juice beverages shall be based on the total soluble solids content of the single-strength juice that includes the necessary correction for acidity as set forth in Official Methods of Analysis of the Association of Official Analytical Chemists, 13th ed. (1980), section 22.025, Soluble Solids by Refractometer in Frozen Concentrate for Lemonade. The regulation is revised accordingly.

13. Two comments were concerned that manufacturers of frozen concentrate for lemonade would be at a market disadvantage if required to use percent labeling. They said the standard of identity for frozen concentrate for lemonade (21 CFR 146.120) requires that the diluted beverage prepared from the concentrate contain approximately 13 percent lemon juice, while this regulation would require such a beverage to be labeled as containing 10 percent lemon juice. Therefore, manufacturers of frozen concentrate for lemonade should be exempted from this regulation.

This regulation does not apply to standardized diluted juice beverages, including frozen concentrate for lemonade. However, if a manufacturer of a standardized diluted beverage elects to use percentage labeling with regard to the diluted product, then that declaration must comply with the provisions of this regulation.

Elsewhere in this issue of the **Federal Register**, FDA is announcing the revocation of stayed standards of identity for some diluted juice beverages, i.e., cranberry juice cocktail (21 CFR 146.110), artificially sweetened cranberry juice cocktail (21 CFR 146.111), lemonade (21 CFR 146.115), colored lemonade (21 CFR 146.125), limeade (21 CFR 146.130), and canned pineapple-grapefruit juice drink (21 CFR 146.133). With the revocation of the standards, these diluted juice beverages are subject to the provisions of this common or usual name regulation.

14. Some comments were concerned that "ready to drink" lemonade prepared from frozen concentrate for lemonade would be at a market disadvantage when competing with "ready to drink" lemonade prepared from single-strength juice. They contended that when lemonade is made by the consumer from standardized frozen concentrate for lemonade according to directions on the package, the lemonade according to directions on the package, the lemonade contains approximately 13-percent single-strength lemon juice, and if the frozen concentrate is labeled with percentage labeling it would be labeled as making a lemonade containing 10-percent juice. On the other hand, because a manufacturer who makes a "ready to drink" lemonade from single-strength lemon juice or from frozen concentrate can vary the concentration of juice in the finished product, a "ready to drink" lemonade labeled as 10-percent juice may have only 10-percent juice. This is perceived by the comments as a market advantage for the maker of the "ready to drink" juice.

The agency is not convinced that a true market advantage actually exists. One of the comments said that for the best consumer acceptance, a lemonade must contain between 13.2 and 13.6 percent lemon juice. A lemonade that contains only 10 percent lemon juice may also have to contain other added lemon flavoring to maintain an acceptable taste. The provisions of the regulation dealing with designation of

flavors (21 CFR 101.22) require that any lemon flavoring in a lemonade other than lemon juice be declared. Thus, the lemonade that contains only 10 percent lemon juice may have to bear a term such as "lemon flavored" and would not have the market advantage described in the comments.

15. Several comments objected to the application of the proposed regulation to high-acid juice beverages on the basis that a common or usual name has already been established through consumer acceptance for lemonade, limeade, and cranberry juice drinks. The comments stated that these products should therefore be exempted from the provisions of the regulation. One of the comments also stated that since the consumer does not normally consume high-acid juice beverages as single-strength juice, the inclusion of a percent declaration on the label of these products would be misleading.

FDA recognizes that the names "lemonade," "limeade," and "cranberry juice cocktail" are commonly used for those diluted high-acid juice drinks and advises that these names may still be used under the provisions of paragraph (a)(1) of this regulation. Consumer acceptance of these products should not exempt them from that portion of the regulation requiring a statement of the percent of juice present in diluted beverages. Furthermore, to exempt high-acid juice beverages from the percent declaration of juice might lead the consumer to believe that the product which bears no percentage declaration contains more juice than is actually present, and would not allow for valid comparisons of like products, e.g., a 25-percent cranberry juice cocktail drink to a 15-percent cranberry juice cocktail drink. Therefore, FDA believes that a percentage declaration on high-acid juice beverages is not misleading, but will more fully inform the consumer as to the composition of the products he or she is purchasing.

16. Three comments said the proposed regulation would ultimately increase the cost of these beverages to the consumer because of increased costs to the industry.

It is apparent from the comments received in response to this and other proposals and in response to the food labeling hearings of 1978 that percent declaration of characterizing ingredients is considered by many consumers and consumer groups as important and necessary information for the most efficient use of the food dollar. Hence, the promulgation of this regulation will allow the consumer to have information available at the point of purchase concerning juice content, thus allowing for more accurate value comparisons. It is the agency's firm belief that the benefits derived by the consumer will more than offset any increased costs, especially since industry will have ample time in which to redesign and order labeling meeting the requirements of this regulation.

17. Two comments were concerned that the effective dates for this and other regulations requiring labeling changes would be so staggered that several label revisions would be required.

This concern was valid in 1974 when this regulation was proposed and is still valid today, because FDA is considering labeling changes in addition to this one that will result from the tentative labeling policy announced in the **Federal Register** of December 21, 1979 (44 FR 75990). However, the agency has in the past and will continue to establish uniform effective dates for all food-labeling regulations developed within certain time intervals. These dates are established to allow reasonable time for use of existing inventories of uncorrected labels as well as to accommodate several regulations changes in one label revision. The uniform effective date applicable to this regulation is July 1, 1981.

The agency has determined pursuant to 21 CFR 25.24(d)(13) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403, 701(a), 52 Stat. 1041 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321(n), 343, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 102 is amended by adding a new § 102.33 to read as follows:

§ 102.33 Diluted fruit or vegetable juice beverages other than diluted orange juice beverages.

(a) The common or usual name of a noncarbonated beverage containing less than 100 percent and more than zero percent fruit or vegetable juice(s), other than only orange juice, shall be as follows:

(1) A descriptive name meeting the requirements of § 102.5(a) (e.g., "diluted grape juice beverage", "grape juice drink", or another descriptive phrase) and

(2) A statement of the percent of each juice contained in the beverage in the manner set forth in § 102.5(b)(2). The percent of juice shall be declared in 5-percent increments, expressed as a multiple of five not greater than the actual percentage of juice in the beverage except that the percent of any juice in beverages containing more than zero percent but less than 5 percent of that juice shall be declared in the statement as "less than 5" percent. The following special requirements apply:

(i) Beverages containing multiple juices with a label or labeling which does not make direct or indirect representations with respect to the individual characterizing juices by word, vignette (i.e., depiction of fruit or vegetable), or other means other than in the statement of ingredients shall declare the percent of the total juice content (e.g., Mixed Fruit Punch contains ——% fruit juice).

(ii) Beverages containing multiple juices with a label or labeling which makes any direct or indirect representations with respect to the characterizing juices by word, vignette (i.e., depiction of a fruit or vegetable), or other means other than in the statement of ingredients shall declare the percent of the total juice content followed by a statement in parentheses of the percent of each juice represented (e.g., Pineapple-Grapefruit Drink contains ——% fruit juice (——% pineapple, ——% grapefruit)).

(b) The percent of fruit or vegetable juice(s) in a diluted juice beverage shall be calculated on the basis of the soluble solids content of the single-strength (undiluted) juice(s) used to prepare the diluted beverage and shall be declared on a volume/volume basis. If the finished beverage is prepared from concentrated juice(s), the percent of fruit or vegetable juice(s) shall be calculated on the basis of the soluble solids content of the single-strength (unconcentrated) juice(s) used to produce such concentrated juice(s). The soluble solids content of single-strength high-acid juice (lemon, lime or cranberry juice) shall be the weight of soluble solids obtained from refractometer readings corrected for acidity as set forth in section 22.025, Official Methods of Analysis of the Association of Official Analytical Chemists, 13th ed. (1980)[1], which is incorporated by reference.

Compliance. Compliance with this final regulation may begin immediately, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1981 shall comply.

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[1]Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or examined at the Office of the Federal Register Library.

(Secs. 201(n), 403, 701(a), 52 Stat. 1041 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321(n), 343, 371(a)))

In accordance with Executive Order 12044 the economic effects of this regulation have been carefully analyzed, and it has been determined that the rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination in on file with the Hearing Clerk, Food and Drug Administration.

Dated: June 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

Note.—Incorporation by reference was approved by the Director of the Office of the Federal Register on April 22, 1980, and is on file in the Office of the Federal Register Library.

[FR Doc. 80-17555 Filed 6-9-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 146

[Docket No. 78N-0242]

Revocation of Stayed Regulations for Cranberry Juice Cocktail, Artificially Sweetened Cranberry Juice Cocktail, Lemonade, Colored Lemonade, Limeade, and Canned Pineapple-Grapefruit Juice Drink

AGENCY: Food and Drug Administration.

ACTION: Revocation of stayed regulations.

SUMMARY: The Food and Drug Administration (FDA) revokes certain regulations that would have established standards of identity for cranberry juice cocktail, artificially sweetened cranberry juice cocktail, lemonade, colored lemonade, limeade, and canned pineapple-grapefruit juice drink which were stayed by the filing of objections and request for a hearing. FDA believes that a regulation establishing a common or usual name for diluted beverages other than orange juice products will achieve the goal of the stayed regulations.

EFFECTIVE DATES: Effective July 11, 1980; objections by July 10, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: FDA published a final regulation establishing standards of identity for cranberry juice cocktail and artificially sweetened cranberry juice cocktail in the **Federal Register** of April 11, 1968 (33 FR 5617). FDA also published a final regulation establishing standards for lemonade, colored lemonade, limeade, and canned pineapple-grapefruit juice drink in the **Federal Register** of May 7, 1968 (33 FR 6862). Both final regulations were stayed in their entirety in response to objections. The stay of the final regulation for the cranberry juice cocktail beverages was published in the **Federal Register** of July 13, 1968 (33 FR 10088) and the stay of the final regulation for the remaining diluted beverages was published in the **Federal Register** of July 27, 1968 (33 FR 10713).

A final regulation establishing a common or usual name for diluted fruit or vegetable juice beverages other than diluted orange juice beverages (21 CFR 102) appears elsewhere in this issue of the **Federal Register.** FDA believes that this common or usual name regulation will enable consumers to make a value comparison among beverages at the time of purchase and thereby reduce the consumer confusion that exists in connection with all diluted fruit juice beverages. Therefore, FDA is terminating the rulemaking proceedings in regard to establishing standards of identity for the following diluted fruit juice beverages: cranberry juice cocktail (21 CFR 146.110), artificially sweetened cranberry juice cocktail (21 CFR 146.111), lemonade (21 CFR 146.115), colored lemonade (21 CFR 146.125), limeade (21 CFR 146.130), and canned pineapple-grapefruit juice drink (21 CFR 146.133). This action is without prejudice to interested persons submitting new petitions proposing reasonable standards that, if adopted, would promote honesty and fair dealing in the interest of consumers.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 146 is amended by revoking § 146.110 *Cranberry juice cocktail,* § 146.111 *Artificially sweetened cranberry juice cocktail,* § 146.115 *Lemonade,* § 146.125 *Colored lemonade,* § 146.130 *Limeade,* and § 146.133 *Canned pineapple-grapefruit juice drink.*

Any person who will be adversely affected by the foregoing revocation may at any time on or before July 10, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation revoked to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to the stay of revocation of these standards by the filing of proper objections, the effective date is July 11, 1980.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: June 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-17554 Filed 6-9-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 175

[Docket No. 79F-0473]

Indirect Food Additives: Adhesive Coatings and Components; Resinous and Polymeric Coatings

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations 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 applications. This action is being taken in response to a petition from W.R. Grace & Co., Lexington, MA.

DATES: Effective June 10, 1980; objections by July 10, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

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

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of January 25, 1980 (45 FR 6175), announced that a petition (FAP 9B3449) had been filed by W.R. Grace & Co., Dewey & Almy Chemical Division, Lexington, MA 02173, proposing to amend § 175.300, *Resinous and polymeric coatings* (21 CFR 175.300) 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 to contact food.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 175 is amended in § 175.300(b)(3)(xxxi) by alphabetically inserting a new item in the list of substances to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xxxi) * * *

*	*	*	*	*

Styrene-maleic anhydride resin, partial methyl and *sec*-butyl ester, for use only at levels not in excess of 3 percent of the cement solids in can end cement formulations.

*	*	*	*	*

The agency has determined that the proposed action will not have a significant impact on the human environment and that an environmental impact statement is not required. A copy of all relevant environmental impact materials may be seen in the office of the Hearing Clerk (HFA–305) Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 10, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation becomes effective June 10, 1980

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: June 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–17354 Filed 6–9–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 177

[Docket No. 79F–0397]

Indirect Food Additives: Polymers; Substances for Use as Basic Components of Single and Repeated Use Food Contact Surfaces

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for safe use of ethylene-1, 4-cyclohexylene dimethylene terephthalate copolymer as articles or components of articles intended for use in contact with food. This action is in response to a petition from Eastman Chemical Products, Inc., Kingsport, TN 37662.

DATES: Effective June 10, 1980; objections by July 10, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

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

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of November 27, 1979 (44 FR 67729) announced that a food additive petition (FAP 9B3436) had been filed by Eastman Chemical Products, Inc., Kingsport, TN 37662, proposing that food additive regulations be amended to provide for the safe use of ethylene-1,4-cyclohexylene dimethylene terephthalate copolymer in plastics intended for use in contact with food.

Having evaluated data in the petition and other relevant materials, FDA concludes that the food additive regulations should be amended to include the petitioned copolymer as set forth below.

Therefore, under the Federal, Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 177 is amended by adding new § 177.1315 to read as follows:

§ 177.1315 Ethylene-1, 4-cyclohexylene dimethylene terephthalate copolymer.

Ethylene-1, 4-cyclohexylene dimethylene terephthalate copolymer may be safely used as articles or components of articles intended for use in contact with food subject to provisions of this section and of Part 174 of this chapter.

(a) *Identity.* Ethylene-1, 4-cyclohexylene dimethylene terephthalate copolymer (1, 4-benzene dicarboxylic acid, dimethyl ester, polymerized with 1, 4-cyclohexane dimethanol and 1, 2-ethanediol) (CAS Registry No. 25640–14–6) is the reaction product of dimethyl terephthalate with a mixture containing 69±3 mole percent of ethylene glycol and 31±3 mole percent of 1, 4-cyclohexane dimethanol (70 percent trans isomer, 30 percent cis isomer) to which may have been added certain optional substances required in its production or added to impart desired physical or technical properties.

(b) *Specifications.* Inherent viscosity of a 0.50 percent solution of the copolymer in phenol-tetrachloroethane (60:40 ratio wt/wt) solvent is not less than 0.669 as determined by using a Wagner viscometer (or equivalent) and calculated from the following equation:

Inherent viscosity = (Natural logarithm of N_r)/(c) where:
N_r = Ratio of flow time of the polymer solution to that of the solvent, and
c = concentration of the test solution expressed in grams/100 milliliters.

(c) *Limitations.* Ethylene-1, 4-cyclohexylene dimethylene terephthalate copolymer in the finished form may be used in contact with food provided extractable terephthaloyl moieties do not exceed:

(1) 1.5 micrograms per square inch of food-contact surface when extracted by water heated to 180° F and allowed to cool to 120° F in contact with the food contact article.

(2) 1.5 micrograms per square inch of food-contact surface when extracted by 3 percent (by volume) aqueous acetic acid added at 180° F and allowed to cool to 120° F in contact with the food contact article.

(3) 1.0 microgram per square inch of food-contact surface when extracted for 24 hours by 8 percent (by volume) aqueous ethanol at 120° F.

(4) 0.5 microgram per square inch of food contact surface when extracted for 2 hours by *n*-heptane at 120° F. The heptane extractable results are to be divided by a factor of 5.

(d) *Analytical method for determination of extractability.* The total extracted terephthaloyl moieties can be determined in the extracts, without evaporation of the solvent, by measuring the ultraviolet (UV) absorbance at 240 nanometers. The spectrophotometer (Varian 635–D, or equivalent) is zeroed with a sample of the solvent taken from the same lot used in the extraction tests. The concentration of the total terephthaloyl moieties in water, 3 percent acetic acid, and in 8 percent aqueous alcohol is calculated as bis(2-hydroxyethyl terephthalate) by reference to standards prepared in the appropriate solvent. Concentration of the terephthaloyl moieties in heptane is calculated as cyclic trimer $(C_8H_4CO_2C_2H_4CO_2)_3$, by reference to standards prepared in 95:5 percent (v/v) heptane: tetrahydrofuran.

(e) *Conditions of use.* The copolymer is used as an article or component of articles intended for use in contact with food excluding carbonated beverages and beer in accordance with the following conditions:

(1) Nonalcoholic foods: Conditions of hot fill not exceeding 180° F, storage at temperatures not in excess of 120° F. No thermal treatment in the container.

(2) Foods containing not more than 8 percent alcohol: Conditions of fill and storage not exceeding 120° F. No thermal treatment in the container.

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 10, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective June 10, 1980.

(Sec. 409 (c)(1), 72 Stat. 1786 (21 U.S.C. 348 (c)(1)))

Dated: June 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–17355 Filed 6–09–80; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 536

[AR 27–20]

Claims Against the United States; Correction

AGENCY: Department of the Army, DOD.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on claims against the United States that appeared on page 6543 in the **Federal Register** of Tuesday, January 29, 1980, (FR Doc. 80–2599). This correction is made to include subparagraph (6) to § 536.9(b) (subparagraph 2–19b(6), AR 27–20, Legal Services, Claims, 1 January 1971) which was inadvertently omitted from the original document.

EFFECTIVE DATE: June 10, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Philip M. Wilson, Deputy Chief (Claims Operations), U.S. Army Claims Service, Office of The Judge Advocate General, Fort Meade, Maryland 20755 (301–677–7960).

SUPPLEMENTARY INFORMATION: FR Doc. 80–2599, appearing at page 6543 in the issue of Tuesday, January 29, 1980, is corrected by adding the following subparagraph (6) to § 536.9(b) in the first column of page 6551:

"(6) Any benefit or compensation based directly or indirectly on an employer-employee relationship with the United States or Government contractor and received at the expense of the United States including but not limited to medical or hospital services, burial expenses, death gratuities, disability payments, or pensions."

Dated: June 2, 1980.

James A. Mounts, Jr.,

Colonel, JAGC, Chief, U.S. Army Claims Service, Office of the Judge Advocate General.

[FR Doc. 80–17530 Filed 6–9–80; 8:45 am]

BILLING CODE 3710–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–1510–8]

Approval of Revision of the West Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On November 9, 1978, 43 FR 52239, the Environmental Protection Agency (EPA), approved an interim sulfur dioxide (SO_2) emission limitation of 5.12 lbs. SO_2 per million BTU for the Harrison power plant. That interim limit expired on November 9, 1979. On November 15, 1979, 44 FR 65790, EPA proposed to extend the interim emission limitation for six months or until a final limitation was adopted, whichever occurred first. EPA is today taking final action to extend the interim limitation for the Harrison power plant until a final emission limitation is adopted in response to a Court-ordered remand.

EFFECTIVE DATE: The interim limitation is effective on the date of publication for good cause due to the need to clarify immediately the emission limitation which applies to the Harrison plant.

ADDRESSES: Copies of the State Implementation Plan revisions affecting the Harrison power plant and the accompanying support documentation

are available for public inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia Sheridan;

West Virginia Air Pollution Control Commission, 1558 Washington Street, East Charleston, West Virginia 25311, ATTN: Mr. Carl Beard;

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. William Belanger (3AH13), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, PA 19106, Phone: (215) 597–8188.

SUPPLEMENTARY INFORMATION: On November 9, 1978, EPA approved, among other actions, an interim emission limitation of 5.12 lbs. SO_2 per million BTU for the Harrison power plant, 43 FR 52239. The approval provided that the interim limitation would be effective for one year or until EPA promulgated stack height regulations under Section 123 of the Clean Air Act, whichever occurred first. Since EPA has not yet promulgated stack height regulations, the interim limitation expired on November 9, 1979.

Petitions for review of EPA's November 9, 1978, approval of the interim emission limitation for the Harrison plant, and other West Virginia State Implementation Plan revisions, were filed in the United States Court of Appeals for the Third Circuit. At EPA's request, the Court remanded for reconsideration, among other issues, the interim emission limitation for the Harrison plant. After reconsidering the Harrison emission limitation and the other issues, EPA proposed on November 7, 1979, 44 FR 64439, to reaffirm its previous approval of the 5.12 lbs. SO_2 per million BTU limit for Harrison.

On November 15, 1979, EPA proposed to approve an extension of the interim emission limitation of 5.12 lbs. SO_2 per million BTU for the Harrison power plant, 44 FR 65790. EPA proposed that the interim limit apply for a period of six months or until a permanent limitation was approved, whichever occurred first.

EPA has recently informed the Third Circuit that it will be unable to take final action on its proposed reapproval of the Harrison limitation, and on the other issues remanded by the Court, for at least nine months. The postponement of final action is due to EPA's ongoing review of its policies and procedures for regulating coal-fired boilers, including an evaluation of the use of statistical techniques to calculate emission limitations. Since a statistical method was used to develop the Harrison limitation, EPA believes it is inappropriate to take final action on its proposed reapproval of the Harrison limitation until the Agency completes its assessment of statistical methods.

To eliminate uncertainty as to Harrison's applicable emission limitation during the review period, EPA is today promulgating an extension of the interim emission limitation proposed on November 15, 1979. The interim limitation will be effective until EPA takes final action on its November 7, 1979, proposed reaffirmation of the Harrison limitation. The extension of the interim limitation until final action on the Harrison limitation is a change from the November 15, 1979, proposal, which provided that the interim limitation would extend for six months or until final action was taken, whichever occurred first. The change is necessary in light of EPA's conclusion that it cannot promulgate a final emission limitation for Harrison for at least nine months.

As stated in papers filed with the Third Circuit, EPA believes that Harrison should be permitted to continue operating at its status quo emission level during the nine-month period. EPA considers status quo emissions to be the 5.12 lbs. SO_2 emission limitation approved by EPA on November 9, 1978, and proposed to be reaffirmed on November 7, 1979. Continuation of status quo emissions for the interim period prior to final action will maintain all parties in their present positions, enable Monongahela Power Company, which owns the Harrison plant, to plan coal purchases for several months and prevent unnecessary economic disruption.

EPA received only one comment on its November 15, 1979 proposal, from the Monongahela Power Company, operator of the Harrison station, which favored the extension. While supporting the extension of the interim limitation, Monongahela said that in its view, without such an extension there was no federally approved limitation for the Harrison station. Monongahela noted the petitioners in the Third Circuit lawsuit had expressed the view that the emission limitations adopted by West Virginia in 1972 would become effective when the interim limit expired. The company said that it would cancel or reduce its present coal supply contracts and might "cease operations at the Harrison Power Station," with "severe negative consequences on the economy of the State of West Virginia," if the 1972 emission limits were restored.

The Monongahela Power Company comments emphasize the uncertainty and risk of economic disruption which will remain if EPA does not extend the interim limitation for the Harrison plant, and therefore add further support to the action taken today.

EPA has determined that further notice and comment on this change is impracticable because of the pressing need to clarify what emission limitation applies to the plant. The expiration on November 9, 1979, of the previously applicable interim emission limitation, the absence of final action on the November 15, 1979, proposed interim limitation, and EPA's decision to postpone final action on its proposed reapproval has created uncertainty as to Harrison's applicable emission limitation. An immediate promulgation is needed to clarify for the Court, the petitioners and the public Harrison's enforceable interim emission limitation prior to EPA's final action. EPA believes that the need to eliminate uncertainty and to have an enforceable emission limitation in effect during the review period presents good cause for making the interim emission limitation effective today without further notice and comment. Since the emission limitation is an interim limit, which merely preserves the status quo, EPA believes the public is not harmed by making the limitation immediately effective without further opportunity for comment.

EPA therefore is taking final action today to approve an interim emission limitation of 5.12 lbs. SO_2 per million BTU for the Harrison power plant until EPA takes final action on its proposed reapproval of the emission limitation for the Harrison plant published on November 7, 1979.

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.

(42 U.S.C. §§ 7401–642)

Dated: June 4, 1980.

Douglas M. Costle,

Administrator.

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

Subpart XX—West Virginia

1. The Section 52.2522, paragraph (b), is added as follows:

§ 52.2522 Approval status.

* * * * *

(b) The Administrator hereby extends the interim limitation of 5.12 lbs. SO_2 per million BTU for the Harrison power plant until a permanent emission limitation is approved.

[FR Doc. 80-17557 Filed 6-9-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL-1509-1]

Approval and Promulgation of Implementation Plans; Receipt of Supplementary Information for Texas Implementation Plan for Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt.

SUMMARY: This is a notice of receipt of supplemental information requested from the State of Texas as required by the notice of final rulemaking published in the **Federal Register** on March 25, 1980. The State of Texas was required to submit additional information by December 31, 1979 to satisfy the conditions of approval as stipulated in the Texas notice of final rulemaking. The State has complied with this requirement and their submission is presently being reviewed by the Environmental Protection Agency (EPA).

ADDRESSES: Copies of the Texas supplemental information are available for inspection during normal business hours at the following addresses:

Environmental Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street SW., Washington, D.C. 20460.

Texas Air Control Board, 6330 Hwy. 290 East, Austin, Texas 78723.

FOR FURTHER INFORMATION CONTACT: Jerry M. Stubberfield, Environmental Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION: The State of Texas was required to submit additional information by December 31, 1979 to satisfy the conditions of approval as stipulated in the Texas notice of final rulemaking. The State has complied with this requirement and their submission is presently being reviewed by the Environmental Protection Agency (EPA). The Texas submittals are as follows:

§ 52.2275 Control strategy and regulations: ozone.

(1) With respect to Subchapter 131.07.55.103, Texas has submitted a demonstration to show that the specified exemption affects 5 percent or less of the emissions remaining after the application of controls specified in the applicable Control Technique Guideline.

(2) With respect to Subchapter 131.07.56, Texas has submitted a demonstration to show that the specified exemption affects 5 percent or less of the emissions remaining after the application of controls specified in the applicable Control Technique Guideline.

(4)(i) Texas has submitted a demonstration to show that the specified exemption for Harris County affects 5 percent or less of the emissions remaining after the application of controls specified in the Control Technique Guideline and EPA guidance.

§ 52.2291 Transportation requirements.

(1) Texas has submitted a list of currently planned transportation projects for Harris County.

The conditional approval of the State Implementation Plan (SIP) will be continued until final action on the State's submittal is published in the **Federal Register.**

(Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410(a))

Dated: May 28, 1980.

Myron O. Knudson,

Acting Regional Administrator.

[FR Doc. 80-17471 Filed 6-9-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 81

[FRL 1510-6]

Jefferson and Etowah Counties, Ala.; Air Quality Planning; Attainment Status Designations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rulemaking sets forth the attainment status of portions of Jefferson County and Etowah County, Alabama, in relation to the National Ambient Air Quality Standards (NAAQS) for total suspended particulate (TSP). The United States Court of Appeals for the Fifth Circuit in the consolidated cases of *United States Steel Corp.* v. *United States Environmental Protection Agency*, and *Republic Steel Corp.* v. *United States Environmental Protection Agency*, 595 F. 2d 207 (5th Cir., decided May 3, 1979), has ordered that the Section 107 non-attainment area designations for the primary national ambient air quality standard for particulate matter for those areas be set aside and repromulgated with proper notice and comment. Pursuant to this court order, EPA, on July 17, 1979 (44 FR 41489), proposed to designate the two areas in question non-attainment for the primary and secondary standards for particulate matter. After consideration of comments received during a 30-day public comment period, EPA is here promulgating the designations of those areas.

DATES: Effective June 10, 1980.

FOR FURTHER INFORMATION CONTACT: Roger O. Pfaff, Air Programs Branch, EPA, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308, (404) 881-3286.

SUPPLEMENTARY INFORMATION: The Clean Air Act, as amended in 1977 (CAA) imposed several new requirements on the states and EPA. Among them, the CAA added Section 107(d) which directed each State, within 120 days after the Amendments were enacted, to submit to the Administrator a list describing the National Ambient Air Quality Standards attainment status for all areas within the State. The Administrator was then required to promulgate the states' lists, with any necessary modifications, as a final rule within sixty days of their submittal.

Pursuant to the Section 107(d) requirement, the State of Alabama submitted to EPA its list of air quality attainment designations. In its list, Alabama designated a portion of Central Birmingham, located in Jefferson County, and a portion of Etowah County as non-attainment areas for the primary TSP standards.

On March 3, 1978 (43 FR 8962), the Administrator published Alabama's designations as final agency action without providing prior notice or opportunity to comment. These designations were made immediately effective because the Administrator determined that the strict statutory deadlines of Section 107 and the need to provide the states with guidance in the SIP process warranted such action. The Administrator, however, did invite

public comments during a sixty-day period after promulgation of the designations, and he indicated he would modify the rule if any comments received demonstrated that such action was necessary.

In the cases of *United States Steel* and *Republic Steel,* above, the Fifth Circuit held that EPA had violated the Administrative Procedures Act, 5 U.S.C. 551 *et seq.* (1977), by failing to give prior notice and opportunity for comment before promulgation of the designations in question. Therefore, the court ordered EPA to repromulgate these designations following the proper procedures. The court's ruling did not affect Alabama's obligation under the Act to submit a timely Part D SIP revision for other areas or for the two areas in question for other pollutants.

Therefore, pursuant to the Fifth Circuit's order, EPA proposed on July 17, 1979, to designate the central Birmingham area located in Jefferson County non-attainment for primary and secondary TSP and portions of Etowah County non-attainment for primary and secondary TSP. This proposal was based on the most recent eight quarters of ambient air monitoring data available. Written public comments received on or before August 16, 1979, were considered. A longer comment period was not deemed necessary because: (1) The plantiffs in litigation mentioned, United States Steel Company and Republic Steel Company, were sent actual notice of the proposal; and (2) the Alabama submittal, and substantive issues involved, are not so complex as to require a longer comment period, particularly for the two companies mentioned, who are already thoroughly familiar with the attainment status designation process and applicable EPA guidance. Comments were received from the law firm of Thorp, Reed and Armstrong (for and on behalf of Republic Steel Corporation) regarding Etowah County and from United States Steel Corporation regarding Jefferson County.

After consideration of the comments received, EPA has decided to promulgate the same designations for the same geographical areas as in the original promulgation. Thus, the central Birmingham area in Jefferson County and portions of Etowah County are nonattainment for primary and secondary TSP standards. In the July 17 proposal, EPA stated that the data used to designate the areas nonattainment was to be evaluated for validity and representativeness. This has been accomplished. The data has been certified by EPA as acceptable.

A discussion of the comments received follows:

Jefferson County

Comment: The most recent eight quarters of data show the Fairfield area to be attaining the primary standard.

Response: Data for the 1978 calendar year and for the four previous quarters (calendar year 1977) were first considered since they were the most recent data sent by the State at the time of proposal. Also, consideration of that data was justified because § 107(d) of the Clean Air Act requires that the initial designations be based on information available as of the date of enactment of the Clean Air Act Amendments of 1977. These data showed nonattainment levels at the Fairfield monitor in Jefferson County.

In response to the comment that data for the period ending June 30, 1979, should be relied on, EPA has considered more recent data at Fairfield.[1] Nonattainment levels are shown for Fairfield during all eight-quarter periods from calendar year 1977 through calendar year 1979, except for the period ending June 30, 1979.[2] The period ending June 30, 1979, cannot be examined in isolation for determination of attainment status.

Comment: Designations should be drawn along political boundaries where practicable; therefore, Fairfield should be excluded from the area.

Response: It is EPA policy to designate areas which represent the area of actual nonattainment as closely as practicable, and to use "county, sub-county, or other areas as long as the area could be clearly defined in a written narrative" (43 FR 8962). The boundaries were drawn along township lines, (which are sub-county areas) which are more representative of the area of nonattainment than the Birmingham city limits and which can be clearly defined in a written narrative.

Comment: EPA did not consider improvements in air quality due to reductions in emissions from United States Steel.

Response: According to information supplied by the Alabama Air Pollution Control Commission, actual emissions since 1978 show an increase of 1973 tons per year at the Fairfield works. Although emissions may be reduced in the future, EPA cannot take future reductions into account when designating the present status of areas. After making this initial attainment status designation, EPA will consider any future requests for redesignation of Jefferson County in accordance with the procedures and substantive requirements of Section 107 of the Clean Air Act.

Etowah County

Comment: The violations of the primary standard in Etowah County are so small as to be de minimus.

Response: EPA regulations, which have been duly adopted in accordance with law, do not allow consideration of the magnitude of a violation. Any violation of a primary national ambient air quality standard is harmful to the public health and action must be taken to eliminate it. For the 24-hour standards, two exceedences are necessary to show a violation. Therefore, only the second highest exceedence has been relied on by EPA in concluding that there is a violation of the standard intended to protect the public health.

Comment: Since the State made a clerical error at one point in reporting air quality values, there may be other errors in the process of reporting the air quality.

Response: As was mentioned above, EPA has conducted a quality assurance analysis of the data in Etowah County and found the data to be valid. An important item to note is that the clerical error mentioned by Republic was uncovered by the State agency itself, in conducting routine quality assurance auditing procedures. Thus, prior identification by the State of the error Republic notes, and exclusion by the State of that unreliable datum point before the State (or EPA) drew conclusions from the data, demonstrate that the State's screening process is effective in eliminating invalid data.

Comment: The Walnut Creek monitoring station does not represent ambient air, because it is heavily influenced by Republic Steel's emissions.

Response: EPA defines "ambient air" to mean ". . . that portion of the atmosphere, external to buildings, to which the general public has access." 40 CFR 50.1(e) (1978). The Walnut Creek monitoring station is in an area to which

[1] First, the more recent data is not being relied on in today's final action—it was only consulted in responding to the COMMENT above. Also, the more recent data was obtained from the State agency (the Alabama Air Pollution Control Commission) not a member of the public. For these reasons, I have concluded that no impermissable *ex parte* contact was involved. See *Home Box Office, Inc. v. Federal Communications Commission,* 587 F. 2d 9, 57 (D.C. Cir. 1977).

[2] No violations during calendar year 1979 are being relied upon in the final action announced in this notice. Violations for the eight-quarter period ending the third quarter of 1979 and for the period ending the fourth quarter of 1979 are based on the respective 1978 data. The public, including United States Steel, has had an opportunity to comment on that 1978 data showing violations. Thus, there is no need to provide for additional comment on data for the third and fourth quarters of 1979.

the general public has access and is, thus, in an "ambient air" area. EPA does not try to ignore dirtier portions of the ambient air. To do so would be to subvert the intent of Congress in requiring national ambient air quality standards to be met, under the Clean Air Act. Instead, EPA seeks to assure that all ambient air areas meet the standards. To do so, it seeks to measure ambient air where violations are most likely to occur.

Comment: The Walnut Creek monitor is unduly influenced by road dust.

Response: The site was reviewed by EPA in September 1979 and found to fully comply with EPA siting criteria.

Comment: Republic believes that the nonattainment readings were influenced by a high pollen count.

Response: If an abnormally high pollen count for some short period of time, such as a month, caused nonattainment, this situation could be taken into consideration. However, since all years show nonattainment, the readings cannot be attributed to any isolated abnormal situation. Also, Republic has submitted no information in support of this claim.

Comment: EPA should have verified the air quality data before proposing the designations, rather than after the proposal.

Response: Each State agency is audited annually to insure its data collection program is satisfactory. Part of the audit is an evaluation of the State's quality assurance program. It is the quality assurance program which assures the data is valid. As noted above, the Alabama quality assurance program is well designed and has been shown to work effectively in practice. The quality assurance study conducted by EPA concerning Etowah County data, was available for public review during the public comment period.

Comment: EPA did not supply to the commenter all materials used to support the designation.

Response: In response to the commenter's first letter, copies of all information, then in EPA's files, relating to the designation were sent to the commenter. In response to a second letter from the commenter, information received by EPA subsequent to the first response was also sent to the commenter.

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". EPA has reviewed these regulations and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Section 107 and 172 of the Clean Air Act (42 U.S.C. 7407))

Dated: June 4, 1980.

Douglas M. Costle,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart C—Section 107 Attainment Status Designations

In § 81.301, the attainment status designation table for TSP is revised to read as follows:

§ 81.301 Alabama.

Alabama—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
That portion of Etowah County within the western section of Gadsden	X	X		
That portion of Jackson County surrounding TVA's Widows Creek plant	X	X		
Those portions of Jefferson County within central Birmingham and the area surrounding the Universal Atlas Cement Plant	X	X		
That portion of Lauderdale County containing Florence			X	
That portion of Mobile County within a section of downtown Mobile	X	X		
A portion of Morgan County including portions of the city of Decatur		X		
Rest of State				X

[FR Doc. 80-17564 Filed 6-9-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 180

[PP 5F1616/R253; FRL 1511-5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide methomyl on tomatoes at 1 part per million (ppm) and peppers at 2 ppm. The regulation was requested by E.I. du Pont de Nemours & Co., Inc. This rule establishes a maximum permissible level for residues of methomyl on tomatoes and peppers.

EFFECTIVE DATE: Effective on June 10, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Phillip Hutton, Acting Product Manager (PM) 12, Room E-303, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460, (202/426-2635).

SUPPLEMENTARY INFORMATION: Notice was given in the **Federal Register** of January 21, 1980, that E.I. du Pont de Nemours & Co., Wilmington, DE 18918, had filed a petition (PP 5F1616) with EPA under provisions of the Federal Food, Drug, and Cosmetic Act. This petition proposed that 40 CFR 180.253 be amended by establishing tolerances for residues of the insecticide methomyl (*S*-methyl *N* ((methylcarbamoyl)oxy)thioacetimidate in or on the raw agricultural commodities tomatoes at 1 ppm and peppers at 2 ppm. No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a two-year rat and a two-year dog feeding study with a no-observed-effect level (NOEL) of 100 ppm each (5.0 milligrams (mg)/kilogram (kg) of body weight (bw)/day and 2.5 mg/kg bw/day, respectively); a three-generation rat reproduction study with an NOEL of 100 ppm (5.0 mg/kg bw/day;

a hen delayed neurotoxicity study (with atropine), which was negative at 200 mg/kg bw; a hen delayed neurotoxicity study (without atropine), which was negative at 28 mg/kg bw; a rat study which was negative for teratogenicity at 400 ppm (highest level tested) and negative for fetotoxicity at 100 ppm; a 79-day rat feeding study which was negative for cholinesterase-inhibition at 20 mg/kg bw/day; and mutagenicity studies (negative) for four microbial assay systems.

Based on the two-year dog feeding study with a 2.5 mg/kg bw/day NOEL and using a safety factor of 100, the acceptable daily intake (ADI) for man is 0.025 mg/kg bw/day. The theoretical maximum residue contribution (TMRC) in the human diet from the previously established tolerances and the proposed tolerances does not exceed the ADI.

Desirable data that are lacking from the petitions are a (second) mouse oncogenicity study and a lactating goat metabolism study. In letters of April 11, 1978, and April 20, 1979, the petitioner indicated that these studies are underway and are expected to be completed in late 1980. The requirement for further mutagenicity studies is deferred until the Agency determines the kinds and amounts of data needed.

The metabolism of methomyl in rats and plants is adequately understood, and an adequate analytical method (gas chromatography using a microcoulometric detector) is available for enforcement purposes. No actions are currently pending against continued registration of methomyl, nor are there any other relevant considerations involved in establishing the tolerances. The pesticide is considered useful for the purpose for which a tolerance is being sought, and it is concluded that this regulation will protect the public health.

Any person adversely affected by this regulation may on or before July 10, 1980, file written objections with the Hearing Clerk, EPA, Rm. M–3706 (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. 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, § 180.253 is amended by adding tolerances for residues of methomyl on peppers at 2 ppm and on tomatoes at 1 ppm as set forth below:

(Sec. 408 (e), 68 Stat. 514, (21 U.S.C. 346a(e)))

Dated: June 3, 1980.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

Part 180, subpart C, § 180.253 is amended by alphabetically inserting peppers at 2 ppm and tomatoes at 1 ppm in the table to read as follows:

§ 180.253 Methomyl; tolerances for residues.

Commodity:	Parts per *million*
* * * * *	
Peppers	2
* * * * *	
Tomatoes	1
* * * * *	

[FR Doc. 80–17550 Filed 6–9–80; 8:45 am]

BILLING CODE 6560–01–M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

41 CFR Part 105–61

[ADM 7900.2 CHGE 14]

Public Use of Records, Donated Historical Materials, and Facilities in the National Archives and Records Service; Fees for Reproduction Services: Correction

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

ACTION: Correction.

SUMMARY: This document corrects the text of GSA Order ADM 7900.2 CHGE 14.

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

In FR Doc. 80–13048 appearing at page 28340 in the **Federal Register** of April 29, 1980, § 105–61.5206 is amended by adding a new paragraph (j) on page 28341. Section 105–61.5206 is corrected to read as follows:

§ 105–61.5206 Fee schedule.

* * * * *

(j) (Reserved).

* * * * *

Dated: June 2, 1980.

James E. O'Neill,

Acting Archivist of the United States.

[FR Doc. 80–17561 Filed 6–9–80; 8:45 am]

BILLING CODE 6820–26–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5836]

List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The effective date shown at the top right of the table or July 10, 1980, whichever is later.

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

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no

such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply in respect to conventional mortgage loans by federally requlated, insured, supervised, or approved lending institutions.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 65 of Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 65.3 List of communities with special hazard areas (FHBMs in effect).

BILLING CODE 6718-03-M

EFFECTIVE DATE June 3, 1980

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF		10 PREVIOUS MAP DATES		11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
								FHBM	FIRM	FHBM	FIRM				
TX	481193	Bastrop County (Unincorporated Area)	0005B 0008B	I	FL	B	2	3	N/A	8-9-77	N/A	9 10	N/A	N/A	The Honorable Jack Griesenbeck County Judge Bastrop County Courthouse Bastrop, TX 78602 (512) 321-2579

EFFECTIVE DATE 6/6/80

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of		10 Previous Map Dates		11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
								FHBM	FIRM	FHBM	FIRM				
TN	470007	T. of Bell Buckle (Bedford Co.)	0001B	I	FL	B	1	3		6/14/74 9/17/76		10	N/A	N/A	Mayor's Office Town of Bell Buckle P.O. Box 276 Bell Buckle, Tennessee 37020 (615) 275-4221
NC	370020	T. of Bladenboro (Bladen Co.)	0001B	I	FL	B	1	3		11/30/73 9/17/76		8 9 10	N/A	N/A	Edgar Evans, Mayor Town of Bladenboro P.O. Box 455 Bladenboro, North Carolina 28320 (919) 863-3333
TN	470293	T. of Ardmore (Giles Co.)	0001A	I	FL	B	1	3		12/17/76		9 10	N/A	N/A	Eugene Shannon, Mayor Town of Ardmore P.O. Box 151 Ardmore, Tennessee 38449 (205) 423-2146

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of		10 Previous Map Dates		11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
								FHBM	FIRM	FHBM	FIRM				
PA	421971	Twp. of Abbott (Potter Co.)	Index 0001A 0002A 0003A 0004A	I	FL	B	1	3	N/A	12/20/74	N/A	9 10 16	N/A	N/A	Richard Menken, Chairman Twp. Board of Supervisors R.D. 1 Galeton, PA 16922 Phone: (814) 435-2102
PA	422089	Twp. of New Milford (Susquehanna Co.)	Index 0001A 0003A	I	FL	B	1	3	N/A	4/ 4/75	N/A	9 10 16	N/A	N/A	Dwight Jennings, Chairman Twp. Board of Supervisors R.D. 1 New Milford, PA 18834 Phone: (717) 434-2765
PA	422205	Twp. of Noxen (Wyoming Co.)	Index 0002B 0003B	I	FL	B	1	3	N/A	11/29/74 10/10/75	N/A	9 10 16	N/A	N/A	Harold Bennett, Chairman Twp. Board of Supervisors R.D. 1, Box 100 Noxen, PA 18636 Phone: (717) 298-2008
PA	422066	Twp. of Shrewsbury (Sullivan Co.)	Index 0005A	I	FL	B	1	3	N/A	1/24/75	N/A	9 10 16	N/A	N/A	Frank M. Sheets, Chairman Twp. Board of Supervisors R.D. 1 Muncy Valley, PA 17758 Phone: (717) 482-3031

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of		10 Previous Map Dates		11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
								FHBM	FIRM	FHBM	FIRM				
PA	421989	Twp. of Sweden (Potter Co.)	Index 0003A	I	FL	B	1	3	N/A	1/24/75	N/A	9 10 16	N/A	N/A	Michael Knowleton, Chairman Twp. Board of Supervisors R.D. Coudersport, PA 16915 Phone: (814) 274-9602
PA	421993	Twp. of Wharton (Potter Co.)	Index 0002A 0004A	I	FL	B	1	3	N/A	1/31/75	N/A	9 10 16	N/A	N/A	Don Young, Chairman Twp. Board of Supervisors R.D. 1 Austin, PA 16720 Phone: (814) 647-8948

EFFECTIVE DATE June 10, 1980

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
AZ	040120	City of Apache Junction (Pinal County)	0001A	I	FL	B	1	2	N/A	N/A	N/A	N/A	N/A	N/A	Mr. Joseph W. Gero Director of Planning 150 North Orotillo P. O. Box K Apache Junction, AZ 85220 (602) 982-6154
IA	190336	City of Clarksville (Butler County)	0001B	I	FL	B	4	2	N/A	N/A	N/A	20	N/A	N/A	The Honorable Dick Poland Mayor, City of Clarksville City Hall Clarksville, IA 50619 (319) 252-1782
TX	481536	City of Leander (Williamson County)	0001A	I	FL	B	1	2	N/A	N/A	N/A	N/A	N/A	N/A	The Honorable Joe Bates Mayor, City of Leander P. O. Box 319 Leander, TX 78641 (512) 259-1178

EFFECTIVE DATE June 13, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code (s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
IL	170226A	Village of Browns (Edwards Co.) 01 or	00 01	I	FL	B	4	3	N/A	11/15/74	N/A	9 10 16	N/A	N/A	Harold Duncan, Vil. Pres. Box 165 Browns, IL 62818 Phone: (618) 446-5130
PA	421537	Twp. of Gallagher (Clinton Co.)	0000 0001A 0002A 0003A 0004A 0005A	I	FL	B	4	3	N/A	2/21/75	N/A	9 10 16	N/A	N/A	Robert O. Wells, Chairman Twp. Board of Supervisors Star Route Lock Haven, PA 17745 Phone: (717) 769-6386
PA	421857	Twp. of Hamlin (McKean Co.)	0000 0002A 0003A 0006A	I	FL	B	1	3	N/A	2/14/75	N/A	9 10 16	N/A	N/A	Fred C. Nunn, Chairman Twp. Board of Supervisors Box 59 Hazel Hurst, PA 16733 Phone: (814) 778-5025
PA	422457	Twp. of Jefferson (Lackawanna Co.)	0000 0002A 0003A	I	FL	B	4	3	N/A	1/3/75	N/A	9 10 16	N/A	N/A	John K. Nagy, Chairman Twp. Board of Supervisors R.D. # 1, Box 107-A Lake Ariel, PA 18436 Phone: (717) 689-2681

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (0 and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of		10 Previous Map Dates		11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
								FHBM	FIRM	FHBM	FIRM				
PA	421894	Twp. of Price (Monroe Co.)	0000 0001A 0002A 0003A	I	FL	B	1	3	N/A	11/15/74	N/A	9 10 16	N/A	N/A	William F. Halterman, Chairman, Twp. Board of Supervisors R.D. # 4 East Stroudsburg, PA 18301 Phone: (717) 421-5678
PA	421349	Twp. of Snake Spring (Bedford Co.)	0000 0001A 0002A	I	FL	B	1	3	N/A	1/24/75	N/A	9 10 16	N/A	N/A	Walter A. Diehl, Chairman Twp. Board of Supervisors R.D. # 1 Everett, PA 15537 Phone: (814) 847-2627

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (0 and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of		10 Previous Map Dates		11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
								FHBM	FIRM	FHBM	FIRM				
NH	330161	Town of Newport (Sullivan Co.)	0001B 0002B 0003B 0004B	I	FL	B	1	3		6/14/74 12/10/76		9	N/A	N/A	Mr. William K. Dugan Town Manager Newport, New Hampshire 03773 (603) 863-1877

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
SC	450191	Town of Lane (Williamsburg Co.)	018,028	I	FL	B	1	3		5/17/74 12/31/76		9	N/A	N/A	Alton M. McCullough Town of Lane P.O. Box 39 Lane, South Carolina 29564 (803) 387-5151

EFFECTIVE DATE June 17, 1980

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
TX	481550	City of Caney City (Henderson County)	0001A	I	FL	B	4	2	N/A	N/A	N/A	N/A	N/A	N/A	Honorable Ted Rogers Mayor, City of Caney City P.O. Box BC Caney City, TX 75148 (214) 489-1844
TX	481258	Jim Wells County (Uninc. Area)	0001B 0002B 0003B 0004B 0005B 0006B 0007B 0008B 0009B 0010B	I	FL	B	1	3	N/A	6-10-77	N/A	7 9 10	N/A	N/A	Honorable T. L. Harville County Judge, Jim Wells County County Courthouse Alice, TX 78332 (512) 664-3032
TX	481553	City of Moore Station (Henderson County)	0001A	I	FL	B	4	2	N/A	N/A	N/A	N/A	N/A	N/A	Honorable Matthew Wallace Mayor, City of Moore Station Route 1, Box 133 La Rue, TX 75770 (214) 852-3431

EFFECTIVE DATE June 20, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (\$ and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of		10 Previous Map Dates		11 Revision Code(\$)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
								FHBM	FIRM	FHBM	FIRM				
OH	390158	Fairfield Co. (Uninc. Area)	Index 0004B 0005B	I	FL	B	1	3	N/A	2/10/78	N/A	9 10 16	N/A	N/A	Charles Deeds, Chairman County Commissioners Courthouse Lancaster, OH 43130 Phone: (614) 654-6530
PA	422059	Township of Colley (Sullivan Co.)	Index 0002A 0004A 0005A	I	FL	B	1	3	N/A	12/13/74	N/A	9 10 16	N/A	N/A	Raymond Saxer, Chairman R.D. 2 Dushore, PA 18614 Phone: (717) 928-8032
PA	422109	Township of Cranberry (Venango Co.)	Index 0001A 0002A 0003A 0005A 0006A	I	FL	B	1	3	N/A	4/11/75	N/A	9 10 16	N/A	N/A	Richard C. Carathers 24 West Avenue Oil City, PA 16301 Phone: (814) 676-1567
PA	421661	Township of Dublin (Fulton Co.)	Index 0001B 0002B 0003B	I	FL	B	1	3	N/A	12/20/74 12/26/75	N/A	9 10 16	N/A	N/A	James Clippinger, Chairman Twp. Board of Supervisors Hustontown, PA 17229 Phone: (717) 987-3557

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (\$ and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of		10 Previous Map Dates		11 Revision Code(\$)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
								FHBM	FIRM	FHBM	FIRM				
PA	421655	Township of Quincy (Franklin Co.)	Index 0002A 0003A 0004A	I	FL	B	4	3	N/A	12/27/74	N/A	9 10 16	N/A	N/A	Stanley E. Gates, Sr. Supervisor Route 1 Waynesboro, PA 17268 Phone: (717) 749-7292
PA	421898	Township of Tunkhannock (Monroe Co.)	Index 0001A 0002A	I	FL	B	4	3	N/A	1/31/75	N/A	9 10 16	N/A	N/A	John Heller, Chairman Twp. Board of Supervisors Long Pond, PA 18334 Phone: (717) 646-7731

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (& and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
TN	470313	T. Normandy Bedford Co.	01A	I	FL	B	4	3		6-11-76		9 10	NA	NA	Robert Carter, Mayor P.O. Box 57 Normandy, Tennessee 37360 (615) 857-3169
TN	470065	C. Lynnville Giles Co.	01B	I	FL	B	4	3		6-14-74		10	NA	NA	Matt Copland, Mayor C. Lynnville P.O. Box 116 Main Street Lynnville, Tennessee 38472 (615) 527-3158

EFFECTIVE DATE: June 24, 1980

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
TX	481561	City of Aurora (Wise County)	0001A	I	FL	B	4	2	N/A	N/A	N/A	N/A	N/A	N/A	Honorable J. W. McCarty Mayor, City of Aurora Route 1 Rhome, TX 76078 (817) 489-2228
TX	481247	Sutton County (Unincorporated Area)	0001A 0002A 0003A 0004A 0005A 0006A 0007A 0008A 0009A 0010A 0011A 0012A 0013A 0014A 0015A 0016A 0017A 0018A 0019A 0020A	I	FL	B	1	2	N/A	N/A	N/A	N/A	N/A	N/A	Honorable Charles Sherrel County Judge Sutton County Courthouse Sonora, TX 76950 (915) 387-3835

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF		10 PREVIOUS MAP DATES		11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
								FHBM	FIRM	FHBM	FIRM				
TX	481557	Village of Vinton (El Paso County)	0001A	I	FL	B	4	2	N/A	N/A	N/A	N/A	N/A	N/A	Honorable S. O. Blount, III Mayor, Village of Vinton P.O. Box 167 Anthony, TX 88021 (915) 886-3777

EFFECTIVE DATE June 27, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of		10 Previous Map Dates		11 Revision Code (s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
								FHBM	FIRM	FHBM	FIRM				
IL	170734	Village of Hamburg (Calhoun Co.)	0001B	I	FL	B	1	3	N/A	2/15/74 3/19/76	N/A	9 10 16	N/A	N/A	James Smith, Mayor Hamburg, IL 62045 Phone: (618) 232-1254
OH	390427	City of Zanesville (Muskingum Co.	Index 0001C 0002C	I	FL	B	1	3	N/A	5/ 3/74 9/12/75 8/ 3/79	N/A	9 10 16	N/A	N/A	Walter Freek, Mayor c/o City Clerk's Office 401 Market Street Zanesville, OH 43701 Phone: (614) 452-5441
PA	422002	Twp. of East Brunswick (Schuylkill Co.)	Index 0001A 0002A 0003A	I	FL	B	1	3	N/A	1/24/75	N/A	9 10 16	N/A	N/A	Edward Vacula, Chairman Twp. Board of Supervisors R.D. 1 Orwigsburg, PA 17961 Phone: (717) 943-2416
PA	420468	Twp. of Tionesta (Forest Co.)	Index 0001B 0002B 0003B 0004B	I	FL	B	1	3	N/A	11/29/74 6/25/76	N/A	9 10 16	N/A	N/A	Maurice McWilliams Chairman, Twp. Board of Supervisors R.D. 1 Tionesta, PA 16353 Phone: (814) 755-3797

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of		10 Previous Map Dates		11 Revision Code(#)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
								FHBM	FIRM	FHBM	FIRM				
SC	450113	T. of Hardeeville	0005B	I	FL	B	1	3		6/14/74 4/23/76		8 10	NA	NA	J.C. Smoak, Mayor City Hall P.O. Box 608 Hardeeville, SC 29927 (803) 784-2231
SC	450175	T. of Saluda	0005C	I	FL	B	1	3		6/28/74 4/9/76 6/3/77		9	NA	NA	James Corley, Mayor P.O. Box 675 Saluda, SC 29138 (803) 445-3522
TN	470064	C. of Elkton	00QJA	I	FL	B	4	3		6/4/76		9	NA	NA	Randy Blade, Mayor General Delivery Elkton, TN 38455 (615) 468-2506
TN	470188	T. of Brighton	0005B	I	F	B	1	3		8/23/74 4/23/76		8 9 10	NA	NA	Sercy Marshall, Mayor P.O. Box 277 Brighton, TN 38011 (901) 476-8661

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of		10 Previous Map Dates		11 Revision Code(#)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
								FHBM	FIRM	FHBM	FIRM				
SC	450093	C. of Greenwood (Greenwood Co.)	0005B 0010B	I	FL	B	1	3		6/21/74 9/3/76		8 9 10	NA	NA	Travis Higgirbothan, Mayor P.O. Box 40 Greenwood, SC 29646 (803) 229-02 1
SC	450155	T. of Silverstreet	0005A	I	FL	B	4	3		1/24/75		9 10	NA	NA	Owen Berry, Mayor Town Office Silverstreet, SC 29145 (803) 276-0535
SC	450117	C. of Camden (Kershaw Co.)	0005B	I	FL	B	1	3		5/24/74 5/14/76		9 10	NA	NA	James L. Anderson, Mayor City of Camden 1000 Lyttleton Street Camden, SC 29020 (803) 432-2421
SC	450079	C. of Lake City (Florence Co.)	0005B	I	FL	B	1	3		5/31/74 4/30/76		8 10	NA	NA	Carlton Gaskins, Mayor P.O. Box 398 Lake City, SC 29560
SC	450142	C. of Marion (Marion Co.)	0005B	I	FL	B	1	3		6/21/74 12/10/76		8 9 10	NA	NA	T. Carroll Atkinson, Jr., Mayor P.O. Box 1190 Marion, SC 29571 (803) 423-2121

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
NY	360139	Vil. of Fredonia (Chautauqua Co.)	0005B	I	FL	B	1	3		5/3/74 5/28/76		10	NA	NA	James Sebota, ADM. Village Hall 911 Church St. Fredonia, NY 14063 (716) 673-1325
AL	010076	T. of Riverview (Escambia Co.)	0005B	I	FL	B	1	3		8/30/74 6/4/76		8 10	NA	NA	William Brentley, Mayor P.O. Box 804 Brewton, AL 36426 (205) 867-4580
FL	120146	T. of Fanning Springs, (Levy & Gilchrist Cos.)	0005A	C	FL	B	1	3		11/29/74		8 9 10	NA	NA	Albert Martin, Mayor Town of Fanning Springs Suwannee, Florida 32692 (904) 463-6311
NC	370140	T. of Smithfield (Johnston Co.)	0005A	I	FL	B	1	3		10/29/76		8 9 10	NA	NA	Kenneth Baker, Mayor P.O. Box 761 Smithfield, NC 27577 (919) 934-2116

BILLING CODE 6718-03-C

Community Map Actions

(Codes: Where no entry is necessary use N/A)

Column Code:

1. Two letter state designator.
2. FIA Community 6-digit identity number.
3. Community name; County(ies) name.
4. Four digit number and suffix of each FIRM or FHBM panel printed.
5. INL/COAST
   I=INLAND
   C=COASTAL
6. HAZARD
   FL=FLOOD
   MS=MUDSLIDE
   ER=EROSION
   NF=NON FLOOD PRONE
   MF=MINIMALLY FLOOD PRONE
7. 60.3 CODE
   A=Special Hazard not defined, no elevation data (No FHBM)
   B=Special Hazard Designated, no elevation data (FHBM)
   C=FIRM, No Floodway or Coastal High Hazard
   D=FIRM, Regulatory Floodway Designated*
   E=FIRM, Coastal High Hazard*
8. PROGRAM STATUS
   1=EMERGENCY
   2=REGULAR
   3=NOT PARTICIPATING, NO MAP
   4=NOT PARTICIPATING, WITH MAP
   5=WITHDREW
   6=SUSPENDED
9. FHBM STATUS
   1=NEVER MAPPED
   2=ORIGINAL
   3=REVISED
   4=RESCINDED
   5=SUPERCEDED BY FIRM
9. FIRM STATUS
   1=NEVER MAPPED
   2=ORIGINAL
   3=REVISED
   4=RESCINDED
   5=ALL ZONE C–NO PUBLISHED FIRM
   6=ALL ZONE A AND C–NO ELEVATIONS DETERMINED
10. DATES OF ALL PREVIOUS MAPS
11. REVISION CODES
   1. 1916 BFE (Base Flood Elevation) Decrease
   2. 1916 BFE Increase
   3. 1916 SFHA (Special Flood Hazard Area) Change
   4. Change of Zone Designation; revised FIRM
   5. Curvilinear
   6. 1914 Incorporation
   7. 1914 Discorporation
   8. 1914 Annexation
   9. SFHA Reduction
   10. Non-1916 SFHA Increase Without Numbered Zones
   11. Non-1916 SHFA Increase with Numbered Zones
   12. Drafting Correction; Printing Errors
   13. Suffix Change ONLY
   14. Change to Uniform Zone Designations (7/1/74)
   15. Revisions Withdrawn
   16. Refunds Possible
   17. Letter of Map Amendment (1916)
   18. Letter of Map Amendment (1916 without Federal Register publication)
   19. Federal Register Omission
   20. Attention. A previous map (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.
   21. Miscellaneous
13. List of Numbered Floodway Panels Printed
14. Address of Community Map Repository

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

Issued: May 27, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-17422 Filed 6-9-80; 8:45 am]

BILLING CODE 6718-03-M

*Dual entry is available.

ACTION

45 CFR Part 1211

VISTA Volunteer Grievance Procedure

AGENCY: ACTION.

ACTION: Final regulation.

SUMMARY: This document revises ACTION's regulations on VISTA Volunteer Grievance Procedures in response to suggestions from volunteers and program staff. In addition, the procedure has been revised to include a section dealing with VISTA Volunteers serving in ACTION's National VISTA Grants Program.

EFFECTIVE DATE: This regulation shall take effect on July 25, 1980.

FOR FURTHER INFORMATION CONTACT: Angelo Traficanti; Chief, VISTA Policy Unit, 800–424–8580, Ext. 82.

SUPPLEMENTARY INFORMATION: The existing VISTA Volunteer Grievance Procedure was published in 1974, pursuant to Section 104(d) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4954(d)). It also apears in the *VISTA Volunteer Handbook* which is distributed to all VISTA Volunteers. Five years experience with the procedure has indicated a need for revision. In August 1979, all Regional and State Offices as well as the National VISTA Volunteer Forum were asked for suggestions as to changes in the procedure. A proposed rule incorporating these ideas and making minor editorial revisions in the existing procedures was published in the **Federal Register** for comment on November 16, 1979.

The Agency has considered the public comments received and has determined to adopt the proposed regulation with certain modifications. Discussed below are the provisions of the final regulation and the major public comments the Agency received in response to its proposed rule. While this regulation has been developed with consideration of comments from the public, as a matter involving volunteers, it is exempt from the requirements of Executive Order 12044, Improving Government Regulations.

I. Description of the Regulation

The regulation establishes a procedure by which VISTA Volunteers and all full-time volunteers serving under Part C of Title I of the Act may present and obtain resolution of their grievances. Under the regulation the volunteer first brings an informal grievance to the attention of the Chief Executive Officer of the sponsoring organization to which the volunteer is assigned and the State Program Director in an attempt to resolve the grievance on a local, informal basis. If the volunteer is dissatisfied with the informal resolution of the grievance a formal complaint may be presented to the appropriate Regional Director.

After a determination that the informal procedures were fully utilized, the Regional Director must either decide the grievance immediately on its merits or determine that the grievance should be rejected for the following reasons: (1) The volunteer exceeded the prescribed time limits, or (2) the grievance consists of matters not within the scope of the grievance procedures under this regulation. A volunteer may appeal a decision to reject the complaint to the Office of General Counsel for an opinion as to the appropriateness of the Regional Director's action. The opinion by the Office of General Counsel that the grievance exceeds the scope of the regulations or was not timely filed will be final. If the Office of General Counsel rules that the rejection was inappropriate, the grievance will be returned to the Regional Director for a decision on its merits. Once a decision on the merits of the grievance has been made, the volunteer shall be notified of the decision, the reasons underlying it, and the means of appeal.

A volunteer may appeal the decision of the Regional Director within five days of its receipt by requesting in writing that the Regional Director appoint a Grievance Examiner (subsequently referred to as Examiner). Upon receipt of such a request, an Examiner shall be appointed who after review of the complaint shall determine the appropriate scope of the investigation. In the investigation, the Examiner shall

provide the grievant an opportunity to present his or her position through personal interviews, group meetings, or any other manner which the Examiner determines to be conducive to a fair and impartial gathering of the facts. A hearing will be held only if the Examiner determines that the documentation reveals a disputed question of fact determinative to the resolution of an issue relevant to the grievance.

Once the investigation by the Examiner is completed, a report including recommendations which constitute the official grievance file is written and the grievance file is made available to the grieving volunteer for review and comment. After the volunteer has been given the opportunity to review and comment on the grievance file, the file is forwarded to the Director of VISTA for decision. The Director's decision shall be made within ten (10) days after receipt of the grievance file and shall be communicated to the volunteer in writing. The decision of the Director of VISTA is the final agency decision.

II. Discussion of Comments Received

A. Nature of the Comments

The Agency received ten (10) letters containing approximately twenty-five (25) comments on the draft regulations published in the November 16, 1979 **Federal Register**. Analysis of the comments reflect concern with the following three (3) categories: the scope of the regulations; the role of the Examiner; and the change in the submission of a grievance to the Examiner after the Regional Director's decision rather than before as in the previous regulations. These three (3) areas account for the majority of the comments received that were not of merely a technical nature.

Comments were received from the Agency Officials (7), and both present and past VISTA Volunteers (3). The following is the Agency's response to the substantive comments received.

B. Response

Scope of the Regulation—Definition of a Grievance. The Agency received comments from either past or present volunteers concerning the proper matters that should be covered by the regulations including the specific definition of grievance found in § 1211.1–3(b) and the matters not covered by the regulations found in § 1211.1–5. In general, the comments reflected the belief that the proposed definition of grievance was either too vague or too restrictive an interpretation of the proper areas in which a volunteer may file a grievance. It was suggested that the "terms and conditions of service" be defined as those set out in the *VISTA Volunteer Handbook* to provide more guidance. Another comment noted that as proposed, the definition of grievance did not allow or require policy changes if, in the course of a grievance, it is apparent that the present policies caused the grievance to arise.

The Agency agrees that the grieving volunteer who is directly affected by the policy may properly request a review of the policy which caused the grievance. However, this does not require the Agency to change the policy or procedure in the specific manner desired by the grievant. In this manner, volunteers will obtain individual relief as well as input into the specific policy involved in the grievance. However, the volunteer grievance procedure is not the appropriate mechanism for the development and revision of Agency policy. Such functions are properly the responsibility of the Agency and its internal management.

Furthermore, as a result of the concerns expressed in the comments, the Agency has clarified its definition of the "terms and conditions of service", by its expanded definition of grievance, but does not believe that referring to the *VISTA Volunteer Handbook* is an adequate solution. The Handbook is not an all-inclusive document of the volunteers' terms and conditions of service. Therefore, in order not to restrict the term unduly but to give some guidance in this area, the whole paragraph encompassing the scope a grievance must be read in order to define the terms and conditions of service of a VISTA Volunteer.

This was done to clarify both the, scope of the "terms and conditions of service" and to emphasize that the person who may utilize the procedure is the volunteer who alleges a denial or violation of such term or condition of service.

Structural Position of the Grievance Examiner. Two comments were received that protested the change in the proposed regulations from appointment of the Examiner prior to the Regional Director's decision to after the Regional Director's decision and prior to the final Agency decision of the Director of VISTA. One comment stated that such a change would place an undue burden on the Regional Director to determine the facts, and the other comment believed that such a change harmed the grieving volunteer who is now required to proceed through another step of Agency review prior to an independent review by an Examiner.

After consideration of both points, the Agency feels that the proposed present regulation's provision of the Examiner after the Regional Director's decision is the most economical, practical, and equitable procedure. The Regional Directors are more closely involved and familiar with the situation in their regions and would have access to sources of pertinent information regarding the grievances. Although the loss of the Examiner's report prior to their decision may place the burden of further investigation on the Regional Directors, it provides a means of formal resolution of the grievance prior to the assignment of the Examiner. The Agency does not feel that altering the placement of the Examiner to after the Regional Director's decision seriously affects the rights of the volunteer. The provision of an independent investigation is still available to the grieving volunteer who is not satisfied with the State and Regional response.

Role of the Examiner: The other comments received concerning the Examiner involved a demand that all grieving volunteers, once referred to the Examiner, are entitled to a full hearing. Neither this regulation nor the previous regulation ever gave the volunteers such a right, nor does the Agency believe a full hearing to be necessary in all grievances. The regulation requires a hearing before the Examiner only in those grievances in which a disputed question of fact determinative to the resolution of an issue relevant to the grievance is presented. If no hearing is required, an opportunity for presentation of relevant and material information to the Examiner is required. Furthermore, the grieving volunteer reviews and may submit comments on the completed file prior to the issuance of the report by the Examiner.

Accordingly, 45 CFR Part 1211 is revised to read as follows:

PART 1211—VOLUNTEER GRIEVANCE PROCEDURES

Sec.

1211.1–1 Purpose.
1211.1–2 Applicability.
1211.1–3 Definitions.
1211.1–4 Policy.
1211.1–5 Matters not covered.
1211.1–6 Freedom to initiate grievances.
1211.1–7 Entitlement to representation.
1211.1–8 Time for preparation and presentation.
1211.1–9 Access to agency records.
1211.1–10 Informal grievance procedure.
1211.1–11 Initiation of formal grievance procedure.
1211.1–12 Inquiry by grievance examiner.
1211.1–13 Grievance file and examiner's report.

Sec.

1211.1–14 Final determination by director of VISTA.
1211.1–15 Disposition of grievance appeal files.
1211.1–16 Grievance procedure for national VISTA grants volunteers.
Appendix A: Standards for Examiners.

Authority: Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414.

§ 1211.1–1 Purpose.

This Part establishes procedures under which certain volunteers enrolled under Pub. L. 93–113 may present and obtain resolution of grievances.

(Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414)

§ 1211.1–2 Applicability.

This Part applies to all volunteers enrolled under Part A of Title I of the Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93–113, (42 U.S.C. 4951 *et seq.*).

(Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414)

§ 1211.1–3 Definitions.

(a) "Volunteer" means a person enrolled and currently serving as a full-time volunteer under Part A of Title I of the Domestic Volunteer Service Act of 1973. For the purpose of this part, a volunteer whose service has terminated shall be deemed to be a volunteer for a period of 90 days thereafter.

(b) "Grievance" means a matter arising out of, and directly affecting, the volunteer's work situation, or a violation of those regulations governing the terms and conditions of service resulting in the denial or infringement of a right or benefit to the grieving volunteer. Terms and conditions of service refer to those rights and privileges accorded the volunteer either through statute, Agency regulation, or Agency policy.

The relief requested must be directed toward the correction of the matter involving the affected individual volunteer or the affected group of volunteers and may request the revision of existing policies and procedures to ensure against similar occurrences in the future. Requests for relief by more than one volunteer arising from a common cause within one region may be treated as a single grievance. The following are examples of grievable matters:

(i) A volunteer is assigned to an area of harsh climate where special clothing is necessary and not already possessed by the volunteer. A request for a special allowance for such clothing is arbitrarily refused.

(ii) A volunteer submits a request for reimbursement for transportation costs incurred while on authorized emergency leave which is denied.

(iii) The project sponsor fails to provide adequate support to the volunteer necessary for that volunteer to perform the assigned work, such as the sponsor's failure to provide materials to the volunteer which is necessary for the performance of the volunteer's work.

(c) "State Program Officer" means that ACTION official who is directly responsible at the first level for the project in which the volunteer is serving.

(d) "Sponsor" means a public or private nonprofit agency to which ACTION has assigned volunteers.

(e) "Grievance Examiner" or "Examiner" means a person having the qualifications described in Appendix A who is appointed to conduct an inquiry or hearing with respect to a grievance.

(f) "National VISTA Grants Program" means a program operated under Part A, Title I of the Domestic Volunteer Service Act in which ACTION awards a grant to a national grantee to operate a VISTA Volunteer program on a national or multi-regional basis.

(g) "Local component" means a local office or project affiliate of a national grantee which has VISTA Volunteers assigned to it under the National VISTA Grants Program.

(h) The "Act" means the Domestic Volunteer Service Act of 1973, Pub. L. 93–113, (42 U.S.C. 4951 *et seq.*), as amended.

(Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414)

§ 1211.1–4 Policy.

It is ACTION's policy to provide volunteers the widest latitude to present their grievances and concerns to appropriate officials of ACTION and of sponsoring organizations. This regulation is designed to assure that the rights of individual volunteers are recognized and to provide formal ways for them to seek redress with confidence that they will obtain just treatment.

(Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414)

§ 1211.1–5 Matters not covered.

Matters not within the definition of a grievance as defined in § 1211.1–3(b) are not eligible for processing under this procedure. The following are specific examples of excluded areas and are not intended as a complete listing of the matters excluded by this Part:

(a) The establishment of a volunteer project, its continuance or discontinuance, the number of volunteers assigned to it, increases or decreases in the level of support provided to a project, suspension or termination of a project, or selection and retention of project staff.

(b) Matters for which a separate administrative procedure is provided.

(c) The content of any law, published rule, regulation, policy or procedure.

(d) Matters which are, by law, subject to final administrative review outside ACTION.

(e) Actions taken in compliance with the terms of a contract, grant, or other agreement.

(f) The internal management of the ACTION Agency unless such management is specifically shown to individually and directly affect the volunteer's work situation or the terms and conditions of service as defined in § 1211.1–3(b).

(Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414)

§ 1211.1–6 Freedom to initiate grievances.

The initiation of a grievance shall not be construed as reflecting on a volunteer's standing, performance or desirability as a volunteer. ACTION intends that each supervisor and sponsor, as well as ACTION and its employees, maintain a healthy atmosphere in which a volunteer can speak freely and have frank discussions of problems. A volunteer who initiates a grievance shall not as a result of such an action be subjected to restraint, interference, coercion, discrimination or reprisal.

(Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414)

§ 1211.1–7 Entitlement to representation.

A volunteer may be accompanied, represented, and advised by a representative of the volunteer's own choice at any stage of the proceeding. The volunteer shall designate his or her representative in writing. A person chosen by the volunteer must be willing to act as representative and have no conflict between his or her position and the subject matter of the grievance.

(Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414)

§ 1211.1–8 Time for preparation and presentation.

(a) Both a volunteer and a volunteer's representative, if another volunteer or an employee of ACTION, must be given a reasonable amount of administrative leave from their assignments to present a grievance or appeal.

(b) ACTION will not pay travel expense or per diem travel allowances for either a volunteer or his or her representative in connection with the preparation of a grievance or appeal, except in connection with a hearing and the examination of the grievant file as provided in § 1211.1–12(c).

(Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414)

§ 1211.1–9 Access to agency records.

(a) A volunteer is entitled to review any material in his or her official volunteer folder and any relevant Agency documents to the extent permitted by the Freedom of Information Act and the Privacy Act, as amended, 5 U.S.C. 552, U.S.C. 552a. Examples of documents which may be withheld from volunteers include references obtained under a pledge of confidentiality, official volunteer folders of other volunteers, and privileged intra-agency documents.

(b) A volunteer may review relevant documents in the possession of a sponsor to the extent such documents are disclosable under the Freedom of Information Act and Privacy Act.

(Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414)

§ 1211.1–10 Informal grievance procedure.

(a) Initiation of grievance. A volunteer may initiate a grievance within 15 calendar days after the event giving rise to the grievance occurs, or within 15 calendar days after becoming aware of the event. A grievance arising out of a continuing condition or practice that individually affects the volunteer may be brought at any time. A volunteer initiates a grievance by presenting it in writing to the chief executive officer of the sponsor, or the representative designated to receive grievances from volunteers. The designated representative may not be the immediate supervisor of volunteers assigned to the sponsor. The chief executive officer of the sponsor or the designated representative shall respond in writing to the grievance within five (5) working days after receipt. The chief executive officer or designee may not refuse to respond to a complaint on the basis that it is not a grievance as defined in § 1211.1–3(b), or that it is excluded from coverage under § 1211.1–5, but may, in the written response, refuse to grant the relief requested on either of these grounds.

If the grievance involves a matter over which the sponsor has no control, or if the chief executive officer is the immediate supervisor of the volunteer, the procedures described in this section may be omitted, and the volunteer may present the grievance in writing directly to the State Director or designee as described in paragraph (b) of this section within the time limits specified in this paragraph (a).

(b) Consideration by ACTION State Director or designee. If the matter is not resolved to the volunteer's satisfaction by the sponsor's chief executive officer, the volunteer may submit the grievance in writing to the ACTION State Director or designee within five (5) working days after receipt of the decision of the sponsor's chief executive officer. The State Director or designee may not refuse to receive a complaint, even if he or she believes it does not constitute a grievance, and shall respond to it in writing within five (5) working days after receipt. The response may indicate that the matter is not grievable. If the State Director or designee fails to meet the time limit for response, the volunteer may initiate a formal grievance.

(c) Discussion. All parties to the informal grievance procedure must be prepared to participate in full discussion of the grievance, and to permit the participation of others who may have knowledge of the circumstances of the grievance in the discussion. State Program Officers and other ACTION employees may participate in discussions and provide guidance with respect to ACTION policies and procedures, at the request of any party, even prior to submission of a grievance to them.

(d) Sponsor grievance procedure. A sponsor may substitute its own grievance procedure for the procedure described in paragraph (a) of this section. Any such procedure must provide the volunteer with an opportunity to present a grievance at least as comprehensive as that contained in this section, must meet the time limits of this section, and must be provided in writing to all volunteers. In order to utilize its own grievance procedures, the sponsor must obtain approval of the procedure from the ACTION State Director and file a copy of this approved procedure with the State Office.

(Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414)

§ 1211.1–11 Initiation of formal grievance procedure.

(a) Submission of grievance to Regional Director. If a volunteer is dissatisfied with the response of the State Director or designee required by § 1211.1–10(b), he or she may present the grievance in writing to the Regional Director. To be eligible for the formal grievance procedure, the volunteer must have completed action under the informal procedure contained in § 1211.1–10 or have alleged that the State Director or designee exceeded the time specified for response.

(b) Contents of grievance. The volunteer's grievance must be in writing, contain sufficient detail to identify the subject matter of the grievance, specify the relief requested, and be signed by the volunteer or a person designated in writing by the volunteer to be the representative for the purpose of the grievance.

(c) Time limit. The volunteer must submit the grievance to the Regional Director or designee no later than 15 calendar days after receipt of the informal response by the State Director or designee. If no response is received by the volunteer 15 calendar days after the grievance is received by the State Director or designee, the volunteer may submit the grievance directly to the Regional Director or designee for consideration.

(d) Within ten (10) working days of the receipt of the grievance, the Regional Director or designee shall, in whole or in part, either decide it on its merits or reject the grievance. A grievance may be rejected, in whole or in part, for the following reasons:

(1) It was not filed within the time limit specified in paragraph (c) of this section, or

(2) The grievance consists of matters not contained within the definition of a grievance.

(e) Rejection of a grievance by the Regional Director or designee may be appealed by the volunteer within ten (10) days of receipt of the notice to the Office of General Counsel. The Office shall immediately request the grievance file from the Regional Director and, within five (5) working days of receipt of it, determine the appropriateness of the rejection. If the grievance was properly rejected by the Regional Director, the Office shall so notify the volunteer of its opinion and the reasons supporting it, and that such rejection is the final Agency decision in the matter. If the Office determines that the grievance was improperly rejected, it shall return the grievance to the Regional Director for a determination on its merits by the Regional Director. Within ten (10) working days of such notification and receipt of the grievance file, the Regional Director or designee shall notify the volunteer in writing of the decision on the merits and specify the grounds for the decision and of the volunteer's right to appeal.

(f) Time Limit. If a volunteer is dissatisfied with the decision of the Regional Director or designee on the merits of the grievance, he or she shall notify the Regional Director within five (5) calendar days from receipt of the decision and request the appointment of an Examiner. If the volunteer receives no response from the Regional Director or Office of General Counsel as required by paragraph (d) and (e) of this section within five (5) calendar days after the

prescribed time limits, the volunteer may request in writing that the Regional Director appoint a Grievance Examiner. Upon receipt of this request, the Regional Director or designee shall appoint within five (5) calendar days an Examiner who shall possess the qualifications specified in Appendix A to this part.

(Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414)

§ 1211.1–12 Investigation by Grievance Examiner.

(a) Scope of investigation. The Examiner shall conduct an investigation of a nature and scope appropriate to the issues involved in the grievance.

Unless waived by the volunteer, a hearing must be held if the Examiner finds that the grievance involves disputed questions of fact that go to the heart of the agency determination. Only those facts found necessary by the Examiner on which to base his or her findings go to the heart of the Agency determination.

If the grievance does not involve such disputed questions of fact, or if the volunteer waives a hearing, the Examiner need not hold a hearing but must provide the parties an opportunity for presentation of their respective positions. At the Examiner's discretion, the investigation may include:

(1) The securing of documentary evidence,

(2) Personal interviews, including telephone interviews,

(3) Group meetings,

(4) Affidavits, written interrogatories or depositions.

(b) Conduct of Hearing. If a hearing is held, the conduct of the hearing and production of witnesses shall conform with the following requirements:

(1) The hearing shall be held at a time and place determined by the Examiner who shall consider the convenience of parties and witnesses and expense to the Government in making his or her decision.

(2) Attendance at the hearing will be limited to persons determined by the Examiner to have a direct connection with the grievance. If requested by the volunteer, the Examiner must open the hearing to the public.

(3) The hearing shall be conducted so as to bring out pertinent facts, including the production of pertinent records.

(4) Formal rules of evidence shall not be applied strictly, but the Examiner may exclude irrelevant or unduly repetitious testimony or evidence.

(5) Decisions on the admissibility of evidence or testimony shall be made by the Examiner.

(6) Testimony shall be under oath or affirmation, administered by the Examiner.

(7) The Examiner shall give the parties an opportunity to present oral and written testimony that is relevant and material, and to cross-examine witnesses who testify.

(8) The Examiner may exclude any person from the hearing for conduct that obstructs the hearing.

(c) Witnesses. (1) All parties are entitled to produce witnesses.

(2) Volunteers, employees of a sponsor, and employees of ACTION shall be made available as witnesses when requested by the Examiner. The Examiner may request witnesses on his or her initiative. Parties shall furnish to the Examiner and to opposing parties a list of proposed witnesses, and an explanation of what the testimony of each is expected to show, at least ten (10) calendar days before the date of the hearing. The Examiner may waive the time limit in appropriate circumstances.

(3) Employees of ACTION shall remain in a duty status during the time they are made available as witnesses.

(4) Volunteers, employees and any other persons who serve as witnesses shall be free from coercion, discrimination or reprisal for presenting their testimony.

(5) The Examiner must authorize payment of travel expenses and per diem at standard Government rates for the volunteer and the representative to attend the hearing. Payment of travel expenses and per diem at standard Government rates for other witnesses to attend the hearing are authorized only after the Examiner determines that the required testimony cannot be satisfactorily obtained by affidavit, written interrogatories, or deposition, at a lesser cost.

(d) Recording of Hearing. A grievant may make a recording of the hearing at his or her own expense if no verbatim transcript is made. Such a recording is in no way to be treated as the official transcript of the hearing.

(e) Report of Hearing. The Examiner shall normally prepare a written summary of the hearing which shall include all documents and exhibits submitted to and accepted by the Examiner during the course of the grievance. An Examiner may require a verbatim transcript if he or she determines that the grievance is so complex as to require such a transcript. If the hearing is reported verbatim, the Examiner shall make the transcript a part of the record of the proceedings. If the hearing is not reported verbatim, a suitable summary of pertinent portions of the testimony shall be made part of the record of proceedings. In such cases, the summary together with exhibits shall constitute the report of the hearing. The parties are entitled to submit written exceptions to any part of the summary, and these written exceptions shall be made part of the record of proceedings.

(Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414)

§ 1211.1–13. Grievance file and examiner's report.

(a) Preparation and content. The Examiner shall establish a grievance file containing all documents related to the grievance, including statements of witnesses, records or copies thereof, and the report of the hearing when a hearing was held. The file shall also contain the Examiner's report of findings and recommendations.

(b) Review by volunteer. On completion of the inquiry, the Examiner shall make the grievance file available to the volunteer and the representative, if any, for review and comment. Their coments, if any, shall be submitted to the Examiner within five (5) calendar days after the file is made available and shall be included in the file.

(c) Examiner's report. After the volunteer has been given an opportunity to review the grievance file, the Examiner shall submit the complete grievance file to the Director of VISTA.

(Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414)

§ 1211.1–14. Final determination by Director of VISTA.

The Director of VISTA or designee shall issue a written decision on the appeal to the volunteer within ten (10) working days after receipt of the appeal file. The decision shall include a statement of the basis for the determination, and shall be the final Agency decision.

(Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414)

§ 1211.1–15. Disposition of grievance appeal files.

All grievance appeal files shall be retained by the Director of VISTA after the grievance has been settled, or a final decision has been made and implemented. No part of a grievance or appeal file may be made part of, or included in, a volunteer's official folder.

§ 1211.1–16. Grievance procedure for national VISTA grant volunteers.

The grievance procedure for National VISTA Grant Volunteers shall be the same as that provided in this part with the following substitutions of officials:

(a) Informal grievance procedure:

(1) The initiation of an informal grievance for a National Grant VISTA, see Section 1211.1–10, shall normally be to the sponsor of the local component. If the grievance involves a matter solely within the control of the ACTION State Office, the volunteer may present the grievance to the State Director or designee in lieu of the local component sponsor.

(2) If the volunteer is not satisfied with the response of the appropriate official (sponsor of local component, or State Director or designee), the volunteer may submit the grievance to the chief executive of the national grantee.

(b) Formal grievance procedure:

The Chief, VISTA Program Development Branch or designee shall replace the Regional Director as the official in § 1211.1–11.

(Secs. 104(d), 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414)

Appendix A—Standards for Examiners

An examiner must meet the requirements specified in either (1), (2), (3), or (4) below:

(1) Current or former federal employees now or formerly in grade GS–12 or equivalent, or above who have:

(a) At least four (4) years of progressively responsible experience in administrative, managerial, professional, investigative, or technical work which has demonstrated the possession of:

(i) The personal attributes essential to the effective performance of the duties of an Examiner, including integrity, discretion, reliability, objectivity, impartiality, resourcefulness, and emotional stability.

(ii) A high degree of ability to:

Identify and select appropriate sources of information; collect, organize, analyze, and evaluate information; and arrive at sound conclusions on the basis of that information;

Analyze situations; make an objective and logical determinationn of the pertinent facts; evaluate the facts; and develop practicable recommendations or decisions on the basis of facts;

Recognize the causes of complex problems and apply mature judgment in assessing the practical implications of alternative solutions to those problems;

Interpret and apply regulations and other complex written material;

Communicate effectively, orally and in writing, including the ability to prepare clear and concise written reports; and

Deal effectively with individuals and groups, including the ability to gain the cooperation and confidence of others.

(iii) A good working knowledge of:

The relationship between volunteer administration and overall management concerns; and

The principles, systems, methods, and administrative machinery for accomplishing the work of an organization.

(2) Designation as an arbitrator on a panel of arbitrators maintained by either the Federal Mediation and Conciliation Service or the American Arbitration Association.

(3) Current or former employment as, or current eligibility on the Office of Personnel Management register for Examiners GS–935–0.

(4) Membership in good standing in the National Academy of Arbitrators.

Signed at Washington, D.C. this 4th day of June, 1980.

Sam Brown,

Director.

[FR Doc. 80–17556 Filed 6–9–80; 8:45 am]

BILLING CODE 6050–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Providence & Worcester Co. Authorized To Operate Over Tracks of Warwick Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1394–A

SUMMARY: This order vacates Service Order No. 1394. Providence and Worcester was authorized by order of the Commission the acquisition of the Warwick Railway Company through a purchase of the latter's stock. On May 1, 1980, Providence and Worcester exercised the authority granted by the Commission and consummated its stock purchase. Accordingly, there is no need to continue Service Order No. 1394 in effect.

EFFECTIVE DATE: 11:59 p.m., June 4, 1980.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840.

Decided: June 4, 1980.

Upon further consideration of Service Order No. 1394 (44 FR 48693), and good cause appearing therefor:

§ 1033.1394 [Service Order No. 1394]

It is ordered, § 1033.1394 Providence and Worcester Company authorized to operate over tracks of Warwick Railway Company.

Service Order No. 1394 is vacated effective 11:59 p.m., June 4, 1980.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

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

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

James H. Bayne,

Acting Secretary.

[FR Doc. 80–17559 Filed 6–9–80; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 260

Inspection and Certification; Fees and Charges

AGENCY: National Marine Fisheries Service, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to increase the hourly rates for inspection fees. On October 1, 1979, the President, by Executive Order 12165 (44 FR 58671), increased the rates of basic pay of General Schedule employees. 50 CFR 260.81(a) requires that the hourly rates for inspection fees be automatically increased on the effective date of the pay adjustment by an amount equal to the increase received by the average General Schedule grade level of fishery product inspectors receiving such pay increases. This pay increase resulted in a 7.0 percent increase in the basic pay of fishery product inspectors.

DATE: These amended rates became effective October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Irving D. Sackett, Jr., Field Operations Coordinator, Seafood Research, Inspection and Consumer Services Division, National Marine Fisheries Service, Washington, D.C. 20235, (202) 634–7458.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 4 of 1970 (84 Stat. 2090), § 260.70 of Part 260, Inspection and Certification, is hereby amended by adjusting the rates for fees and charges to provide for the recovery of increased costs attributable to the upward adjustment of the rates of basic pay of fishery product inspectors.

Dated: May 30, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

§ 260.70 [Amended]

Accordingly § 260.70, paragraphs (b) (1), (2) and (3) are revised as follows:

* * * * *

(b) * * *

(1) Type I—Official establishment and product inspection—contract basis:

	Per hour
Regular time	$19.00
Overtime	25.75
Sunday and legal holidays (2 hr. minimum)	31.55

The contracting party shall be charged at an hourly rate of $19.00 per hour for regular time; $25.75 per hour for overtime in excess of 8 hours per shift per day; and $31.55 per hour for Sunday and national legal holidays for service performed by inspectors at official establishment(s) operating under Federal inspection. The contracting party shall be billed monthly for services rendered in accordance with contractual provisions at the rates prescribed in this section. At an official establishment designated in a contract, products also designated therein will be inspected during processing at the hourly rate for regular time, plus overtime, when appropriate. Products not designated in the contract will be inspected upon request on a lot inspection basis at lot inspection rates as prescibed in this section.

(2) Type II—Lot inspection—Official and unofficially drawn samples:

	Per hour
Regular time	$28.30
Overtime	37.85
Sunday and legal holidays (2 hr. minimum)	48.40
Minimum fee	22.55

For lot inspection services performed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, $28.30 per hour. For lot inspection services performed at times Monday through Friday other than 7:00 a.m. to 5:00 p.m. and on Saturdays (2 hr. minimum) $37.85 per hour. Sunday and national legal holidays (2 hr. minimum) $48.40 per hour. The minimum service fee to be charged and collected for inspection of any lot or lots of products requiring less than 1 hour shall be $22.55.

(3) Type III—Miscellaneous inspection and consultative services. When any inspection or related service, such as but not limited to, initial and final establishment surveys, appeal inspections, sanitation evaluation, SIFE inspections, sampling product evaluation, and label and product specification review, rendered is such that charges based on the foregoing sections are clearly inapplicable, charges will be based on the rates set forth below:

	Per hour
Regular time	$23.80
Overtime	30.85
Sunday and legal holidays (2 hr. minimum)	39.40
Minimum fee	17.95

For miscellaneous inspection and consultative services performed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday—$23.80; for miscellaneous inspection and consultative services performed at times Monday through Friday other than 7:00 a.m. to 5:00 p.m. and on Saturdays (2 hr. minimum)—$30.85 per hour.

For miscellaneous inspection and consultative services performed on Sunday and national holidays (2 hr. minimum)—$39.40 per hour. The minimum service fee to be charged and collected for miscellaneous inspection and consultative services requiring less than 1 hour shall be $17.95.

* * * * *

(36 FR 21038, Nov. 3, 1971, as amended at 44 FR 3296, Jan. 16, 1979)

[FR Doc. 17586 Filed 6-9-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 113
Tuesday, June 10, 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 330

Recruitment, Selection, and Placement (General)

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: To assist agencies in carrying out the Federal Employees Part-time Career Employment Act of 1978, of the Office of Personnel Management (OPM) proposes to amend its regulations to prohibit individuals participating in the special Part-time Direct Hire Program from using their acquired status to move to full-time positions until they have completed at least 1 calendar year of part-time service.

DATE: To receive consideration, comments must be received on or before August 11, 1980.

ADDRESS: Send or deliver written comments to Chief, Office of Policy Analysis and Development, Staffing Services, Office of Personnel Management, 1900 E Street, N.W., Room 6526, Washington, D.C. 20415.

FOR FURTHER INFORMATION: Ellen Russell, 202–632–6817.

SUPPLEMENTARY INFORMATION: OPM has developed a special Part-time Direct Hire Program to help agencies deal with the reported shortages of qualified part-time candidates in many occupational fields. Agencies which volunteer for the program, and whose proposals meet OPM criteria, will be able to directly offer career-conditional appointments to qualified candidates for part-time positions included in the program. To ensure that the direct hire authority is used as a legitimate way of filling part-time jobs and to screen out candidates interested in rapid transition to full time, a restriction on noncompetitive movement to full-time will be imposed on employees participating in this program. To prevent misunderstanding, agencies will be required to fully explain the restriction on movement before appointment and obtain a written statement of understanding from participating employees.

OPM has determined that this is a significant regulation for purposes of E.O. 12044.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, the Office of Personnel Management proposes to add 5 CFR 330.504 to read as follows:

§ 330.504 Special restrictions after appointment under part-time direct hire program.

(a) A person hired under the Part-time Direct Hire Program may not be changed to full time through:

(1) A position change;

(2) A work schedule change;

(3) An appointment by transfer; or

(4) Reinstatement based on appointment under the Part-time Direct Hire Program until he or she has completed at least 1 calendar year of service in a part-time position under the program.

(b) In the event of a break in service, the service requirement in (a) paragraph of this section is computed on the basis of the employee's total weeks in a pay status, 52 weeks equaling 1 calendar year.

(c) Agencies may waive this restriction only in the event of extreme personal hardship to the employee.

[FR Doc. 80–17562 Filed 6–9–80; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 725

Flue-Cured Tobacco Acreage Allotment and Market Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture is considering amending the regulations governing the reporting and recordkeeping requirements pertaining to warehousemen and dealers. Experience gained in past marketing seasons indicates a need to clarify and strengthen existing reporting and recordkeeping requirements as a means of discouraging warehousemen and dealers from substituting good quality "excess" tobacco for inferior tobacco so as to avoid payment of marketing quota penalties. Most of the proposed changes are the result of recommendations by the Department's Office of the Inspector General (OIG) which has conducted recent investigations of warehouse and dealer marketing operations. The proposed rule would:

1. Define the phrase "tobacco in the form not normally marketed by producers."

2. Expand the inspection requirements for dealer carryover tobacco and warehouse tobacco on hand at the end of the marketing season.

3. Strengthen the reporting requirements and expand the inspection requirements for tobacco purchased by dealers and warehousemen from processors or manufacturers.

4. Require dealers to report their gross receipts for each lot of tobacco purchased and resold.

5. Require dealers, warehousemen, or other persons to maintain a separate accounting on Form MQ–79 for tobacco purchased from processors or manufacturers, in the form not normally marketed by producers.

DATE: Comments must be received before July 10, 1980, in order to be sure of consideration.

ADDRESS: Mail comments to the Director, Production Adjustment Division, ASCS, U.S. Department of Agriculture, 3630-South Building, P.O. box 2411, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Program Specialist, Agricultural Stabilization and Conservation Service, Washington, D.C. 20013 (202) 447–7935. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Thomas R. Burgess.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." Jeffress A. Wells, Director, Production Adjustment Division has determined

that an emergency exists which warrants less than a 60 day comment period on this proposed action because dealers and warehousemen are making preparations for the 1980 marketing season and they need to know as soon as possible these proposed changes in their recordkeeping and reporting requirements. Accordingly, the Agricultural Stabilization and Conservation Service is considering amendments to the flue-cured tobacco regulations (7 CFR Part 725), as follows:

1. Section 725.51 would be amended by adding a definition of "tobacco in the form not normally marketed by producers."

2. Section 725.99 would be amended to provide for the reinspection of warehouse carryover tobacco before the beginning of the next marketing season.

3. Section 725.100 would be amended to: (1) Provide for reinspection of dealer carryover tobacco by a State ASCS office representative before the next marketing year begins; (2) Change the date for filing Form MQ–79, Dealers Record (marked final) from March 1 to December 15 of the current marketing year; (3) Provide for the keeping of such records as will enable a dealer to enter on Form MQ–79 the gross amount of money for each lot of tobacco purchased and the gross amount of money for each lot of tobacco sold at resale; and (4) Provide for a separate accounting on Form MQ–79 of all marketing transactions relating to acquisitions by dealers and warehousemen of tobacco in the form not normally marketed by producers.

4. Section 725.101 would be amended to: (1) Require dealers, warehousemen, or other persons who purchase from processors or manufacturers tobacco in form not normally marketed by producers to obtain ASCS inspection when this tobacco is marketed, disposed of by any other means or blended with other tobacco. The failure to arrange for this inspection would be cause for the tobacco to be deemed to have been substitued for excess tobacco and penalty at the full rate would be due. (2) Provide that tobacco purchased for resale by a dealer, warehouseman, or other person before such plans are reported to the State ASCS office issuing Form MQ–79, Dealer's Record Book, and such tobacco is inspected by an ASCS representative shall be deemed excess tobacco and penalty at the full rate shall be due.

Current rules do not provide for adequate inspection by ASCS representatives of warehouse and dealer tobacco on hand at the end of the marketing season. The proposed changes are needed to prevent dealers and warehousemen from substituting low quality, low price tobacco for good quality "excess" producer tobacco (tobacco produced in excess of 110 percent of the farm quota) to avoid the payment of marketing quota penalties.

Prior to making any determinations, the Department will consider comments, views, and recommendations timely submitted in writing to the Director, Production Adjustment Division. All written submissions made pursuant to the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday in Room 3630-South Building, 14th and Independence Avenue, S.W., Washington, D.C.

Proposed Rule

It is proposed that 7 CFR Part 725 be amended as follows:

1. In § 725.51 paragraphs (oo), (pp), and (qq) are revised and a new paragraph (rr) is added to read as follows:

§ 725.51 Definitions.

* * * * *

(oo) *Tobacco in the form not normally marketed by producers.* Tobacco leaves, stems, strips, scrap or parts thereof that are the result of green tobacco having been redried, green prized, stemmed, tipped, threshed or otherwise processed.

(pp) *Trucker.* A person who trucks or otherwise hauls tobacco for a producer, or any other person.

(qq) *Undermarketings.* The number of pounds by which the effective farm marketing quota is more than the number of pounds marketed.

(rr) *Warehouseman.* A person who engages in the business of holding sales of tobacco at public auction.

2. Section 725.99 is amended by adding a new subparagraph (g)(17) as follows:

§ 725.99 Warehouseman's records and reports.

* * * * *

(g) * * *

(17) Before the next marketing season begins, carryover tobacco reported by the warehouseman as provided in paragraphs (g)(16)(i), (ii) and (iii) of this section, shall be reinspected by a representative of ASCS. If the reinspection indicates a larger amount of carryover tobacco than that amount determined by the initial inspection, the warehouseman shall provide for the reweighing of such tobacco. If the weight of such tobacco is determined to be larger, by reweighing, than the amount reported on the intial certification, the larger amount shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due.

3. In § 725.100 paragraph (a) is revised paragraph (c) is amended by revising the first sentence in subparagraphs (4) and (5) and by adding a new subparagraph (6); and a new paragraph (g) is added.

§ 725.100 Dealer's records and reports.

(a) *Record of marketing.* Each dealer shall keep such records as will enable the dealer to furnish the State ASCS office for each lot of tobacco purchased by the dealer the following information:

(1)(i) The name of the warehouse through which the tobacco was purchased if the tobacco was purchased by the dealer at a warehouse sale, (ii) the name of the operator of the farm on which the tobacco was produced and the name of the seller if the tobacco was purchased by the dealer at a nonauction sale, including the records and reports for farm scrap tobacco, and (iii) the name of the seller if the tobacco was purchased by the dealer at a nonauction sale from warehousemen or other dealers.

(2) Date of purchase.

(3) Number of pounds purchased.

(4) Gross purchase price.

(5) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer, and as to each lot of tobacco sold by the dealer the following information:

(i) Name of the warehouse through which the tobacco was sold if the tobacco was sold at a warehouse sale, and the name of the purchaser if the tobacco was sold at other than an auction warehouse sale.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) Gross sale price.

(v) If tobacco bought by the dealer and carried over from a crop produced before the current crop is resold, the fact that such tobacco was bought and carried over.

* * * * *

(c) *Record and report of purchases and resales.* * * *

(4) At the end of the dealer's marketing operation, but not later than December 15, the dealer shall for each kind of tobacco: * * *

(5) Notwithstanding the provisions of paragraph (c)(4) of this section, any dealer having tobacco transactions after December 15, shall make reports on Form MQ–79 at the end of each week, as provided in paragraph (c)(2) of this section.

(6) Before the beginning of the next marketing season, carryover tobacco reported by the dealer as provided in

subparagraph (c)(4) of this section shall be reinspected. If the reinspection indicates a larger amount of carryover tobacco than that amount determined by the initial inspection, the dealer shall provide for the reweighing of such tobacco. If the weight of such tobacco is determined to be larger, by reweighing, than the amount reported on the initial certification, the larger amount shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due.

* * * * *

(g) *Reporting of tobacco in the form not normally marketed by producers.* Any dealer, warehouseman, or other person who purchases tobacco from processors or manufacturers under conditions provided in § 725.101(c) shall maintain on a separate Form MQ–79 a record of all such purchases and resales.

4. In § 725.101 paragraphs (a) and (b) are revised and a new paragraph (c) is added to read as follows:

§ 725.101 Dealer purchases of damaged tobacco or tobacco from processors or manufacturers.

(a) *Damaged tobacco.* Any dealer, warehouseman, or other person who plans to purchase tobacco that was damaged by fire, water, or any other cause shall prior to purchase report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so as to allow prior inspection by a representative of the State ASCS office to determine the marketable value of such damaged tobacco, and to allow the weighing and removal of such tobacco to be witnessed by a representative of the State ASCS office. Any damaged tobacco purchased by the dealer before such plans are reported to the State ASCS office and before such tobacco is inspected by an ASCS representative shall be deemed excess tobacco and penalty at the full rate shall be due.

(b) *Purchase from processor or manufacturer.* Any dealer, warehouseman, or other person who plans to purchase tobacco from a processor or manufacturer shall prior to purchase, report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so as to allow prior inspection by a representative of the State ASCS office to determine the marketable value of the tobacco, and whether the tobacco is in the form normally marketed by producers. The weighing and removal of the tobacco shall be witnessed by a representative of the State ASCS office. Any tobacco purchased from processors or manufacturers before such plans are reported to the State ASCS office and before the tobacco is inspected by a State ASCS representative shall be deemed to be excess tobacco and penalty at the full rate shall be due.

(c) Any dealer, warehouseman, or other person who purchases tobacco from processors or manufacturers which is determined by an ASCS representative to be in the form not normally marketed by producers shall, before such tobacco is disposed of or blended with other tobacco in the form normally marketed by producers, report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so as to allow an ASCS representative to witness the disposition of or the blending of such tobacco. Any such tobacco purchased by a dealer, warehouseman, or other person and marketed, disposed of by any means, or blended with other tobacco before the State ASCS office has been timely notified, shall be deemed to have been substituted for excess tobacco, and penalty at the full rate shall be due on each pound of such tobacco.

(Sections 301, 313, 314, 316, 317, 363, 372–375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65–66, as amended, 72 Stat. 995; section 401, 63 Stat. 1054, as amended, sections 106, 112, 125, 70 Stat. 191, 195, 198, as amended, section 16(e), 76 Stat. 606: (7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363, 1372, 1377, 1378, 1421, 1813, 1824, 1836), (16 U.S.C. 590p(e)).)

Signed at Washington, D.C., on June 4, 1980.

Weldon B. Denny,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80–17558 Filed 6–9–80; 8:45 am]

BILLING CODE 3410–05–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Share Accounts and Share Certificate Accounts

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The National Credit Union Administration Board, after considering a final rule adopted by the Depository Institutions Deregulation Committee, is proposing an amendment to § 701.35(c)(2)(ii) of the National Credit Union Administration rules and regulations (12 CFR 701.35(c)(2)(ii)) that would permit Federal credit unions to continue to pay dividends on all share certificate accounts at the originally agreed upon dividend rate for up to seven days after the maturity date. Prior to this proposed amendment, the seven day grace period was applicable only to 26-week money market certificates. All other share certificates were not subject to any limit on such grace periods.

DATES: Comments must be received on or before July 23, 1980.

ADDRESS: Send comments to Robert S. Monheit, Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: J. Leonard Skiles, Deputy General Counsel or Todd A. Okun, Senior Attorney, Office of General Counsel, at the above address or (202) 357–1030.

SUPPLEMENTARY INFORMATION: On May 15, 1980, the National Credit Union Administration Board (Board) authorized a final regulation to permit Federal credit unions to allow a grace period of up to seven days beyond maturity on 26-week money market certificates. Simultaneous with the decision to allow grace periods of up to seven days for 26-week money market certificate accounts, the Board also decided to propose a rule that would regulate the length of grace periods currently permitted for all types of share certificate accounts. Grace periods have been permitted to allow for unexpected problems that may arise where a member cannot notify the Federal credit union of his or her intention of what should be done with funds in the share certificate account on the maturity date. This proposed amendment simply limits such grace periods to seven days beyond maturity, as is the case with 26-week money market certificates. The grace periods of up to 7 days apply whether or not the certificate is automatically renewable.

The Depository Institutions Deregulation Committee (Committee) has recently adopted a uniform rule for commercial banks, mutual savings bank, and savings and loan associations. That rule provides that those depository institutions may provide in their time deposit contracts for the payment of interest on funds withdrawn not more than 7 days after a maturity date and the interest rate must be that originally specified unless the contract provides for a lower rate. However, the lower rate cannot be less than that paid on regular savings accounts. The Committee's rule applies to single maturity time deposits as well as to time

deposits that are automatically renewable.

Although the Chairman of the NCUA Board is a voting member of the Committee, the uniform rule issued by the Committee does not apply to Federal credit unions. However, as a member of that Committee, the Chairman is responsible for participating in the implementation of the Congressional intent of ultimately eliminating the limitations on the maximum rates of interest and dividends that may be paid on deposits and accounts maintained in the various types of financial institutions as economic conditions warrant and subject to statutory guidelines. Therefore, in the interest of facilitating the equitable administration of rate regulations, it is incumbent upon the NCUA Board to consider actions taken by the Committee, and, where it is feasible, to issue conforming regulations. For this reason, the Board, after considering the Committee's final rule on grace periods, has proposed this amendment. The proposed rule is applicable to all share certificate accounts. Federal credit unions have previously been able to provide grace periods on non-money market share certificates but no limitation on the length of such grace periods has been imposed.

Accordingly, it is proposed that § 701.35(c)(2)(ii) be amended as set forth below.

(Sec. 107, 91 Stat. 49 (12 U.S.C. 1757), sec. 120, 73 Stat. 635 (12 U.S.C. 1766); sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

Rosemary Brady,

Secretary to the Board, National Credit Union Administration.

June 3, 1980.

§ 701.35 [Amended]

Section 701.35(c)(2)(ii) is amended:

1. By deleting the phrase "In the case of share certificates issued pursuant to paragraph (g)(5)," and by capitalizing the word "the" which immediately follows.

[FR Doc. 80-17548 Filed 6-9-80; 8:45 am]

BILLING CODE 7535-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 16

Reports by Contract Markets: Daily Publication of Futures Prices

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to amend the reporting and publication requirements for contract markets set forth in 17 CFR 16.00, 16.01 and 16.02. As proposed, § 16.02 requires each contract market to publish for each business day the trading volume and total gross open contracts on that contract market and to make readily available to the news media and general public, the opening and closing prices, the highest and the lowest price and the settlement price for each future of a commodity. Section 16.02 also describes the type of price information that may be made available by the contract market when no transactions occur during the opening or closing periods of trading. In addition, the Commission is proposing to amend § 16.02 to require that the contract market's method for determining nominal prices, settlement prices and opening and closing ranges is made readily available to the public in printed form at the office of the contract market. The proposed amendments to § 16.00 will require that contract markets also provide the price information specified in § 16.02 to the Commission on a daily basis. The proposed amendments to § 16.01 will require that the information specified in § 16.00 be provided to the Commission in machine readable form, unless otherwise approved by the Commission's Executive Director or his designee.

The purpose of these proposed amendments is to provide the public and the Commission with standardized price data for all contract markets. Information of this nature will significantly improve the Commission's market surveillance and economic analysis programs.

DATE: Comments on the proposed rule should be submitted on or before July 10, 1980.

ADDRESS: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street, NW, Washington, DC 20581, Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, DC 20581, Telephone (202) 254-7446.

SUPPLEMENTARY INFORMATION: On August 24, 1978, the Commission published for comment proposed changes to Part 16 of its Regulations—Reports by Contract Markets. See 43 FR 37714, *et seq.* (August 24, 1978). The amendments, as proposed, would have required contract markets to publish each business day the following price information for each future of a commodity:

(1) The opening range,
(2) The highest price,
(3) The lowest price,
(4) The closing range, and
(5) The settlement price.

The Commission received comments from four exchanges. The Commission has reviewed these comments and, as discussed below, has significantly modified the rules as proposed as a result of the Commission's consideration of the comments it received as well as the Commission's reevaluation of certain aspects of the proposal. The Commission has determined to publish these modified and expanded rules for public comment.

Discussion of Major Comments

One commentator pointed out that the Commission's proposed rule would not apply to market situations where bids and offers are made but no transactions are executed during the opening or closing periods. In response to this comment, the Commission has revised its proposal to permit contract markets to report the bids and offers during the opening and closing periods of trading. The rule as proposed authorizes a contract market to select the lowest price or highest bid, whichever is lower, and the highest price or lowest offer, whichever is higher, occurring during the opening and closing periods of trading. In determining which bids or offers or prices should be published, proposed § 16.02(b)(1)(i) specifies that contract markets should not consider bids or offers which have been vacated or withdrawn. A bid is considered vacated if followed by a higher bid or a trade at a higher price. An offer is considered vacated if followed by a lower offer or a trade at a lower price. For example, assume the following sequence of prices of trades and unanswered bids and offers occurred at the open or close of a market: 10:00 bid, 10.10, 10.15, 10.17 bid, 10.20 ask. The appropriate range to be published by the contract market would be 10.10–10.20 ask. The 10.00 bid is disregarded since it is considered vacated. The price of 10.10 is used because it is the lower of the lowest price or highest bid. The 10.20 ask is used since it is the higher of the highest price or lowest offer.

One commentator objected that the proposed rule did not take into account contract markets which do not have fixed opening or closing calls that could be used to define precise opening or closing periods of trading. Therefore, this commentator was concerned that the proposed rules would implicitly require all contract markets to institute fixed opening and closing calls.

The Commission is aware that some contract markets conduct public calls at

the open of a market for the purpose of executing market orders received prior to the start of trading and time orders specifying execution during the call. During this period of time floor traders may also initiate trades for their own account. In these contract markets, an official of the contract market opens in succession each futures month for trading, beginning with the month closest to expiration and continuing with successive months. The price information generated during these opening calls reflects market opinion concerning the effect of changes in market factors which have transpired since the market close of the previous day. The degree of market consensus concerning these changes can generally be determined by the price range or bid-ask spread which occurs during this period. Public calls at the close of a market are conducted in a manner similar to calls at the open.

All contract markets do not use fixed public calls at the open or close of their market. However, a number of contract markets which do not use fixed public calls have underscored the importance of publishing price range information for the open and close of a market by adopting rules or procedures which allow the contract market to collect such information. In general, these contract markets designate a contract market official to observe trading on the floor to determine the range of prices at which orders that are to be filled at the open or close of the market are executed or bid and offered.

The Commission believes that the information which is published by contract markets who use observers in the trading pit is generally accurate and is a helpful market indicator. Accordingly, the Commission is not proposing to require all contract markets to use fixed public calls at the open and close of their markets in order for the contract markets to provide the required price information. Instead, a contract market is permitted to adopt any procedure which will enable the contract market to comply with the requirements of proposed § 16.02(b)(1)(i) and (ii). For example, a contract market which does not use public calls may adopt procedures whereby designated contract market officials will observe trading and make a determination in order to obtain the information required to be made available under proposed § 16.02(b)(1)(i) and (ii).

In this respect, proposed § 16.02(b)(1) specifies that contract markets which do not use a fixed call at the open of a market, shall provide the specified price range information for the period of time when orders which are to be filled at the open of the market are executed or execution of the orders is attempted. This data, of course, would also include prices and bids and offers resulting from floor traders trading for their own accounts during this period of time.

Proposed § 16.02(b)(1) also specifies that contract markets which do not use a fixed call at the close of a market, shall specify a period of time at the close of the market during which the price information required by the rule can be collected. The Commission notes that all contract markets which do not use a fixed public call sound a signal prior to the close of a trading day which warns floor brokers and floor traders that the market will close within a specified time period. Section 16.02(b)(1) therefore provides that the closing period can be of any length specified by the contract market except that this period may not begin prior to the signal which warns participants that the market is about to close.

One commentator suggested that the Commission adopt a definition of settlement price which would incorporate concepts similar to the method employed by that contract market. The Commission is aware that contract markets currently employ different methods in determining settlement prices and, at this time, the Commission's staff is studying these methods. Pending the completion of this analysis, the Commission will not require that settlement prices be established pursuant to a uniform method.

The Commission believes, however, that the manner in which settlement prices are determined by each contract market should be made readily available to the public, since settlement prices of certain commodities may be used as price guides for cash market transactions. This should provide interested traders in the cash market with useful information to determine more accurately whether settlement prices are an appropriate index upon which to base their cash market transactions. In view of the above, the Commission is proposing that § 16.02(c) require contract markets to set forth in printed form and make readily available to the general public at the office of each contract market their method for determining settlement prices.

One commentator objected to the provision requiring price information to be made available in printed form free of charge on the floor of the exchange. The commentator explained that the required information is presently made avaialble to the public through several wire services and newspapers. The commentator argued that requiring the exchange to publish the data through another source would be duplicative and costly.

The Commission does not intend to impose added and unnecessary costs on exchanges if the information required is currently being made available to the public through the news media. The Commission is therefore deleting the requirement that exchanges make the price information available to the public free of charge in printed form on the floor of the exchange. However, if the Commission determines in the future that price information is not being adequately disseminated for all contract markets, it may become necessary to revise this aspect of § 16.02(b).[1]

Other Considerations

The Commission is aware that some exchanges currently make discretionary determinations concerning the nature and extent of price information which they make available to the public. For example, as explained earlier, some exchanges determine what constitutes a proper range of opening or closing prices and publish nominal prices for opening and closing periods of trading.

At least three boards of trade, the Chicago Board of Trade, the Chicago Merchantile Exchange and the Kansas City Board of Trade have adopted rules explicitly allowing exchange officials to exercise discretion in determining a proper opening and closing range of quotations to be issued by the exchanges.[2] For example, Rule 546 of the Chicago Mercantile Exchange provides that "in the event of a disputed range or trade conspicuously out of line with the market, the final determination of the range shall be made by the Pit Committee."

The Commission will examine the rules and practices of contract markets with respect to this type of discretion in conjunction with the Commission study of exchange methods for setting

[1] The Commission has also considered its requirement that prices be made available "no later than the business day" (i.e., no later than the close of business) following the day to which this information pertains in order to determine if more timely information is needed. The Commission has found that wire services and newspapers presently disseminate adequate price information for the preceding trading day in a timely manner prior to the open of the markets. Due to this practice, the Commission will not at this time propose to change the requirements with respect to the time when prices must be made available. However, if the Commission adopts the rules as proposed and thereafter finds that prices are not being disseminated in a timely manner it may revise this aspect of the rules in the future.

[2] See Rule 546 of the Chicago Mercantile Exchange, Rule 320.16 of the Chicago Board of Trade and Rule 1820.1 of the Kansas City Board of Trade.

settlement prices. Although the results of this analysis may warrant certain modifications in current exchange practices, the Commission does not desire to delay this rulemaking concerning amendments to Part 16 until the staff analysis is completed. The Commission is therefore revising its proposal to provide contract markets with certain discretion in establishing price ranges for the opening and closing periods of trading for purposes of determining the price information required by § 16.02(b)(1), as adopted. The rule as proposed authorizes a contract market to select, in its discretion, prices, bids and offers that the contract market reasonably determines are an accurate reflection of market activity during the opening or closing periods of trading. The Commission has stated this provision in discretionary terms in order to permit the contract markets to discard aberrant trades, bids or offers. This should ensure that the contract markets will provide meaningful data to the trading public and the Commission. In addition, the proposed rules specify, in § 16.02(c), that contract markets must set forth in writing and make readily available to the public an explanation that certain discretion may be used by the contract markets in determining published opening and closing ranges and a description of the manner in which that discretion may be exercised.

Nominal prices of futures contracts are also reported by several boards of trade if no actual transactions or bids or offers occur during the trading day. This occurs most frequently in the most distant contract months when trading is sparse. The Commission recognizes that such nominal prices may form the basis for the settlement price established by the clearinghouse of each exchange. Settlement prices, of course, are necessary to determine margins required of traders at the end of each trading day. Moreover, since nominal prices represent, in certain instances, opinions from knowledgeable sources, nominal prices potentially may be useful to the trading public in arriving at a judgment concerning an appropriate price level for newly listed contract months of a commodity. Accordingly, the Commission is amending its proposal to allow (but not require) contract markets, if no actual transactions, bids or offers are made during the opening and closing periods of trading, to make available the price of the first and the last transaction of the day or a nominal price selected by the exchange.[3] When any of these price figures are cited, the contract market shall clearly provide that it is relying upon the first and last price or the nominal price. In addition, the contract market must ensure that its method for determining nominal prices is set forth in writing and made readily available to the public. As with discretion in setting opening and closing ranges, rules and practices of contract markets concerning nominal prices will be studied in conjunction with methods for determining settlement prices. Additional modifications to the current proposal may be required as a result of that analysis.

In addition to amending § 16.02 as originally proposed, the Commission is now also proposing to amend § 16.00—Information to be Furnished by Contract Markets—and § 16.01—Time and Place of Filing Reports. Section 16.00 presently requires contract markets to report information to the Commission concerning open interest, volume of trading, transfer or office trades, exchanges of futures for cash, and deliveries. The Commission is proposing to amend § 16.00 to require contract markets to report the same price information to the Commission that contract markets are required to make available to the public and news media, under § 16.02(b). As stated in the August 24, 1978, **Federal Register** notice, this information is needed by the Commission to improve its market surveillance and economic programs. The proposed amendments to § 16.01 will require that all information specified in § 16.00 be provided on compatible data processing media unless otherwise approved by the Commission's Executive Director or his designee. The majority of contract markets use computers for generating the information which is currently required under § 16.00.

In consideration of the above, the Commission pursuant to its authority under Sections 4g and 8a of the Act, 7 U.S.C., 6g and 12a, as amended, hereby proposes to amend Part 16 of Chapter I of Title 17 of the Code of Federal Regulations, as follows:

PART 16—REPORTS BY CONTRACT MARKETS

Sec.

16.00 Information to be furnished by contract markets.

16.01 Form and manner of reporting and time and place of filing reports.

16.02 Publication of trading volume, open contracts and futures prices.

Authority: Sections 4g and 8a of the Act, 7 U.S.C., 6g and 12a, as amended.

1. Section 16.00, as proposed, reads as follows:

§ 16.00 Information to be furnished by contract markets.

Each contract market shall report for each business day, as specified in § 16.01, the following information, by commodity, by future, and, for paragraphs (a) through (e) of this section, by clearing member within each such future:

(a) The total of all long open contracts and the total of all short open contracts carried at the end of the day covered by the report;

(b) The quantity of such contracts bought and the quantity sold during the day covered by the report;

(c) The quantity of purchase transfer trades or office trades and the quantity of sale transfer trades or office trades, which are included in the total quantity of contracts bought and sold during the day covered by the report, and the names of the clearing members who made the transfers;

(d) The quantity of purchases of futures in connection with cash commodity transactions or of futures for cash commodities and the quantity of sales of futures in connection with cash commodity transactions or of futures for cash commodities, which are included in the total quantity of contracts bought and sold during the day covered by the report, and the names of the clearing members who made the exchanges;

(e) The quantity of the commodity delivered and the quantity received in fulfillment of such contracts during the day covered by the report; and

(f) The price information specified in § 16.02(b) of this part.

2. Section 16.01, as proposed, reads as follows:

§ 16.01 Form and manner of reporting and time and place of filing reports.

Unless otherwise approved by the Executive Director or his designee, reports required by § 16.00 shall be submitted on compatible data processing punched cards, magnetic tapes or magnetic discs using a format

[3] The Commission appreciates the potential tension between this practice and the public interest to be protected by the antitrust laws, see Section 15 of the Commodity Exchange Act, 7 U.S.C. 19 (1976), since this practice could be perceived as an artificial price determination. However, in proposing these rule changes, the Commission has endeavored to take the least anticompetitive means of achieving the objectives of the Act. The Commission believes that the regulatory objectives outlined in the text which are served by these discretionary determinations by contract markets concerning price information outweigh any potentially anticompetitive implications. In addition to the staff study described above, if the rules were adopted the commission would monitor carefully the exchange practices in this regard in order to ensure against any anticompetitive activity in the futures markets resulting from these practices.

and coding structure approved in writing by the Executive Director or his designee. Such reports shall be submitted the business day following the day for which the reports are filed at the Commission's Regional Office having local jurisdiction with respect to each market.

3. Section 16.02, as proposed, reads as follows:

§ 16.02 Publication of trading volume, open contracts and futures prices.

(a) *Trading volume and open contracts.* Each contract market shall publish for each business day the following information by commodity and by future within each such commodity:

(1) The total volume of trading, excluding transfer trades or office trades;

(2) The total quantity of futures for cash transactions which are included in the total volume of trading;

(3) The total gross open contracts; and

(4) The total quantity of the commodity delivered in fulfillment of open contracts.

This information shall be made readily available to the news media and the general public in printed form and without charge at the office and trading floor of the contract market no later than the business day following the day for which publication is made.

(b) *Futures prices.* Each contract market shall make readily available to the news media and the general public, the following information by commodity and by future within each such commodity, no later than the business day following the day to which the information pertains:

(1) For the trading period defined by a contract market's fixed opening and closing public calls or, if a contract market does not use a fixed opening or closing call, for the period of time that the contract market shall specify at the open of the market when trading activity occurs on orders which are to be filled at the open and for the period of time prior to and including the market close (provided that such closing period is within the period of time between (a) the warning given by each contract market signaling the approach of the market close and (b) the close of the market) the information specified below:

(i) The lowest price or highest bid, whichever is lower and the highest price or lowest offer, whichever is higher, that the contract market reasonabley determines to reflect accurately market conditions during the opening and closing periods of trading. Bids and offers if vacated or withdrawn shall not be used in making this determination. A bid is vacated if followed by a higher bid or price and an offer is vacated if followed by a lower offer or price; or

(ii) If there are no transactions, bids or offers during the opening and/or closing periods the contract market may make available as appropriate (A) the first price (in lieu of opening price data) or the last price (in lieu of closing price data) occurring during the trading session, clearly indicating that such prices are the first and the last price, or (B) nominal opening or nominal closing prices which the contract market reasonably determines accurately reflect market conditions, clearly indicating that such prices are nominal;

(2) The highest price and the lowest price which occurred during the trading session; and

(3) The settlement price established by the clearing-house for each contract market.

(c) Each contract market shall make readily available to the public in printed form at the office of the contract market, the method used by the contract market in determining nominal prices, settlement prices and if discretion is used by the contract market in determining the opening and closing ranges, an explanation that certain discretion may be employed by the contract market and a description of the manner in which that discretion may be employed.

Issued in Washington, D.C., on June 5, 1980, by the Commission.

Jane K. Stucky,

Secretary of the Commission, Commodity Futures Trading Commission.

[FR Doc. 80-17574 Filed 6-9-80; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 281

[Docket No. RM79-40]

Determination of Alternative Fuels for Essential Agricultural Users

June 3, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission gives notice that it is proposing to adopt a final rule, pursuant to section 401(b) of the Natural Gas Policy Act of 1978, to provide for the determination of alternative fuels that are reasonably available and economically practicable for essential agricultural users. The proposed rule would provide that coal and residual fuel oil are reasonably available and economically practicable alternative fuels for essential agricultural users that have the ability to use those fuels. The proposed rule would apply only to those essential agricultural users that have requested from a direct supplier priority 2 entitlements exceeding 300 Mcf on a peak day. New boilers with a capacity exceeding 300 Mcf per day would be deemed to have alternative fuel capability.

DATE: Written comments by July 3, 1980. Request to participate in hearing by June 20, 1980. Hearing date: June 30, 1980.

ADDRESS: Written comments and request to participate to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20425 (Reference Docket No. RM79-40).

HEARING LOCATION: Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Robert F. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, (202) 357-8432.

I. Background

In Order No. 55, issued on October 26, 1979, the Commission issued an interim rule implementing section 401(b) of the Natural Gas Policy Act (NGPA).[1] The interim rule established that alternative fuel determinations would be made generically rather than case by case. In that rule the Commission determined that, for the 1979-1980 heating season, coal and residual fuel oil were reasonably available and economically practicable for essential agricultural users. The rule applied only to agricultural establishments with requirements exceeding 300 Mcf per day. In addition, new boilers with a capacity in excess of 300 Mcf per day were deemed to have alternative fuel capability.

At the time Order No. 55 was issued, the Commission indicated that the issues of reasonable availability and economic practicability would be considered anew at the end of the 1979-1980 heating season.

ERR14 [1] Section 401(a) of the NGPA provides that essential agricultural uses of natural gas may not be curtailed except to the extent necessary to meet high priority uses. Section 401(b), however, provides that the curtailment status of section 401(a) shall not apply to those essential agricultural uses for which the Commission, in consultation with the Secretary of Agriculture, determines that an alternative fuel is reasonably available and economically practicable.

In exercising its statutory mandate to consider the "reasonable availability" and "economic practicability" of alternative fuels the Commission has reviewed data from various sources. The data do not in all cases, lead to a single definitive conclusion. Moreover, Congress has not imposed a statutory test which may be applied by use of a simple formula. Thus, the Commission has exercised its discretion in reaching its conclusion that coal and residual fuel oil are reasonably available and economically practicable. It seeks comment on this proposed rule.

The Commission has transmitted a copy of this proposed rule to the Department of Agriculture and requested its comments.[2] The Commission will continue to consult with the Department of Agriculture while the proposed rule is under consideration, as provided in section 401(b) of the NGPA.

II. Discussion

Under the final rule proposed herein coal and residual fuel oil would be considered both reasonably available and economically practicable on a nationwide basis. The proposed rule would retain the mechanical features of the interim rule. The alternative fuel determination would continue to be made on a generic basis and the procedural features would remain essentially the same. Although the proposed rule would be a final rule, it may be amended from time to time as circumstances require.[3] The adjustment procedures of section 502(c) of the NGPA will enable us to avoid undue hardship that a generic rule might otherwise cause to individuals.

A. Other Issues Determined in Order No. 55

Besides determining what fuels were economically available and reasonably practicable in Order No. 55, the Commission also decided that agricultural users with a capacity less than 300 Mcf per day would be exempt from the rule. In addition, all new boilers with a capacity exceeding 300 Mcf per day would be deemed to have alternative fuel.

The proposed rule would continue the exemption of the interim rule excluding essential agricultural users who requested, from a direct supplier, less than 300 Mcf per day in priority 2 entitlements. This criterion is clarified under the proposed rule to apply specifically to requests of 300 Mcf on a peak day. This is consistent with Commission treatment of small users in many curtailment plans. We also think that it may be administratively burdensome to gather data on all users under 300 Mcf per day.

Modern boilers are frequently constructed with the capability to use residual fuel oil as an alternative to natural gas. Consequently, the proposed rule would continue the position taken in Order No. 55: All new boilers with a capacity greater than 300 Mcf per day except for turbines and diesels designed to use distillate fuel oil as the only alternative to gas, are deemed to have alternative fuel capability.

Comments are invited on the proposal to retain these features of the interim rule.

B. Availability of Alternative Fuels

Over the long term the nation faces an energy shortage that affects all fuels. Nevertheless, we do not think that Congress was referring to this long term view when it authorized the Commission to determine what fuels were reasonably available and economically practicable for purposes of section 401(b).

In Order No. 55, the interim rule, the Commission determined that coal and residual fuel oil were reasonably available for the then approaching heating season. The Commission also found that the record did not provide a sufficient basis for finding distillate fuel oil and propane to be reasonably available fuels within the meaning of section 401(b). Under the rule proposed herein, coal and residual fuel oil would continue to be considered reasonably available.

When the interim rule was under consideration, no commentators seriously opposed the proposal to find that coal was a reasonably available fuel. Recent data published by the Energy Information Administration (EIA) of DOE indicate that availability of coal has increased since Order No. 55 was issued. During 1979, consumption and exports of coal increased. Imports decreased. Nevertheless, total stocks of coal held by consumers at the end of 1979 were 179.6 million tons, 23.4 percent greater than they were at the end of 1978.[4] This data strongly suggest that coal must continue to be considered a reasonably available fuel.

Primary stock totals for residual fuel oil during the week of May 2, 1980, were 83.5 million barrels, 3.0 percent higher than the 81 million barrels held in April 1979.[5] For the previous twelve months primary stocks have exceeded their level for the corresponding month of the previous year. In addition, since last fall, primary stocks of residual fuel oil have remained well above the minimum acceptable level estimated by EIA, as indicated in Figure 1 below.

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[2] In response, USDA (1) indicates that it is concerned about price disparity between gas and residual fuel oil in different regions, (2) asks what would constitute a significant change in circumstances that would cause the rule to be amended, and (3) suggests residual fuel oil and coal should be presumed to be alternatives to gas to the extent that their delivered cost to a particular agricultural user does not exceed a given percent of the delivered cost of natural gas. A copy of USDA's comments is available in the public file of this proceeding, Docket No. RM79-40, in the Commission's Office of Public Information.

[3] The Commission recognizes the need for agricultural users to make arrangements for alternative fuels. Therefore, the Commission intends to the maximum extent practicable, to make any necessary changes in the alternative fuel rule before the commencement of the winter heating season to allow those affected by the rule to arrange for alternative fuels.

[4] See DOE/EIA Monthly Energy Review, March 1980, at 53. Import data refer only to bituminous coal, since no anthracite coal is imported.

[5] EIA Weekly Petroleum Status Report, May 9, 1980, at 7. EIA defines residual fuel oil as including No. 5 and 6 fuel oil that conforms to ASTM Specification D396, heavy diesel oil, Navy Special Oil, Bunker C oil, and acid sludge and pitch used as refinery fuels.

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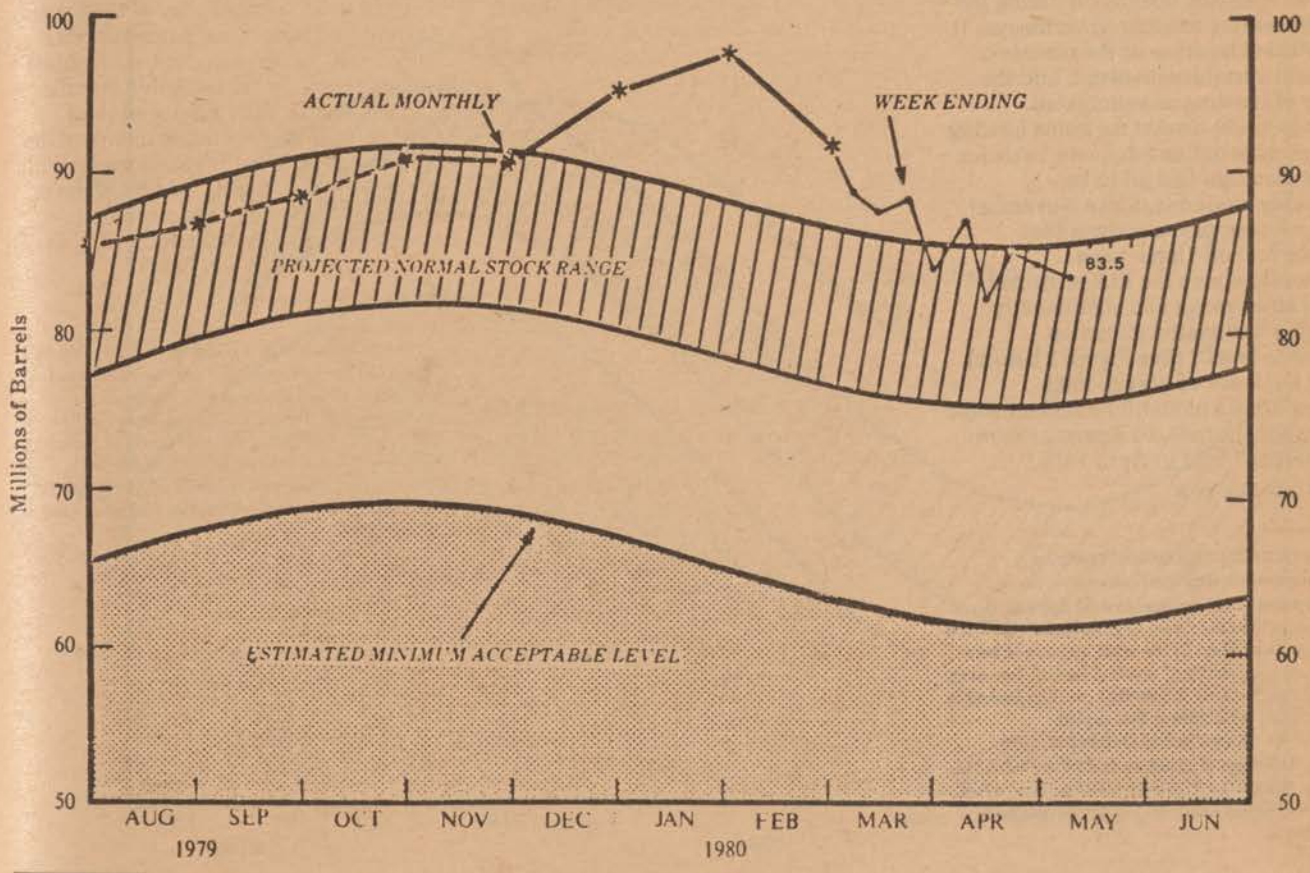
FIGURE 1 6/

Residual Fuel Oil Stocks at Primary Level

as of May 2, 1980



6/ Source: EIA Weekly Petroleum Status Report, May 9, 1980, at 16. "Estimated minimum acceptable level" represents the industry level at which spot shortages are probable.

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On a regional basis, the supply picture is similar. During April, primary stocks were higher in every PADD Region, except the Gulf Coast, than they were in April 1979.[7]

In Order No. 55 [7a] the Commission expressed "guarded optimism" about the availability of heating oil during the 1979–80 heating season. Nevertheless, it was felt that because of the complex, uncertain variables involved, and the danger of creating unanticipated demands in the market for home heating oil, there was not an adequate basis for finding distillate fuel oil to be reasonably available. Since November 1979, however, primary stocks for distillate fuel oil [8] have been consistently above the EIA projected normal stock range and significantly above the "estimated minimum acceptable level." (See Figure 2 below). During the week of May 2, 1980, previous stocks of distillate fuel oil were 177.6 million barrels, 54.4 percent more than the 115.0 held in April 1979.[9]

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[7] *Id.* at 18. PADD Regions are Petroleum Administration for Defense Districts.

Primary stocks for residual fuel oil decreased somewhat in the Gulf Coast Region during April and the first week of May. Given what appears to be a nationwide availability of residual fuel oil, however, it does not necessarily follow that residual fuel oil is not reasonably available in that region.

[7a] Order No. 55 was issued October 26, 1979.

[8] EIA's definition of distillate fuel oil includes No. 1 and No. 2 heating oils, diesel fuels, and No. 4 fuel oil, which conform to either ASTM Specification D396 or D975.

[9] *Id.* at 7.

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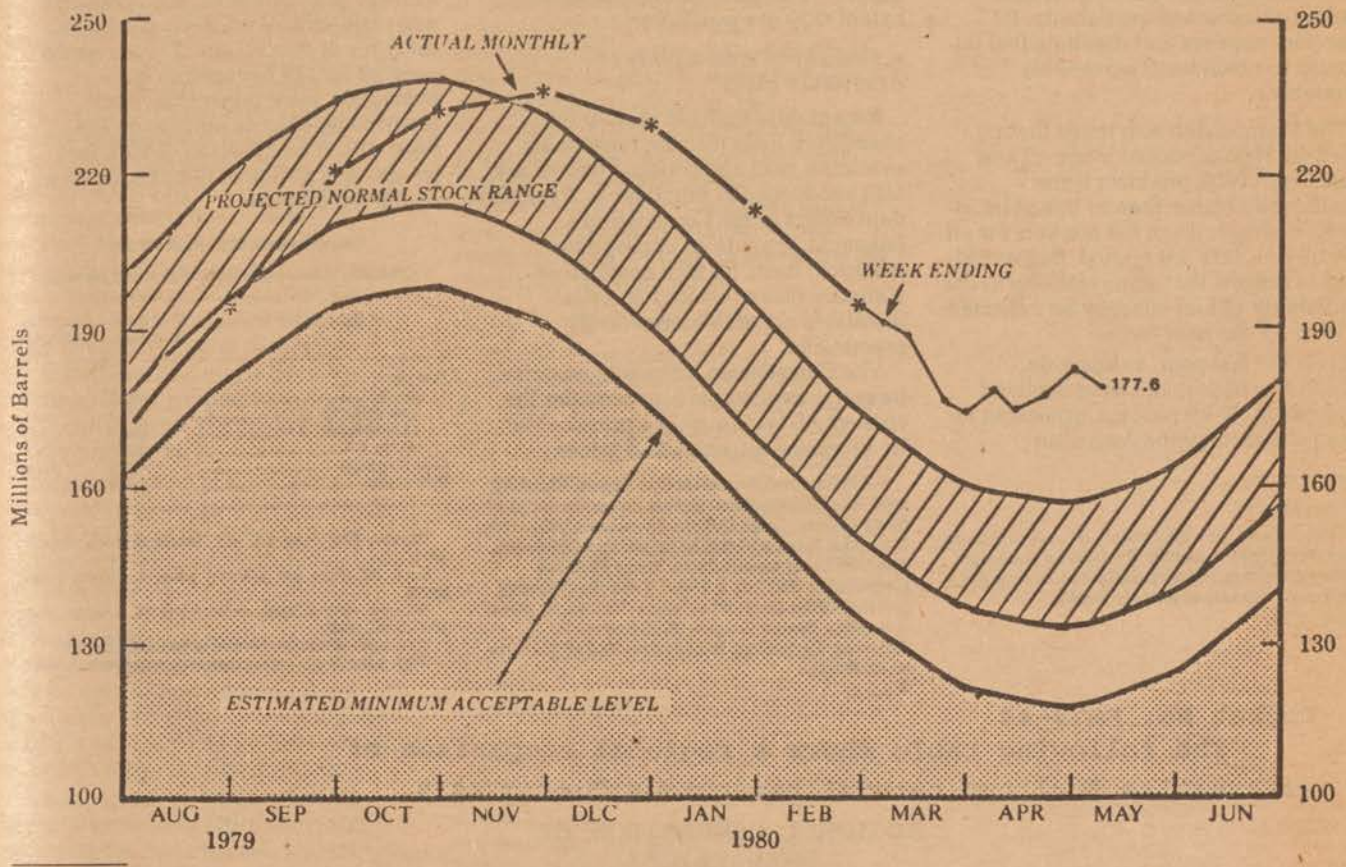
Figure 2 10/

Distillate Fuel Oil Stocks at Primary Level
as of May 2, 1980



[10] *Id. at 13.*

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During April, stocks were significantly higher than in April 1979 for every PADD region.[11] Despite this increase in previous stocks the amount of distillate fuel oil supplied [12] for the four week period ending May 12, 1980, averaged 16 percent less than at the same time last year.[13] This suggests a reduction in demand, which is consistent with a finding of increased availability. It therefore appears that distillate fuel oil should be considered reasonably available.

The Commission also notes that on April 18, 1980, stocks of crude oil and major petroleum products were significantly higher than at this point in previous years. Since the markets for all fuel oil products are related, this would tend to suggest that some stability in the availability of fuel oils may be expected, at least for the near term.

Over the last year, nationwide inventories of propane have declined approximately 6.7 percent, according to data published by the American Petroleum Institute.[14] Over 70 percent of these inventories are located in the Mid Continent and Gulf Coast areas.[15] The Commission invites comment on whether or not propane should be considered reasonably available and economically practicable. Those commenting are strongly urged to support their views with data to the extent they are available.

c. Economic Practicability of Alternative Fuels

Recent data indicate that, of the alternative fuels that are reasonably available, coal and residual fuel oil are also economically practicable. Available data do not in the Commission's judgment, provide an appropriate empirical basis for it to exercise its statutory discretion and find that distillates are also economically practicable.

The Commission intends to exercise its statutory discretion to consider the concept of "economically practicable" by assessing alternate fuel prices relative to the price of natural gas. In so doing, we propose to limit application of the term to those essential agricultural users who presently have installed ability to use those fuels which are periodically determined to be economically practicable.

We have compared the weighted average prices paid for coal, distillate, and residual fuel oil, during 1979 with the price of natural gas. The weighted average fuel prices used in our evaluation were taken from data reported by electric utilities on FPC Form 423. A comparison of 1979 fuel prices, on a nationwide basis, is shown on the table below.

Comparative 1979 Fuel Prices [1]

[Differential between alternate fuel price and gas price]

Type of fuel	Fuel price (c/MMBtu)	Gas price (c/MMBtu)
Fuel oil:		
No. 2	402.0	226.6
Low Sulfur No. 6 [2 3]	320.2	144.8
High Sulfur No. 6 [2 4]	264.7	89.3
All No. 6 [2]	299.7	124.3
Coal: All grades	122.4	(53.0)
Natural gas	175.4	

[1] Source: FPC Form No. 423, annual summary data for 1979.

NOTE: All prices are delivered prices for steam electric plants.

[2] Includes minor amounts of No. 4 and No. 5 fuel oil, crude and topped crude.

[3] Low sulfur oil has one percent or less sulfur content.

[4] High sulfur oil has greater than one percent sulfur content.

[11] *See id.* at 15.

[12] EIA defines "products supplied" as a calculated value computed for specific products as domestic production plus net imports (imports less exports), less the net increase in primary stocks.

[13] *Id.* at 26.

[14] API Liquified Petroleum Gas Report, March 31, 1980. The Mid Continent area includes the states of North Dakota, South Dakota, Minnesota, Wisconsin. Nebraska, Iowa, Kansas, Missouri, and Oklahoma. The Gulf Coast area includes Texas Railroad Commission Districts 2, 3, and 4 and the following parishes of the state of Louisiana: Vernon, Rapides, Avoyelles, Pounte Coupee, W. Feliciana, E. Feliciana, Tagipahoa, Washington, and all parishes south thereof.

[15] *See Id.*

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The following table shows a regional comparison of alternative fuel and natural gas prices during 1979.

REGIONAL COMPARISON OF FUEL PRICES

REGIONAL COMPARISON OF SELECTED FUEL PRICE DATA - 1979

Census Region	Coal Price (All Grades) (¢/MMBtu)	Fuel Oil Prices No. 2 (¢/MMBtu)	Fuel Oil Prices No. 6 1/ (¢/MMBtu)	Natural Gas Prices Form 423 (¢/MMBtu)	Natural Gas Prices Rank (No.)	Alternate Fuel Price Differentials Compared to Form 423 Natural Gas Prices: Coal (¢/MMBtu)	% of Gas Price (%)	No. 2 (¢/MMBtu)	% of Gas Price (%)	No. 6 (¢/MMBtu)	% of Gas Price (%)
1. New England	152.9	429.4	292.3	267.6	1	(114.7)	(42.9)	161.8	60.5	24.7	9.2
2. Mid. Atlantic	124.5	391.6	309.1	236.0	4	(111.5)	(47.2)	155.6	65.9	73.1	30.9
3. E.N. Central	133.5	386.8	344.0	246.9	2	(113.4)	(45.9)	139.9	56.7	97.1	39.3
4. W.N. Central	100.7	385.0	225.8	149.5	8	(48.8)	(32.6)	235.5	157.5	76.3	51.0
5. So. Atlantic	141.2	455.3	293.2	136.2	9	5.0	3.7	319.1	234.3	157.0	115.3
6. E.S. Central	132.9	428.1	218.0	187.3	6	(54.4)	(29.0)	240.8	128.6	30.7	16.4
7. W.S. Central	100.7	349.1	259.8	156.8	7	(56.1)	(35.8)	192.3	122.6	103.0	65.7
8. Mountain	69.1	469.7	284.6	209.0	5	(139.9)	(66.9)	260.7	124.7	75.6	36.2
9. Pacific	83.6	323.3	313.8	244.7	3	(161.1)	(65.8)	78.6	32.1	69.1	28.2
Total U.S.	122.4	402.0	299.7	175.4		(53.0)	(30.2)	226.6	129.2	124.3	70.9

Source: FPC Form No. 423, as reported in DOE/EIA Energy Data Report, Cost and Quality of Fuels for Electric Utility Plants - 1979.

1/ Includes prices paid for minor amounts of No. 4 and No. 5 fuel oil, crude and topped crude.

Within each region, the price differences are similar to the national data in that No. 2 fuel oil prices are higher than the prices paid for No. 6 fuel oil; No. 6 is priced higher than natural gas; and coal is generally less expensive than natural gas. Actual fuel prices, of course, vary from region to region as well as from state to state. However, the national fuel price relationships remain essentially the same on a regional basis. Moreover, it does not appear that the benefits of a regional rule would outweigh the administrative burdens associated with such a rule. Therefore, our determination of economic practicability in this proposed rulemaking will be based on national rather than regional determinations. However, the Commission continues to weigh the possibility of regional determinations and seeks comment on the issue. Those supporting a regional rule should submit available data as well as commentary.

Our examination of a number of other sources of fuel price information leads us to believe that the Form 423 data is the most reliable, detailed and current source of price information available and therefore the best statistical basis for the Commission analyses. In our search for representative fuel prices paid by agricultural users we have specifically noted the prices published in DOE's Monthly Energy Review (MER) as well as other DOE publications.

A comparison of DOE's Monthly Energy Review and FERC Form 423 price data for fuel oil, coal, and natural gas over the last four years is shown in the attached Appendix A. Although the absolute price levels between the two price series may vary, the price differentials have generally been consistent. Appendix B illustrates graphically the movement of fuel oil prices, as reported by electric utilities since 1976. Appendix B also shows the price relationship of natural gas to No. 2 fuel oil and residual fuel oil prices over the same four year period.

We invite comments on the availability and advantages of other existing fuel price data that might be used by the Commission in analyzing economic practicability.[16]

After consideration of the available price data, as well as current price trends it is our judgment that we lack the appropriate empirical basis to make a finding that distillate fuel oil is economically practicable within the meaning of section 401(b) of the NGPA. It is our further judgment that the relevant empirical data lead to the conclusion that coal and No. 6 residual fuel oil (both high and low sulfur) are economically practicable. The Commission invites comments on this judgment. Those who would have the Commission exercise its statutory discretion in a different manner should spell out in detail the statutory and empirical basis for making the suggested alternative determination.

D. Environmental Assessment

The Staff has completed an environmental assessment of the proposed rule. The assessment is based on a worst-case assumption that the Commission might determine that all residual and distillate fuel oils as well as coal and propane are reasonably available and economically practicable.

As discussed, the Commission does not propose such a rule, but the assessment provides a useful basis for analyzing the rule that the Commission does propose. One must keep in mind, however, that by its very nature, the staff assessment overstates the adverse economic impacts on agriculture.

In preparing the assessment, the Staff relied primarily on data contained in the

[16] Fuel oil price data are currently being collected under Title II of the NGPA—the incremental pricing provisions. In our Order No. 50 (issued September 28, 1979) we provided for the collection of certain data by the Energy Information Administration to determine alternate fuel prices charged to non-utility industrial users. EIA was originally requested to collect monthly data by states from all fuel oil sellers regarding the prices they charge for No. 2 fuel oil, No. 6 high sulfur fuel oil, and No. 6 low sulfur fuel oil. The price data would exclude state or local taxes and cover sales in lots of over 4,000 gallons. This was the so-called "three-tier" approach.

In Order No. 51 (issued September 28, 1979) we exempted industrial boiler fuel facilities from incremental pricing above the ceiling price of No. 6 high sulfur fuel as provided for in Order No. 50. Order No. 51 postponed implementation of the upper two price ceilings (No. 2 fuel oil and low sulfur No. 6 fuel oil) until November 1, 1980. (Order No. 81 issued May 7, 1980, further postponed implementation of the first two tiers for an additional year, until November 1, 1981, because of uncertainties about the ability to implement an accurate three-tier ceiling.) Currently, EIA only collects high sulfur No. 6 fuel oil price data.

No. 6 high sulfur fuel oil prices are published monthly by EIA as alternative fuel price ceilings. These are "adjusted" prices and do not reflect actual weighted average prices. Rather, they represent the lower end of a range of average prices paid for No. 6 high sulfur fuel oil. While the monthly alternative fuel price ceilings published by EIA are appropriate for incremental pricing under Title II of the NGPA, we believe that they do not provide as good a basis for Commission judgments as other data series provide.

Energy Information Administration (EIA) Form 50 reports for 1979. The assessment is based on the assumption that curtailments will be no worse than in the 1978–79 heating season, as reflected in the EIA Form 50 data. Curtailments in the near future are actually expected to be less than occurred during the 1978–79 heating season.

In its environmental assessment, the staff analyzed the national and regional effects of determining various alternative fuels to be reasonably available and economincally practicable for purposes of section 401(b). It was determined that even under the worst case hypothesis described above, the effects of the proposed rule on air quality would be insignificant. Any adverse impact on air quality attributable to increased reliance on alternative fuels by agricultural users would probably be offset by corresponding decreases in emissions by other industrial users whose curtailment would decrease. The assessment also concludes that the effect of the worst case hypothesis on agricultural costs of production would be small—less than one percent of the value added in manufacturing by essential agricultural users.

The environmental assessment has been placed in the public files of the Commission and is available for public inspection in the FERC's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426. Copies are available in limited quantities from the Office of Public Information. Comments are invited.

For further information on the environmental assessment, contact Richard R. Hoffman, Project manager (202) 357–8098.

III. Section-by-Section Analysis

Section 281.203 Definitions and cross-references

Section 281.203(a)(17), which defines "currently effective curtailment plan" would be revoked. The phrase is self-defining.

Section 281.204 Tariff filing requirements

Section 281.204(b)(3) provides that the index of entitlements shall not include the volumes of natural gas for which the essential agricultural user has the ability to use an alternative fuel as determined under Subpart C. Each interstate pipeline is required to amend its index of entitlements to remove from the priority 2 classification and place in an appropriate priority of service category "any volumes of natural gas included in any index of entitlements that is effective on October 31, 1979 (or on November 30, 1979, if the pipeline elects to file tariff sheets under paragraph (a)(2) of this section)." Under the proposed rule, a pipeline would be required to amend its index of entitlements "pursuant to paragraph (b)(2)" to remove from the priority 2 classification and place in an appropriate priority of service category "any such volumes of natural gas included in any index of entitlements that is effective on or after October 31, 1979 (or on November 30, 1979, if the pipeline elects to file tariff sheets under (a)(2) of this section)."

A new § 281.204(b)(4) would be added to provide that notwithstanding any thing in paragraph (b)(2) (periodic update of the index of entitlements), a pipeline may elect to file its revised index of entitlements on November 1, 1980, with a proposed effective date of December 1, 1980, if the pipeline (i) files, with the Secretary, by October 1, 1980, a written notice of its decision to file its revised index on November 1, 1980, and (ii) continues its existing index in effect until December 1, 1980.

Section 281.211 Filing and documentation

Section 281.211(b)(1)(ii)(D) would be amended to provide that a request for classification of essential agricultural requirements as priority two entitlements shall include, with respect to any agricultural user to which Subpart C (alternative fuel determinations) applies, the data and calculations necessary to determine alternative fuel volumes under § 281.304.

Section 281.211(b)(4)(ii) would be amended to provide that for years subsequent to 1979, the data required by this paragraph must be filed only to the extent that there has been a change in essential agricultural requirements. This amendment would make it clear that changes resulting in reduced agricultural requirements must be filed, as well as requests for changes reflecting increased requirements.

Section 281.216 Filing and service dates for 1980

Section 281.216 would be amended by designating the existing paragraph [17] as paragraph (a) and by adding a new paragraph (b) to provide that if the pipeline elects to file its revised index of entitlements on November 1, 1980, under § 281.204(b), the data verification committee shall submit its report on October 23, 1980.

Section 281.302 Applicability

Section 281.302(a)(2) applies Subpart C to essential agricultural users that have requested priority 2 requirements in excess of 300 Mcf per day. The proposed rule would clarify this requirement by amending the phrase to reas: "300 Mcf on a peak day."

Section 281.303 Definitions

Section 281.303(a) defines "ability to use" an alternative fuel as meaning that an essential agricultural use establishment had, on August 29, 1979, the installed physical capability to use the alternative fuel and has used that alternative fuel, in any amount, at any time after 1973, for an essential agricultural use.

The proposed rule would amend this section by inserting the phrase "or thereafter acquired" after "on August 29, 1979."

Section 281.303(h) defines "essential agricultural requirements" to mean volumes of natural gas certified by the Secretary of Agriculture and calculated in accordane with 7 CFR 2900.4. The proposed rule would clarify this section by adding the words "and § 281.208(b) of this Chapter" to the end of the sentence.

Section 281.305 Filing of amendments to essential agricultural requirements and priority 2 entitlements

Under the interim rule of Order No. 55, this section provided for filing amendments to priority 2 entitlements to reflect alternative fuel volumes. Since that process has been completed, § 281.305(a), (b)(2), (c), and (d) are no longer necessary and would be deleted. The section would be recaptioned "General rule." The (b) designation would be deleted from former § 281.305(b), and that section would be amended to provide that any essential agricultural user subject to this subpart that has requested from any direct supplier priority 2 classification for volumes for any essential agricultural use establishment shall reduce its essential agricultural requirements calculated under § 281.208 to reflect the exclusion of volumes of natural gas for

[17] Contemporaneously with this notice, the Commission is issuing a rule in Docket No. RM79–15 adding a new § 281.216(a). The rule, which is effective immediately, provides that, under Subpart B, filing and service dates for 1980 shall be the same as for 1979, notwithholding anything to the contrary in § 281.212(d) or § 281.213(c).

which its essential agricultural establishment has alternative fuel volumes under § 281.304.

The reference to § 281.207 in former § 281.305(b)(1) was a typographical error. Proposed § 281.305 would correct this to refer to § 281.208.

IV. Comment Procedures

A. *Written Comments*

Interested persons are invited to submit written comments on this proposed rule. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No. RM79–40. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. EDT, July 3, 1980, will be considered by the Commission prior to promulgation of a final rule. All written submissions will be available for public inspection in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours. The Commission will consider all timely comments before acting on matters proposed in this notice.

B. *Public Hearings*

A public hearing concerning this proposal and the interim rule issued on June 3, 1980, in Docket No. RM79–15 [18] will he held in Washington, D.C. on June 30, 1980, beginning at 10:00 a.m. at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The exact location will be posted at the Commission on the morning of the hearing.

Requests to participate should be directed to the Secretary at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, no later than June 20, 1980. Requests should reference Docket No. RM79–40, should indicate the amount of time desired for the oral presentation and the telephone number where the person making the request may be reached. Persons participating in the public hearings should, if possible, bring 50 copies of their testimony to the hearing. A list of participants in the hearing will be available in the hearing room on the morning it is convened.

Members of the hearing panel will be designated by the Chairman of the Commission. The hearing will not be judicial or evidentiary-type hearing. there will be no cross-examination of persons presenting statements. However, the panel may question such persons, and any interested person may submit questions to the presiding officer who will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearings. Transcripts of the hearings will be available in the public file for this proceeding, Docket No. RM79–40, in the Commission's Office of Public Information.

[18] See n. 19 supra.

(Natural Gas Act amended (15 U.S.C. 717–717w); Natural Gas Policy Act of 1978 (15 U.S.C. 3301–3432); Department of Energy Organization Act (42 U.S.C. 7101–7352); E.O. 12009, 3 CFR 142 (1978))

In consideration of the foregoing, it is proposed to amend Part 281, Chapter I of Title 18, Code of Federal Regulations, to read as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

§ 281.203 [Amended]

1. Section 281.203(a)(17) is revoked.

2. Section 281.204 is amended in paragraph (b) by revising the second sentence of paragraph (b)(3) and by adding a new paragraph (b)(4), to read:

§ 281.204 Tariff filing requirements.

* * * * *

(b) * * *

(3) * * * Each interstate pipeline shall amend its index of entitlements pursuant to paragraph (b)(2) of this section to remove from the priority 2 classification and place in an appropriate priority of service category any such volumes of natural gas included in any index of entitlements that is effective on or after October 31, 1979 (or on November 30, 1979, if the pipeline elects to file tariff sheets under paragraph (a)(2) of this section).

(4) Notwithstanding paragraph (b)(2) of this section, a pipeline may elect to file its revised index of entitlements on November 1, 1980 with a proposed effective date of December 1, 1980, if the pipeline:

(i) Files with the Secretary no later than October 1, 1980, a written notice of its decision to file its revised index of entitlements on November 1, 1980; and

(ii) Continues its existing index of entitlements filed under this subpart B until December 1, 1980.

* * * * *

3. Section 281.211 is amended by revising paragraph (b)(1)(ii)(D) and by revising the first sentence of paragraph (b)(4)(ii), to read as follows:

§ 281.211 Filing and documentation.

* * * * *

(b) *Priority 2.* * * *

(1) *Essential agricultural users.* * * *

(ii) * * *

(D) Includes with respect to any essential agricultural user to which Subpart C applies the data and calculations necessary to determine alternate fuel volumes under § 281.304.

* * * * *

(4) *Subsequent request.* * * *

(ii) For years subsequent to 1979, the data required by this paragraph must be filed only to the extent that there has been a change in essential agricultural requirements.

* * * * *

4. Section 281.216 is amended by designating the existing paragraph as paragraph (8) and by adding paragraph (b) to read as follows:

§ 281.216 Filing and service dates for 1980.

(a) * * *

(b) The Data Verification Committee shall submit its report on October 23, 1980, if the pipeline has elected under § 281.204(b) to file its revised index of entitlements on November 1, 1980.

§ 281.302 [Amended]

5. Section 281.302(a)(2) is amended by deleting the word "per" between the words "Mcf" and "day", and by inserting in lieu thereof the words "on a peak."

§ 281.303 [Amended]

6. Section 281.303 is amended by adding in paragraph (a) the words "or thereafter acquired" between "1979," and "the", and by adding at the end of paragraph (h) the words "and § 281.208(b) of this chapter."

§ 281.304 [Amended]

7. Section 281.304(a)(2) is amended by adding the term "or thereafter acquired," between "1979" and the word "the".

8. Section 281.305 is revised to read as follows:

§ 281.305 General rule.

Any essential agricultural user subject to this subpart that has requested from any direct supplier priority 2 classification for volumes for any essential agricultural use establishment shall reduce its essential agricultural requirements calculated under § 281.208 to reflect the exclusion of volumes of natural gas for which its essential agricultural establishment has alternative fuel volumes under § 281.304.

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APPENDIX A

COMPARISON OF SELECTED FUEL PRICE DATA
FPC FORM NO. 423 V. MONTHLY ENERGY REVIEW
1976 - JANUARY 1980

Type of Fuel	FPC Form No. 423 Price Data 1/					Monthly Energy Review Price Data 2/				
	1976	1977	1978	1979	Jan. '80	1976	1977	1978	1979	Jan. '80
	¢/MMBtu									
Fuel Oil										
No. 2	235.1	264.3	271.9	402.1	564.4	226.4	257.3	268.2	403.1	537.2
Low Sulfur No. 6	207.1	229.1	225.1	320.2	453.3	193.6	221.3	216.8	322.4	466.5
High Sulfur No. 6	168.7	199.9	186.7	264.7	361.4	165.9	195.2	186.1	261.5	349.6
All No. 6	195.9	220.4	212.3	299.7	423.5	182.8	210.4	202.7	297.0	417.7
Coal										
All Grades	81.4	84.8	94.7	111.6	128.7	3/	3/	3/	3/	3/
Natural Gas	103.4	130.0	143.8	175.4	194.8	97.2	131.9	154.1	201.8	237.3
	Actual Price Difference (Fuel Oil and Coal v. Natural Gas)									
Fuel Oil										
No. 2	131.7	134.3	128.1	226.7	369.6	129.2	125.4	114.1	201.3	299.9
Low Sulfur No. 6	103.7	99.1	81.3	144.8	258.5	96.4	89.4	62.7	120.6	229.2
High Sulfur No. 6	65.3	69.1	42.9	89.3	166.6	68.7	66.3	32.0	59.7	112.3
All No. 6	92.5	90.4	68.5	124.3	228.7	85.6	78.5	48.6	95.2	180.4
Coal										
All Grades	(22.0)	(45.2)	(49.1)	(63.8)	(66.1)	3/	3/	3/	3/	3/
	Price Difference Rate 4/ (Fuel Oil and Coal v. Natural Gas)									
	Ratio									
Fuel Oil										
No. 2	1.274	1.033	.891	1.292	1.897	1.329	.951	.740	.998	1.264
Low Sulfur No. 6	1.003	.762	.565	.826	1.327	.992	.678	.407	.598	.966
High Sulfur No. 6	.632	.538	.298	.509	.855	.707	.480	.208	.296	.473
All No. 6	.895	.695	.476	.709	1.174	.881	.595	.315	.472	.760
Coal										
All Grades	(.213)	(.348)	(.341)	(.364)	(.339)	3/	3/	3/	3/	3/

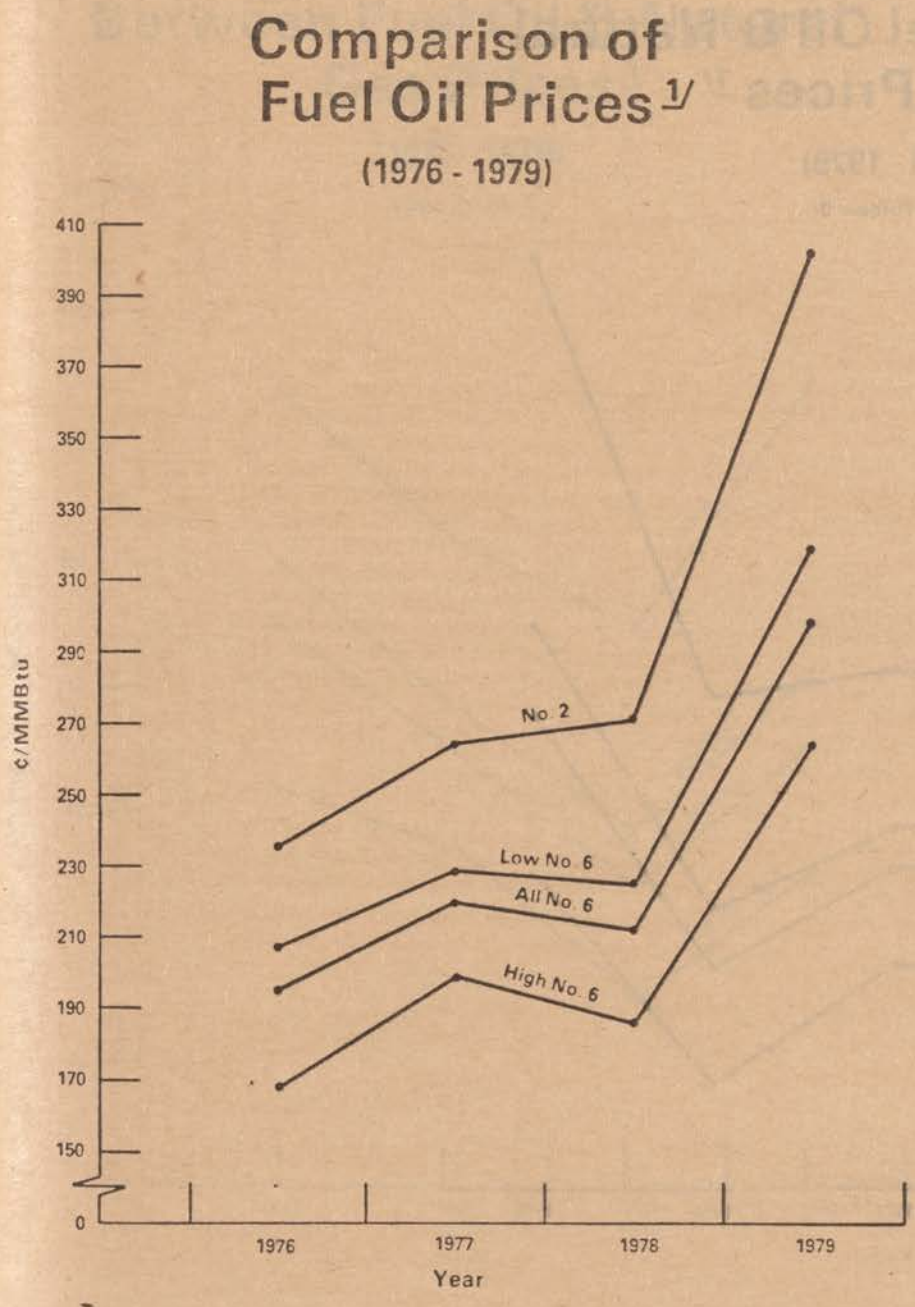
1/ As reported in DOE/EIA Energy Data Report entitled Cost and Quality of Fuels for Electric Utility Plants (Annual summary data 1976-1979) and Monthly Report for January 1980. Note: All prices are delivered prices to steam electric plants. Prices paid for No. 6 fuel oil include prices paid for minor amounts of No. 4 and No. 5 fuel oil, crude and topped crude.

2/ Fuel oil prices are reported on FEA Form P302-M-1, "Petroleum Industry Monthly Report for Product Prices." Natural Gas Prices are those paid by industrial customers of major interstate pipeline companies as reported on FPC Form No. 11, "Natural Gas Pipeline Company Monthly Statement."

3/ The price data for coal is the same as shown under FPC Form No. 423 price data.

4/ Mathematically the price difference ratio is $\frac{P_2 - P_1}{P_1}$; Where P_2 = The price of fuel oil or coal and P_1 = the price of natural gas. The ratio indicates the percent difference between natural gas and alternate fuel prices. For example in January 1980 electric utilities reported that in that month they paid 1.897 times more (189.7 percent) for No. 2 fuel oil than they paid for natural gas.

APPENDIX B
CHART I



Source Form No. 423

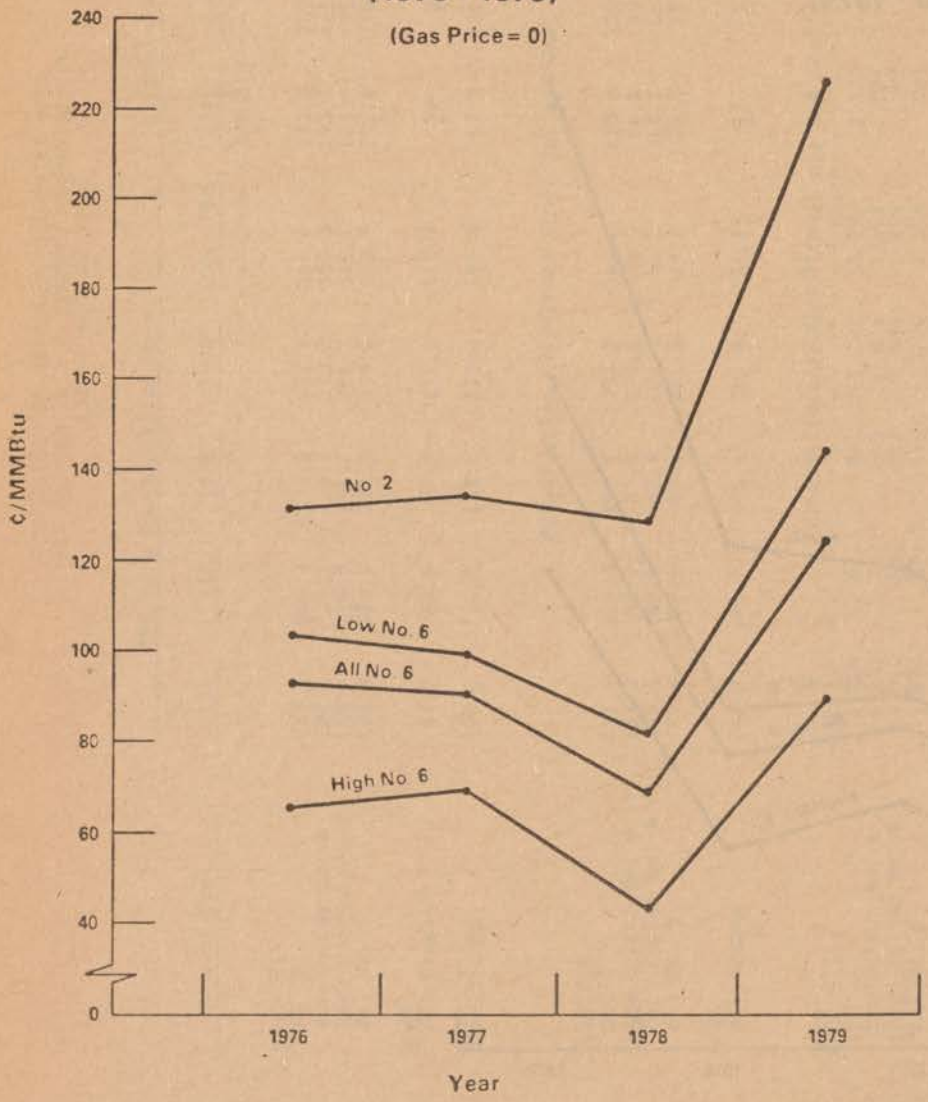
1/ Annual average prices as shown in Appendix A.

APPENDIX B
CHART 2

Price Difference Between Fuel Oil & Natural Gas Prices 1/

(1976 - 1979)

(Gas Price = 0)



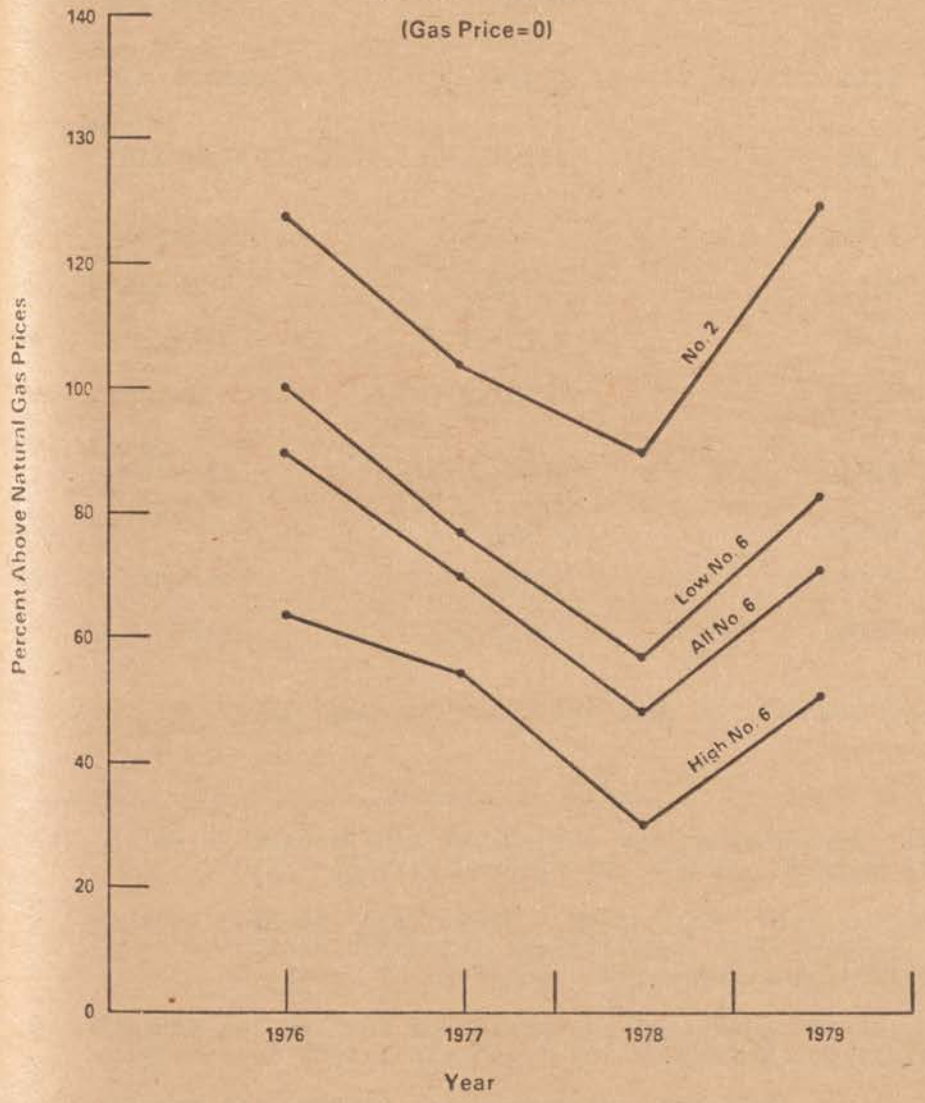
Source Form No 423

1/ Based on average annual prices as shown in Appendix A.

APPENDIX B
CHART 3

Percentage Difference Between Fuel Oil & Natural Gas Prices[1/]

(1976 - 1979)



Source Form No 423

1/ Based on annual average prices as shown in Appendix A.

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Appendix C

The tables and text contained in this appendix were taken from the Environmental Assessment of the Determination of Alternative Fuels for Essential Agricultural Users, Docket No. RM79–40, issued June 3, 1980.

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TABLE 1

COMPARISON OF U.S. REGIONAL AND TOTAL CONSUMPTION BY ALL USERS WITH DELIVERIES AND CURTAILMENTS TO LARGE INTERSTATE ESSENTIAL AGRICULTURAL USERS (APRIL 1978 THROUGH MARCH 1979)
(Billion Cubic Feet)

DOE REGION	TOTAL GAS CONSUMPTION (1978) 1/	ESSENTIAL AG. GAS DELIVERIES 2/	ESSENTIAL AG. GAS CURTAILMENTS 2/
1. New England	262.8	2.7	0.9
2. New York New Jersey	798.5	17.7	10.2
3. Mid-Atlantic	1,142.1	34.3	11.6
4. South Atlantic	1,634.1	105.9	53.3
5. Midwest	4,019.0	155.5	33.9
6. Southwest	7,665.3	58.3	5.8
7. Central	1,279.5	110.6	25.7
8. North Central	620.8	16.6	7.3
9. West 4/	1,802.7	63.9	2.8
10. Northwest	402.7	22.2	0.2
U.S. TOTAL	19,627.5	587.7	151.5

Note: U.S. TOTAL may not equal the sums of columns due to rounding.

1/ Source: "Natural Gas Production and Consumption: 1978", DOE/EIA, Energy Data Reports, Natural Gas Annual, October 12, 1979, Table 6, p. 7.

2/ Source: EIA 50, April 1978 - March 1979, with two digit SIC's weighted to obtain essential agricultural user volumes. SIC 4971, Irrigation Systems, is excluded. For weighting coefficients, see Appendix B.

3/ Natural gas volumes for Arkansas, Louisiana, Texas, New Mexico, and Oklahoma weighted for interstate gas. For weighting coefficients, see Appendix B.

4/ Natural gas volumes for Hawaii not included.

5/ Natural gas volumes for Alaska not included.

TABLE 2

INTERSTATE DELIVERIES AND CURTAILMENTS WITH ALTERNATE FUELS USED BY LARGE ESSENTIAL AGRICULTURAL USERS, APRIL 1978 - MARCH 1979[1/]
(Billion Cubic Feet)

DOE Region	Del.	Curt.	Alternate Fuel				
			Dist.	Resid.	Coal	Propane	Other
1. New England	2.7	0.9	0	0.8	0	0	0.1
2. New York/ New Jersey	17.7	10.2	2.8	6.7	0	0.5	0.2
3. Mid-Atlantic	34.3	11.6	2.0	6.7	1.0	0.2	1.7
4. South Atlantic	105.9	53.3	15.2	16.0	3.9	2.5	15.7
5. Midwest	155.5	33.9	7.8	17.0	4.1	2.0	3.0
6. Southwest[2/]	58.3	5.8	0.9	4.0	0.3	0.1	0.5
7. Central	110.6	25.7	10.2	7.1	6.0	1.0	1.4
8. North Central	16.6	7.3	1.1	4.0	1.8	0.2	0.2
9. West[3/]	63.9	2.8	1.5	0.3	0.7	0.1	0.2
10. Northwest[4/]	22.2	0.2	0	0.1	0	0	0.1
U.S. Total	587.7	151.5	41.6	62.7	17.8	6.6	22.8

Note: U.S. Totals may not equal the sums of columns due to rounding.

1/ Source: EIA 50, April 1978 - March 1979, with two-digit SIC's weighted to obtain essential agricultural user volumes.

2/ Natural gas volumes for Louisiana, Arkansas, Texas, New Mexico, and Oklahoma weighted for interstate gas.

3/ Natural gas volumes for Hawaii not included.

4/ Natural gas volumes for Alaska not included.

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D. Socioeconomic Impact

Examination of the socioeconomic impact of denying Priority 2 curtailment protection to essential agricultural users has centered on the effect fuel cost changes would have on production costs. Nationally, the cost impact is small. An analysis of EIA 50 data shows that 20.5 percent of natural gas demand by essential agricultural users was curtailed between April 1978 and March 1979. Curtailed volumes were replaced by alternative fuels in the following proportions:

	Percent
Residual	41.4
Distillate	27.4
Coal	11.8
Propane	4.4
Other Fuels	1.9
None	13.1

Fuel cost impact varies considerably in different regions. Table 5 presents the regional prices for natural gas and alternative fuels used to calculate the price differentials in table 6. (A detailed explanation of the fuel price data and methodology used by the staff in this analysis appears in appendix C.) Column 1 of table 7 shows the estimated change in total fuel costs if large essential agricultural users in each region are denied Priority 2 curtailment protection. These figures suggest that absolute fuel costs would increase considerably, the largest increase being $82 million in DOE's Region 4, the South Atlantic states. However, these absolute figures are more meaningful when compared to the size of the industrial/essential agricultural base that would be affected. Column 2 shows the value added in manufacture by essential agricultural users in each of the 10 DOE regions. Column 1 can be divided by column 2 to show the percentage change in total cost resulting from the curtailment of essential agricultural users. Column 3 places the fuel cost increases of column 1 in better perspective by showing that production costs would only increase by 0.23 percent nationally. The greatest impact would occur in Regions 4 (0.60 percent) and 7 (0.61 percent).

Appendix C shows regional cost impacts further broken down by individual SIC codes. This analysis shows that production cost impacts might exceed 1 percent in some instances.

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TABLE 5

REGIONAL FUEL PRICES FACING Essential Agricultural Users
(in $/million Btu; March 1980)1/

DOE Region	Natural Gas	Distillate	Residual	Coal	Propane
1. New England	3.32	----2/	3.89	----	6.13
2. New York/New Jersey	3.26	5.65	4.92	----	5.65
3. Mid-Atlantic	3.38	6.36	4.63	1.65	5.91
4. South Atlantic	2.32	6.18	3.61	1.49	6.09
5. Midwest	2.59	6.38	3.93	1.27	5.91
6. Southwest	2.19	4.81	3.76	1.20	4.47
7. Central	2.13	6.73	3.40	1.24	6.34
8. North-Central	3.34	5.75	3.68	0.51	6.60
9. West	3.05	6.71	4.05	0.96	6.27
10. Northwest	4.01	NA3/	NA	----	NA
U.S. Weighted Average	2.56	6.24	3.91	1.24	6.03

1/ January prices are from Energy Data Report, Cost and Quality of Fuels for Electric Utility Plants, January 1980. These prices are indexed to March 1980 by the Producers Price Index (PPI) for each fuel. The price of propane is set equal to the price of No. 2 fuel oil for each state in January 1980 and indexed to March 1980 by the PPI for propane.

2/ None of this fuel type was burned by essential agricultural users as an alternative fuel in these regions.

3/ The Region 10 prices designated by "NA" are not available. Therefore, the national average price differential from table 6 was used to calculate the regional impact.

TABLE 6

REGIONAL PRICE DIFFERENTIALS[1/]
(Alternative Fuel Price Minus Natural Gas Price)
($/million Btu's; March 1980)

DOE Region	Distillates	Residuals	Coal[2/]	Propane
1. New England	----	0.57	----	2.81
2. New York/New Jersey	2.39	1.66	----	2.39
3. Mid-Atlantic	2.98	1.25	(1.73)	2.53
4. South Atlantic	3.86	1.29	(0.83)	3.77
5. Midwest	3.79	1.34	(1.32)	3.32
6. Southwest	2.62	1.57	(0.99)	2.28
7. Central	4.60	1.27	(0.89)	4.21
8. North-Central	2.41	0.34	(2.83)	3.26
9. West	3.66	1.00	(2.09)	3.22
10. Northwest	2.23	1.35	----	3.47
U.S. Weighted Average	3.68	1.35	(1.32)	3.47

1/ Derived from table 5.

2/ (·) means that coal is less expensive than natural gas by the amount bracketed.

TABLE 7

PERCENTAGE CHANGE IN TOTAL PRODUCTION COSTS
CAUSED BY AGRICULTURAL EXEMPTION
(SIC 20 through 39 only)

DOE Region	Total Cost Impact[1/] (in $000)	Value Added by Essential Agricultural Users[2/] (in $000,000)	Cost Difference (Percent)
1. New England	485.5	9,597.7	0.01
2. New York/New Jersey	18,360.0	10,279.7	0.18
3. Mid-Atlantic	12,893.6	10,747.3	0.12
4. South Atlantic	82,145.9	13,710.1	0.60
5. Midwest	53,399.0	26,263.5	0.20
6. Southwest	8,166.8	2,391.2	0.34
7. Central	45,722.8	7,511.1	0.61
8. North-Central	(770.2)	1,945.5	(0.04)
9. West	6,040.3	11,963.2	0.05
10. Northwest	244.7	2,987.2	0.01
U.S. Totals	226,688.4	97,396.5	0.23

1/ Derived by multiplying the alternative fuel figures for each region by the corresponding price differential between natural gas and the alternative fuel. These numbers also include the fuel cost saving associated with switching from natural gas to coal.

2/ Value added data are from the Annual Survey of Manufacturers Statistics for States, SMSA's, Large Industrial Counties and Selected Cities, 1976. These figures are weighted to include only essential agricultural users and are indexed by the Producers Price Index to March 1980.

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The overall impact on affected agricultural users appears insignificant because of the small likelihood that large increases in production cost will occur. Notwithstanding this fact, the response of any individual essential agricultural users to increased energy costs can not be predicted. The major options for a business faced with the prospect of rising costs, other than going out of business, are to pass cost increases along in its product price, to absorb the cost increase by reducing profits, or to conserve. These options could have varying effects on production and employment of a particular business with resulting socioeconomic effects.

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TABLE 9

REGIONAL FUEL COST IMPACT CAUSED BY SWITCHING TO ALTERNATIVE FUEL1/
(in $000)

Region	Alternative Fuels				Combinations		
	Distillates	Residual	Coal	Propane	Residual/Coal	Residual/Coal/Propane	All
1. New England	0	472	0	14	472	486	486
2. New York/New Jersey	6,721	11,139	0	1,303	11,336	12,439	19,160
3. Mid-Atlantic	5,990	8,423	(1,796)2/	488	6,627	7.115	13,105
4. South Atlantic	58,541	20,579	(3,206)	9,527	17,374	26,901	85,442
5. Midwest	29,422	22,781	(5,411)	6,756	17,369	24,127	53,549
6. Southwest	2,353	6,222	(318)	180	5,904	6,084	8,437
7. Central	47,053	9,041	(5,318)	4,134	3,724	7,858	54,911
8. North-Central	2,740	1,366	(5,035)	528	(3,668)	(3,140)	(400)
9. West	5,545	279	(1,549)	383	(1,270)	(887)	4,658
10. Northwest	83	154	0	7	154	161	243
U.S. Total	158,447	80,455	(22,631)	23,321	57,822	81,143	239,592

1/ Cost impact data for all SIC's are included in this table. Data for SIC's 1, 2, 7, 14, 42, 51, and 54 were not included in table 7, where percentage change in total production costs were identified, because "value added" data were lacking. However, the missing SIC's account for only 6.4 percent of the total fuel cost impact.

2/ ( ) indicates a fuel cost saving.

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Appendix C—Fuel Price and Production Cost Impact Methodologies

Fuel Prices

The decision to use fuel prices faced by steam-electric utilities, contained in EIA Energy Data Reports, was based on three main factors:

1. Steam-electric utility data as the best available data which provide a consistent base of prices to determine the price differentials. These price differentials are preferable to price differentials derived from a number of potentially inconsistent sources or data bases.
2. EIA's steam-electric fuel price provides regional data.
3. The prices are fairly recent, minimizing the need for an index.

The major problem with the data is the lack of prices for some states. *Energy Data Report, Cost and Quality of Fuels for Electric Utility Plants, January 1980* provides prices for natural gas, coal, distillate, and residual fuel oils for most states. Major states with no reported data were:

Natural gas—Maryland, North Carolina, and Tennessee.
Distillate—New York and Region 10.
Residual—Iowa, Kansas, North Carolina, Alabama, Kentucky, Tennessee and Region 10.

In these instances, the regional price was calculated without considering the missing states. Since January data were not available in some cases, December 1979 prices were escalated to March 1980 using the Producer Price Index for natural gas in Massachusetts and for distillate fuels in Minnesota, Montana, and New Jersey. Distillate prices may be slightly low for Regions 6 and 8 because of what appear to be low prices for Arkansas and Montana. Thus, the impact may be slightly understated.

The Energy Data Reports do not contain propane prices, and in other sources, regional prices are not available. Since there is some indication of a long-term equivalency between the prices of distillate fuel oil and propane, the staff set the propane price equal to the January 1980 price of distillates for each region. The January prices were then escalated to the March 1980 level using the Producer Price Index for Propane.

Regional prices were derived from the available state prices by weighting each price according to its percentage of the particular fuel consumed by essential agricultural users in that region. For example, 64 percent of the curtailment in Region 3 was in Pennsylvania. Thus, a weight of 0.64 was applied (the sum of the weights = 1.00). Similarly, Pennsylvania consumed 72 percent of all residual oil used as an alternative fuel. Thus, a weight of 0.72 was applied. EIA 50 reports that large essential agricultural users in Pennsylvania did not use any coal as an alternative fuel. Thus, a weight of 0 was applied. By applying these weights, the staff determined an average regional price for each fuel type in January 1980. The Producers Price Index for each fuel type was then used to index the prices from January to March 1980, making the prices as current as possible.

Production Cost Impact Analysis

The regional prices were applied to the alternative fuel figures generated from EIA 50 (See table 2.) to convert the natural gas replacement volumes into dollars (i.e., production costs). The results can be seen on table 7, column 1.

Table C–1 is similar to table 7, column 1, except that it shows the total regional impact in production costs manufacturing SIC codes. Table C–1 shows that the total production cost impact would be greatest in Region 4, SIC 20 and 28; Region 5, SIC 20; and in Region 7, SIC 20. The impact to production costs in these regional/SIC combinations totals about 58 percent of the nationwide impact.

Table C–2 shows value added figures by region from the Annual Survey of Manufacturers for each manufacturing SIC Code. The data from tables C–1 and C–2 enabled the staff to determine the impact on production costs for each region and manufacturing SIC code. The results are shown in table C–3.

Essential agricultural users in SIC code 32 (Stone, Clay, and Glass) would be most adversely affected (0.75 percent) by denying Priority 2 exemption.

Table C–3 shows that the cost impact would exceed 1 percent in seven instances: Region 6, SIC 26—3.37 percent; Region 4, SIC 32—2.40 percent; Region 4, SIC 28—1.64 percent; Region 7, SIC 32—1.64 percent; Region 2, SIC 32—1.48 percent; Region 4, SIC 26—1.18 percent; and Region 8, SIC 28—1.12 percent.

[FR Doc. 80-17445 Filed 6-9-80; 8:45 am]
BILLING CODE 6450-85-M

TABLE C-1

REGIONAL TOTAL COST IMPACT BY SIC
(in $000)1/

DOE Region	SIC Codes								
	20	21	22	26	28	30	31	32	34
1. New England	283.9	----	1.1	15.4	185.1	0	----	0	0
2. New York/New Jersey	7,928.3	----	17.3	388.5	1,581.5	0	----	8,415.7	28.7
3. Mid-Atlantic	9,442.0	96.4	28.0	137.4	2,013.8	395.9	----	622.3	157.9
4. South Atlantic	26,429.9	518.2	722.6	6,759.8	33,340.2	1,622.2	111.9	11,868.0	773.1
5. Midwest	39,316.5	113.9	6.5	3,008.6	4,221.1	501.3	584.9	4,394.6	450.0
6. Southwest	1,620.3	----	0	2,205.8	4,259.0	73.9	----	(5.3)2/	15.9
7. Central	32,785.0	----	----	195.7	8,105.0	202.6	----	3,162.5	1,302.0
8. North-Central	(683.1)	----	----	2.4	598.7	78.4	38.6	(831.3)	19.6
9. West	3,534.4	----	7.3	259.9	1,163.9	139.1	0	840.0	95.7
10. Northwest	100.2	----	0	94.5	40.6	----	----	9.4	0
U.S. Total	120,757.4	728.4	782.8	13,068.0	55,508.9	3,010.6	735.1	28,475.9	2,842.9

U.S. Total for All Regions and All SIC's = 226,688.4

1/ Derived by multiplying the alternative fuel figures for each SIC code by the corresponding price differential between natural gas and the alternative fuel in table 6.

2/ Includes fuel cost saving associated with switching from natural gas to coal.

TABLE C-2

VALUE ADDED FOR ESSENTIAL AGRICULTURAL USERS[1/]
(In $million)

DOE Region	SIC Codes								
	20	21	22	26	28	30	31	32	34
1. New England	2,084.9	----	912.6	1,014.0	551.9	1,264.2	----	554.1	3,213.3
2. New York/New Jersey	6,493.8	----	12.8	249.1	2,283.0	188.2	----	567.6	485.3
3. Mid Atlantic	7,178.6	238.3	21.6	651.7	1,682.7	162.5	276.6	565.0	485.2
4. South Atlantic	9,157.4	519.2	133.6	570.5	2,036.5	270.3	516.1	494.5	528.2
5. Midwest	18,752.4	----	3.6	581.7	2,765.2	702.3	116.2	958.7	2,394.7
6. Southwest	1,625.1	----	----	65.3	538.2	44.4	----	41.7	76.4
7. Central	6,078.5	----	----	62.9	840.6	117.0	----	193.1	219.0
8. North Central	1,747.7	----	----	5.7	53.4	----	----	94.9	43.9
9. West	8,492.2	----	3.3	168.9	755.9	1,672.4	47.6	353.1	469.8
10. Northwest	2,508.2	----	4.1	158.6	197.3	----	----	35.3	83.8
SIC Totals	64,118.8	757.5	1,091.5	3,528.4	11,704.7	4,421.5	956.5	3,858.0	7,999.7

U.S. Total for All Regions and All SIC's = 97,396,5

1/ Value Added data are from the Annual Survey of Manufacturers-Statistics for States, SMSA's, Large Industrial Counties, and Selected Cities, 1976. These figures are weighted to include only essential agricultural users and are indexed by the Producers Price Index to March 1980.

TABLE C-3

PERCENTAGE CHANGE IN TOTAL PRODUCTION COSTS
CAUSED BY AGRICULTURAL EXEMPTION
(by Region and SIC)

DOE Region	SIC Codes								
	20	21	22	26	28	30	31	32	34
1. New England	0.01	----[1]	0[2]	0	0.03	0	----	0	0
2. New York/New Jersey	0.08	----	0.14	0.16	0.07	0	----	1.48	0.01
3. Mid-Atlantic	0.13	0.04	0.13	0.02	0.12	0.24	----	0.11	0.03
4. South Atlantic	0.29	0.10	0.54	1.18	1.64	0.60	0.02	2.40	0.15
5. Midwest	0.21	----	0.18	0.52	0.15	0.07	0.50	0.46	0.02
6. Southwest	0.10	----	0	3.37	0.79	0.19	----	(0.01)[3]	0.02
7. Central	0.54	----	----	0.31	0.96	0.17	----	1.64	0.59
8. North-Central	(0.04)	----	----	0.04	1.12	----	----	(0.88)	0.04
9. West	0.04	----	0.22	0.15	0.16	0.01	----	0.24	0.02
10. Northwest	0	----	0	0.06	0.02	----	----	0.03	0
U.S. Totals	0.19	0.10	0.07	0.37	0.47	0.07	0.08	0.75	0.04

U.S. Total for All Regions and All SIC's = 0.23

1/ EIA 50 reported no data or the Annual Surveys of Manufacturers reported that no value added figures were available.

2/ "0" means less than 0.005 percent.

3/ ( ) denotes a fuel cost saving.

BILLING CODE 6450-85-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Reg. No. 4]

Federal Old-Age, Survivors, and Disability Insurance Benefits for Young Husbands and Surviving Divorced Fathers

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Social Security Administration proposed to issue regulations which provide benefits to young husbands and surviving divorced fathers. These regulations reflect two court decisions which are discussed in the Supplementary Information section of this preamble. They are designed to implement the court decisions which eliminate two gender-based distinctions in the Social Security Act.

DATE: Your comments will be considered if we receive them on or before August 11, 1980.

ADDRESSES: Send your written comments to: Social Security Administration, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203.

Copies of all comments we receive in response to this notice will be available for public inspection at the Washington Inquiries Section, Office of Governmental Affairs, Social Security Administration, Department of Health and Human Services, North Building, Room 1169, 330 Independence Avenue SW, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Mrs. Vera Schlosser, 4–H–10, West High-rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, 301–594–7332.

SUPPLEMENTARY INFORMATION

Background

On December 29, 1978, the U.S. District Court for the Eastern District of Pennsylvania held in *Cooper* v. *Califano* that sections 202(b)(1) and 202(c)(1) of the Social Security Act, taken together, unconstitutionally deny husband's benefits solely on the basis of gender. Section 202(b)(1)(B) of the Act provides benefits for a wife under 62 who has in her care a child entitled to child's benefits on the worker's earnings record; section 202(c) provides no comparable benefit for husbands.

On January 26, 1979, the U.S. District Court for the Western District of Kentucky held in *Yates* v. *Califano* that the Act unconstitutionally denied benefits to a surviving divorced father. Section 202(g)(1)(F) of the Act provides benefits to a surviving divorced mother who has in her care her natural or adopted child entitled to child's benefits on the worker's earnings record; the Act provides no comparable benefits for surviving divorced fathers.

Those court decisions were based largely on *Weinberger* v. *Weisenfeld*, 420 U.S. 636 (1975), in which the U.S. Supreme Court held that section 202(g) was unconstitutional to the extent that it provided benefits for a widow with a child in her care, but not to a widower with a child in his care. As that case did not deal with the rights of young husbands or surviving divorced fathers, we did not apply the *Weisenfeld* decision to them. However, the Solicitor General determined that the issues raised by the *Cooper* and *Yates* decisions are substantially the same as those decided in *Weisenfeld*. He therefore declined to appeal *Cooper* and *Yates* to the Supreme Court. Subsequently, the Attorney General, as the law requires him to do, advised the Congress of the decision not to appeal. Since the *Cooper* and *Yates* decisions are final and there will be no further judicial proceedings on the specific issues raised in the two cases, it has been decided that they should be implemented on a nationwide basis by issuing regulations. The proposed regulations will provide benefits beginning with the month of the pertinent decisions.

Proposed Regulations

The proposed regulations provide the following new benefits.

(a) Husband's benefits will be provided for the husband of a person entitled to old-age or disability benefits if he is under age 62, has in his care a child entitled to child's benefits on his wife's earnings record, and otherwise meets the conditions of entitlement to husband's benefits; and

(b) Father's benefits will be provided for the surviving divorced husband of an insured worker if he is otherwise qualified and has in his care his natural or adopted child who is entitled to child's benefits on his deceased divorced wife's earnings record.

Effective Date

The regulations will become effective with the month of the district court decisions. In the case of benefits for husbands under 62 with a child in their care, the regulations provide for benefits effective with the month of December 1978. In the case of benefits for surviving divorced husbands with a child in their care, the regulations provide for benefits effective with the month of January 1979.

Notice of Proposed Rulemaking

Where the Supreme Court declares a provision of the Social Security Act unconstitutional and requires the payment of benefits not expressly provided by Congress, we of course comply and issue interim regulations that apply to all claimants qualifying for benefits under the same circumstances as those covered by the Supreme Court's decision. We do what the Court requires despite the silence of the statute. However, we generally leave to the Congress any extension of the Supreme Court's decision to other circumstances.

Where, however, the Supreme Court decides an issue that relates to other claimants with almost identical interests and the Government does not appeal later lower court decisions applying the Supreme Court decision to the latter claimants because it considers the Supreme Court decision to be binding, it would seem necessary for the agency concerned to adopt a regulation having nationwide effect.

These proposed regulations involve one of these rare situations where we will pay benefits without express statutory authority, on the basis of district court decisions. Therefore, we are issuing a Notice of Proposed Rule Making to provide an opportunity for public comment and to give full advance notice of our intentions and reasons for proceeding in this manner. While this process involves some delay, claimants' rights to benefits can be protected in the interim through applications that will be processed after final regulations are published.

(Sec. 202, 205, 216, 223, and 1102 of the Social Security Act, as amended; (49 Stat. 623, as amended, 53 Stat. 1362, as amended, 64 Stat. 510, as amended, 70 Stat. 815, as amended, 49 Stat. 647, as amended; 42 USC 402, 405, 416, 423, and 1302))

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security—Disability; 13.803 Social Security—Retirement Insurance; 13.805 Social Security—Survivors' Insurance)

Dated: April 22, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: June 4, 1980.

Patricia Roberts Harris,

Secretary of Health, and Human Services.

It is proposed that Part 404 of title 20 of the Code of Federal Regulations be amended as follows:

1. Section 404.330(c) is revised to read as follows:

§ 404.330 Who is entitled to wife's or husband's benefits.

* * * * *

(c) You are 62 years old or older; or you are the insured's wife or husband and have "in your care," as defined in §§ 404.348–404.349, a child who is entitled to child's benefits on the insured's earnings record and the child is either under 18 years old or disabled; and

* * * * *

2. Section 404.340 is amended by revising the section heading and the material preceding paragraph (a) and revising paragraphs (a)(1), (b), and (d) to read as follows:

§ 404.340 Who is entitled to mother's or father's benefits as a surviving divorced spouse.

You may be entitled to mother's or father's benefits as the surviving divorced wife or the surviving divorced husband of someone who was fully or currently insured when he or she died. You are entitled to these benefits if—

(a) * * *

(1) You are the mother or father of the insured's child; or

* * * * *

(b) You apply for these benefits; or you were entitled to wife's or husband's benefits for the month before the insured died;

* * * * *

(d) You are not entitled to widow's or widower's benefits, or to an old-age benefit that is equal to or larger than the full mother's or father's benefit; and

* * * * *

[FR Doc. 17533 Filed 6–9–80; 8:45 am]

BILLING CODE 4110–07–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 70, 71, and 90

Respirable Dust; Change of Public Hearings on Miner Participation

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Notice of change of public hearings on miner participation.

SUMMARY: Public hearings scheduled for July 8 and 10, 1980, (45 FR 31426) to receive testimony on MSHA's proposed provisions involving miner participation in the respirable dust sampling procedures are cancelled. New hearings will be held on August 12 and 14, 1980, in four locations to address the miner participation issue.

DATES: The new public hearings which will address the miner participation issue will be conducted on the following dates:

August 12, 1980—Pittsburgh, Pennsylvania.

August 12, 1980—Lexington, Kentucky.

August 14, 1980—Charleston, West Virginia.

August 14, 1980—Denver, Colorado.

Requests to make oral statements for the record at these hearings should be submitted in writing by August 8, 1980. The rulemaking record for the miner participation proposals only will remain open until August 29, 1980.

ADDRESSES: Send requests to make oral statements to the Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

The four public hearings will be held beginning at 9:00 a.m. at the following locations:

U.S. Bureau of Mines Building, Auditorium, First Floor 4800, Forbes Avenue, Pittsburgh, Pennsylvania 15213.

Holiday Inn North, Burley Room, I–75 and Newtown Pike, Lexington, Kentucky 40505.

The University of Charleston, Geary Student Union Building, Ballroom, Third Floor, 2300 MacCorkle Avenue, S.E., Charleston, West Virginia 25304.

U.S. Post Office, Main Office Building, Room 269, Auditorium, 1823 Stout Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, phone: (703) 235–1910.

SUPPLEMENTARY INFORMATION: On April 8, 1980, MSHA published three proposed rules concerning the sampling of respirable dust in coal mines, including the involvement of miners in the dust sampling procedures. Public hearings were scheduled for June 3 and 5, 1980. On May 13, 1980, MSHA published a notice (45 FR 31426) announcing additional public hearings for July 8 and 10, 1980, to address the miner participation proposals. Since publication of that notice, MSHA has received several requests to change the hearings related to the miner participation proposals since they are scheduled during the miners' vacation period. To allow all of those affected by the miner participation proposals the fullest opportunity to participate in the rulemaking process, the July hearings have been changed.

The hearings will be conducted in an informal manner, with each oral presentation being limited to 20 minutes.

Dated: June 2, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80–17546 Filed 6–9–80; 8:45 am]

BILLING CODE 4510–43–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1511–4]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (U.S. EPA) proposes to approve a revision to the Ohio State Implementation Plan (SIP) for sulfur dioxide (SO_2) for the United States Steel Corporation's (U.S. Steel) Lorain Plant, Lorain County, Ohio. The revision is requested to correct data errors in U.S. EPA's analysis of this facility's emissions. In addition, U.S. Steel requests the revision to implement an alternative control strategy in which coke oven gas is displaced with natural gas in the dominant SO_2 sources and distributed to other less significant sources. U.S. EPA has determined that the proposed revision to the federally promulgated Ohio SO_2 Plan should be approved. The purpose of this notice is to invite public comment on U.S. EPA's proposed rivision to the federally promulgated SO_2 regulation for the State of Ohio.

DATE: Comments must be received on or before July 10, 1980. Requests for a public hearing on this revision must be received no later than June 25, 1980.

ADDRESSES: Comments and requests for a hearing should be submitted to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. EPA, Region V, 230 South Dearborn St., Chicago, Illinois 60604.

The docket, #5A–80–2, for this revision is on file at the above address and at: Central Docket Section, Room 2903 B, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

The docket may be inspected and copied during normal business hours.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Regulatory Analysis Section, Air Programs Branch,

U.S. EPA, Region V, 230 South Dearborn St., Chicago, Illinois 60604, (312) 886-6039.

SUPPLEMENTARY INFORMATION: This proposed rule is an amendment to the federally promulgated Ohio State Implementation Plan (SIP) for sulfur dioxide (SO_2). The revision is specifically for the United States Steel Corporation's (U.S. Steel) Lorain Plant, Lorain County, Ohio.

On August 27, 1976, 41 FR 36324, the United States Environmental Protection Agency (U.S. EPA) promulgated regulations establishing the SIP for the control of SO_2 for the State of Ohio. On January 22, 1979, U.S. Steel submitted a Petition for Revision to the Ohio SIP. This Petition was submitted pursuant to a stipulated agreement between U.S. EPA and U.S. Steel in two cases (Nos. 76-2243 and 77-1358) then pending before the United States Court of Appeals for the Sixth Circuit. Both parties acknowledged that certain data errors (e.g., source locations, fuel usage, and receptor locations) in U.S. EPA's modeling. U.S. EPA notified U.S. Steel of inadequacies in its Petition, and on September 12, 1979, U.S. Steel submitted an Amended Petition for Revision. Supplemental material was submitted on November 15, 1979, and in March 1980. The subject of this notice is U.S. Steel's Amended Petition for Revision, it corrects the above/listed technical errors, and includes an alternate control strategy which would be more cost effective than that currently permitted under existing U.S. EPA regulations. The basis for this alternate control strategy is the displacement of some coke oven gas from the dominant SO_2 sources (i.e., the number 4 seamless mill rotary furnace (P039) and the soaking pits (P006-018)) with natural gas; the coke oven gas will be distributed to other less significant sources. Any excess coke oven gas is to be flared. This control strategy requires the construction of an additional flare.

U.S. Steel has performed an air quality impact analysis to demonstrate that the proposed revision will achieve and maintain the National Ambient Air Quality Standards (NAAQS) for SO_2. U.S. Steel used the U.S. EPA RAM-Urban model, modified to treat volume sources, with 1964 Cleveland/Buffalo meteorological data. The volume source modification, consistent with U.S. EPA modeling guidelines, was necessary to better model emissions from such industrial process sources as No. 4 Seamless Mill Rotary Furnace. This source is totally enclosed in a building with a roof vent and two side vents from which pollutant emissions are released.

As a part of the modeling methodology, U.S. Steel examined two scenarios: (1) all sources operating at maximum capacity with the additional flare down (i.e., no excess coke oven gas), and (2) the additional flare operating at maximum capacity without the coke oven gas-fired sources. For each scenario, one year of meteorological data was screened to select critical days for additional review. These critical day analyses indicated that the U.S. Steel control strategy is effective in achieving and maintaining the NAAQS. An additional analysis was performed to assess the use of alternate fuels in the boilers. In B001-012, the backup fuel produces less SO_2 emissions than the primary fuel. An emission limitation based upon the primary fuel is, therefore, more constraining. In B013, however, the alternate fuel, #2 distillate oil, produces more SO_2 emissions than the main fuel, blast furnace gas. Supplemental modeling of B013's firing #2 oil was performed to justify the proposed oil-firing emission limitation. With this limitation, the remaining sources can still burn coke oven gas at the 368 gr. H_2S level and achieve the NAAQS.

The proposed revision to the regulation for the control of sulfur dioxide in the State of Ohio has been found acceptable by U.S. EPA. The supporting data is contained in the Technical Support Documents. Comments are solicited. Final promulgation of this revision will follow analysis of the comments received, and will depend upon consistency with Section 110 of the Clean Air Act.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations, "specialized". I have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410)

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

Subpart KK—Ohio

1. § 52.1881 is amended by revising paragraph (b)(38) (vi) and (vii) to read as follows:

§ 52.1881 Control Strategy: Sulfur oxides (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio. * * *

(38) In Lorain County, * * *

(vi) The United States Steel Corporation or any subsequent owner or operator of the United States Steel facilities in Lorain County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at those facilities in excess of:

(A) * * *

(B) For fossil fuel-fired steam generating units number 010 through 012: 1.98 pounds of sulfur dioxide per million BTU of actual heat input.

(C) For fossil fuel-fired steam generating unit number 013: 0.31 pound of sulfur dioxide per million BTU of actual heat input.

(D) For all other fossil fuel-fired steam generating units, subparagraphs (b)(38)(i) or (38)(ii) of this section shall apply, as applicable.

(vii) The United States Steel Corporation or any subsequent owner or operator of the United States Steel facilities in Lorain County, Ohio, shall not cause or permit the combustion of by-product coke oven gas from any stack containing a total sulfur content expressed as hydrogen sulfide in excess of 368 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas and shall not cause or permit the emission of sulfur dioxide from any stack in excess of 1.98 pounds of sulfur dioxide per million BTU of actual heat input.

* * * * *

Dated: May 1, 1980.

John McGuire,

Regional Administrator.

FR Doc. 80-17552 Filed 6-9-80: 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 162

[OPP-00121; FRL 1510-7]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel to present decision options being considered by the

agency to conclude the rebuttable presumption against registration (RPAR) on diallate and review of a final regulation classifying certain uses of eight active ingredients for restricted uses. The meeting will be open to the public.

DATES: Thursday and Friday, June 26, and 27, 1980, from 9:00 a.m. to 5:00 p.m. daily.

ADDRESS: The meeting will be held at the Hospitality House, 2000 Jefferson Davis Highway, Arlington, VA, 703/920-8600.

FOR FURTHER INFORMATION CONTACT: H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, (TS-766), Office of Pesticide Programs, Rm. 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7560.

SUPPLEMENTARY INFORMATION: The agenda for this meeting is:

1. Presentation of the decision options being considered by the agency to conclude the RPAR on diallate;

2. Review of a final regulation classifying certain uses of eight active ingredients for restricted use. The eight active ingredients are chloropicrin, cycloheximide, dicrotophos, EPN, methamidophos, methidathion, nicotine (alkaloid), and zinc phosphide. These eight active ingredients are part of a group of 21 active ingredients that were proposed for restricted use on August 1, 1979;

3. Completion of any unfinished business from previous Panel meetings; and

4. In addition, the agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of draft documents concerning item 1 may be obtained by contacting: Robert Brown, Special Pesticides Review Division (TS-791), Room 728A, Crystal Mall, Building No. 2, at the address given above, telephone: 703/557-8193.

Information concerning item 2 may be obtained by contacting Walter Waldrop, Registration Division (TS-767), Room E-345, EPA, 401 M St., SW, Washington, DC 20460, telephone: 202/426-2510.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. All statements will be made part of the record and will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than June 28, 1980.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies to submit to ensure appropriate consideration by the Panel.

The tentative date for the next Scientific Advisory Panel meeting is July 24 and 25, 1980.

(Sec. 25(d), as amended, (92 Stat. 819; 7 U.S.C. 136); sec. 10(a)(2), 86 Stat. 770 (5 U.S.C. App.))

Dated: June 3, 1980.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-17491 Filed 6-9-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5702]

National Flood Insurance Program, Proposed Flood Elevation Determinations; Iowa; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of La Porte City, Black Hawk County, Iowa, previously published at 44 FR 18038 on March 20, 1980.

EFFECTIVE DATE: June 10, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of La Porte City, Black Hawk County, Iowa previously published at 44 FR 18038 on March 20, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a)). Location described as "300 feet upstream of U.S. Highway 218," under the Source of Flooding of Wolf Creek, has been changed. The location should read, "3,000 feet upstream of U.S. Highway 218." The corresponding elevation of 826 feet remains unchanged. The accompanying Flood Insurance Study (profile) and Flood Insurance Rate Map were correct as printed. The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Iowa	(C), La Porte City, Black Hawk County.	Wolf Creek	3,000 feet upstream of U.S. Highway 218	*826

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

Issued: May 19, 1980.

Glorida M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-17426 Filed 6-9-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5799]

National Flood Insurance Program, Proposed Flood Elevation Determinations, Ohio; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Ashtabula County, Ohio, previously published at 45 FR 22998 on April 4, 1980.

EFFECTIVE DATE: June 10, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Ashtabula County, Ohio previously published at 45 FR 22998 on April 4, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a)). The elevation described as 760 feet corresponding to the description "just downstream of Windsor-Mechanicsville Road" under the Source of Flooding Grand River, has been changed. The elevation should read, 761 feet. The corresponding description remains unchanged. The elevation described as 802 feet corresponds to the description "just downstream of Old Plank Road" under the Source of Flooding Grand River has been changed. The elevation should read 801 feet. The corresponding description remains unchanged. The location described as "about 1.3 miles upstream of Plank Road (at the county boundary)" under the Source of Flooding Grand River has been changed. The location should read "about 1.3 miles upstream of Old Plank Road (at the county boundary)." The corresponding elevation of 804 feet remains unchanged. The location described as "about 950 feet downstream of Windsor Road" under the Source of Flooding Phelps Creek, has been changed. The location should read "about 950 feet downstream of South Windsor Road." The corresponding elevation of 804 feet remains unchanged. The location described as "just upstream of Windsor Raod" under the Source of Flooding of Phelps Creek, has been changed. The location should read "just upstream of South Windsor Road." The corresponding elevation of 807 feet remains unchanged. The location described as "about 2200 feet upstream of Windsor Road" under the Source of Flooding Phelps Creek has been changed. The location should read "about 2200 feet upstream of South Windsor Road." The corresponding elevation of 808 feet remains unchanged. The accompanying Flood Insurance Study (profile) and Flood Insurance Rate Map were correct as printed.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(Uninc.), Ashtabula County	Grand River	Just downstream of Windsor-Mechanicsville Road	*761
			Just downstream of Old Plank Road	*801
			About 1.3 miles upstream of Old Plank Road (at the county boundary)	*804
		Phelps Creek	About 950 feet downstream of South Windsor Road	*804
			Just upstream of South Windsor Road	*807
			About 2200 feet upstream of South Windsor Raod	*808

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

Issued: May 19, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-17427 Filed 6-9-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 5832]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Pennsylvania

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 and Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968

(Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a)).

These elevations, together with the flood plain management measures required by Section 60.3 (formerly Section 1910.3) of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Proposed Based (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	White Haven, Borough, Luzerne County.	Lehigh River	Downstream Corporate Limits	*1,080
			Downstream Interstate 80	*1,089
			Upstream State Route 940	*1,098
			Upstream Corporate Limits	*1,102

Maps available at the Borough Municipal Building, 312 Main Street, White Haven.

Send comments to Mr. Wilbur Nauman, Borough Council President, 430 Main Street, White Haven, Pennsylvania 18661.

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

Issued: May 19, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-17426 Filed 6-9-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA–5833]

National Flood Insurance Program; Proposed Zone and Base Flood Elevation Determinations for the City of Seguin, Tex.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zones and base flood elevations as described below.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zones and base flood elevations are available for review at the Office of the Mayor, 205 North River Street, Seguin, Texas.

Send comments to: The Honorable Alfred Koebig, Mayor, 205 North River Street, P.O. Box 591, Seguin, Texas 78155.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zones and base flood elevations for the City of Seguin, Texas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67 (presently appearing at its former § 24 CFR Part 1917).

These zones and base flood elevations, together with the flood plain management measures required by Section 60.3 (presently appearing at its former Section 1910.3) of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zones and base flood elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Elevation Source of flooding	Location	in feet national geodetic vertical datum
Guadalupe River	Eastern corporate limit	478
	Confluence with Walnut Branch.	483
	Upstream of Guadalupe Street.	486
	Upstream of Route 90	514
Walnut Branch	Upstream of West Klein Street.	486
	Upstream of West Nolte Street.	505
	Upstream of West Court Street.	513
	Downstream of North Saunders Avenue.	518
	Upstream of Route 90	536
	Downstream of the Southern Pacific Railroad.	544
	Downstream of I–10	545
Geronimo Creek	At Mt. Vernon Street	465
	Downstream of Route Alternate 90.	471
	Upstream of Peacock Street	482

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

Issued: April 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-17423 Filed 6-9-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FI-3166]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations; Wisconsin

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of River Falls, Pierce and St. Croix Counties, Wisconsin. Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the *River Falls Journal* on May 12, 1977 and May 19, 1977, and at 42 FR 38734 on July 29, 1977, and hence supersedes those previously published rules.

DATES: The period for comments will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above named community.

ADDRESSES: See table below:

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed based (100-year) flood elevations are listed below for selected locations in the City of River Falls, Pierce and St. Croix Counties, Wisconsin, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 1917.4(a)).

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

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Wisconsin	(C), River Falls, Pierce and St. Croix Counties.	Kinnickinnic River	At the downstream corporate limits	*814
			Just downstream of dam near Park Street	*815
			Just upstream of dam near Park Street	*832
			Approximately 320 feet downstream of dam located downstream of Falls Street.	*833
			Just upstream of dam located downstream of Falls Street	*875
			Approximately 200 feet upstream of Maple Street	*877
			At upstream corporate limits	*884
		South Fork Kinnickinnic River	At the confluence with Kinnickinnic River	*837
			Approximately 120 feet upstream of South Main Street	*879
			Approximately 350 feet upstream of Sixth Street	*885
			Approximately 120 feet downstream of Wasson Lane (upstream corporate limits).	*893
		Unnamed Tributary No. 1	At confluence with South Fork Kinnickinnic River	*884
			Approximately 180 feet upstream of Cascade Avenue	*889
			Just downstream of Spring Street	*901
			Just upstream of Ninth Street	*904
			Just upstream of Hazel Street	*905
			Just downstream of Division Street	*911

Maps available at City Hall, 123 Elm Street, River Falls, Wisconsin.

Send comments to Honorable J. Lawson, Mayor, City of River Falls, City Hall, 123 Elm Street, River Falls, Wisconsin 54022.

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

Issued: May 19, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-17425 Filed 6-9-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-5815]

Revision of Proposed Flood Elevation Determinations for Kittitas County, Unincorporated Areas, Washington, Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Kittitas County, Unincorporated Areas, Washington.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 45 FR 29100–29102 on May 1, 1980 and in the *Daily Record*, published on or about January 17, 1980, and January 24, 1980, and hence supersedes those previously published rules for the specific area and flood source cited.

DATE: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Office of the County Commissioner, 5th and Main Streets, Ellensburg, Washington.

Send comments to: Mr. Roy A. Lumaco, Chairman, Board of County Commissioners Kittitas County, Office of the County Commissioner, P.O. Box 1040, Ellensburg, Washington 98926.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 Room 5148, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in Kittitas County, Washington, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

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

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Manastash Creek.....	Area at the interaction of Cove Road and Hanson and Manastash Road.	#2

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

Issued: May 19, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–17424 Filed 6–9–80; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

45 CFR Part 1336

Native American Programs

AGENCY: Office of Human Development Services, DHEW Administration for Native Americans.

ACTION: Notice of decision to issue regulations.

SUMMARY: Regulations implementing the Native American Programs Act of 1974 (Pub. L. 93–644), as amended by Pub. L. 95–568, are being revised in accordance with the Department's recodification effort. The proposed revisions will clarify the regulatory language, simplify administrative requirements, and make changes based upon field operating experience. Policy changes will be reflected and unpublished policy will be made explicit. The proposed revisions are intended to support improved grantee program management and provide greater program accountability.

FOR FURTHER INFORMATION, CONTACT: Casimer R. Wichlacz, Director, Policy Planning and Budget Division, Administration for Native Americans, Room 5300 North HHS Building, 200 Independence Avenue, SW, Washington, D.C. 20201, Telephone (202) 245–7776.

Dated: April 22, 1980.

Cesar A. Perales

Assistant Secretary for Human Development Services (Acting).

[FR Doc. 80–17594 Filed 6–9–80; 8:45 am]

BILLING CODE 4110–92–M

INTERSTATE COMMERCE COMMISSION

49 CFR Chapter X

[Ex Parte No. MC–137]

No Suspend Zone; Motor Common Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Postponement of filing date of proposed rule.

SUMMARY: We are extending the comment period in Ex Parte No. MC–137 to give parties an opportunity to refocus their comments in light of the "Motor Carrier Act of 1980" (H.R. 6418 & S. 2245). Legislation has passed the Senate and a compromise bill has been reported out by the House Public Works Committee. A number of groups intending to file comments have requested a 45-day extension, arguing that this case should be held in abeyance pending legislation. We disagree. Since the Zone of Rate Freedom (ZORF) provision in H.R. 6418 is likely to become law and since we must move rapidly to implement this and other provisions, the extension will be granted to July 1, 1980.

Many of the questions asked in the original notice (published at 45 FR 6974, Jan. 31, 1980 and corrected at 45 FR 12273, Feb. 25, 1975) have been answered by the legislative process. The Bill's ZORF provision will set the size of the zone as well as the method of determining the base. However, two issues remain open. First, and most important, are the questions dealing with the relationship between individual ratemaking using the zone and collective ratemaking using the ratemaking standards of Ex Parte No. MC–128, Revenue Need Standards in Motor Carrier General Increase Proceedings, and the ratemaking provisions of the legislation. The second issue is whether the no-notice zone proposed in MC–137 is desirable and consistent with the new legislation. We encourage participants to focus on these questions in their comments.

DATES: The comment period is postponed until July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Richard Felder (202) 275–7693.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

This notice is issued under authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: June 4, 1980.

By the Commission, Darius W. Gaskins, Jr., Chairman.

James H. Bayne,

Acting Secretary.

[FR Doc. 80-17542 Filed 6-9-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Ch. X

[Ex Parte No. 358 (Sub-No. 1)]

Change of Policy—Railroad Contract Rates (Standards and Procedures)

AGENCY: Interstate Commerce Commission.

ACTION: Postponement of due date for filing comments in Notice of Proposed Rulemaking and Exemption.

SUMMARY: In view of pending legislative proposals concerning railroad contract rates, it would not be productive to require the filing of comments on the description of the proposed standards and procedures for contract rates at this time. In addition, the railroads have requested a 45-day extension in order to develop a coordinated response. The notice originally published at 45 FR 28381, April 29, 1980, called for comments on June 13, 1980. That date has been extended as set forth below.

DATE: Comments are now due July 28, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder (202) 275-7693.

Decided: June 2, 1980.

By the Commission, Darius W. Gaskins, Jr., Chairman.

James H. Bayne,

Acting Secretary.

[FR Doc. 17577 Filed 6-9-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1100

Advance Warning to Prospective Applicants of Interim Application Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice to prospective applicants of interim application procedures.

SUMMARY: In anticipation of the passage of legislation amending the Interstate Commerce Act's motor carrier entry provisions and setting time limits on the processing of non-rail proceedings, the Commission has prepared interim procedures which would affect all operating rights applications [those presently governed by 49 CFR 1100.247] filed after any legislative enactment. Because the legislation is expected to go into effect shortly after passage of the legislation, the Commission projects that interim rules and application forms will be necessary, and the public will have little advance notice of the change in procedures. We expect to have the necessary procedures in place and forms available on the date the legislation becomes effective, or within a few days thereafter.

In order to ease the transition period between the present application rules and the interim rules, we request the public to halt temporarily the filing of applications under 49 CFR 1100.247 if motor carrier reform legislation passes Congress. Applications using existing forms which are filed with the Commission after the effective date of any new legislation, but before interim rules are published, may be rejected or will be held pending the filing of whatever additional evidence or information is required under the new rules.

The rules will be docketed as Ex Parte No. 55 (Sub-No. 43), Rules Governing Applications for Operating Authority.

FOR FURTHER INFORMATION CONTACT: Peter Metrinko (202) 275-7885. Donald J. Shaw, Jr. (202) 275-7292.

Dated: June 4, 1980

By the Commission, Darius W. Gaskins, Jr., Chairman.

James H. Bayne,

Acting Secretary.

[FR Doc. 80-17560 Filed 6-9-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 91

Migratory Bird Hunting and Conservation Stamp Contest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes several changes in the annual migratory bird hunting and conservation stamp contest. The changes provide for a uniform mat size for all entries, add swans as species eligible for the dominant feature, and modify the initial screening of entries by the judges. The growing popularity of this contest has resulted in significant increases in the number of entries, with over 1,300 entries in the 1979 contest. The proposed changes are intended to improve administrative and judging processes in the contest.

DATES: Comments on the proposed changes must be received on or before July 10, 1980.

ADDRESS: Comments should be addressed to Director (AV), U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hines, Office of Audio Visual, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, telephone (202) 343-5611.

SUPPLEMENTARY INFORMATION: The annual Migratory Bird Hunting and Conservation Stamp Contest is held by the U.S. Fish and Wildlife Service to select a design for the following year's Migratory Bird Hunting and Conservation Stamp, popularly known as the Duck Stamp. The Service accepts entries between July 1 and October 15 each year, and holds the contest on or before November 10. The contest has increased in popularity in recent years, with over 1,300 entries in the 1979 contest.

DISCUSSION OF PROPOSED CHANGES: To help make the contest more manageable, and improve the judging process, the Service proposes the following changes; the 50 CFR section citation is included.

1. Standardize the mat size for entries, § 91.13. Present rules require a standardized design size of five inches high by seven inches wide, with a maximum mat size of eight inches by ten inches. This change would increase the quality of displayed entries and facilitate handling of the large number of entries.

2. Further specify that a signature or initials may not appear on the design, § 91.13. The present wording specifies that no scroll work or lettering may appear on the design. This change would make it clear that the contestants are not to sign or otherwise identify their work on the design.

3. Include swans as permissible species for the dominant feature, § 91.14. The present rules provide that the dominant feature must be a living species of North American migratory ducks or geese. Ducks, geese, and swans are the only species of migratory birds whose hunting requires the purchase of a Migratory Bird Hunting and Conservation Stamp. Further, swans are legal game in some states, and have appeared on the 1950 and 1966 Duck Stamps.

4. Require contestants to sign and print their names on the Reproduction Rights Agreement, 91.16. Present rules require only the contestants' signatures, which has led to periodic misspellings of contestants' names. This revision would help to eliminate such errors.

5. Provide for a screening of all qualified entries by the judges prior to the display and scoring process;

eliminate the identification of species on the display panels, §§ 91.23 and 91.25. Present rules provide for the display of all qualified entries with the name of species depicted prior to any consideration by the panel of judges. The proposed changes would provide for all qualified entries to be shown one at a time to the panel of judges by the Contest Coordinator. Entries that receive a majority vote by the panel will receive further consideration. When the panel has narrowed the number of entries to 400 or less, the entries still under consideration will be placed together on display for closer review. Each judge will then nominate an unlimited number of entries on display for preliminary consideration. Such entries will then be scored and the winner selected in the same manner as the present rule provides. The changes would allow the judges to reduce more easily the large number of entries prior to placing entries on display panels or tables. Since the entries placed on display will be unknown to the Contest Coordinator, the proposal would eliminate the past practice of identifying the subject species to preclude unnecessarily slowing down the process that would result during such identification.

6. Change the period for returning entries to contestants from 60 to 90 days, § 91.31. With a continued increase in the number of entries, the Service may not be able to return all entries by certified mail within 60 days after the annual contest is held.

The primary author of this proposal is Bob Hines, Office of Audio Visual.

The Department has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, the Service proposes to amend 50 CFR Part 91 as shown below.

1. Revise the second and third sentences of § 91.13 to read as follows:

§ 91.13 Technical requirements for design of entry.

* * * * *

It shall be matted with a mat eight inches by ten inches. No scroll work, lettering, signature, or initials may appear on the design.

* * * * *

2. Revise the first sentence of § 91.14 to read as follows:

§ 91.14 Restrictions on subject matter of entry.

A living species of North American migratory ducks, geese, or swans must be the dominant feature of any design.

* * * * *

3. Revise the last sentence of § 91.16 to read as follows:

§ 91.16 Submission procedures for entry.

* * * * *

Each contestant must also sign, clearly print his or her name, and submit the top portion of the Reproduction Rights Agreement.

4. Revise § 91.23 in its entirety to read as follows:

§ 91.23 Display of entries for contest selection.

Entries chosen by the panel of judges under the procedures of § 91.25 of this part will be displayed chronologically, based on the date of receipt of the entry. The only visible identification mark on each displayed entry will be the number assigned to the entry by the Contest Coordinator (or authorized representative).

5. Revise § 91.25 by deleting the second sentence and replacing it with the following text:

§ 91.25 Scoring procedure for contest.

* * * * *

All qualified entries will be shown one at a time to the panel of judges by the Contest Coordinator. The judges will vote on each entry, those entries receiving a majority vote will receive further consideration. This screening process will continue until 400 or fewer entries remain in the competition. These remaining entries will be placed together on display for public viewing and further judging.

* * * * *

6. Revise § 91.31 to read as follows:

§ 91.31 Return of entries after contest.

All entries will be returned, certified, to the participating artists within 90 days of completion of the contest.

Dated: June 5, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-17572 Filed 6-9-80; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 45, No. 113
Tuesday, June 10, 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

Rural Electrification Administration

Cajun Electric Power Cooperative, Inc.; Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration (REA) has issued a Draft Environmental Impact Statement (DEIS) in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with possible financial assistance to Cajun Electric Power Cooperative, Inc., (Cajun), P.O. Box 578, New Roads, Louisiana 70760.

It is anticipated that Cajun will request financial assistance from REA providing for an undivided 70 percent share of a lignite-fired electric generating unit and for related transmission facilities. Negotiations are continuing and the percentage could change. The DEIS examines the environmental impacts associated with the construction and operation of a 540 MW lignite-fired generating unit (Big Cajun No. 3—Unit 1) proposed to be located at a new site approximately 35 miles southeast of Shreveport, Louisiana, and about five miles west of the community of Armistead, Louisiana; the purchase of approximately 150 million tons of lignite from the Phillips Coal Company proposed Oxbow lignite surface mine adjacent to the proposed 500 kV transmission facilities connecting the unit to a proposed 500 kV substation near Timon, Louisiana; and a proposed 230 kV transmission facilities connecting the unit to Central Louisiana Electric Company's existing Carroll substation.

Additional information may be obtained by request submitted to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies, having jurisdiction by law or special expertise with respect to any environmental impact, from which comments have not been requested specifically.

Copies of the REA–DEIS have been sent to various Federal, State and local agencies and local libraries. The DEIS may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, SW., Washington, D.C., Room 5821, or at the headquarters of Cajun, Highway 1, New Roads, Louisiana. Limited supplies of the DEIS are available from REA upon request.

Comments concerning the environmental impact of the proposed REA financing should be addressed to the Assistant Administrator—Electric, at the address given above. Comments must be received by 45 days from the date the Environmental Protection Agency announces availability of the document in accordance with 40 CFR 1506.10 to be considered in connection with the proposed financial assistance.

Any financial assistance which may be made pursuant to this proposal will be subject to, and release of funds thereunder will be contingent upon, REA's reaching statisfactory conclusions with respect to environmental effects. Final action will be taken only after compliance with the environmental procedures required by the National Environmental Policy Act of 1969, and other environmentally related statutes, regulations, Executive Orders and Secretary's memoranda normally considered by REA.

Dated at Washington, D.C., this 2nd day of June 1980.

Susan T. Shepherd,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 80-17576 Filed 6-9-80; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Middle Creek Watershed, Pennsylvania

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of availability of a record of decision.

FOR FURTHER INFORMATION CONTACT: Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone number (717) 782–4557.

NOTICE: Mr. Graham T. Munkittrick, responsible Federal official for projects administered under the provisions of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of Pennsylvania, is hereby providing notification that a record of decision is available for the Middle Creek Watershed. Single copies of this record of decision may be obtained from Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone number (717) 782–4557.

(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)

Dated: June 2, 1980.

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

[FR Doc. 80-17458 Filed 6-9-80; 8:45 am]

BILLING CODE 3410-16-M

Pathfinders RC&D Area; Critical Area Treatment Measures, Iowa

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Brune, State Conservationist, Soil Conservation Service, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, telephone 515–284–4260.

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 environmental impact statements are not being prepared for the Pathfinders RC&D Area Critical Area Treatment Measures, Mahaska, Keokuk, Wapello, Jefferson, Davis, and Van Buren Counties, Iowa.

The environmental assessment of these federally assisted actions indicates that the projects will not cause significant local, regional, or national

impacts on the environment. As a result of these findings, Mr. William J. Brune, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these projects.

The measures concern plans for critical area treatment. The planned works of improvement include small grade stabilization structures, sediment and water control structures, diversions, critical area plantings, debris basins, and fencing.

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. William J. Brune, State Conservationist, Soil Conservation Service, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, telephone 515–284–4260. 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 July 10, 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: June 2, 1980.

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

[FR Doc. 80-17459 Filed 6-9-80; 8:45 am]

BILLING CODE 3410-16-M

Tallahalla Creek Watershed, Mississippi

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of deauthorization of Federal funding.

FOR FURTHER INFORMATION CONTACT: James W. Mitchell, Associate Deputy Chief for Natural Resource Projects, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013 (202–447–3587).

NOTICE: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Tallahalla Creek Watershed project, Hinds County, Mississippi, effective on May 19, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83–566, 16 U.S.C. 1001–1008)

Dated: June 2, 1980.

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

[FR Doc. 80-17460 Filed 6-9-80; 8:45 am]

BILLING CODE 3410-16-M

ARMS CONTROL AND DISARMAMENT AGENCY

National Environmental Policy Act; Proposed Implementing Procedures

AGENCY: U.S. Arms Control and Disarmament Agency.

ACTION: Notification of proposed implementing procedures for the National Environmental Policy Act.

SUMMARY: The U.S. Arms Control and Disarmament Agency proposes to adopt internal procedures to implement the National Environmental Policy Act in accordance with the regulations of the Council on Environmental Quality, published in the **Federal Register** on November 29, 1978 (43 FR 55978).

DATES: Comments or suggestions should be submitted in writing on or before August 15, 1980.

ADDRESSES: Send comments to: Office of the General Counsel, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451.

FOR FURTHER INFORMATION CONTACT: Mr. Charles R. Oleszycki, Office of the General Counsel, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, (202–632–0760).

Dated: June 4, 1980.

James T. Hackett,

Administrative Director.

National Environmental Policy Act; Proposed Implementing Procedures

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I. General

Attention is called to Section 102(2) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), Executive Order 12114 of January 4, 1979, and the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (the Regulations) issued by the Council on Environmental Quality (CEQ) on November 29, 1978 (43 FR 55978–56007, 40 CFR Parts 1500–1508), incorporated herein by reference. The CEQ Regulations and Executive Order 12114 will be followed by the responsible U.S. Arms Control and Disarmament Agency (Agency) officials in complying with policies and provisions of the NEPA and Section 309 of the Clean Air Act. The requirements of these procedures are in addition to, and not a substitute for, any environmental analyses or consultations required by any international obligations of the United States.

II. Timing of Environmental Analyses and Responsibility of Agency Officials

The environmental analysis and review for a proposed Agency action shall be conducted as early as practicable so as to be timely, but late enough in the decision-making process so as to be relevant to the decision-making.

The Office of the General Counsel (GC) has primary responsibility for the Agency's compliance with the requirements of NEPA. GC will provide policy direction, guidance and leadership within the Agency for implementing these regulations. GC will also be responsible for coordination of preparation of environmental assessments and environmental impact statements, by the Agency bureau or office having operational responsibility, for all proposed Agency actions for which either or both is required in accordance with NEPA, Executive Order 12114 and these implementing procedures.

Other Agency bureaus and offices having operational responsibility over a proposed major action which is not categorically excluded from environmental impact statements, or which become aware of planning for such actions by private applicants or other non-Federal entities before Agency involvement, shall inform GC of the proposed action. In order to determine whether the proposed action will require an environmental impact statement, GC will coordinate the preparations of an environmental assessment by the bureau or office having operational responsibility. Where appropriate to supplement work in assessing the environmental effect of the proposed action, information will be solicited from other parts of the Agency, from other Federal, State or local Government agencies with jurisdiction by law or special expertise with respect

to any environmental effect involved, or from private individuals or organizations.

III. Categories of Actions

1. *Actions Normally Required Environmental Impact Statements.* Any Agency action deemed to have a "Significant effect upon the quality of the human environment" shall require an environmental impact statement. Considerations to be used in determining significance are given in Section 1508.27 of the CEQ Regulations. Any Agency action significantly affecting either the environment of the global commons outside the jurisdiction of any nation or natural or ecological resources of global importance shall require an environmental impact statement. It is not expected that any actions of this Agency would normally require preparation of an environmental impact statement.

2. *Actions Categorically Excluded From Environmental Statements.* Categorical exclusion is defined in Section 1508.4 of the CEQ Regulations and provides for excluding from environmental review under these implementing procedures actions which have no significant impact on the quality of the domestic human environment. Neither an environmental assessment nor an environmental impact statement is required for such actions.

Even though an action may be categorically excluded from the need for a formal environmental assessment or environmental impact statement, if the environmental analysis conducted during the earliest planning for the action shows the possibility for significant environmental effects, an environmental assessment will be prepared. Based upon the assessment, a determination will be made whether to prepare an environmental impact statement.

The agency conducts and contracts for research that is largely directed towards acquiring a fund of theoretical and practical knowledge for arms control and disarmament policy formulation, and the conduct of such research will not individually or cumulatively have a significant effect on the environment. Therefore research that has been reviewed for environmental effects and is determined to be research solely directed at acquiring a fund of theoretical and practical knowledge for arms control and disarmament policy formulation will be categorically exluded from the requirements for environmental statements.

Any Agency action falling within the list of exempt actions found in section 2-5 of Executive Order 12114, will be categorically excluded from the requirements for environmental statements, except to the extent limited by Section 2-5(d).

3. *Actions Normally Requiring Environmental Assessments.* Any Agency action which may significantly affect the human environment of the United States, and which is not one normally requiring an environmental impact statement or is not categorically excluded, shall require the preparation of an environmental assessment. Any Agency action falling within the categories described in Sections 2-3(b)(c) and (d) of Executive Order 12114, shall require the preparation of an environmental assessment, provided however that if a relevant and adequate document described in Section 2-4(a) of Executive Order 12114 already exists no environmental assessment need be prepared.

4. *Amendments and Modifications.* As experience is gained in implementing these procedures the Agency may amend the above categories of action. Amendments will be made by GC and such amendments shall be published in the **Federal Register** and made available for review and comment in the same manner as these procedures.

IV. General Procedures for Environmental Review

In reviewing their actions for environmental effects Agency officials will use the NEPA process, as follows:

Early in the process of considering an action, the Agency will review it for potential environmental effects. The action should be reviewed initially to determine if it falls within the three basic categories of action, e.g.:

(1) Actions normally requiring environmental impact statements;

(2) Actions categorically excluded from environmental statements; and

(3) Actions normally requiring environmental assessments.

If the action normally requires an impact statement, the statement process will be initiated without preparing an environmental assessment. If the action is categorically excluded, no further immediate environmental review is needed. If an environmental assessment is required, GC will coordinate the preparation of an environmental assessment by the bureau or office having operational responsibility for the prepared action.

If the environmental assessment shows that the environmental effects of the action may be "significant", the Agency is required to prepare an environmental impact statement. If the effects are found to be insignificant, then the Agency should make a "finding of no significant impact" which completes the environmental review. The "finding of no significant impact" shall be made available to the affected public as required by § 1501.4(a)(1) of the CEQ Regulations.

If an impact statement is required, the Agency will issue a "notice of intent" to prepare a statement. GC, and the bureau or office having operational responsibility, will then commence the "scoping process" to determine the proper content ("scope") of the statement.

The bureau or office having operational responsibility for the proposed action, and in consultation with GC, then prepares a "draft" environmental impact statement which is filed for comment with the Environmental Protection Agency (EPA) and circulated for at least 45 days to Government agencies with jurisdiction by law or with special expertise with respect to any environmental impact involved, and among the public. Upon circulation of a draft environmental impact statement to the EPA, comments shall be requested under both the NEPA and Section 309 of the Clean Air Act. Notice of the draft statement's availability will be published in the **Federal Register** as a public notice. GC shall arrange for the publication.

After considering comments and revising the draft EIS, the Agency will file and circulate a "final" environmental impact statement at least 30 days before making a final decision on the action. In any case where comments are not received in sufficient time to allow consideration in final policy decisions, they should be considered in future decision-making in similar areas of policy.

Relevant environmental documents including environmental impact statements and environmental assessments, as well as comments and responses shall be part of the record in formal rulemaking or adjudicatory proceedings. In all cases such documents shall accompany the proposal through existing agency review processes so that Agency officials use the information contained therein in making decisions.

The alternatives considered by the decisionmaker shall encompass the range of alternatives discussed in the relevant environmental documents, and the decisionmaker shall consider the alternatives described in the environmental impact statement. This is as required by Section 1505.1 of the CEQ Regulations.

After making a decision on the action, GC will prepare and the Agency will

make available a formal "record of decision" as required by § 1505.2 of the CEQ Regulations. Modifications for the comment time period and for emergency situations may be made in accordance with Section 1506.4 of the CEQ Regulations.

A final environmental impact statement shall be supplemented when a substantial change is made in the proposed action or when significant new information on the environmental impacts comes to the Agency's attention. A Supplemental Statement should be prepared, circulated and approved in accordance with the provisions of Section 1502.9 of the CEQ Regulations. If there are reasons not to prepare a Supplemental Statement when one ordinarily would be called for, the bureau or office having operational responsibility should consult with GC and subsequently with the CEQ on the matter.

V. Determining the Need for Environmental Impact Statements

For each action meeting the criteria of Section III.3 of these implementing procedures, and for other actions as required, GC shall coordinate the preparation, by the bureau or office having operational responsibility, of an environmental assessment as required by § 1510.3 of the the CEQ Regulations, and on the basis of that assessment, determine if an environmental impact statement is required. If it is determined by GC that the proposed action would have a significant effect on the human environment, an environmental impact statement should be prepared. If the determination is that the proposed action would have no significant effect on the human environment, a "finding of no significant impact", as required by § 1508.14 of the the CEQ Regulations, shall be made and this finding made available to the affected public.

In assessing the need for impact statements regarding any particular action, the following guidelines will be considered:

(1) The Agency is responsible for determining whether environmental impact statements are required and for preparing such statements with respect to Federal actions for which the Agency is solely responsible or for which it has been designated as the "lead agency", as defined in Section 1508.16 of the the CEQ Regulations. However this does not encompass combat or combat-related activities in a combat zone, or activities covered by Section 36 of the Arms Control and Disarmament Act (Sec. 146 of Pub. L. 94–141, 22 U.S.C. 2576). Although the Agency conducts activities related to the preparation for and management of U.S. participation in international negotiations in the arms control and disarmament field, these functions are subject to the direction of the Secretary of State (see 22 U.S.C. 2551(b), 22 U.S.C. 2574(a), and the Department of State Circular 175 Procedure (11 FAM 720)). Thus, in the case of international agreements and the actions leading to them, the Agency is not responsible for determining whether the NEPA is applicable or whether environmental impact statements are required. (For Department of State environmental impact statement procedures, see Department of State Regulations for Implementing the Procedural Provisions of the NEPA (44 FR 66838)). However, when an environmental impact statement is determined under the appropriate procedures to be required for an arms control and disarmament agreement, the Agency will ordinarily be the "lead agency" for the preparation of the statement.

(2) The Agency is responsible for determining whether environmental impact statements are required for its research projects and for preparing such statements for those projects which constitute major Federal actions significantly affecting the qualify of the human environment.

(3) Mandatory action (i.e. those for which no alternatives are available) required under any treaty or international agreement to which the United States is a party, or required by the decisions of international organizations, authorities, conferences, or consultations in which the United States is a member or participant will not be considered major Federal actions for purposes of the NEPA.

(4) Indirect effects of Agency activities can lead to a need to file an environmental impact statement. In some such instances, the Agency might be the lead agency responsible for the preparation of such a statement. However, in most cases, another agency will be responsible since the action of this Agency will merely permit rather than require action by the other agency or will leave open the matter in which the actions of the other agency will be performed. For example, projects such as the destruction of weapons in accordance with the provisions of an international arm control agreement would be the subject of environmental impact statements, if otherwise required, prepared by the Department of Defense, the Department of State, or another lead agency. In some cases, joint preparation of the statement by two or more agencies may be appropriate.

VI. Exceptions

The nature of negotiations and relations at the international level may make it necessary to depart in some instances from the procedures in the CEQ Regulations. CEQ foresaw the need for such departures in §§ 1507.3(c) and 1506.11 of the CEQ Regulutions. Exceptions applicable to the Agency are set forth below:

(a) The statements and other materials written to comply with the NEPA should not normally include any classified or administratively controlled material. However, there may be situations where such statements and memorandum cannot adequately discuss environmental effects without including material classified or administratively controlled under the provisions of Executive Order 12065, 22 CFR Part 605, and the ACDA security and Classification Handbook. In any event, however, those portions of any statement which are not classified or administratively controlled shall be made available to the public unless the material thus disclosed would be distorted or incomprehensible.

(b) Every attempt will be made to comply with the 30-day and 90-day periods which Section 1506.10(b) of the CEQ Regulations requires between submission of statements and final action. Where schedules of international conferences or other factors make this impossible, the Agency will consult with the CEQ concerning appropriate modifications by the Agency of these minimum arrangements for the availability or environmental impact statements.

(c) Normally, agencies consulted in accordance with Section IV of these implementing procedures shall be allowed 45 days for reply. However, if it becomes necessary to reduce these periods the Agency will consult with the CEQ concerning appropriate modifications of these minimum arrangements for the availability of environmental impact statements. When this is the case, all agencies to which the draft statement has been sent will be informed by GC of the reduced time period. The reduced time period must also be included in the public notice published in the **Federal Register.**

(d) Section 1506 of the CEQ Regulations establishes requirements for providing public information on Federal actions and impact statements and envisions use of public hearings when substantial controversy surrounds a proposed action or a request for such a hearing has come from another agency

with jurisdiction over the action supported by reasons why the hearing would be helpful. Public hearings will be employed by the Agency following the circulation of each draft environmental impact statement under the circumstances outlined above, unless it is determined that the requirements of carrying on international relatives, including the constraints of time and the posture of the United States in negotiations, do not allow such hearings to be carried out without prejudice to the national interest. The provisions of the Administrative Procedure Act do not apply to hearings involving "foreign affairs functions"; however, in each case where hearings are employed in accordance with this paragraph, a public notice or the hearings shall be published in the **Federal Register** indicating the time and place of the hearing and the matters to be considered, and the draft environmental impact statement shall be made available to the public at least 15 days prior to the hearings. Where possible, notice of hearings in the **Federal Register** and circulation of draft impact statements should occur 30 days before the hearings. NP and GC shall determine the nature and the procedures to be employed for such hearings, shall arrange for the hearing and the publication of the prescribed notice, and shall conduct the hearings. If such hearings cannot be carried out, arrangements should still be made, where practicable, for an expedited opportunity for members of the public to present their views orally. The public at all times can obtain information or get status reports on environment impact statements and other elements of the NEPA process from the office of the General Counsel, U.S. Arms Control and Disarmament Agency, 320 21st Street, N.W., Washington, D.C. 20451.

VII. Cooperation With Other Agencies

GC shall ensure that Agency officials have an opportunity to cooperate with other agencies and individuals. It shall ensure that the Agency reviews the draft and final impact statements submitted for review by other agencies as required by § 1502.19 of the CEQ Regulations. Where appropriate and to eliminate duplication of work it shall seek to prepare joint analyses, assessments and statements with other Federal or State agencies. Where possible GC will arrange for the Agency to "adopt" statements prepared by other agencies as permitted by § 1506.3 of the CEQ Regulations. It shall seek to work out lead agency responsibilities for preparing environmental documents as required by § 1501.5 of the CEQ Regulations.

GC shall, to the maximum extent possible, conduct environmental analyses, assessments, and any impact statement preparation concurrently with environmental reviews required by the following:

(1) The National Historic Preservation Act of 1966 (Section 106), 16 U.S.C. 470(f), which requires identification of National Register properties, eligible properties, or properties which may be eligible for the National Register within the area of the potential impact of a proposed Agency action. Evaluation of the impact of a proposed Agency action on such properties shall be discussed in draft environmental impact statements and transmitted to the Advisory Council on Historic Preservation for comment.

(2) The Endangered Species Act (Section 7), 16 U.S.C. 1531 *et seq.*, which requires identification of and consultation on aspects of a proposed Agency action that may affect listed species or their habitat. A written request for consultation, along with the draft environmental impact statement, shall be conveyed to the Regional Director of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, as appropriate, for the region in the United States where the proposed action will be carried out.

(3) Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands). These Exective Orders seek to protect floodplains and wetlands by requiring agencies proposing actions which might affect such areas to consider, *inter alia*, environmental effects, and to provide opportunity for public review of such proposals. An evaluation of any such Agency actions shall be discussed in draft environmental impact statements and transmitted to the U.S. Water Resources Council or the CEQ, as appropriate, for comment.

[FR Doc. 80-17477 Filed 6-9-80; 8:45 am]
BILLING CODE 6820-32-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) The Upson Company, Stevens Street, Lockport, New York 14094, a producer of fiberboard (accepted May 22, 1980); (2) The Snocraft Corporation, Box 487—Oak Hill Plaza, Scarboro, Maine 04074, a producer of snowshoes, toboggans, furniture, skis, and bins (accepted May 22, 1980); Ted-Lo Sportswear, 1035 Linden Street, Allentown, Pennsylvania 18101, a producer of women's skirts and blouses (accepted May 23, 1980); (4) Bennett Importing Company, Inc., 19 Bennett Street, West Lynn, Massachusetts 01905, a producer of women's footwear (accepted May 27, 1980); (5) Cougar Industries, Inc., 240 Wythe Avenue, Brooklyn, New York 11211, a producer of automotive accessories, rotary strippers and sponge mops (accepted May 27, 1980); (6) Plycraft, Inc., 39 South Canal Street, Lawrence, Massachusetts 01832, a producer of shoe heels and bottoms, and furniture (accepted May 27, 1980); (7) Musebeck Shoe Company, 803 Westover Street, Oconomowoc, Wisconsin 53066, a producer of footwear for men and women (accepted May 28, 1980); (8) B & P Cedar Products, Inc., P.O. Box 314, Pe Ell, Washington 98572, a producer of cedar shakes (accepted May 28, 1980); (9) Nelson Manufacturing, Inc., Route 2, Box 50, Osborne, Kansas 67473, a producer of centrifugal pumps and iron castings (accepted May 28, 1980); (10) Powell/Adamson Enteprises, Inc., P.O. Box 364, McCleary, Washington 98557, a producer of shakes, shingles and lumber (accepted May 28, 1980); (11) Snyder Tank Corporation, S 3774 Lake Shore Road, Buffalo, New York 14219, a producer of truck fuel tanks (accepted May 28, 1980); (12) The Oxford Corporation, 135 North 5th Street, Oxford, Pennsylvania 19348, a producer of mushrooms (accepted May 29, 1980); (13) Barson and Company, P.O. Box 88, Lehighton, Pennsylvania 18235, a producer of women's blouses and tops (accepted May 29, 1980); (14) Haviland Manufacturing Company, 9 George Street, Fort Ann, New York 12827, a producer of ping pong paddles and shuffle board pushers (accepted May 30, 1980); (15) The Bag Scene, Inc., 620 E. Gladstone, Frederick, Oklahoma 73542, a producer of handbags (accepted May 30, 1980); and (16) K & M Sportswear Manufacturing, Company, Inc., 1031 Linden Street, Allentown, Pennsylvania 18102, a producer of women's blouses and tops (accepted May 30, 1980).

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly

competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business June 20, 1980.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 80-17506 Filed 6-9-80; 8:45 am]

BILLING CODE 3510-24-M

Rounds I and II of the Local Public Works Capital Development and Investment (LPW) Program (Pub. L. 94-369 and Pub. L. 95-28); Closing Date for Requests for Project Modification

The purpose of this notice is to advise recipients of assistance under Rounds I and II of the Local Public Works (LPW) program of the revised final closing date for submission of requests for certain types of amendments to their LPW projects.

Any requests for project modifications utilizing underrun LPW funds must be received and approved by the appropriate Regional Office by August 6, 1980. After that date, approval of such modifications will be limited to those revisions that would materially and substantially advance the project's function and success as originally contemplated in the application.

All unspent LPW grant funds must be returned to EDA immediately upon completion of the project. Projects which have been selected for audit must be audited immediately upon project completion or at that point when all Federal funds have been expended, whichever comes first. Local contract disputes or other events which do not hinder the completion of the project but only delay final payments to vendors do not constitute grounds for delaying the audit. Any potential delays in the return of unspent funds or in the start of the audit should be reported to the appropriate EDA Regional Office, a list of which follows:

For Project Nos. Beginning With 01, Atlantic Regional Office, 105 N. Seventh Street, Rm. 600, Philadelphia, PA 19106.

For Project Nos. Beginning With 06, Midwestern Regional Office, 175 W. Jackson Boulevard, Suite A-1630, Chicago, IL 60604.

For Georgia and Florida Only, Southeastern Regional Office, Suite 700, 1365 Peachtree Street, NE., Atlanta, GA 30309.

For Project Nos. Beginning With 08, Southwestern Regional Office, American Bank Tower, Suite 600, 221 West Sixth Street, Austin, TX 78701.

For Project Nos. Beginning With 04 (Except Fla. and Ga.), 05, and 07, Local Public Works, The Great Hall, U.S. Department of Commerce, Washington, DC 20230.

Robert T. Hall,

Assistant Secretary for Economic Development.

[FR Doc. 80-17505 Filed 6-9-80; 8:45 am]

BILLING CODE 3510-24-M

Foreign-Trade Zones Board

[Order No. 157]

Authorization To Withdraw Certain "Zone Restricted" Merchandise from Foreign-Trade Zone No. 38, Spartanburg County, S.C., for Entry Into U.S. Customs Territory

Pursuant to its authority under Section 3 of the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81c), the Foreign-Trade Zones Board (the Board) adopts the following order:

After consideration of the request of the manager of Foreign-Trade Zone No. 38 in Spartanburg County, South Carolina, on behalf of a zone user, submitted through the South Carolina State Ports Authority, zone grantee, for authority under section 3 of the Foreign-Trade Zones Act (19 U.S.C. 81c) to withdraw from the zone for domestic entry a certain item of textile machinery (R-4 Fiber Rebreaking Machine, Duranitre R-55, Zone Lot #3828, 5-1-79, formerly TIB 155, 5-25-78) presently in "zone restricted" status, the Foreign-Trade Zones Board approves the request, finding it to be in the public interest. The customs entry in this case shall be subject to entry procedures, including the payment of duties.

Signed at Washington, D.C. this 3rd day of June 1980.

Luther H. Hodges, Jr.,

Acting Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 80-17568 Filed 6-9-80; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 158]

Authorization for the Withdrawal of Scrap Material From Crushed Semiconductors in Foreign-Trade Zones in "Zone Restricted" Status

Pursuant to its authority under Section 3 of the Foreign-Trade Zones Act of June 18, 1934, as amended (19 USC 81c), the Foreign-Trade Zones Board (the Board) adopts the following order:

After consideration of a petition from the manager of Foreign-Trade Zone No. 18, San Jose, California, submitted through the City of San Jose, zone grantee, requesting authority under Section 3 of the Foreign-Trade Zones Act (19 USC Sec. 81c), for withdrawal, from the San Jose zone and other foreign-trade zones, for entry for consumption in the United States, precious metal scrap in "zone restricted" status resulting from the destruction of defective semiconductors, the Foreign-Trade Zones Board approves the request, finding it in the public interest. This approval extends to such withdrawals on a general basis regardless of by whom they are made and what zone is involved, providing all other Customs requirements are satisfied. Upon withdrawal the scrap shall be subject to normal entry procedures (19 CFR Parts 141 and 142).

Signed at Washington, D.C. this 4th day of June 1980.

Luther H. Hodges, Jr.,

Acting Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 80-17569 Filed 6-9-80; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Anhydrous Sodium Metasilicate From France; Initiation of Antidumping Investigation

AGENCY: U.S. Department of Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and that an antidumping investigation is being initiated for the purpose of determining whether anhydrous sodium metasilicate from France is being, or is likely to be, sold at less than fair value. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market, or to countries other than the United States.

or less than the constructed value. The International Trade Commission is being notified of this action so that it may, in accordance with the Tariff Act of 1930, as amended, make a determination no later than June 30, 1980, of whether there is a reasonable indication of material injury by reason of imports of this merchandise.

EFFECTIVE DATE: June 10, 1980.

FOR FURTHER INFORMATION CONTACT: Sandra Kristoff, Import Administration Specialist, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230 (202–377–4198).

SUPPLEMENTARY INFORMATION: On May 15, 1980 a petition in proper form was received pursuant to sections 353.36 and 353.37, Commerce Regulations (19 CFR 353.36 and 353.37) from PQ Corporation, Valley Forge, Pennsylvania, on behalf of the U.S. industry producing anhydrous sodium metasilicate. The Petition alleges that anhydrous sodium metasilicate from France is being, or is likely to be, sold at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (93 Stat. 162, 19 U.S.C. 1673) (hereinafter referred to as "the Act") and that the U.S. industry is materially injured or is threatened with material injury, because of such sales.

Anhydrous sodium metasilicate, which is classified under item number 421.34 of the Tariff Schedules of the United States, is an industrial chemical used as a medium or heavy duty cleaner and for compounding into detergent formulations.

The petition includes sufficient evidence supporting both the allegations of sales at less than fair value on the basis of comparisons between prices in the home market and in the U.S. market, and of material injury. The petition contains no evidence of sales at below cost of production.

The petition indicates increased aggregate imports and a substantial increase in the share of the Northeast regional consumption held by these imports. Additionally, petitioner indicates reduction in its profitability and capacity utilization rates.

In accordance with section 732(c) of the Act (93 Stat. 162, 19 U.S.C. 1673a(c)), I hereby determine that an investigation should be initiated to determine whether imports of anhydrous sodium metasilicate from France are being, or are likely to be, sold at less than fair value.

Pursuant to section 732(d) of the Act (93 Stat. 163, 19 U.S.C. 1673a(d)), the U.S. International Trade Commission (ITC) is being notified of this determination. A copy of the information on the basis of which this investigation is being initiated is being delivered to the ITC. All nonprivileged and nonconfidential information in the files of the International Trade Administration is being made available to the ITC. All privileged and confidential information in the files also will be made available upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under an administrative protective order, without the express written consent of the Assistant Secretary for Trade Administration.

Pursuant to section 733(a) of the Act (93 Stat. 163, 19 U.S.C. 1673b(a)), the ITC will make a determination no later than June 30, 1980, of whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of imports of anhydrous sodium metasilicate from France. If that determination is negative, this investigation will be deemed terminated, and, no further notice will be published by the International Trade Administration. Otherwise, the investigation will proceed to its conclusion.

Section 733(b) of the Act (93 Stat. 163, 19 U.S.C. 1673b(b)) requires that the International Trade Administration normally make a preliminary determination as to whether there is a reasonable basis to believe or suspect that merchandise which is the subject of this investigation is being, or is likely to be, sold at less than fair value not later than 160 days after the date on which the petition was filed. Therefore, unless the investigation is terminated or extended, a preliminary determination will be made not later than October 22, 1980.

(Sec. 732 of the Act (93 Stat. 162, 19 U.S.C. 1673a) and sec. 353.37(b) of the Commerce Regulations (19 CFR 353.37(b), 45 F.R. 8199))

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

June 4, 1980.

[FR Doc. 80-17478 Filed 6-9-80; 8:45 am]

BILLING CODE 3510-25-M

Fresh Cut Roses From Israel; Preliminary Countervailing Duty Determination

AGENCY: United States Department of Commerce.

ACTION: Preliminary countervailing duty determination.

SUMMARY: This notice is to advise the public that the Department of Commerce has preliminarily determined that the Government of Israel confers benefits upon the production or export of fresh cut roses which constitute bounties or grants within the meaning of the countervailing duty law. A final determination will be made in this case not later than August 13, 1980.

EFFECTIVE DATE: June 10, 1980.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202–377–3003).

SUPPLEMENTARY INFORMATION:

Procedural Background

On November 16, 1979, the Department of the Treasury received a petition in satisfactory form on behalf of the domestic rose growers alleging that the Government of Israel confers certain benefits upon production or export of fresh cut roses which are bounties or grants (subsidies) within the meaning of section 303, Tariff Act of 1930 (19 U.S.C. 1303) (the Tariff Act). The Department of the Treasury did not initiate an investigation before December 31, 1979. On January 1, 1980, the provisions of Title 1 of the Trade Agreements Act of 1979 (the Trade Act) became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from Treasury to the Department of Commerce. A notice of Initiation of Investigation was published by the Department of Commerce in the Federal Register on February 1, 1980 (45 FR 7273).

Since Israel is not a "country under the Agreement" within the meaning of section 701(b) of the Tariff Act (93 Stat. 151, 19 U.S.C. 1671(b)), section 303 of the Tariff Act, as amended by section 103(b) of the Trade Act, applies to this investigation.

A Notice of Postponement of Preliminary Determination was published in the Federal Register on March 14, 1980 (45 FR 16522), since this case was determined to be "extraordinarily complicated".

Imports covered by this investigation are cut roses, fresh, provided for in item 192.1900, Tariff Schedules of the United States Annotated (TSUSA).

Nature of Industry

According to the information submitted to the Department, which has yet to be verified, the Israeli fresh cut flower industry is structured in the following way:

There are approximately 1,200 commercial growers of fresh cut flowers; they are, for the most part, family enterprises working small plots of land. Growers in close proximity to one another often join together to form "moshavs" or grower cooperatives.

The growers produce primarily for export. In the 1979 growing year approximately 82%, by value, of fresh cut rose production was exported. Roses accounted for approximately 13.5% of total fresh cut flower production.

The growers have formed an Ornamental Plants Production and Marketing Board (the Board) to, inter alia, aid in developing flower, bulb, and ornamental plant products, to oversee the marketing of flowers (both domestically and for export), and to support agricultural research. The Board is a public, nonprofit organization funded by the growers.

The Board oversees the export of over 120 products, including roses. It collects the flowers from the growers, delivers them to central packing houses where they are sorted and graded according to international standards, and then transports the flowers to an air freight facility at Ben Gurion International Airport which is owned by AGREXCO Agricultural Export Company Limited (AGREXCO). AGREXCO assumes responsibility for exporting flowers at the airport facility and markets the flowers abroad.

AGREXCO exports all types of agricultural products. Fresh cut roses are, accordingly, a minor part of its overall business. AGREXCO earns a commission on the sale of flowers equal to its expenses. AGREXCO is a "mixed" company as defined by sections 1(a) and 58(a) of the Government Companies Law. Eight of the shares in AGREXCO are held by the Government of Israel; the remaining nine are held by various agricultural cooperatives and marketing boards (one of which is the Board).

Programs Investigated

The petitioner has alleged that Israeli exports of fresh cut roses to the United States receive a variety of subsidies, some of which are direct export subsidies and others of which are domestic or internal subsidies. Many of the programs are complex. To determine accurately whether they are subsidies within the meaning of the countervailing duty law and, if so, the amount of subsidization involved requires detailed information on the nature of these programs and the extent to which they have been used by the growers, the central packing houses, and/or AGREXCO.

Because of the complexity of the case and the time needed to produce the necessary information, a request by counsel for the respondents to declare the case extraordinarily complicated and to thereby postpone for sixty-five days for this determination was granted.

However, even with this additional time, the response to the questionnaires presented to respondents by the Department have been incomplete and inadequate. In many cases, we have found it necessary to determine the existence of a subsidy program and estimate the amount of subsidy on the basis of the best information available (including information submitted by the petitioner).

Programs Preliminarily Found To Be Subsidies

Of the programs investigated, we have determined on a preliminary basis that the following are subsidies within the meaning of the countervailing duty law:

1. *Certain benefits conferred under the Law for the Encouragement of Capital Investments (ECIL)*—The purpose of this law is to encourage capital investment through the use of various financial and fiscal incentives in order to promote economic development. Some of the programs administered under the ECIL are export-related; others are not. In order to receive benefits under any of the programs under ECIL, the applicants must be "approved" by the Government. It is not clear what criteria must be met before approval is granted. The Government has given such approval to certain packing houses and AGREXCO. ECIL programs allegedly used by the packing houses and AGREXCO include:

A five year exemption from payment of ⅔ of the property tax on buildings for approved enterprises; and

A ten year exemption from payment of ⅙ of the property tax on equipment used by an approved enterprise.

Whether or not special tax treatment amounts to a subsidy within the meaning of the countervailing duty law will depend on the particular facts of each case. Based on information currently available, both these programs appear to provide clearly preferential treatment to selected enterprises (i.e., those specifically approved by the government). The criteria governing approval are not clear. The purpose of the programs appears to be to encourage investment in selected enterprises. Therefore, we have, on a preliminary basis, determined that both programs are subsidies. While we have been informed that these tax programs were discontinued as of July 30, 1978, we have not been told whether the benefits of exemptions granted before July 30, 1978 remain in force with respect to any of the packing houses or AGREXCO. Pending receipt of this information, we have assumed that such benefits are, in fact, still being enjoyed and based upon information supplied by petitioner have preliminarily found a subsidy of 1 percent of the f.o.b. value of the merchandise.

Cash payments related to the cost of the property of an approved enterprise;

Cash payments related to the price of machinery and equipment of an approved enterprise.

Certain packing houses received payments under these programs. Since these payments appear to involve assumption by the government of costs and expenses incurred by the packing houses in the distribution of fresh cut flowers, including roses, we have preliminarily determined that they are subsidies within the meaning of the countervailing duty law. In order to calculate the value of the subsidy paid in terms of subsidization per unit exported to the United States, we have sought information on the date payments were made, and the schedule used to depreciate the property, machinery or other equipment against which the payments were made. Adequate information has not been supplied. Since respondents have supplied no information at all on the benefits received by AGREXCO, we have, in our calculations concerning AGREXCO, relied on the information submitted by petitioners. Insofar as the packing houses are concerned, we have allocated the benefits on an annual basis over the first half of the stated useful life of the assets against which payments have been made. We then took 13.5 percent of this result to account for that portion of total flower production attributable to roses. The benefits calculated for 1979 were allocated over rose exports for the 1979 growing year. As more information is gathered, the basis on which these calculations have been made may very well change. For purposes of this determination, the subsidy found to exist from these two programs amounts to 0.1 percent f.o.b. value of the merchandise.

Accelerated depreciation for machinery, equipment and buildings;

Direct tax reduction and/or exemptions.

Under the first program machinery and equipment may be depreciated at a rate equal to 200 percent, and buildings at a rate equal to 400 percent, of the rate fixed by the Israeli Income Tax Rules; under the second program a maximum company tax rate is fixed on the taxable

income of approved enterprises. Data supplied by respondents with respect to both these programs are insufficient to allow us to determine whether, and to what extent, either the packing houses or AGREXCO realize any benefits under these programs. For this preliminary determination, we have relied on the information supplied by petitioner and determined that subsidies, in the amount of 2.5 percent of the f.o.b. value of the merchandise, exist.

2. *Cash Payments From the Export Promotion Financing Fund*—Under this program the government of Israel compensates exporters for export expenses, such as advertising campaigns, special export catalogues etc., which would ordinarily be assumed by the industry. We have, on a preliminary basis, found that such payments are subsidies. Respondent has not provided information sufficient to establish the extent to which the Israeli rose industry has used this program. Pending receipt of additional information concerning actual value of payments made for promotion of rose exports, we have calculated the *ad valorem* benefit by taking 13.5 percent of total promotional budget for flowers for growing year 1979 (i.e., the proportion of rose production to total flower production) and allocated it over the total value of rose exports for that year. The amount of the subsidy is, preliminarily, determined to be 0.04 percent of the f.o.b. value of the merchandise.

3. *Government Funding of AGREXCO*—AGREXCO has received a government development grant for an export facility at Ben Gurion Airport. This facility handles a wide range of agricultural exports. We have requested additional information concerning the nature of the grant and the proper basis for allocating a portion of it to the export of fresh cut roses. For purposes of this determination, the 13.5 percent of the value of the grant has been attributed to roses and has been allocated on a straight line basis over the half stated useful life of the facility. The 1979 benefit has been allocated to 1979 rose exports. On this basis, we have determined that a subsidy exists in the amount of 0.0002 percent of the f.o.b. value of the merchandise.

4. *Cash Payments to Growers for Greenhouses*—Growers of fresh cut flowers are entitled to receive direct cash payments to build greenhouses. These payments appear to involve assumption by the government of direct business expenses. The amount of the benefit was determined by calculating 13.5% of the total payments and depreciating the result on a straight line basis over one half of the useful life of the assets purchased. The 1979 benefit was then allocated to 1979 rose production. The amount of the subsidy is preliminarily determined to be 0.08% of the f.o.b. value of the merchandise.

5. *Cash Payments to Packing Houses*—The packing houses receive cash payments from the Ministry of Agriculture for plant and equipment. Once again, the information submitted has been inadequate for proper calculation of the subsidy benefit and, as a result, we have allocated the payments over one half the useful life of the assets purchased. We then took 13.5% of the benefit attributed to growing year 1979 and allocated that over rose exports during that year. On this basis we have preliminarily found a subsidy in the amount of 0.061% of the f.o.b. value of the merchandise.

Programs Preliminarily Found Not in Effect or Not Used

1. *Payment of grants equal to a percentage of export value added.* This program was abolished in 1978.

2. *Refund for government participation in marketing.* These refunds were abolished in 1977.

3. *Cash rebates to exporters for every dollar of export sales.* These rebates were abolished in 1977.

4. *Regional relocation programs.* The respondent has stated that no benefits are bestowed on the flower growing industry under this program.

5. *Government backed minimum price program.* The respondent has stated that this program has not been utilized within the last 12 months. Where the market price of a product exceeds the support price, no bounty or grant exists.

6. *Refund of a portion of export insurance premiums.* Rose shipments are stated to be not insured.

Programs Preliminarily Found Not To Be Subsidies

1. *Rebate of the Value Added Tax and other indirect taxes incurred in producing roses*—Non-excessive rebate of indirect taxes is not considered to be a subsidy.

2. *Government participation in research and development*—Research and Development (R&D) concerning flowers is conducted at Hebrew University of Jersusalem, Rehevot, and the Volcani Institute of Agricultural Research. Information available to the Department indicates that this R&D concerns a broad range of topics, from developing new strains of flowers to devising new shipping techniques. Furthermore, dissemination of the results of this R&D is not restricted to growers, packers and shippers in Israel, but is available to anyone interested and would appear to be of some utility to growers abroad. In view of these facts, we have preliminarily determined that this program is not a subsidy within the meaning of the countervailing duty law.

3. *Government funded extension services*—These appear to be generalized services provided to all sectors of agriculture. Preliminarily, we determine that these are not subsidies.

4. *Government support of the Ornamental Plants Production and Marketing Board*—The board is funded by growers with no participation by the Government in its budget.

5. *Preferential financing of working capital and of accounts receivable for AGREXCO*—AGREXCO, acting as agent for growers, receives financing for working capital and export accounts. However, this financing appears to be at non-preferential rates. Pending verification, these programs are determined preliminarily not to constitute subsidies within the meaning of the countervailing duty law.

Preliminary Determination

I preliminarily determine that there is a reasonable basis to believe or suspect that producers and/or exporters of fresh cut roses from Israel receive certain benefits, as described above, which constitute bounties or grants within the meaning of section 303, Tariff Act of 1930, as amended (93 Stat. 190, 19 U.S.C. 1303), and that the estimated aggregate net amount of these benefits equal 3.8% of the f.o.b. value of the exported merchandise. The Department will afford interested parties an opportunity to present oral views in accordance with section 355.35, Commerce Regulations (19 CFR 355.35, 45 Fed. Reg. 4946). This hearing is scheduled to be held, if requested, at the U.S. Department of Commerce, Room 3817, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, beginning at 10:00 a.m., July 15, 1980. Interested parties who desire such a conference should provide a written request for a conference to the Office of the Deputy Assistant Secretary for Import Administration, Room 2800, at the address shown above. The request should contain: (1) the name, address and telephone number of the party requesting the conference; (2) the number of participants and the reason for attending and (3) a list of the issues to be discussed. All requests must be received by the Deputy Assistant Secretary no later than 10 days after publication of this notice. Any written views filed in accordance with section

355.34(a), Commerce Regulations (19 CFR 355.34(a), 45 Fed. Reg. 4946) should be filed at the address indicated above, in at least 10 copies. Any written views should be filed on or before July 10, 1980.

In accordance with section 703(d), Tariff Act of 1930, as amended (93 Stat. 153, 19 U.S.C. 1671b(d)), liquidation of all entries or withdrawals from warehouse, for consumption, of this merchandise on or after the date of publication of this notice in the **Federal Register** shall be suspended. The posting of a cash deposit, bond, or other security, in the amount of 3.8% of the f.o.b. value of the merchandise will be required as of that date. This suspension of liquidation shall remain in effect until further notice.

This determination is published in accordance with section 355.28, Commerce Regulations (19 CFR 355.28, 45 FR 4943).

John D. Greenwald,

Deputy Assistant Secretary (Import Administration).

June 4, 1980.

[FR Doc. 80-17479 Filed 6-9-80; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

[Docket No. S-668]

Richmond Tankers, Inc.; Extension of Time To File Comments

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Extension of time to file comments.

SUMMARY: On May 15, 1980 (45 FR 32035), the Maritime Subsidy Board published in the **Federal Register** a Notice of Application seeking comments by May 30, 1980, on the application of Richmond Tankers, Inc. to approve the total repayment of construction-differential subsidy paid in connection with the construction of the TT BAY RIDGE and thereby lift the domestic trading restrictions imposed pursuant to Board Contract No. MA/MSB-284, dated July 29, 1973. On May 30, 1980 there was published in the **Federal Register** (45 FR 36465) a ten day extension of time to file comments in response to the notice of the application of Richmond Tankers, Inc. The American Maritime Association has requested a further extension of time to file comments of one week. Notice is hereby given that the closing date for comments on the application is extended to the close of business on June 16, 1980.

FOR FURTHER INFORMATION CONTACT: Robert J. Patton, Jr. (202) 377-2188.

Dated: June 4, 1980.

Robert J. Patton, Jr.,

Secretary, Maritime Subsidy Board.

[FR Doc. 80-17452 Filed 6-9-80; 8:45 am]

BILLING CODE 3510-15-M

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one project for a 9 month period beginning August 1, 1980, within the State of Mississippi. The cost of the project is estimated to be $270,000 and the Project Number is 04-60-30383-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. This proposed project is specifically designed to provide services to promote the establishment, viability and growth of qualified minority owned businesses.

Eligibility Requirements: There are no restrictions. Any for-profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested by writing to the following address: Atlanta Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 1365 Peachtree Street N.E., Rm. 225, Atlanta, GA 30309.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local government, federally recognized Indian tribunal unit, educational institution, hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked according to the capability of the staff assigned to the project, the management capability of the applicant, the proposed program plan, the budget allocation plan, and the applicant's knowledge of the area to be served. Specific criteria will be included in the application kit.

Renewal Process: If an award is made, continuation awards for up to two additional years may be made to the successful recipient without competition, provided that funds have been appropriated for a project of this kind, and MBDA has determined that such funds are available, there is a continuing need for a project of this kind, and the recipient has performed satisfactorily.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of July 7, 1980. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: June 2, 1980.

Allan A. Stephenson,

Deputy Director.

[FR Doc. 80-17482 Filed 6-9-80; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one project for a 9 month period beginning August 1, 1980, in Central North Carolina. The cost of the project is estimated to be $176,251 and the Project Number is 04-10-00736-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. This proposed project is specifically designed to provide services to promote the establishment, viability, and growth of qualified minority businesses. In addition, Construction Contractors Assistance Centers to enable them to acquire bonding, financing, and other resources needed to compete effectively.

Eligibility Requirements: There are no restrictions. Any for-profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested by writing to the following address: Atlanta

Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 1365 Peachtree Street N.E., Rm. 225, Atlanta, GA 30309.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local government, federally recognized Indian tribunal unit, educational institution, hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked according to the capability of the staff assigned to the project, the management capability of the applicant, the proposed program plan, the budget allocation plan, and the applicant's knowledge of the area to be served. Specific criteria will be included in the application kit.

Renewal Process: If an award is made, continuation awards for up to two additional years may be made to the successful recipient without competition, provided that funds have been appropriated for a project of this kind, and MBDA has determined that such funds are available, there is a continuing need for a project of this kind, and the recipient has performed satisfactorily.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of July 7, 1980. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development.
(Catalog of Federal Domestic Assistance)

Dated: June 2, 1980.

Allan A. Stephenson,

Deputy Director.

[FR Doc. 80-17481 Filed 6-9-80; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one project for a 12 month period beginning August 1, 1980, within the State of Montana. The cost of the project is estimated to be $60,000 and the Project Number is 08-10-40152-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. This proposed project is specifically designed to provide services to establish and strengthen minority business development.

Eligibility Requirements: There are no restrictions. Any for-profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested by writing to the following address: Dallas Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 1100 Commerce St. Rm. 7B-19, Dallas, Texas 75242.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local government, federally recognized Indian tribunal unit, educational institution, hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked according to the capability of the staff assigned to the project, the management capability of the applicant, the proposed program plan, the budget allocation plan, and the applicant's knowledge of the area to be served. Specific criteria will be included in the application kit.

Renewal Process: If an award is made, continuation awards for up to two additional years may be made to the successful recipient without competition, provided that funds have been appropriated for a project of this kind, and MBDA has determined that such funds are available, there is a continuing need for a project of this kind, and the recipient has performed satisfactorily.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of June 30, 1980. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development.
(Catalog of Federal Domestic Assistance)

Allan A. Stephenson,

Deputy Director.

[FR Doc. 80-17480 Filed 6-9-80; 8:45 am]

BILLING CODE 3510-22-M

National Oceanic and Atmospheric Administration

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Adriatic Sea World (P242).

b. Address: S. N. C. Lungomare della Repubblica, 47036 Riccione (Fo) Italy.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Atlantic bottlenose dolphins (Tursiops truncatus), 4.

4. Type of Take: To capture and maintain permanently in a facility.

5. Location of Activity: Southeast Texas Coast.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before July 10, 1980. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the

United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

i. A certification from such appropriate government agency verifying the information set forth in the application;

ii. A certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Ministry of Agriculture and Forestry of Italy have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are 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, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: June 4, 1980.

William Aron,

Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-17570 Filed 6-9-80; 8:45 am]

BILLING CODE 3510-22-M

Issuance of Permit

On March 31, 1980, Notice was published in the **Federal Register** (45 F.R. 20990), that an application had been filed with the National Marine Fisheries Service by Kansas City Zoological Gardens, Swope Park, Kansas City, Missouri 64132, for a permit to take eight (8) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on June 4, 1980, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Kansas City Zoological Gardens, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: June 4, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-17571 Filed 6-9-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 3, 1980.

The USAF Scientific Advisory Board Armament Division Advisory Group will hold a meeting on 29 and 30 July from 8:30 a.m. to 4:30 p.m. at the Armament Division, Eglin AFB, Florida, in Building 1, Room 204.

The group will receive classified briefings and participate in classified discussions relating to Air Force Anti-Armor, Airfield Attack and Lethal Countermeasures to Command, Control and Communications Technology Programs.

The meetings concern matters listed in Section 552b (c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meetings will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-17463 Filed 6-9-80; 8:45 am]

BILLING CODE 3910-01-M

Office of the Secretary

Defense Science Board Summer Study Panel on Chemical Warfare Advisory Committee Meeting

The Defense Science Board Summer Study Panel on Chemical Warfare will meet in closed session on July 7–8, 1980 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The Chemical Warfare Panel will review the Defense Department's chemical warfare capabilities and assess the threat in the 7–8 July meeting. The Panel on Chemical Warfare is addressing specific issues in DoD policy and capabilities, including strategies for R & D, procurement and operations.

In accordance with 5 U.S.C. App. 1 § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

June 4, 1980.

[FR Doc. 80-17484 Filed 6-9-80; 8:45 am]

BILLING CODE 3810-70-M

Per Diem, Travel and Transportation Allowance Committee; Changes in per Diem Rates

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DoD.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 92. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 92 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: June 3, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick W. Weiser, 325–9330.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of changes in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel per Diem Bulletin Number 92

To the Heads of Executive Departments and Establishments

Subject: Table of Maximum Per Diem Rates in Lieu of Subsistence for United States Government Civilian Officers and Employees for Official Travel in Alaska, Hawaii, the Commonwealth of Puerto Rico and Possessions of the United States

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated August 17, 1966, SUBJECT: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President To Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status" in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 91 except in the cases identified by an asterisk which rates are effective on the date of this Bulletin. The date of this Bulletin shall be the date the last signature is affixed hereto.

3. Each Department or Establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality:	Maximum rate
Alaska:	
Adak [1]	$9.65
Anchorage	72.00
Barrow	111.00
Bethel	93.00
Cold Bay	74.00
College	67.00
Cordova	84.00
Deadhorse	94.00
Dillingham	83.00
Dutch Harbor	82.00
Eielson AFB	67.00
Elmendorf AFB	72.00
Fairbanks	67.00
Ft. Richardson	72.00
Ft. Wainwright	67.00
Kodiak	84.00
Kotzebue	91.00
Murphy Dome	67.00
Noatak	91.00
Nome	90.00
Noorvik	91.00
Shemya AFB [1]	11.00
Shungnak	91.00
Spruce Cape	84.00
Tanana	90.00
Valdez	70.00
Wainwright	79.00
All Other Localities	62.00
American Samoa	54.00
Guam M. I	60.00
*Hawaii:	
Oahu	70.00
All Other Localities	60.00
*Johnston Atoll [2]	15.50
Midway Islands [1]	9.65
Puerto Rico:	
Aguadilla (Incl. CG Air Station Borinquen)	63.00
Bayamon:	
12-16—5-15	102.00
5-16—12-15	75.00
Carolina:	
12-16—5-15	102.00
5-16—12-15	75.00
Dorado	54.00
Fajardo:	
12-16—5-15	102.00
5-16—12-15	75.00
Ft. Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16—5-15	102.00
5-16—12-15	75.00
Mayaguez	63.00
Ponce (Incl. Ft. Allen NCS)	58.00
Roosevelt Roads:	
12-16—5-15	102.00
5-16—12-15	75.00
Sabana Seca:	
12-16—5-15	102.00
5-16—12-15	75.00
San Juan (Incl. San Juan Coast Guard Units):	
12-16—5-15	102.00
5-16—12-15	75.00
All Other Localities	63.00
Virgin Islands of U.S.:	
12-1—4-30	89.00
5-1—11-30	65.00
Wake Island [2]	17.00
Other Localities	15.00

[1] Commercial facilities are not available. This per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meal, and incidental expenses.

June 4, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 80-17483 Filed 6-9-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

Health Education Assistance Loan Program.

AGENCY: Department of Education.

ACTION: Variable Interest Rate for Quarter Ending June 30, 1980.

The Secretary announces that for the three-month period ending June 30, 1980 the variable interest rate on loans in the Health Education Assistance Loan (HEAL) Program shall be at the annual rate of 13¼ percent.

Using the regulatory formula (45 CFR 126.13 (a)(2) and (3)), the Secretary normally would compute the variable rate for this three-month period by adding the fixed annual rate (7 percent) plus a variable component which is calculated by determining the average of the bond equivalent rates of the 91-day Treasury bills for the preceding calendar quarter (12.40 percent), by subtracting 3.5 percent from that average, and by rounding the resultant percent (8.90) upward to the nearest one-eight of one percent (9.00).

However, the regulatory formula also provides that the annual rate of the variable interest rate for a three-month period shall be reduced to the highest one-eight of one percent which would result in a rate not in excess of 12 percent for any twelve-month period. For the Three previous quarters the variable interest at the annual rate has been as follows: 13¼ percent for the quarter ending June 30, 1979; 11 percent for the quarter ending September 30, 1979; 11⅛ percent for the quarter ending December 31, 1979; and 12 ⅝ percent for the quarter ending March 31, 1980. Therefore, in order not to exceed the rate of 12 percent for the twelve month period ending June 30, 1980, the variable interest rate for the quarter ending June 30, 1980, will be at an annual rate of 13¼ percent.

(Catalog of Federal Domestic Assistance No. 13.574, Health Professions Educational Assistance Act Insured Loans)

Dated: June 5, 1980.

Shirley Hufstedler,

Secretary of Education.

[FR Doc. 80-17504 Filed 6-9-80; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Burlington Unit 7 Generating Station: Intent To Prepare an Environmental Impact Statement (EIS) and Conduct Public Scoping Meeting

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of intent to prepare environmental impact statement and conduct public scoping meeting.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS evaluating the impact of its Proposed Prohibition Order for the Burlington Unit 7 Generating Station. Burlington is located in Burlington, New Jersey, and is owned and operated by Public Service Electric and Gas. The Prohibition Order, if finalized, would prohibit the burning of petroleum or natural gas in this unit. Subsequent operation of this unit would require the burning of an alternate fuel such as coal. Interested agencies, organizations, and

the general public desiring to submit written comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so and/or to attend the public scoping meeting which will be held on July 7, 1980, in order to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS. Parties who desire to present oral comments at the scoping meeting should provide advance notice to the Economic Regulatory Administration (ERA) as described below. Upon completion of the draft EIS, its availability will be announced in the **Federal Register**, at which time further comments will be solicited.

The meeting is scheduled to begin at 10:00 a.m. and will continue until all persons wishing to speak have had an opportunity to do so.

Written comments, notice of intent to present comments at the scoping meeting, and questions concerning the meeting should be addressed to: Mr. Steven E. Ferguson, Chief, Environmental Analysis Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3322, Washington, D.C. 20461, telephone (202) 653–3684.

For general information on the EIS process, contact: Robert J. Stern, Acting Director, Division of NEPA Affairs, Office of the Assistant Secretary for Environment, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202)252–4600.

Date and Location of Scoping Meeting: July 7, 1980 in the Council Chamber, Burlington City Hall, 432 High Street, Burlington City, New Jersey. The meeting will begin at 10:00 a.m.

Written Comments Due: August 8, 1980.

SUPPLEMENTARY INFORMATION: On May 22, 1980, the Economic Regulatory Administration (ERA) published in the **Federal Register** a proposed Prohibition Order for Unit 8 (73.5 MW) of the Burlington Generating Station, located in Burlington, New Jersey. The proposed order was issued pursuant to Section 301 of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95–620). If finalized, the order would prohibit this unit from burning natural gas or petroleum as its primary energy source. The proposed prohibition order was based on ERA findings that this powerplant has, or previously had, the technical capability to use an alternate fuel (coal) as a primary energy source. This finding was based on the information that the powerplant was designed and constructed to burn coal as a primary energy source and had previously burned coal.

Environmental Impact Statement

The EIS will present a comprehensive analysis of the environmental impact of ERA's proposed action in issuing a final order prohibiting Unit 7 of the Burlington generating station from burning natural gas or petroleum as primary fuels. This analysis will discuss the environmental consequences of the proposal and alternatives, including the environmental impacts of burning coal or other fuels as primary fuels. Among the impacts to be dicussed are air quality, water quality, solid waste generation and disposal, and transportation and storage of fuel, as well as other impacts determined to be potentially significiant during the public comment process. In addition, the EIS will evaluate methods of meeting the requirements of the Clean Air Act, Federal Water Pollution Control Act, Resource Conservation and Recovery Act, and other relevant environmental statutes. The EIS will be prepared in accordance with Section 102(2)(C) of the National Environmental Policy Act (NEPA).

It is possible that DOE may, in the future, issue prohibition orders to other facilities in the area of the Burlington generating station. If it appears that the environmental effects of conversions in proximity result in cumulative impacts, DOE may opt to combine these conversions a single EIS. DOE will assess various strategies for combining or tiering requisite NEPA documentation that may better serve the decision making process. DOE solicits the public's views and suggestions in this area.

Scoping Meeting

DOE desires to know what the public considers to be the major environmental issues associated with prohibiting Burlington Unit 7 from burning natural gas or petroleum as its primary energy source. The meeting on July 7, 1980, at the address and time noted at the beginning of this notice, will be held to receive comments on the structure and scope of the EIS, anticipated energy/environmental problems, actions that might be taken to address them and reasonable alternatives which should be considered.

The scoping meeting will be conducted informally with the presiding officer affording all interested individuals in attendance an opportunity to speak. A transcript of the meeting will be recorded. The presiding officer will establish the order of speakers and provide any additional procedures necessary for the conduct of the meeting. Attendees at the meeting will be asked to register.

If possible, those planning to present information at the meeting should notify Mr. Ferguson. Participants are encouraged to submit to Mr. Ferguson, in advance, their intent to participate, and copies of any written material. However, public participation is encouraged even without the advance submission of written material.

Speakers will be allotted approximately fifteen minutes for their oral statements. Should any speaker desire to have additional time, or to provide further information for the record, such additional information may be submitted in writing by August 8, 1980. Written comments will be considered and given equal weight with oral comments. All comments or suggestions received will be carefully considered in the preparation of the draft EIS.

A transcript of the scoping meeting will be retained by DOE and made available for inspection at the Freedom of Information Library, Room 6A–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. In addition, anyone may make arrangements with the reporter to purchaser a copy of the transcript.

Those individuals who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the draft EIS for review and comment when it is issued should so notify Mr. Ferguson.

Any questions regarding the meeting should be addressed to Mr. Ferguson.

Issued in Washington, D.C.

Dated: June 3, 1980.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 80-17565 Filed 6-9-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP80–105]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

June 2, 1980.

Take notice that on May 23, 1980, Algonquin Gas Transmission Company ("Algonquin Gas") filed the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

5th Revised Sheet No. 20–A
7th Revised Sheet No. 20–B
5th Revised Sheet No. 20–C

Original Sheet No. 20–C.1.

Algonquin Gas states that the four tariff sheets are related to Algonquin Gas' Rate Schedule SNG–1 and are filed to modify the Purchased Feedstock Adjustment Clause contained therein to provide for the collection of feedstock costs on a more current basis than the presently applied partially deferred basis. Algonquin Gas also states that the proposed modifications provide for carrying charges on balances in the accrued deferred feedstock cost account.

The proposed effective date of the tariff sheets is June 23, 1980.

A copy of this filing is being served upon all affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–17507 Filed 6–9–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. RP80–104]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

June 2, 1980.

Take notice that on May 23, 1980, Algonquin Gas Transmission Company ("Algonquin Gas") filed the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

2nd Revised Sheet No. 20–D
1st Revised Sheet No. 20–E
1st Revised Sheet No. 20–F
2nd Revised Sheet No. 20–G.

Algonquin Gas states that the four tariff sheets are related to Algonquin Gas' Rate Schedule SNG–1 and are filed to continue through the 1980–81 SNG season, on an expanded basis, the operating flexibility which was in effect during the 1979–80 season.

The proposed effective date of the tariff sheets is June 23, 1980.

A copy of this filing is being served upon all affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–17508 Filed 6–9–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP80–371]

Cabot Corp.; Application

June 2, 1980.

Take notice that on May 16, 1980, Cabot Corporation (Applicant), P.O. Box 1473, Charleston, West Virgina 25325, filed in Docket No. CP80–371 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.222 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to transport, sell and assign natural gas in interstate commerce as if Applicant was an intrastate pipeline as defined in Subparts C, D, and E of Part 284 of the Commission's Regulations, as well as Section 284.203 thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that 3,063,409 Mcf of natural gas from outside the state of West Virginia were received by Applicant during the 12-month period ending March 31, 1980, within or at the state boundry. It is also stated that during the same period 14,949,142 Mcf of gas was exempted from the Commission's jurisdiction under the Natural Gas Act by reason of Applicant's Section 1(c) exemption. A total of 14,949,142 Mcf of gas were received by Applicant's Hinshaw system in West Virginia from all sources during the most recent 12—month period ending March 31, 1980, it is stated.

Applicant states it currently holds two Declarations of Exemption issued by the Commission under Section 1(c) of the Natural Gas Act, one in Docket No. CP68–176, and the other in Docket No. CP75–325. It is stated that the instant application relates only to the Declaration of Exemption issued by the Commission in Docket No. CP68–176. Such Declaration of Exemption covers applicant's Hinshaw facilities located in the State of West Virginia, it is stated.

Applicant asserts that it would comply with the conditions set forth in section 284.222(e) of the Commission's Regulations. It is also stated that Applicant would petition the Commission for rate approval in accordance with Section 284.123(b)(2) of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 17, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duty given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–17509 Filed 6–9–80; 8:45am]

BILLING CODE 6450–85–M

[Project No. 3171]

City of Columbus, Ohio; Application for Preliminary Permit

June 2, 1980.

Take notice that the City of Columbus, Ohio (Applicant) filed on May 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3171 to be known as the Hoover Hydroelectric Project located on Big Walnut Creek in Franklin and Delaware Counties, Ohio. Correspondence with the Applicant should be directed to: Burgess & Niple, Ltd., 5085 Reed Road, Columbus, Ohio 43220.

Project Description—The proposed project would consist of existing project works including: (1) Hoover Dam, a composite structure comprised of (a) a concrete gravity overflow spillway section 680 feet long and 90 feet high at crest elevation 890 feet m.s.l., flanked on the west (right) by (b) a rolled earth embankment section 1,124 feet long with a maximum height of 123.5 feet, and on the east (left) by (c) an earth embankment section 779 feet long with a maximum height of 75.5 feet; (2) a reservoir with a surface area of 3,843 acres and a storage capacity of 93,204 acre-feet at maximum surface elevation 900 feet m.s.l. New project works would include: (1) a powerhouse with an installed capacity of 500 kW to be located immediately below the dam utilizing the existing outlet works or at an undetermined location downstream in conjunction with (2) a possible new pipeline for transmission of water from the dam to the Morse Road water treatment plant 3.4 miles downstream; (3) electrical facilities; and (4) other appurtenances. Applicant estimates the annual generation would average about 3.7 million kWh.

Purpose of Project—Energy developed at Project No. 3171 would be utilized by the City of Columbus at its Morse Road water treatment plant.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months. Applicant proposes studies to include a feasibility assessment to determine technical, economic, and financial feasibility of the project, and to review potential environmental impacts of the project. Based upon the results of the feasibility study, if a feasible project is indicated, a license application will be prepared involving additional studies and site surveys and site soil borings, if needed. Applicant estimates that the cost of work to be performed under the permit would be $70,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 4, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than October 3, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (*as amended*, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), (*as amended*, 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before August 4, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17510 Filed 6-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-106]

Colorado Interstate Gas Co.; Proposed Changes in FERC Gas Tariff

June 2, 1980.

Take notice that Colorado Interstate Gas Company (CIG) on May 27, 1980, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 2. CIG states that the proposed changes will: (1) make effective Initial Rate Schedule X–38, which is a systemwide Gas Purchase, Transportation, and Exchange Agreement (Agreement) dated December 1, 1978, between CIG and Panhandle Eastern Pipe Line Company (PEPL); and (2) cancel Rate Schedule X–2, a Gas Sales and Exchange Agreement dated July 13, 1972, and Rate Schedules X–19 and X–25, Gas Purchase and Transportation Agreements dated December 3, 1976, and April 22, 1977, respectively, between CIG and PEPL. Rate Schedules X–2, X–19, and X–25 will be superseded by service provided under the systemwide Agreement, Rate Schedule X–38.

Pursuant to the Agreement, CIG and PEPL will exchange and transport, each with and for the other, up to 300,000 Mcf of gas per day from locations proximate to each other's pipeline system. Also, CIG and PEPL have the option to purchase up to 25 percent of the volumes transported each for the other. The systemwide Agreement will render service analogous to the service provided under the X–2, X–19, and X–25 Agreements, and these are to be canceled to avoid redundance.

If there is a net thermal imbalance in exchange volumes in any given month, a transportation charge will be assessed to the company receiving net thermal deliveries. This charge will initially be 24.82 cents per Mcf for CIG's system and 22.9 cents per Mcf for PEPL's system.

The order granting certificate authority for the systemwide Agreement and permitting cancellation of service provided under Rate Schedules X–2, X–19, and X–25 was issued by the Commission on May 7, 1980, in Docket No., CP80–35.

CIG has requested a July 1, 1980, effective date for Initial Rate Schedule X-38 and cancellation of Rate Schedules X-2, X-19, and X-25. Copies of this filing have been mailed to PEPL and certain other parties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17511 Filed 6-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-229]

Mississippi River Transmission Corp.; Petition To Amend

June 2, 1980.

Take notice that on May 19, 1980, Mississippi River Transmission Corporation (Petitioner), P.O. Box 14521, St. Louis, Missouri 63178, filed in Docket No. CP80-229 pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations a petition to amend the order issued April 15, 1980, in the instant docket so as to authorize the filing of a 48-hour summary report as required by Section 284.4(b) of the Commission's Regulations without concurrently filing copies of all contracts applicable to transactions being undertaken, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued April 15, 1980, in Docket No. CP80-229 Petitioner was authorized to transport natural gas on behalf of other interstate pipelines pursuant to § 284.221 of the Commission's regulations. It is further stated that the order requires, *inter alia*, that Petitioner file with the Commission copies of all contracts applicable to transactions authorized by the subject certificate as part of the 48-hour report required by Section 284.4(b) of the Commission's Regulations, and that contract amendments be filed within 48 hours of execution.

Petitioner requests that the Commission's order in Docket No. CP80-229 be amended to allow filing the 48-hour summary report required by § 284.4(b) of the Commission's regulations without concurrently filing copies of all contracts applicable to transactions authorized by the certificate. Petitioner proposes that the filing period for copies of the contracts or amendments thereto be extended to within 30 days after commencement of a transaction or amendment of the contract.

Any person desiring to be heard or to make any protests with reference to said petition to amend should on or before June 24, 1980, file with the Federal Energy Regulation Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17512 Filed 6-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3166]

National Fiber Insulation Co., Inc.; Application for Preliminary Permit

June 2, 1980.

Take notice that the National Fiber Insulation Company, Inc., (Applicant) filed on April 28, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No 3166 to be known as the National Fiber Hydroelectric Project located on the Swift River in the towns of Belchertown and Palmer, in Hampshire and Hampden Counties, Massachusetts. Correspondence with the Applicant should be directed to: Mr. Benjamin A. Surner, Jr., and Mr. Stephen G. Fellers, 60 Shumway Street, Amherst, Massachusetts 01002.

Project Description—The proposed run-of-the-river project would consist of an Upper and a Lower Development.

The Upper Development would consist of existing project works including: (1) the National Upper Dam (Massachusetts I.D. Number 2918), about 230-feet long, comprised of (a) an earth embankment, at the north (right) abutment, (b) a stone masonry spillway section about 130 feet long and 15 feet high, and (c) a stone masonry headgate section about 40 feet long and 15 feet high at the left abutment; (2) a reservoir with a surface area of about 60 acres and negligible storage capacity at surface elevation of 363.7 feet m.s.l.; (3) a headrace canal about 1,500 feet long; (4) a concrete and granite flume about 60 feet long; and new project works to include (5) an intake structure and penstock; (6) a powerhouse with an installed capacity of 150kW; (7) electrical facilities; and (8) other appurtences.

The Lower Development would consist of existing project works including: (1) the National Lower Dam (Massachusetts I.D. Number 2903), a free overfall granite masonry structure about 180 feet long and 15 feet high; (2) a reservoir with a surface area of 48.5 acres and negligible storage capacity at surface elevation of 340.1 feet m.s.l.; (3) a headrace canal about 430 feet long; (4) a diversion channel, about 60 feet long, conducting headrace canal flow into the river; and new project works to include (5) an intake structure and penstock; (6) a powerhouse with an installed capacity of 150 kW; (7) electrical facilities; and (8) other appurtenances.

Applicant estimates that annual generation for both developments combined would average about 1.18 million kWh.

Purpose of Project—Energy developed at the project would be utilized partially by the Applicant's internal manufacturing processes with the remainder being sold directly to other industrial customers in the vicinity of the project and to the local utility company.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform feasibility studies to include field exploration, hydraulic and hydrologic studies, environmental impact studies, and preparation of preliminary engineering plans. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $55,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 4, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than October 3, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended*, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), (*as amended*, 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before August 4, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17513 Filed 6-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2902]

Owens-Illinois Inc., Virginia; Application for Short-Form License (Minor) for a Constructed Project

June 2, 1980.

Take notice that an application was filed on January 11, 1979, under the Federal Power Act, 16 U.S.C. § 791(a)–825(r), by Owens-Illinois for a license for a minor project. The project is located on the James River in the Counties of Bedford and Amherst, near the Town of Big Island, Virginia. Correspondence with the Applicant on this matter should be addressed to: Gallagher, Boland, Meiburger and Brosnan, 821 15th Street, N.W., Washington, D.C. 20005. Attention: Mr. George J. Meiburger or Wiley and Wilson, Inc., Engineers, Architects, and Planners, P.O. Box 877, Lynchburg, Virginia 24506, Attention: Mr. W. M. Johnson.

Project Description—The Big Island Dam Project, which affects navigable waters of the United States, would consist of: (1) an existing stone masonry and wood crib dam approximately 15 feet high and 600 feet long; (2) an existing powerhouse containing two generating units, each rated at 256 kW; (3) an existing reservoir with a surface area of 110 acres at normal pool elevation of 604.7 feet m.s.l.; and (4) appurtenant facilities. The estimated average annual output of the proposed project would be 1,500,000 kWh.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 4, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than December 2, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended*, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (*as amended*, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petiton to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before August 4, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17514 Filed 6-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2901]

Owens-Illinois, Inc., Virginia; Application for Major License for Constructed Project

June 2, 1980.

Take notice that an application was filed on January 11, 1979, under the Federal Power Act, 16 U.S.C. § 791(a)–825(r), by Owens-Illinois, Inc. for a license for a major project. The project is located on the James River in the Counties of Bedford and Amherst, near

the Town of Big Island, Virginia. Correspondence with the Applicant on this matter should be addressed to: Gallagher, Boland, Meiburger and Brosnan, 821 15th Street, N.W., Washington, D.C. 20005, Attention: Mr. George J. Meiburger or Wiley and Wilson, Inc., Engineers, Architects, and Planners P.O. Box 877, Lynchburg, Virginia 24506, Attention: Mr. W. M. Johnson. The James River is a navigable water of the United States.

Project Description—The Holcomb Rock Dam Project would consist of: (1) an existing stone masonry dam which is approximately 21 feet high and 230 feet long; (2) an existing powerhouse containing three generating units, each rated at 625 kW; (3) an existing reservoir with a surface area of 127 acres at normal pool elevation of 571.7 feet m.s.l.; (4) an existing 6.5 mile long, 13,800 kV transmission line that extends from the power plant to the Applicant's paper mill at Big Island; and appurtenant facilities. The estimated average annual output of the proposed project would be 5,000,000 kWh.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 4, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than December 2, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), (as amended, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be hear or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before August 4, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17515 Filed 6-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CI80-305]

Transcontinental Gas Pipe Line Corp. and United Gas Pipe Line Co.; Application

June 2, 1980.

Take notice that on May 8, 1980, Transcontinental Gas Pipe Line Corporation (Transco) and United Gas Pipe Line Company (United) filed a joint petition for declaratory order with respect to their respective rights to purchase gas production from certain acreage located in the Sunrise Field, Terrebonne Parish, Louisiana.

United claims an interest in gas from the disputed acreage pursuant to dedications included in three twenty-year 1958–59 gas purchase contracts it had with Olin Gas Transmission Corporation, Freeport Oil Company, and John W. Mecom, respectively. These three producers obtained certificate authorization and commenced sales from some acreage covered by the contracts. Transco claims an interest in gas from recent wells drilled on the contract property pursuant to a joint venture (Transmac Venture) agreement between its exploration subsidiary, Transco Exploration Company, and certain exploration subsidiaries of its customers and McMoRan Exploration Co. (McMoRan). The wells involved are identifed as the McMoRan Duplantis No. 1, the McMoRan Duplantis No. 2, the McMoRan Brien No. 2, and the Superior Southdown No. 8. The above-mentioned gas purchase contracts of United covered leases which included the disputed acreage, which leases are referred to in the petition as the Duplantis Lease, the M. Brien Lease, the S. Brien Lease, the Champagne Lease, the Foret Lease, and the School Board Lease. Some of the lease acreage has reverted back to its original owners; some of it has been affected by a number of unitization arrangements, both by agreement and state order, and much of it has been farmed out to McMoRan. McMoRan has also acquired various leases in the disputed acreage from sources not parties to the farmout.

Pending decision in this case, United and Transco have entered into a purchase and exchange agreement as to the disputed gas and have applied for certificate approval thereof in Docket No. CP80–338. Further, they state they will voluntarily file briefs herein within 30 days of the filing of their joint petition and reply briefs within 60 days of the filing of such petition.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 30, 1980, file with the Federal Energy Regulation Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17516 Filed 6-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-101]

U.S. Geological Survey, New Mexico, Section 108, NGPA Determination, Depco, Inc., Hancock Well No. 6; Request for Withdrawal

June 2, 1980.

Take notice that on February 1, 1980, the United States Geological Survey, Albuquerque, New Mexico (USGS) filed with the Federal Energy Regulatory Commission (Commission) a request to withdraw its determination that the Hancock No. 6 Well did not qualify as a stripper well pursuant to section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301, *et seq.* The determination of eligibility for the subject well became final by operation of § 275.202 of the Commission's regulations, prior to the date on which the USGS filed its request for withdrawal of its determination of eligibility.

In its request to withdraw its determination of eligibility, the USGS states that Depco, Inc. (Applicant) has furnished additional production records which should be considered by the USGS.

Any person desiring to be heard or to make any protest with reference to said request should on or before June 20,

1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17517 Filed 6-9-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1511-1; PF 178A]

Filing of Pesticide Petition; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: This document corrects filing of a pesticide tolerance petition notice on inorganic bromides (calculated as BR) published in the **Federal Register** of April 22, 1980.

EFFECTIVE DATE: June 10, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Rita E. Johnson, Federal Register Section (TS-793), Chemical Information Division, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. 202/426-2432.

SUPPLEMENTARY INFORMATION: In FR Doc. 80-12307 appearing at page 27010, first column, in the issue of April 22, 1980, pesticide petition number "PP 9F2167", the name of the pesticide chemical, 8th line, should read "ethylene dibromide" vice "ethylene bromide."

Dated: June 2, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-17494 Filed 6-9-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1511-3]

Science Advisory Board; Subcommittee on Innovative/ Alternative Wastewater Technologies; Open Meeting

Under Pub. L. 92-463, notice is hereby given of a meeting of the Subcommittee on Innovative/Alternative Wastewater Technologies of the Science Advisory Board. The meeting will be held at the Southwest Conference Room, 611 Cascade West Parkway Southeast, Grand Rapids, Michigan 47506, on June 30, 1980, starting at 9:15 am.

The agenda for the meeting will include reports by four subcommittee task groups dealing with management of the Innovative/Alternative program, expanding the definition of innovative to include financial, institutional, and management innovations, removing barriers toward risk-taking, and conducting a broader educational campaign among constituency groups interested in Innovative/Alternative technologies. The subcommittee will also receive additional briefings on the status and management of the Innovative/Alternative program.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Terry F. Yosie by close of business June 25, 1980, at (202) 755-0263.

Richard M. Dowd,

Staff Director, Science Advisory Board.

June 2, 1980.

[FR Doc. 80-17492 Filed 6-9-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1511-2]

Science Advisory Board, Subcommittee on Airborne Carcinogens; Open Meeting

Under Pub. L. 92-463, notice is hereby given of the first meeting of the Subcommittee on Airborne Carcinogens of the Science Advisory Board. The meeting will be held on July 1 beginning at 9:15 am in Room 3906 of the Mall, EPA Headquarters, 401 M Street, SW, Washington, D.C. 20460.

The subcommittee has been formed to advise the Administrator on the adequacy of scientific assessments the Agency has prepared to support a decision on whether to regulate particular substances as airborne carcinogens under the Clean Air Act, and to advise the Administrator on such other related scientific matters as he may request.

The agenda for the meeting includes briefings by EPA staff on: the Clean Air Act, the Airborne Carcinogen Policy Proposal (44 FR 58642), October 10, 1979), methods used by EPA for assessment of carcinogenicity and public exposure, discussion of scientific issues regarding air pollution and human cancer, and items of member interest.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Terry F. Yosie, (202)755-0263, before close of business June 25, 1980.

June 2, 1980.

Richard M. Dowd,

Director, Science Advisory Board.

[FR Doc. 80-17493 Filed 6-9-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1232]

Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

June 3, 1980.

Docket or RM No.	Rule No.	Subject	Date received
21513, RM-2882	73.202(b)	Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Freeport, Texas). (Filed by Rainer K. Kraus, Attorney for Amaturo Group, Inc. (KMJQ-FM)).	May 2, 1980.
BC 79-1, RM-3166, RM-3351	73.202(b)	Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Clinton and Blad Knob, Arkansas). (Filed by Marvin Rosenberg and David G. Rozzelle, Attorneys for Weber-King Radio).	May 22, 1980.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before June 25, 1980. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-17468 Filed 6-9-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary Federal Maritime Commission, Washington, D.C., 20573, on or before June 30, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: 161–36.

Filing Party: Howard A. Levy, Patricia E. Byrne, Attorneys for Agreement No. 161, 17 Battery Place—Suite 727, New York, New York 10004.

Summary: Agreement No. 161–36, among the member lines of the Gulf/United Kingdom Conference, amends the first sentence of the first paragraph of Article 4 of the basic agreement to include the positioning and repositioning of empty containers as a matter which the parties shall be authorized to consider and pass upon.

Agreement No.: T–3757–1.

Filing Party: E. F. Brimo, Treasurer, Global Terminal & Container, Services, Inc., P.O. Box 273, Jersey City, New Jersey 07303.

Summary: Agreement No. T–3757–1, between Global Terminal & Container Services, Inc. (Global) and Nedlloyd Lijnen, B.V. (Nedlloyd), modifies the parties' basic agreement which provides for the performance by Global of stevedoring and other terminal services for Nedlloyd at the Port of New York. The purpose of the modification is to set forth the terms and conditions for the collection of demurrage charges in accordance with Global's Terminal Tariff No. 1.

Agreement No. 10137–6.

Filing Party: Robert H. Pouch, President, Barber Steamship Lines, Inc., 17 Battery Place, New York, New York 10004.

Summary: Agreement No. 10137–6 is a proposal by the parties to the Barber-Blue Sea Line Joint Service to extend the authority of their basic agreement for five years, through September 26, 1985.

Dated: June 4, 1980.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80–17453 Filed 6–9–80; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reasons why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

International Connections Corp., 3277 N.W. 32nd St., Miami, FL 33122. Officers: Richardo Madan, President, Margarita Riquelme, Secretary/Treasurer, Ela Cisneros, Vice President.

Stanmar Shipping Co., Inc., 64 Cross Hill Avenue, Yonkers, NY 10703. Officers: Stanley Michal, President, Kazimiera Michal, Secretary.

Malvar Freight Forwarding Service, Inc., 3287 NW 78th Avenue, Miami, FL 33122. Officers: George Malvar, President, Diane Malvar, Vice President, Josefina Malvar, Secretary/Treasurer.

Tulair Int'l Corporation d.b.a. Tulsea, 148–11 New York Blvd., Jamaica, NY 11434. Officers: Ferruh Tulun, President.

Diamond International Freight Forwarder (Nachaat Jacob, d.b.a.), 401 Broadway, New York, NY 10013.

Dated: June 4, 1980.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80–17454 Filed 6–9–80; 8:45 a.m.]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Roberts Bancorporation, Inc.; Formation of Bank Holding Company

Roberts Bancorporation, Inc., Roberts, 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 91.5 percent or more of the voting shares of State Bank of Roberts, Roberts, 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 Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 3, 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, June 3, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–17473 Filed 6–9–80; 8:45 am]

BILLING CODE 6210–01–M

Van Bancshares, Inc.; Formation of Bank Holding Company

Van Bancshares, Inc., Van, 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 percent or more of the voting shares (less directors' qualifying shares) of First State Bank, Van, 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 office 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 July 3, 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, June 3, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–7474 Filed 6–9–80; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79N-0330]

GRAS and Prior-Sanctioned Human Food Ingredients and Flavor Substances; Availability of Information

Correction

In FR Doc. 80-11732 appearing on page 26465 in the issue of Friday, April 18, 1980, make the following correction:

In the first column of page 26466, in the table for **REPORTS OF THE SELECT COMMITTEE,** "Riboflavin and riboflavin b'-phosphate" should have read "Riboflavin and riboflavin 5'-phosphate".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Docket No. 80D-0097]

Action Levels for the Adulteration of Wheat Flour by Insects and Rodents; Availability of Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the availability of Food and Drug Administration (FDA) Compliance Policy Guide 7104.02 containing the regulatory defect action level for insect fragments and rodent hairs in wheat flour. This new guide establishes a defect action level of an average of 50 insect fragments or more than 50 grams (g) of flour or an average of 1 rodent hair or more per 50g of flour. The establishment of this action level by FDA was based on analytical data from flour samples examined by the U.S. Department of Agriculture (USDA) over a 2-year period and will provide guidance for uniform enforcement of the defect action level by all FDA district offices.

ADDRESS: Written comments on the defect action level and requests for single copies of the FDA Compliance Policy Guide should be submitted to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Howard N. Pippin, Division of Regulatory Guidance (HFF-312), Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: Analytical data from 5,081 flour samples were used to establish a data base for a statistical analysis of the frequency distribution of insect fragments and rodents hairs in flour. The samples were collected and analyzed by the USDA over a 2-year period, 1969-1971, and were representative of the major wheat classes (Hard Red Spring Wheat, Hard Red Winter Wheat, Soft Red Winter Wheat, White Wheat and Mixed Wheat) excluding Durum and Red Durum Wheats.

From computer simulations using the data available on the 5,081 samples, it was determined that a defect action level of an average of 50 or more insect fragments per 50g or an average of 1 or more rodent hairs per 50g would result in a rejection rate of 2.07 percent of the survey samples. In the absence of any formal guideline whereby the regulatory impact of this action level can be assessed, this moderate rejection rate of 2 percent is considered acceptable.

Because of changing wheat storage conditions, USDA requested that more current flour data be subjected to the action level to determine its appropriateness for more recent storage problems.

Subjecting USDA 1979 data to the action level (an average of 50 insect fragments or 1 rodent hair per 50g) resulted in a slightly higher rejection rate for insect fragments and a lower rejection rate for rodent hairs, with the overall rejection rate being 0.07 percent lower for the 1979 set of data than for the 1969-1971 set of data. Thus, the appropriateness of the action level is affirmed by the newer data.

FDA has established this action level to provide consistency in the enforcement of regulatory actions taken by FDA district offices against contaminated wheat flour.

A copy of the guide and supporting data is available for public examination between 9 a.m. and 4 p.m., Monday through Friday, in the office of the Hearing Clerk, Food and Drug Administration. Requests for single copies of that guide should reference the Hearing Clerk docket number in the heading of this document and should be submitted in writing to the office of the Hearing Clerk, Food and Drug Administration.

Interested persons may submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding the action level. 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 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.

Dated: June 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-17318 Filed 6-9-80; 8:45 am]

BILLING CODE 4110-03-M

Ad Hoc Committee on Erythromycin Estolate; Establishment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 and the public advisory committee procedures (21 CFR Part 14), the Food and Drug Administration announces the establishment of the Ad Hoc Committee on Erythromycin Estolate in the Food and Drug Administration.

EFFECTIVE DATE: June 10, 1980; authority for the committee being established will end on May 22, 1981.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and § 14.40(b) (21 CFR 14.40(b)), FDA announces the establishment of the Ad Hoc Committee on Erythromycin Estolate by the Secretary of the Department of Health and Human Services. The Committee will review and evaluate available data concerning the safety and effectiveness of erythromycin estolate and make appropriate recommendations to the Commissioner of Food and Drugs.

Dated: June 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-17466 Filed 6-9-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0164]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 4-[[4,6-bis(octylthio)-*s*-triazin-2-yl]amino]-2, 6-

di-*tert*-butylphenol as an antioxidant and thermal stabilizer.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

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 0B3509) has been filed by the Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 178.2010(b) (21 CFR 178.2010(b)) be amended to provide for the safe use of 4-[[4,6-bis(octylthio)-*s*-triazin-2-yl]amino]-2,6-di-*tert*-butylphenol as an antioxidant and thermal stabilizer for styrene block copolymers complying with § 177.1810 (21 CFR 178.1810) and polystyrene and rubber-modified polystyrene polymers complying with § 177.1640 (21 CFR 177.1640).

The agency has carefully considered the potential environmental effects of this proposed action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that document may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 29, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-17467 Filed 6-9-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Robert O. Bartz, District Director, New Orleans District Office, New Orleans, LA.

DATE: The meeting will be held at 1:30 p.m., Wednesday, June 11, 1980.

ADDRESS: The meeting will be held at the Calcasieu Office of Family Security, 710 Ryan, Rm. 30, Lake Charles, LA.

FOR FURTHER INFORMATION CONTACT: Frances G. Brysson, Consumer Affairs Officer, Food and Drug Administration, 4298 Elysian Fields Ave., New Orleans, LA 70122, 504-589-2420.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's New Orleans District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: June 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-17465 Filed 6-9-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Abraham I. Kleks, District Director, Los Angeles District Office, Los Angeles, CA.

DATE: The meeting will be held at 9:30 a.m., Monday, June 30, 1980.

ADDRESS: The meeting will be held at the Food and Drug Administration, 1521 W. Pico Blvd., Los Angeles, CA 90015.

FOR FURTHER INFORMATION CONTACT: Elaine G. Roentgen, Consumer Affairs Officer, Food and Drug Administration, 1521 W. Pico Blvd., Los Angeles, CA 90015, 213-688-4395.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Los Angeles District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: June 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-17464 Filed 6-9-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0482]

Dimethylnitrosamine in Malt Beverages; Availability of Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the availability of Food and Drug Administration (FDA) Compliance Policy Guide 7101.06 containing an action level for dimethylnitrosamine in malt beverages. The agency has determined that dimethylnitrosamine in malt beverages is avoidable at levels greater than 5 parts per billion (ppb) and has established that level as a basis for regulatory action. This action level applies to malt beverages produced after January 1, 1980.

ADDRESS: Written comments on the action level and requests for single copies of the FDA Compliance Policy Guide and the method of analysis should be submitted to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: In August 1978, after learning that German researchers had reported finding low levels of dimethylnitrosamines (DMNA) in beer, FDA began to investigate the extent of DNMA contamination in beer and other malt beverages available in the United States. The agency conducted a limited survey of imported and domestic beers and found levels ranging from "not detectable" to 7.7 ppb. Because of limitations in the methodology and instrumentation used to analyze the malt beverages, the presence of DMNA cannot be confirmed below the 5 ppb level.

During the past year, FDA has also worked closely with the United States Brewers Association (USBA) to ensure that the amount of DMNA in malt beverages is reduced to the lowest possible level as soon as possible. According to reports from the USBA and German researchers, DMNA is formed during kilning (drying) of sprouted barley. Studies indicate that significantly higher levels of DMNA are likely to occur when the malt is kilned by direct fire (open flame) than when indirect fire is used. The DMNA is formed as a result of a reaction between amines, which are naturally present in the barley, and a nitrosating agent, such as nitrous oxides (NO), which may be present in the air or may be formed during combustion of the fuel used for firing. In direct firing, the drying barley is exposed to the NO combustion by-product so that, in the absence of intervening factors, nitrosamine formation is likely to occur.

Direct firing is used in processing approximately 80 to 85 percent of the malt produced in the United States. To reduce the level of DMNA formation, most malt processors have modified

their kilning procedures by adding sulfur to the open flame. This technique prevents the conversion of nitrites to nitrates and results in substantially lower levels of nitrosamine formation. Other methods for reducing DMNA formation, such as modified burners which permit drying at lower temperatures, are also under experimentation.

In October 1979, USBA reported to FDA that over half of the malt beverages produced in the U.S. were made with barley malts processed to contain substantially reduced levels of DMNA and that by November 1979 that figure would rise to over 80 percent. FDA determined that by January 1, 1980, all brewers of malt beverages should be using malts processed by the improved kilning methods and that the level of DMNA in malt beverages produced after January 1 can be reduced to or below the 5 ppb limit of confirmation. The agency, therefore, established 5 ppb as an action level under section 406 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346) and according to 21 CFR 109.6. In a press release issued October 25, 1979, the agency announced that the action level had been established and that all malt beverages produced after January 1, 1980, which are found to contain greater than 5 ppb DMNA will be subject to regulatory action. FDA is announcing the action level in accordance with its policy of making action levels known to the public as soon as practicable after they are established (21 CFR 109.4(b)). As administrative guidelines, rather than regulations, action levels are not required to be published for comment before they are established (21 CFR 10.90(b)).

In establishing an action level under section 406 of the act, the agency must consider whether the level is sufficient for the protection of public health. DMNA has been shown to cause cancer in laboratory animals and, as with other carcinogenic substances, a level of safety for DMNA from malt beverages cannot be established at this time. Because of the potential human carcinogenic effects of the contaminant, the agency has determined that it is necessary to minimize human exposure to the lowest practicable level. In determining that practicable level, the agency has taken into account the limitations of available analytical methodology and the extent to which DMNA in malt beverages can be reduced by good manufacturing practices. Based on these considerations, 5 ppb DMNA was determined to be the lowest practicable level for enforcement purposes.

The 5 ppb action level does not establish a "safe" level for consumption, but does represent the lowest level at which the presence of DMNA in malt beverages can be confirmed by reliable methodology. In addition, available evidence indicates that malt processors can alter the barley kilning process so that subsequent contamination of malt beverages with DMNA is reduced down to or below 5 ppb. The extent to which DMNA in malt beverages can be reduced below 5 ppb cannot be determined at this time. However, as technology becomes available for further reducing the level of DMNA formed during processing of the barley and for confirming the presence of DMNA in malt beverages, FDA will reevaluate the appropriateness of the action level.

The method of analysis (Fazio, T., D. C. Havery, and J. W. Howard, "Determination of Volatile *N*-Nitrosamines in Foodstuffs: I. A New Cleanup Technique for Confirmation by GLC-MS II. A Continued Survey of Foods and Beverages," Unpublished, presented at the meeting of WHO, International Agency for Research on Cancer, Budapest, Hungary; October 1979) that will be used for determining compliance with the action level has not been published. However, a copy of the method has been filed with the FDA Hearing Clerk located at the above-noted address and may be seen in that office during regular business hours. Published copies of the method will also be filed with the Hearing Clerk as soon as possible after they become available.

The 5 ppb action level for DMNA in malt beverages is set forth in FDA Compliance Policy Guide 7101.06. A copy of that guide and supporting data are available for public examination between 9 a.m. and 4 p.m., Monday through Friday, in the office of the Hearing Clerk, Food and Drug Administration. Requests for single copies of that guide and/or method of analysis should reference the Hearing Clerk docket number found in brackets in the heading of this document and should be submitted in writing to the office of the Hearing Clerk, Food and Drug Administration.

Interested persons may submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding the action level and method of analysis. 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.

Dated: June 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-17316 Filed 6-9-80; 8:45 am]

BILLING CODE 4110-03-M

Pulmonary-Allergy Drugs Advisory Committee; Notice of Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Pulmonary-Allergy Drugs Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on May 30, 1982, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: June 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-17319 Filed 6-9-80; 8:45 am]

BILLING CODE 4110-03-M

Science Advisory Board; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Science Advisory Board to the National Center for Toxicological Research by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on June 2, 1982, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers

Lane, Rockville, MD 20857, 301–443–2765.

Dated: June 3, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-17317 Filed 6-9-80; 8:45 am]

BILLING CODE 4110-03-M

Health Resources Administration

Application Announcement for Grants for Faculty Development in Family Medicine

The Bureau of Health Professions, Health Resources Administration announces that applications for fiscal year 1981 grants for Faculty Development in Family Medicine as authorized by section 786(a) of the Public Health Service Act are now being accepted.

Section 786(a) authorizes the award of grants to public or nonprofit private hospitals, schools of medicine or osetopathy, or other public or private nonprofit entities, which have the provision of health or educational programs as one of its major functions, to assist in meeting the cost of planning, developing and operating programs for the training of physicians who plan to teach in family medicine training programs. In addition, section 786(a) authorizes assistance in meeting the cost of supporting physicians who are trainees in such programs and who plan to teach in a family medicine training program.

Approximately $2.5 million is expected to be available for *competitive* grant awards in fiscal year 1981.

Section 786(a) application materials for fiscal year 1981 are based on Interim-final Regulations published in the **Federal Register** on October 10, 1978 (42 CFR Subpart Q Part 57). Therefore, application materials, including the various requirements, are subject to change when final regulations are published under section 786(a).

A funding preference may be accorded approved applications with emphasis on increasing the number of new faculty who will be teaching on a full-time basis in family medicine.

Appended to this notice is a suggested format for notifying the Grants Management Office, Bureau of Health Professions, of your application plans with respect to *competitive* requests (new, competing extension and supplemental) for fiscal year 1981 Grants for Faculty Development in Family Medicine. Please advise of your intentions *in writing* by *June 15, 1980.*

Please note that completed applications must be received by the Grants Management Officer, Bureau of Health Professions, by *September 4, 1980,* in order to be considered for funding.

Should programmatic information be required, please contact: Division of Medicine, Bureau of Health Professions, Health Resources Administration, Center Building, Room 3–22, 3700 East-West Highway, Hyattsville, Maryland 20782; Phone: (301) 436–7350.

Questions concerning grants management aspects may be addressed to: Grants Management Officer (D15), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782; Phone: (301) 436–6565.

Dated: June 3, 1980.

Henry A. Foley,

Acting Administrator.

Appendix—Health Professions Grants for Faculty Development in Family Medicine; Request for Fiscal Year 1981 Grant Application Kit

Name of Institution: _____

_____

(Hospital, school, or other entity)

Address: _____

_____

_____zip code_____

Individual Who May Be Contacted for further information: _____

_____

(Name and Title)

_____

(Telephone Number)

Request a FY 1981 Grant Application Kit.
—Yes (If yes, kit will be mailed as soon as possible.)

Please Advise Us of Your Intention by *June 15, 1980.*

Grants Management Officer (D15), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782; Phone: (301) 436–6565.

[FR Doc. 80-17583 Filed 6-9-80; 8:45 am]

BILLING CODE 4110-83-M

Application Announcment for Graduate Training in Family Medicine

The Bureau of Health Professions, Health Resources Administration announces that applications for fiscal year 1981 Grants for Graduate Training in Family Medicine are now being accepted under the authority of section 786(a) of the Public Health Service Act.

Section 786(a) of the Public Health Service Act authorizes the award of grants to public or nonprofit private hospitals, schools of medicine or osteopathy, and other public or private nonprofit entities to assist in meeting the cost of planning, developing and operating or participating in approved graduate training programs in the field of family medicine. In addition, section 786(a) authorizes assistance in meeting the cost of supporting trainees in such programs who plan to specialize or work in the practice of family medicine.

To receive support, programs must meet the requirements of the Interim-Final regulations, published in the **Federal Register** on October 16, 1978 (42 FR 47694).

In the funding of approved applications, preference will be given to projects in which:

(1) Substantial training experience is in settings which exemplify interdependent utilization of physicians and physician assistants and/or nurse practitioners; and/or

(2) Substantial portions of the project are conducted in a health manpower shortage area(s) designated under section 332 of the Public Health Service Act, or in an Area Health Education Center, funded, at least in part, under section 781 of the Act; and/or

(3) For osteopathic postdoctoral education projects, coordination of training with an affiliated school of osteopathic medicine.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D15), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782. Phone: (301) 436–6564.

Questions regarding the programmatic aspects of these grants should be directed: Primary Care Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources Administration, Center Building, Room 3–30, 3700 East-West Highway, Hyattsville, Maryland 20782. Phone: (301) 436–8581.

To be considered for fiscal year 1981 funding, applications must be received by the Grants Management Officer, Bureau of Health Professions, HRA, at the above address no later than August 4, 1980. Approximately $5–6 million is expected to be available in fiscal year 1981 for competitive grants.

Dated: June 4, 1980.

Henry A. Foley, Ph. D.

Administrator.

[FR Doc. 80-17462 Filed 6-9-80; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

May 23, 1980.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Nipmuc Tribal Council, c/o Miss Zara CiscoeBrough, Hassanamisco Reservation, Grafton, Massachusetts 01519 has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on April 22. The petition was forwarded and signed by Miss Zara CiscoeBrough.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under Section 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Departement of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

Ralph Reeser,

Acting Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 80-17457 Filed 6-9-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[INT DES 80-39]

Proposed Grazing Management Program for the San Juan Environmental Impact Statement Area, San Juan, Rio, Arriba, and Sandoval Counties, N. Mex.; Availability of Draft Environmental Impact Statement and Public Hearings

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement for the proposed Grazing Management Program in the San Juan EIS area in San Juan, Rio Arriba, and Sandoval Counties, New Mexico.

At present, livestock grazing is authorized on 926,909 acres of public lands within the San Juan Planning Unit. Under the proposed grazing program, all allotments (excluding existing AMP allotments) would be managed under a more intensive grazing management program. A minimum rest period from livestock grazing, (April 1 to May 31 and July 15 to September 15), would be required on a pasture by pasture basis one year out of every three. Existing season-of-use would be altered to some degree on approximately 84 percent of the allotments in the area. No combination of allotments or change in class of livestock is proposed. Range improvements necessary to implement the proposed grazing program include: dirt tanks, wells, pipelines, drinking troughs, storage tanks, spring developments, fences, cattleguards, and vegetation treatment of approximately 54,000 acres (chaining, spraying, plowing, seeding, etc.). The initial allocation of AUM's would be: livestock—69,335 AUM's; wildlife—5,799 AUM's; wild horses—276 AUM's. The anticipated allocation of AUM's by the year 2000 (long term) would be: livestock—90,311 AUM's; wildlife—16,630 AUM's; wild horses—276 AUM's.

A limited number of copies of the Draft Environmental Impact Statement are available at the Albuquerque District Office, 3550 Pan American Freeway, P.O. Box 6770, Albuquerque, New Mexico 87107; and at the Farmington Resource Area Office, 900 La Plata Highway, P.O. Box 568, Farmington, New Mexico 87401. Public reading copies are available for review at the BLM State Office, Office of Public Affairs, U.S. Federal Building, Santa Fe, New Mexico and public and university libraries around the state of New Mexico.

Albuquerque City Library, 501 Copper Avenue, NW., Albuquerque, New Mexico 87107.
University of New Mexico, General Library, Albuquerque, New Mexico 87131.
Farmington City Library, 302 North Orchard Avenue, Farmington, New Mexico 87401.
Santa Fe Public Library, 121 Washington Avenue, Santa Fe, New Mexico 87501.
Gallup Public Library, 115 West Hill Avenue, Gallup, New Mexico 87301.
Grants Public Library, 525 West High, Grants, New Mexico 87020.
Aztec Public Library, 201 W. Chaco, Aztec, New Mexico 87401.
Durango Public Library, 1188 2nd Ave., Durango, Colorado 81301.
Cortez Public Library, 700 E. Montezuma Ave., Cortez, Colorado 81321.
Bureau of Land Management, Cuba Field Office, P.O. Box 668, Cuba, New Mexico 87013.
New Mexico State Univerity Library, Attn: Lila Foss, Box 3475, Las Cruces, New Mexico 88003.
Library NMSU—San Juan Campus, 4601 College Blvd., Farmington, New Mexico 87401.

BLM invites comments on the adequacy of the draft statement. Comments will be accepted until July 28, 1980, which is the close of the 45 day public comment period. Comments should be addressed to District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Public hearings will be held at San Juan Community College Auditorium, Farmington, New Mexico on July 8, 1980 at 2:00 p.m. and 7:00 p.m., and at the Holiday Inn, 2020 Menaul N.E., Albuquerque, New Mexico on July 9, 1980 at 7:00 p.m. Oral comments will be limited to 10 minutes. Anyone wanting to present oral comments should contact Jeff Radford in the Albuquerque District Office, phone (505) 766-2455 by July 6, 1980.

Dated: May 30, 1980.

Arthur W. Zimmerman,

State Director, New Mexico.

[FR Doc. 80-17519 Filed 6-9-80; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Chevron U.S.A. Inc., Unit Operator of the Main Pass Block 40 Federal Unit Agreement No. 14-08-001-3847, submitted on May 30, 1980, a proposed Supplemental Plan of Development/Production describing the activities it proposes to conduct on the Main Pass Block 40 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records,

Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 25034 of Title 30 of the Code of Federal Regulations.

Dated: June 3, 1980.

J. Rogers Pearcy,

Acting Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80–17534 Filed 6–9–80; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Exxon Company, U.S.A., Unit Operator of the South Timbalier Block 172 Federal Unit Agreement No. 14–08–0001–8946, submitted on May 23, 1980, a proposed Supplemental Plan of Development/Production describing the activities it proposes to conduct on the South Timbalier Block 172 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 2, 1980.

J. Rogers Pearcy,

Acting Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80–17535 Filed 6–9–80; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Conoco Inc., Unit Operator of the Grand Isle—CATCO Federal Unit Agreement No. 14–08–0001–2021, submitted on May 27, 1980, a proposed Revised Plan of Development/Production describing the activities it proposes to conduct on the Grand Isle—CATCO Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 2, 1980.

J. Rogers Pearcy

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80–17536 Filed 6–9–80; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Exxon Company, U.S.A., Unit Operator of the South Marsh Island Block 73 Federal Unit Agreement No. 14–08–0001–11653, submitted on May 30, 1980, a proposed Supplemental Plan of Development/Production describing the activities it proposes to conduct on the South Marsh Island Block 73 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 3, 1980.

J. Rogers Pearcy,

Acting Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80–17537 Filed 6–9–80; 8:45 am]

BILLING CODE 4310–31–M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register was received by the Heritage Conservation and Recreation Service before May 30, 1980. Pursuant to § 1202.13 of 36 CFR Part

1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. Written comments should be submitted by June 25, 1980.

Sarah G. Oldham,

Acting Chief, Registration Branch.

CALIFORNIA

Marin County

Novato, *Fashion Shop and Stephen Porcella House*, 800 Grant Ave. and 1009 Reichert Ave.

IDAHO

Caribou County

Chesterfield, *Chesterfield Historic District*

ILLINOIS

Winnebago County

Rockford, *Lake-Peterson House*, 1313 E. State St.

LOUISIANA

East Feliciana Parish

Clinton vicinity, *Blairstown*, SE of Clinton

MINNESOTA

Chisago County Multiple Resource Area (Partial Inventory). This area includes: Center City, Center City Historic District, Summit Ave.; Chisago County Courthouse, Main St.; Chisago Lake, Moody Barn, SR 24; Franconia, *Munch, Paul, House*, Block 21, lots 1 and 2 (previously listed in the National Register); Harris, *Sayer House*, SR 9 and SR 30; Lindstrom, *Anderson, Gustaf, House*, 13045 Lake Blvd.; *Fridhem*, Newell Ave.; *Victor, C. A., House*, 3495 Park St.; Rush City, *Carlson, J. C., House*, Bremer and 6th Sts.; *Grant House*, 4th St. and SR 30; *Johnson Block*, 4th St. and Ave. D; Rushseba, *Diffenbacher Farmhouse*, SR 5; Taylors Falls, *Angel's Hill Historic District* (previously listed in the National Register), *Daubney, John, House*, Oak and River Sts.; *Munch-Roos House, 360 Bench St. (previously listed in the National Register); Taylors Falls Public Library*, 417 Bench St. (previously listed in the National Register)

ISANTI COUNTY MULTIPLE RESOURCE AREA (Partial Inventory). This area includes: Athens, *Erickson Farmstead*, MN 65 and SR 56; Bradford, *German Evangelical Lutheran Church*, SR 5; Braham, *Olson, Oscar, House, 309 Beechwood; Cambridge, Isanti County Courthouse*, 237 SW. 2nd Ave.; Cambridge vicinity, *Linden Barn*, SR 19; *West Riverside School, District No. 38*, SR 14; Maple Ridge, *Swedish Mission Church of South Maple Ridge*, SR 1; Spencer Brook, Isanti School District No. 1, Off SR 7; Stanford, *Farmers Cooperative Mercantile Company of West Stanford*, Off SR 7

NEBRASKA

Washington County

Blair, *Trinity Seminary Building*, College Dr.

NORTH CAROLINA

Cleveland County

Shelby vicinity, *Suttle, Joseph, House*, SW of Shelby

NORTH DAKOTA

Morton County

Huff vicinity, *Huff State Historic Site*

Oliver County

Price vicinity, *Molander State Historic Site*

Pembina County

St. Thomas, *O'Connor House*, Off U.S. 81

Stutsman County

Jamestown, *Dickey, Alfred E., Free Library*, 105 3rd St., SE.

Traill County

Hillsboro, *Sarles, O. C., House*, 2nd Ave. and 3rd St., NE.

OHIO

Franklin County

Columbus, *Indianola Junior High School*, 420 E. 19th Ave.

RHODE ISLAND

Bristol County

Bristol, *Blithewold*, Ferry Rd.
Bristol, *Poppasquash Farms Historic District*, Off R.I. 114

Kent County

Coventry vicinity, *Bowen, Isaac, House*, NE of Coventry on Maple Valley Rd.
Warwick, *Warwick Civic Center Historic District*, Post Rd.

Providence County

Greenville vicinity, *Waterman-Winsor Farm*, NW of Greenville at 79 Austin Ave.
Harmony, *Harmony Chapel and Cemetery*, RI 44

Providence County

Providence, *Brown, Moses, School*, 250 Lloyd Ave.
Providence, *Davol Rubber Company*, Point and Eddy Sts.
Providence, *Plain Farm House*, 109 Webster Ave.

Washington County

Exeter, *Lawton's Mill*, Ten Rod Rd.
Kingston vicinity, *Theatre-By-the Sea*, SW of Kingston on Card Ponds Rd.

SOUTH CAROLINA

Kershaw County

Cassatt vicinity, *McCoy, Benjamin, House*, S of Cassatt on SR 15

TENNESSEE

Madison County

Jackson, *East Main Street Historic District*, Irregular pattern along E. Main St.

WISCONSIN

Bayfield County

Bayfield, *Bayfield Historic District*, WI J and WI 13

Washburn County

Shell Lake, *Salem Lutheran Church*, 301 8th Ave. West

[FR Doc. 80-17127 Filed 6-9-80; 8:45 am]

BILLING CODE 4310-03-M

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.-5:00 p.m. (or completion of business) on July 1-2, 1980, at the Office of Surface Mining, Director's Conference Room 251, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

This meeting will deal with the following principal subjects:

1. Introductory Remarks—Walter N. Heine, Director, Office of Surface Mining.

2. Approval of Minutes—Meeting of February 19, 1980.

3. Discussion of old business.

4. New business.

5. Summary of Ad Hoc Committee Report—Dr. Bruce Hanshaw, Chairman.

6. Discussion of letter from Secretary Davenport concerning Advisory Committee advice on Mineral Institute evaluations (Dr. Elburt Osborn).

7. Progress report on Fiscal Year 1980 Research Proposal Process (Dr. Lawrence Chase).

8. Review of Advisory Committee on Fiscal Year 1980 Research Proposals.

9. Miscellaneous business.

The meeting of this committee is open to the public. Approximately 32 visitors can be accommodated 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 June 19, 1980, to Ms. Marsha Helfand, Program Assistant, Mineral Institute Branch, Office of Surface Mining, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, telephone (202) 343-6912.

Walter N. Heine,

Director.

June 5, 1980.

[FR Doc. 80-14797 Filed 6-9-80; 8:45 am]

BILLING CODE 4310-05-M

Water and Power Resources Service

[INT DES 80-38]

Availability of Draft Supplement to the Final Environmental Statement on Basin Alternatives, Water Allocations and Reservoir Operations, New Melones Lake, Stanislaus River, Calif.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft supplemental statement on the environmental impacts for use of New Melones Reservoir water supply along with alternative operating conditions. The principal alternatives discussed are: (1) use of the water supply in three alternative basin areas and possible allocation in adjacent local areas along with other areas of the Central Valley Project; and (2) operation of New Melones Reservoir as authorized along with three alternative storage operating levels. Written comments may be submitted to the Regional Director, with a copy to Director, Office of Environmental Affairs (addressees below) by August 4, 1980.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7620, Water and Power Resources Service, Department of the Interior, Washington, DC 20240, telephone (202) 343-4991.

Division of Management Support, Library Branch, Code 950, E&R Center, Denver Federal Center, Denver, CO 80225, telephone (303) 234-3019.

Office of the Regional Director, Water and Power Resources Service, 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 484-4792.

Single copies of the draft statement may be obtained on request to the Commissioner of the Water and Power Resources Service or the Regional Director. Please refer to the statement number above.

Dated: June 5, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary.

[FR Doc. 80-17501 Filed 6-9-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirement of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicaant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor 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 petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-

notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 2900 (Sub-420F), filed March 3, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Rd., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). Transporting *foodstuffs*, between Erie County, PA, and Chautauqua and Cattaraugus Counties, NY, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MA, MD, ME, MI, NC, NH, NJ, NY, OH, PA, RI, SC, TN, WI, WV, VA, VT, and DC. (Hearing site: Erie, PA, or Washington, DC.)

MC 4941 (Sub-95F), filed March 3, 1980. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello St., Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in the U.S. in and east of ND, SD, NE, CO, and NM, restricted to traffic originating at or destined to the facilities of the United States Gypsum Company. (Hearing site: Boston, MA, or Chicago, IL.)

MC 4941 (Sub-96F), filed March 3, 1980. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello St., Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). Transporting *such commodities* as are dealt in by retail department stores, between the facilities of Zayre Corp., at points in MA, on the one hand, and, on the other, points in AL, FL, GA, IA, KS, KY, MI, MN, MO, MS, NC, SC, TN, WI, and WV. (Hearing site: Boston, MA, or Washington, DC.)

MC 4941 (Sub-97F), filed March 3, 1980. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello St., Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). Transporting (1) *plastic articles* and (2) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of plastic articles, between the facilities of U. C. Industries, Inc., a subsidiary of United States Gypsum Company and Condec Corp., at (a) Tallmadge, OH, and (b) Rockford, IL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, and NM. (Hearing site: Boston, MA, or Chicago, IL.)

MC 18121 (Sub-30F), filed November 6, 1979, and previously noticed in FR issue of March 20, 1980. Applicant: ADVANCE TRANSPORTATION COMPANY, P.O. Box 719, Milwaukee, WI 53201. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. Over *regular routes*, transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), as pertinent: (3) between Harvard, IL and Janesville, WI, over U.S. Hwy 14, serving all intermediate points and (4) between Richmond, IL and Madison, WI, over U.S. Hwy 12, serving all intermediate points. (Hearing site: Milwaukee, WI.)

Note.—This republication shows correct origins in routes (3) and (4).

MC 47171 (Sub-162F), filed March 3, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in CT on and east of the Connecticut River, and points in RI (except Providence), on the one hand, and, on the other, points in NC and SC, and points in Clayton, Cobb, Coweta, DeKalb, Fayette, Fulton, Gwinnett, Henry, and Rockdale Counties, GA. (Hearing site: Washington, DC, or Columbia, SC.)

MC 52460 (Sub-274F), filed March 3, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 West 35th St., Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *alcohol*, in bulk, in tank vehicles, from Atchison, KS, to points in MO. (Hearing site: Kansas City, MO.)

MC 52861 (Sub 85F), filed March 3, 1980. Applicant: WILLS TRUCKING, INC., 3185 Columbia Rd., Richfield, OH 44286. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. Transporting *ferroalloys* between Baltimore, MD, on the one hand, and, on the other, points in MI, NY, OH, PA, and WV. (Hearing site: Columbus, OH.)

MC 90870 (Sub 38F), filed February 25, 1980. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307. Transporting *metal articles*, between the facilities of Boyce Steel, Inc., at Kingston Springs, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Chicago, IL, or Memphis, TN.)

MC 94201 (Sub-189F), filed February 25, 1980. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Maurice F. Bishop, Esq., 601–09 Frank Nelson Bldg., Birmingham, AL 35203. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of K-Mart Corporation at or near Lawrence, KS, as an off-route point in connection with applicant's otherwise authorized regular route operations, between Memphis, TN, and Topeka, KS. (Hearing site: Washington, DC, or Chicago, IL.)

Note.—Applicant intends to tack with existing regular-route authority at Topeka, KS.

MC 95540 (Sub-1157F), filed March 3, 1980. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Rd., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant).Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in MA and VT, to points in CO, FL, GA, IA, IN, KS, MI, MN, MO, NC, NE, NY, OH, OK, SC, TN, TX, and WI, restricted to traffic originating at the facilities of New England Shipping Association Co-Operative and destined to the indicated destinations. (Hearing site: Boston, MA, or Washington, DC.)

MC 105461 (Sub-110F), filed June 18, 1979, and previously noticed in FR issue of March 18, 1980. Applicant: HERR'S MOTOR EXPRESS, INC., P.O. Box 8,

Quarryville, PA 17566. Representative: Robert R. Herr (same address as applicant).Transporting (1) *paper and paper products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between points in CT, DE, MA, MD, ME, NH, NJ, NY, OH, PA, RI, VA, VT, and DC, restricted to the transportation of traffic originating at or destined to the facilities of Scott Paper Company or Sonoco Products Company. (Hearing site: Washington, DC, or Philadelphia, PA.)

Note.—This republication corrects the abbreviation for the state of VT and adds the facilities of Sonoco Products Company.

MC 113651 (Sub-336F), filed March 3, 1980. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Rd., Muncie, IN 47305. Representative: Henry Higgs (same address as applicant).Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, 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 commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities used by Weinstein International Corporation. (Hearing site: Minneapolis, MN, or Washington, DC.)

MC 113861 (Sub-81F), filed February 25, 1980. Applicant: WOOTEN TRANSPORTS, INC., 153 Gaston Ave., Memphis, TN 38106. Representative: James N. Clay, III, 2700 Sterick Bldg., Memphis, TN 38103.Transporting *liquid sugar and corn syrup*, in bulk, in tank vehicles, from Memphis, TN, to points in AL, FL, GA, LA, MO, OK, and TX. (Hearing site: Memphis, TN.)

MC 115311 (Sub 389F), filed February 25, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 3106. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Hoover Universal, Inc. (Hearing site: Louisville, KY, or Atlanta, GA.)

MC 115491 (Sub-141F), filed February 25, 1980. Applicant: COMMERCIAL CARRIER CORPORATION, P.O. Box 67, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). Transporting (1) *molten sulphur*, from Tampa, FL, to the facilities of International Minerals & Chemicals Corporation and New Wales Chemicals, Inc. in Polk County, FL, and (2) *dry phosphatic materials*, in the reverse direction. (Hearing site: Tampa or Orlando, FL.)

Condition.—The person or persons engaged in common control of applicant and another regulated carrier must file an application for approval under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 115651 (Sub-85F), filed February 25, 1980. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham RD., Rockford, IL 61102. Representative: E. Stephen Heisley, 666–11th St., Washington, DC 20001. Transporting *solvents*, in bulk, in tank vehicles, between Watertown, WI, on the one hand, and, on the other, points in IA and IL. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 119631 (Sub-37F), filed February 26, 1980. Applicant: DEIOMA TRUCKING COMPANY, P.O. Box 3315, Mount Union Station, Alliance, OH 44601. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St. N.W., Washington, DC 20004. Transporting *bagged clay*, from Mayfield, KY, Gleason and Whitlock, TN, and Sledge, MS, to points in CT, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, WV, and WI. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 124711 (Sub-106F), filed February 26, 1980. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: Rod Parker (same address as applicant). Transporting *liquid fertilizer solutions*, in bulk, in tank vehicles, from the facilities of Chevron Chemical Company at or near Friend, KS, to points in CO, NE, OK, TX, and NM. (Hearing site: Wichita, KS, or Oklahoma City, OK.)

MC 125951 (Sub-55F), filed March 3, 1980. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Rd., Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same address as applicant). Transporting *conduit outlet boxes, junction boxes and cabinets*, from Middletown, NY, to Indianapolis, IN, restricted to traffic originating at or destined to the facilities of General Switch Corporation. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 127701 (Sub-5F), filed March 3, 1980. Applicant: R. D. KING & H. L. DAVIS, JR., d.b.a. HARRISON CONTRACTING COMPANY, P.O. Box 10, Alpena, AR 72611. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. Transporting, (1) *parking meters and parking meter parts;* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, between the facilities of Duncan Industries, Division of Qonaar Corporation, at or near Harrison, AR, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Little Rock, AR.)

MC 129480 (Sub-52F), filed February 25, 1980. Applicant: TRI-LINE EXPRESSWAYS LTD., P.O. Box 1212, Stn. T, Calgary, Alberta, Canada. Representative: Richard S. Mandelson, Suite 1600, Lincoln Center, 1660 Lincoln St., Denver, CO 80264. Transporting *flat glass*, in foreign commerce only, from the facilities of PPG Industries, Inc. at or near (a) Crystal City, MO, (b) Wichita Falls, TX, (c) Fresno, CA, and (d) Decatur, IL, to ports of entry on the International Boundary line between the United States and Canada. (Hearing site: Pittsburgh, PA.)

MC 133591 (Sub-98F), filed February 25, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Ave., Sioux Falls, SD 57101. Transporting *canned goods and canned pet food*, from points in OR, to points in AR, KS, LA, MO, OK, and TX. (Hearing site: San Francisco, CA, or Kansas City, MO.)

MC 127701 (Sub-6F), filed March 3, 1980. Applicant: R. D. KING & H. L. DAVIS, JR., d.b.a. HARRISON CONTRACTING COMPANY, P.O. Box 10, Alpena, AR 72611. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. Transporting *hardwood flooring*, from the facilities of Cloud Corporation, at or near (1) Harrison, AR; and (2) Springfield, MO, to points in the United States (except IA, IL, IN, MI, MN, MO, OH, SD, and WI). (Hearing site: Little Rock, AR.)

MC 128951 (Sub-37F), filed February 22, 1980. Applicant: ROBERT H. DITTRICH, d.b.a. BOB DITTRICH TRUCKING, 1000 North Front St., New Ulm, MN 56073. Representative: Rodney H. Jeffery (same address as applicant). Transporting *fertilizer* between Clear Lake, Mason City, and Sioux City, IA, on the one hand, and, on the other, points in MN. (Hearing site: Minneapolis or St. Paul, MN.)

Note.—Dual operations may be involved.

MC 134501 (Sub-80F), filed February 25, 1980. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting *used hospital furniture, fixtures and equipment*, between points in the United States (except AK and HI). (Hearing site: Indianapolis, IN, or Dallas, TX.)

MC 135861 (Sub-64F), filed February 21, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. *Contract carrier* transporting (1) *personal care products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of personal care products, from Stamford, CT, to points in AZ, CA, CO, KS, NE, NM, OK, and TX, under continuing contract(s) with Clairol, Inc., of Stamford, CT. (Hearing site: Fort Worth or Dallas, TX.)

MC 138960 (Sub-15F), filed February 28, 1980. Applicant: ROKO EXPRESS, INC., 819 West Fifth Ave., Columbus, OH 43212. Representative: Thomas M. O'Brien, 10 South LaSalle St., Suite 1600, Chicago, IL 60603. Transporting *foodstuffs*, from the facilities of Libby, McNeill & Libby, Inc. at or near (a) Leipsic, OH, (b) Kokomo, IN, and (c) Chicago, IL, to Memphis, TN, restricted to traffic originating at the named origins and destined to the indicated destination. (Hearing site: Chicago, IL, or Columbus, OH.)

MC 142181 (Sub-19F), filed February 28, 1980. Applicant: LIBERTY CONTRACT CARRIER, INC., 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *Contract carrier*, transporting *such commodities* as are dealt in or used by a manufacturer of metal products, between Nashville, TN, on the one hand, and, on the other, points in WI, under continuing contract(s) with Cincinnati Sheet Metal and Roofing Company, of Nashville, TN. (Hearing site: Nashville, TN, or Washington, DC.)

MC 144281 (Sub-3F), filed February 21, 1980. Applicant: NEW ENGLAND TRANSPORT, INC., LTD., P.O. Box 27, Chester Depot, VT 05144. Representative: Brian S. Stern, 2425 Wilson Blvd., Suite 367, Arlington, VA 22201. *Contract carrier*, transporting (1) *diesel engines* and *locomotives*, and (2) *materials, equipment and supplies* used in the manufacture and installation of the commodities in (1) above, between Hornell, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with General Electric Company, of Schenectady, NY. (Hearing site: Elmira, NY, or Washington, DC.)

Note.—Dual operations may be involved.

MC 144331 (Sub-7F), filed February 8, 1980. Applicant: EDWARD F. MADEIRA, INC., 514 Island Street, Hamburg, PA 19526. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. *Contract carrier*, transporting (1) *foundry sand additives, foundry facings*, and *fondry core compounds*, from the facilities of The Hill and Griffith Co. at or near Burbank, OH, to points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, WV, and DC, and (2) *equipment, materials and supplies* used in the production and manufacture of the commodities in (1) above, in the reverse direction, under continuing contract(s) with The Hill and Griffith Co., of Cincinnati, OH. (Hearing site: Washington, DC, or Cincinnati, OH.)

Note.—Dual operations may be involved.

MC 144910 (Sub-15F), filed March 3, 1980. Applicant: TY PRUITT TRUCKING, INC., 6717 Quad Ave., Baltimore, MD 21237. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St. NW., Washington, DC. 20005. Transporting *general commodities*, (except commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and LA, restricted to traffic originating at or destined to the facilities of Union Camp Corporation and its subsidiaries. Condition: Limited in point of time, to the extent the grant embraces explosives or other dangerous commodities, to a period of 5 years from the date of issuance of the certificate. (Hearing site: Washington, DC.)

MC 144951 (Sub-2F), filed February 25, 1980. Applicant: RAYMOND G. AND BARBARA A. CEBULSKI, d.b.a. CEBULSKI TRUCKING, P.O. Box 103, Seeley Lake, MT 59868. Representative: John R. Davidson, 805 First Bank Bldg., Billings, MT 59101. Transporting *lumber, and wood products*, from points in Missoula County, MT, to points in AZ, AR, CA, CO, ID, IL, IA, KS, MN, MO, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY. (Hearing site: Missoula, MT.)

MC 145441 (Sub-107F), filed February 28, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. L. Coffey, P.O. Box 5130, North Little Rock, AR 72119. Transporting (1) *paper bags, plastic bags*, and *wrapping paper, in rolls*, from the facilities of International Paper Company at or near Jackson, TN, to points in CA and those points in the U.S. in and east of WI, IL, MO, KS, OK, and TX, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Little Rock, AR, or Memphis, TN.)

Note.—Dual operations may be involved.

MC 145441 (Sub-108F), filed March 3, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). Transporting *such commodities* as are dealt in by discount and retail department stores, (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Target Stores, Division of Dayton-Hudson Corporation. (Hearing site: Little Rock, AR, or Minneapolis, MN.)

Note.—Dual operations may be involved.

MC 147851 (Sub-6F), filed February 8, 1980. Applicant: KWESVA, INC., 4000 Lambert Ave., Louisville, KY 40218. Representative: Herbert D. Liebman, P.O. Box 478, Frankfort, KY 40602. Transporting *alcoholic beverages* (except malt beverages), in containers, from the facilities of Brown-Forman Distillers Corp. and Joseph E. Seagram & Sons, Inc. in Jefferson County, KY, and from the facilities of James B. Beam Distilling Co. in Bullitt County, KY, to points in Kanawha County, WV. (Hearing site: Louisville, or Frankfort, KY.)

MC 149100 (Sub-1F), filed February 21, 1980. Applicant: JAMES V. PALMER d.b.a. JIM PALMER TRUCKING, 9730 Derby Dr., Missoula, MT 59801. Representative: John T. Wirth, 717, 17th St., Suite 2600, Denver, CO 80202. Transporting *wrought iron pipe*, from the facilities of Unarco-Leavitt Division of Unarco Industries Incorporated at (a) Chicago, Blue Island, and Evanston, IL, and (b) Hammond, IN, to points in ID, MT, ND, OR, SD, and WA, restricted to traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 149111F, filed December 4, 1979, and previously noticed in FR issue of March 20, 1980. Applicant: GENERAL COMMODITIES WAREHOUSE & DISTRIBUTING CO., INC., 39th St., Pittsburgh, PA 15201. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment) from

the facilities of General Commodities Warehouse & Distributing Co., Inc., at Pittsburgh, PA, to points in MD, OH, PA, and WV. (Hearing site: Pittsburgh, PA, or Washington, DC.)

Note.—This republication clarifies the origin and adds PA as a destination state.

MC 149301 (Sub-2F), filed February 26, 1980. Applicant: FRANKLIN J. DAVIS, d.b.a. DAVIS TRUCK LINES, Stanhope, IA 50246. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting (1) *construction materials* (except commodities in bulk) and (2) *materials and supplies* used in the manufacture and distribution of construction materials, (except commodities in bulk), between the facilities of The Celotex Corporation, at or near (a) Lagro, IN, (b) Chicago, Wilmington, Charleston, and Quincy, IL, and (3) Dubuque and Fort Dodge, IA, on the one hand, and, on the other, points in IA, IL, IN, MN, MO, NE, ND, SD, and WI. (Hearing site: Des Moines, IA, or Kansas City, MO.)

MC 150221F, filed February 21, 1980. Applicant: CENTRAL SOUTHERN, INC., P.O. Box 375, Drayton, SC 29333. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Contract carrier,* transporting *synthetic pellets, chips, fiber, staple, yarn, and non-woven fabrics, and chemicals,* between Charlotte, NC, and Spartanburg, SC, on the one hand, and, on the other, points in CT, DE, KY, MA, MD, ME, NH, NJ, NY, PA, RI, VT, and WV, under a continuing contract(s) with Hoechst Fibers Industries, of Spartanburg, SC. (Hearing site: Spartanburg, SC, or Washington, DC.)

MC 144040 (Sub-2F), filed February 21, 1980. Applicant: PINETREE TRANSPORTATION CO., 6400 Westminster Ave., Westminster, CA 92683. Representative: Robert J. Corber, 1250 Connecticut Ave., Washington, DC 20036. Transporting *passengers and their baggage,* in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Los Angeles and Orange Counties, CA, and extending to points in the U.S. (including AK, but excluding HI). (Hearing site: Los Angeles or San Francisco, CA.)

Volume No. 185

Decided: May 21, 1980.

By the Commission, Review Board Number 2, Members Eaton, Liberman, and Jensen.

MC 1824 (Sub-118F), filed March 12, 1980. Applicant: PRESTON TRUCKING CO., INC., 151 Easton Blvd., Preston, MD 21655. Representative: Thomas M. Auchincloss, Jr., 700 World Center Bldg., 918 Sixteenth St. NW, Washington, DC 20006. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Ashtabula County, OH, as off-route points in connection with carrier's otherwise authorized regular routes between Akron, OH, and Buffalo, NY. (Hearing site: Washington, DC.)

Note.—Applicant intends to tack this authority with its existing regular route authority.

MC 1824 (Sub-119F), filed March 11, 1980. Applicant: PRESTON TRUCKING CO., INC., 151 Easton Blvd., Preston, MD 21655. Representative: Thomas M. Auchincloss, Jr., 700 World Center Bldg., 918 Sixteenth St. NW, Washington, DC 20006. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of SKF industries at Altoona, PA, as an off-route point in connection with carrier's presently authorized regular route operations between Baltimore MD, and Pittsburgh, PA. (Hearing site: Washington, DC.)

Note.—Applicant intends to tack this authority with its existing regular route authority.

MC 65475 (Sub-36F), filed March 7, 1980. Applicant: JETCO, INC., 4701 Eisenhower Ave., Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O Box LL, McLean, VA. 22101. Transporting (1) *commodities* which, because of size or weight, require the use of special equipment, and (2) *self-propelled articles,* each weighing 15,000 lbs. or more between points in DE, MD, NJ, NY, NC, PA, VA, WV, and DC, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI, DE, MD, NJ, NY, NC, PA, VA, WV, and DC), restricted to traffic handled for the U.S. Government, or on behalf of the U.S. Government where the Government contractor (consignee or consignor) is directly reimbursed by the Government for the transportation costs. (Hearing site: Washington, DC.)

Note.—This application has *not* been filed under the procedures set forth in Ex Parte No. MC–107, Transportation of Government Traffic, and opposition is therefore *not* limited as set forth in those procedures.

MC 107295 (Sub-974F), filed March 11, 1980. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Todd A. Peterman (same address as applicant). Transporting (1) *cellulose products,* from Houston, TX, to points in the U.S. (except AK and HI), and (2) *wire and wire products,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk), in the reverse direction. (Hearing site: Dallas or Houston, TX.)

MC 108835 (Sub-50F), filed March 11, 1980. Applicant: HYMAN FREIGHTWAYS INC., 2380 Wycliff, St. Paul, MN 55164. Representative: Rodney L. Trocke, 2690 N. Prior Ave., Roseville, MN 55113. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Fargo, ND, and Noyes, MN: from Fargo over U.S. Hwy 10 to junction U.S. Hwy 75, then over U.S. Hwy 75 to Noyes, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: St. Paul, MN.)

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 109584 (Sub-211F), filed March 11, 1980. Applicant: ARIZONA-PACIFIC TANK LINES, a corporation, 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). Transporting *spent caustic sulfide,* in bulk, in tank vehicles, from El Paso, TX, to Sahuarita, AZ, and Artesian, NM. (Hearing site: Phoenix, AZ, or Los Angeles, CA.)

MC 110325 (Sub-138F), filed March 12, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Wagoner and Pryor, OK as off-route points in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Tulsa, OK.)

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 110325 (Sub-139F), filed March 11, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *general commodities* (except those of unusual

value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Mason and Thurston Counties, WA, and those points in Pierce County, WA, on and west of WA Hwy 161, as off-route points in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Tacoma, WA.)

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 117565 (Sub-99F), filed March 6, 1980. Applicant: MOTOR SERVICE CO., INC., P.O. Box 448, Coshocton, OH 43812. Representative: John R. Hafner (same address as applicant). Transporting (1) *platic articles*, and (2) *floral arrangement accessories*, between Kent, OH, PHiladelphia, PA, and points in New York, Kings, Queens, Bronx, Richmond, Nassau, and Suffolk Counties, NY, and Bergen, Burlington, Camden, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Union, and Warren Counties, NJ. (Hearing site: Cleveland, OH, or Washington, DC.)

Note.—Dual operations may be involved.

MC 121644 (Sub-6F), filed March 7, 1980. Applicant: S & W FREIGHT LINES, INC., 1136 Haley Rd., P.O. Box 667, Murfreesboro, TN 37130. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Atlanta, GA, and Knoxville, TN, over Interstate Hwy 75, serving the intermediate point of Chattanooga, TN, with service at Knoxville, TN, and points in its commercial zone restricted against traffic originating at, destined to, or interlined at Chattanooga, TN, and points in its commercial zone. (Hearing site: Atlanta GA.)

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 124774 (Sub-130F), filed March 6, 1980. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *such commodities* as are dealt in by department and discount stores (except commodities in bulk, in tank vehicles), from those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, to Omaha, NE. (Hearing site: Omaha, NE.)

MC 125335 (Sub-102F), filed March 11, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *such commodities* as are dealt in by discount stores (except commodities in bulk), from points in Bradford, Carbon, Columbia, Franklin, Lackawanna, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Schuylkill, Tioga, and Wayne Counties, PA, and Broome, Cayuga, Chemung, Chenango, Cortland, Onondaga, Schuyler, Seneca, Steuben, Tioga, Tompkins, and Yates Counties, NY, to points in CA, CO, FL, GA, IL, IA, KS, LA, MI, MN, MO, NE, OH, OK, OR, TX, WA, and WI, restricted to traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Scranton, or Harrisburg, PA.)

Note.—Dual operations may be involved.

MC 135524 (Sub-119F), filed March 17, 1980. Applicant: G. F. TRUCKING CO., a coproration, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Rd., Youngstown, OH 44509. Transporting (1) *iron and steel articles* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, betweem Columbus, OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Columbus, or Cleveland, OH.)

MC 136315 (Sub-115F), filed March 10, 1980. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. Transporting *iron and steel articles*, and *building materials*, (except commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities used by North Pacific Lumber Company, Inc., Allen Timber Company, Big Bay Timber, Ltd., Cascade Imperial Mills, Ltd., Longleaf Forest Products, Inc., North Pacific International, Inc., and Zenith Lumber Company. (Hearing site: Portland, OR, or Washington, DC.)

Note.—Dual operations may be involved.

MC 140024 (Sub-181F), filed March 7, 1980. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Ave., Commerce City, CO 80022. Representative: Don L. Bryce (same address as applicant). Transporting *foodstuffs*, (except in bulk), from Batavia, NY, to points in GA, AL, MS, LA, and TX. (Hearing site: Denver, CO, or Syracuse, NY.)

MC 141804 (Sub-390F), filed March 10, 1980. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *motor vehicle parts, accessories, and supplies*, from points in CA, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles, CA.)

MC 142245 (Sub-4F), filed March 11, 1980. Applicant: NATIONWIDE TRUCK BROKERS, INC., 5475 Clay Ave. SW, Grand Rapids, MI 49508. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract carrier*, transporting (1) *building hardware, channels, tubing, bars, rods, door track, boards, panels, sheets, drawer slides, brackets, display racks, stands, standards, hangers, shelf and rod supports*, and *furniture*, (2) *component parts* of the commodities in (1) above, and (3) *materials and supplies* used in the manufacture and sale of the commodities in (1) and (2) above, between the facilities of Knape & Vogt Manufacturing Co., at Grand Rapids, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Knape & Vogt Manufacturing Co. of Grand Rapids, MI. (Hearing site: Lansing, MI, or Chicago, IL.)

MC 144144 (Sub-4F), filed March 6, 1980. Applicant: RAINS TRUCKING SERVICE, INC., P.O. Box 73, DuQuoin, IL 62832. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract carrier*, transporting (1) *corrugated fiber board boxes*, from the facilities of Alton Box Board Company, at Highland, IL, to Columbus, OH; and (2) *fiber board boxes* (except corrugated), from the facilities of Alton Box Board Company, at Dodrey, IL, to Columbus, OH, under continuing contract(s) with Alton Box Board Company, of Alton, IL. (Hearing site: Chicago, IL.)

MC 145544 (Sub-6F), filed March 10, 1980. Applicant: W. & M., INC., P.O. Box 2337, East Chicago, IN 46312. Representative: Joseph Winter, 29 South LaSalle St., Chicago, Il 60603. *Contract carrier*, transporting *such commodities* as are dealt in or used by manufacturers and distributors of air moving control equipment (except commodities in bulk), between Glendale Heights, IL, on the one hand, and, on the other, points in the U.S. (except Ak and HI), under continuing contract(s) with Chicago Blower Corporation, of Glendale Heights, IL. (Hearing site: Chicago, IL.)

MC 145515 (Sub-10F), filed March 10, 1980. Applicant: GREENE'S CARTAGE

CO., INC., 1934 Avalon Ave., Muscle Shoals, AL 35660. Representative: Robert E. Born, Suite 508, 1447 Peachtree St., N.E., Atlanta, GA 30309. Transporting (1) *paper and paper products*, from points in Lauderdale and Colbert Counties, AL, to points in TX, and those in the U.S. in and east of MN, IA, MO, AR, and LA, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 146595 (Sub-6F), filed March 11, 1980. Applicant: SELCO CORP., P.O. Box 247, Spanish Fork, UT 84660. Representative: Daniel O. Hands Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting *confectionery* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of E. J. Brach & Sons, at Reno, NV, to points in ID and MT, and the facilities of E. J. Brach & Sons at Chicago, IL, restricted to traffic originating at the named origin. (Hearing site: Chicago, IL.)

MC 148444 (Sub-3F), filed February 20, 1980. Applicant: RAHMEIR TRUCKING, INC., P.O. Box 283, Salina, KS 67401. Representative: Clyde N. Christey, 1010 Tyler, Suite 110L, Topeka, KS 66612. *Contract carrier*, transporting (1) *wood-burning stoves* and *fireplace inserts*, (2) *accessories* for the commodities in (1) above, and (3) *equipment, material*, and *supplies* used in the maintenance of the commodities in (1) above, between (a) the facilities of Big M Manufacturing & Equipment, Inc., at or near Nickerson, KS, (b) the facilities of Cullinson Manufacturing, Inc., at or near Alva, OK, and (c) the facilities of Fisher Stoves Co., Inc., at or near Wichita, KS, on the one hand, and, on the other, points in the U.S. (except AK, AR, HI, KS, MO, NE, OK, and Bow, NH), and (4)(a) *wood-burning stoves* and *fireplace inserts*, (b) *components* of the commodities in (4)(a) above, and (c) *equipment, accessories, material*, and *supplies* used in the manufacture, maintenance, and distribution of the commodities in (4) (a) and (b) above, from points in the U.S. to points in AR, KS, MO, NE, and OK, restricted against traffic moving from Granite City and Wheaton, IL, Bow, NH, Memphis, TN, Salem, VA, Dover, OH, Eugene OR, Everett and Avon, MA, E. Hartford, CT, and Philadelphia, PA, and points in their commercial zone, and points in Queens County, NY, to the facilities of Big M Manufacturing & Equipment, Inc., at or near Nickerson, KS, and the facilities of Cullinson Manufacturing, Inc., at or near Alva, OK, under continuing contract(s) in (1), (2), (3), and (4) above with Fisher Stoves Co., Inc., of Wichita, KS. (Hearing site: Kansas City, MO.)

MC 149075 (Sub-2F), filed March 11, 1980. Applicant: OVERLAND, INC., 4121 Augusta Rd., Garden City, GA 31408. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., 1001 Woodward Ave., Detroit, MI 48226. Transporting *aluminum articles* and *materials, equipment*, and *supplies* used in the manufacture of aluminum articles, between the facilities of Alumax, Inc., in Berkeley County, SC, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of applicant and other regulated carriers must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 150314F, filed March 7, 1980. Applicant: STEWART'S GETTY, A DIVISION OF RAS ENTERPRISES, INC., 730 Congress St., Portland, ME 04102. Representative: John G. Feehan, 178 Middle St., Portland, ME 04112. Transporting *disabled, wrecked*, and *repossessed motor vehicles*, by use of wrecker equipment only, between points in ME, NH, VT, MA, CT, and RI. (Hearing site: Portland, ME.)

MC 150144 (Sub-1F), filed March 6, 1980. Applicant: SOUTHERN TRANSPORT, INC., P.O. Box 638, Statesboro, GA 30458. Representative: William Q. Keenan, 277 Park Ave., New York, NY 10017. *Contract carrier*, transporting *such commodities* as are dealt in or used by grocery and food business houses, (except commodities in bulk), between the facilities of T. J. Morris Co., at Statesboro, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with T. J. Morris Co., of Statesboro, GA. (Hearing site: Savannah, GA, or Washington, DC.)

MC 1515 (Sub-291F), filed February 26, 1980. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: Lat J. Celmins (same address as applicant). Over regular routes, transporting *passengers and their baggage* and *express and newspapers*, in the same vehicle with passengers, (1) between junction Interstate Hwy 75 access road and U.S. Hwy 25, near Corbin, KY, and Knoxville, TN: from junction Interstate Hwy 75 access road and U.S. Hwy 25 over Interstate Hwy 75 access road to junction Interstate Hwy 75, then over Interstate Hwy 75 to Knoxville, and return over the same route, serving all intermediate points, and (2) between Williamsburg, KY, and junction KY Hwy 92 and Interstate Hwy 75, near Williamsburg, KY, over KY Hwy 92, serving all intermediate points.

Condition: Issuance of a certificate will be conditioned upon the coincidental cancellation at applicant's written request of the authority just quoted. (Hearing site: Knoxville, TN.)

Note.—In conjunction with the above authority, applicant proposes to abandon a portion of its authority as contained in MC 1515 Sub 60 as follows: "(1) From junction U.S. Hwy 25–W and Interstate Hwy 75 south of Corbin, KY, over U.S. Hwy 25–W to junction Interstate Hwy 75 near Goldbug, KY, and return over the same route, and (2) From Williamsburg, KY over U.S. Hwy 25–W to Knoxville, TN, and return over the same route.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-17325 Filed 6-9-80; 8:45 am]

BILLING CODE 7035-01-M

Long-and Short Haul Application for Relief (Formerly Fourth Section Application)

June 5, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before June 18, 1980.

No. 43826, Box Caribbean Lines No. 1, general commodities in marine type trailers or containers between rail carrier terminals at U.S. Gulf and Pacific Coast ports and ports in Jamaica, Dominican Republic, Haiti, Trinidad, South America and Central America via Charleston, SC., Jacksonville, FL., and Savannah, GA., published in its Tariff ICC BCRU 301, scheduled effective June 11, 1980 but to be postponed to June 20, 1980. Grounds for relief-water competition.

By the Commission.

James H. Bayne,

Acting Secretary.

[FR Doc. 80-17530 Filed 6-9-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

[Redelegation of Authority No. 133.3]

Redelegation of Authorities to the Field, Latin America and the Caribbean Region

Section I. Definition

A.I.D. Missions and Offices

A.I.D. Missions and Offices subject to this redelegation of authorities shall be

the A.I.D. Missions and Offices located in Barbados, Bolivia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama and Peru.

Section II. Authorities

Implementing Authorities

A. Authority to approve and to authorize funding for project and non-project assistance (other than Housing Investment Guaranties and Productive Credit Guaranties) in their respective countries where such project or non-project assistance does not, over the approved life of the project or non-project assistance, exceed $5 million; provided, however, that the Project Identification Document ("PID") for each such project shall be submitted for review and approval to the LAC Bureau in AID/W prior to final project approval by the A.I.D. Mission or Office authorized hereby; and provided further, however, the A.I.D. Missions and Offices may, upon submission of a PID to the LAC that Bureau in AID/W, transfer final project approval authority to the AA/LAC in cases where the A.I.D. Mission Director or Representative concludes that the Mission or Office staff will require the assistance of the LAC Bureau to undertake the final review, or when host country considerations are sufficiently important to indicate that final approval by the AA/LAC would be the judicious course; and

B. Authority to approve amendments to the project and non-project assistance referred to above, including those effecting an increase of the authorized amount of not to exceed ten percent (10%) of the project or non-project assistance.

Section III. Redelegation of Authority

Pursuant to the authorities delegated to me as Acting Assistant Administrator for Latin America and the Caribbean, I hereby delegate all the authorities set forth in Section II hereof, retaining for myself concurrent authority to exercise any of the functions herein redelegated, including the authority to give final approval for any individual project or non-project assistance with a value of $5 million or less, to the Director or A.I.D. Representative, as appropriate, of Missions or Offices included in Section I.

Section IV. Miscellaneous

A. The authorities redelegated pursuant to Section III hereof shall be exercised in accordance with applicable statutes and regulations, including the Foreign Assistance Act of 1961, as amended, and the A.I.D. Handbooks, and after consultation with a Regional Legal Advisor or GC/LAC, as appropriate, and with appropriate technical and support personnel.

B. The authorities redelegated pursuant to Section II hereof shall not be further redelegated; provided, however, that they may be exercised by the person acting in the capacity of the respective Mission Director or A.I.D. Representative while the latter is out of the country (with my prior approval).

C. Nothing contained in this redelegation of authorities shall affect the authorities previously redelegated by me on May 3, 1979, concerning waivers, excess property, Special Development Activities and the extension of terminal dates, such redelegated authorities to remain valid and in effect.

D. This redelegation of authorities shall become effective on the date of my execution of this document.

Dated: May 5, 1980.

Edward W. Coy,

Acting Assistant Administrator, Bureau for Latin America and the Caribbean.

[FR Doc. 80-17456 Filed 6-9-80; 8:45 am]

BILLING CODE 4710-02-M

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 111769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the thirty-seven meeting of the Board for International Food and Agricultural Development (BIFAD) on June 26, 1980.

The purpose of the meeting is to receive and discuss progress reports of the Joint Research Committee (JRC), and the Joint Committee for Agricultural Development (JCAD); discuss recommendations for improving involvement of Title XII Universities in AID Programs; discuss the Recommendations on Women in Development; discuss the Assistance Policy in Agriculture (looking toward 1986) and meet with the BIFAD/Support Staff to discuss staff actions and operational procedures.

The meeting will begin at 9:00 a.m. and adjourn at 12:30 p.m.; and will be held in Room 1107 New State Department Building, 22nd and C Streets N.W., Washington, D.C. The meeting with the BIFAD/Support Staff will begin at 1:30 p.m. and adjourn at 3:00 p.m.; and will be held in room 2248 New State Department Building, 22nd and C Streets, N.W., Washington, D.C. The meetings are open to the public. Any interested person may attend, may file written statements with the Board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting room.

Dr. Erven J. Long, Coordinator Title XII Strengthening Grants and University Relations, Development Support, Agency for International Development (A.I.D.), is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: June 4, 1980.

Dr. Erven J. Long,

AID Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 80-17518 Filed 6-9-80; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 49-80]

Privacy Act of 1974; Amended System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice was published on November 16, 1979, that the Department of Justice proposed a major modification of a system of records maintained by the Drug Enforcement Administration (DEA) (JUSTICE/DEA-015, Training Files).

Interested parties were invited to submit comments. One comment was received from the Office of Management and Budget requesting clarification of two routine uses. Accordingly, the routine use relating to students enrolled in the program is clarified to indicate that only biographic data is released to students and former students in the form of class rosters and lists of alumni. In addition, the routine use relating to releases to the news media is amended by eliminating the reference to 28 CFR 50.2 which relates to the release of information concerning civil and criminal proceedings and is inappropriate in the context of this system. Since the above changes constitute clarification of, rather than alteration or expansion of, the system's routine uses, no additional comment period is provided.

Dated: May 30, 1980.

William D. Van Stavoren,

Acting Assistant Attorney General for Administration.

JUSTICE/DEA-015

SYSTEM NAME:

Training Files.

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have attended training programs sponsored by the Drug Enforcement Administration National Training Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

(A) Student names; (B) Dates and locations of schools; (C) Class average and individual student grades; (D) Locations of student's employers; (E) Number of years experience in general law enforcement and drug law enforcement; (F) Classification of student's employers by state, local, county, or Federal; (G) Type of school attended; (H) Class rosters; (I) Biographic data; (J) Evaluation reports; (K) Application and attendance records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is maintained to provide educational and training programs on drug abuse and controlled substances law enforcement pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system is maintained to assist in performing the administrative functions of the National Training Institute and is used to prepare class directories, class rosters, program evaluation reports and statistical reports. In addition, information from this system is provided to Federal, state and local law enforcement and regulatory agencies employing former students and biographical data may be provided to students and former students in the form of class rosters and alumni publications.

Release of information to the news media: Information permitted to be released to the news media and the public may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The manual records in this system are maintained on index cards and in file folders and the automated portion is maintained on magnetic tape.

RETRIEVABILITY:

Data may be retrieved by the student's last name, school location code, or by beginning course dates.

SAFEGUARDS:

This system of records is maintained at DEA Headquarters, which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, access is limited to National Training Institute personnel on a need-to-know basis.

RETENTION AND DISPOSAL:

Records in this system are currently maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Training, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Freedom of Information Unit, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537. Inquiries should contain name; date and place of birth; and dates of attendance at courses sponsored by the National Training Institute.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

(A) Students; (B) Instructors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-17563 Filed 6-9-80; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Period in the State of Maine

This notice announces the ending of the Extended Benefit Period in the State of Maine, effective on June 14, 1980.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the nation, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State or in all States collectively reaches the State or National trigger rates set in the Act and the State laws. 20 CFR 615.12. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rates set in the law. A benefit period actually terminates at the end of the third week after the week for

which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Maine on March 16, 1980, and has now triggered off.

Determination of "Off" Indicator

The head of the employment security agency of the State of Maine has determined, in accordance with the State law and 20 CFR 615.12(e), that the rate of insured unemployment in the State for the period consisting of the week ending on May 24, 1980, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in that State.

Therefore, the Extended Benefit Period in that State terminates with the week ending on June 14, 1980.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is currently filing claims for Extended Benefits of the forthcoming end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State of Maine should contact the nearest State Employment Office of the Maine Employment Security Commission in their locality.

Signed at Washington, D.C., on June 5, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-17538 Filed 6-9-80; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; New Extended Benefit Period in the State of Arkansas

This notice announces the beginning of a new Extended Benefit Period in the State of Arkansas, effective on June 8, 1980.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the nation, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(e) of the Act, the Arkansas unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines, in accordance with 20 CFR 615.12(e), that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment under the State unemployment compensation law equalled or exceeded the State trigger rate. 20 CFR 615.12(b) or (c). The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of Arkansas has determined, in accordance with the State law and 20 CFR 615.12(e), that the rate of insured unemployment in the State for the period consisting of the week ending on May 24, 1980, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in that State.

Therefore, an Extended Benefit Period commenced in that State with the week beginning on June 8, 1980.

Information for Claimants

The duration of Extended Benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to Extended Benefits in the State of Arkansas, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State Employment Office of the Arkansas Department of Labor in their locality.

Signed at Washington, D.C., on June 5, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-17539 Filed 6-9-80; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Application Number: D-846]

Proposed Exemption for Certain Transactions Involving the Profit-Sharing Plan for Employees of Petrolane Incorporated and Subsidiary Companies located in Long Beach, Calif.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the cash sale of an unimproved parcel of real property and certain secured and unsecured promissory notes to Valley Industrial Services, Inc. (the Valley, Inc.), a wholly-owned subsidiary of Petrolane Incorporated (the Employer), by the Profit Sharing Plan for Employees of Valley Industrial Services, Inc. (the Valley Plan) in order to dispose of marginal assets of the Valley Plan. The proposed exemption, if granted, would affect the Valley Plan and the Profit Sharing Plan for Employees of Petrolane Incorporated and Subsidiary Companies (the Plan) and their participants and beneficiaries, the Employer, and any other persons participating in the transaction.

DATES: Written comments must be received by the Department of Labor on or before July 18, 1980.

ADDRESS: All written comments and requests for hearing (at least three

copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20016, ATTENTION: Application No. D-846. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: C. E. Beaver, of the Department of Labor, telephone (202) 523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the administrative committee of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

(1) Effective October 1, 1974, the employee benefit plans of various subsidiary corporations belonging to the Employer were merged into the Plan. This merger involved transferring assets of employee benefit plans to the Plan's trustee, Security Pacific National Bank of Los Angeles (the Trustee). Included in this transfer were assets of the Valley Plan, which had been the employee benefit plan for the employees of Valley, Inc.

(2) Among the assets of the Valley Plan which were to be transferred to the trustee were an unimproved parcel of real property (the unimproved parcel); thirty-one (31) promissory notes with each secured by an unimproved parcel of real property (the secured notes); and three (3) unsecured promissory notes (the unsecured notes). The unimproved parcel had been acquired by the Valley Plan in May 1974 by foreclosure proceedings on a defaulted secured note. The Valley Plan had purchased the secured notes from non-affiliated and unrelated parties in the early 1970s at discounted prices for the purposes of investment. these secured notes had been issued as consideration by individuals for the purchase of vacant lots in the Shaver Lake tracts, a mountainous area, in Fresno County, California. The vacant lots had been mortgated as security for the payment of the promissory notes. Interest rates on the secured notes were from 6 to 8 percent and these secured notes had been issued from December 8, 1968, through February 21, 1973, with maturity dates from July 1976 through February 1981. The unsecured notes were the result of three individual employees of Valley, Inc. obtaining separate loans from the Valley Plan. Two of the unsecured notes had an interest charge of 9 percent and the third had an interest charge of 10 percent. The maturity dates of the three unsecured notes were May 1976, June 1976, and July 1977, respectively.

(3) The board of directors of the Employer had appointed an administration committee (the Committee) which managed the Plan. It consisted of four members of the board of directors of the employer: the chairman of the board, the president of the Employer, and two outside members of the board. In accordance with provisions of the Plan, investment policies for the Plan were established and administered by the Committee with certain duties delegated to officers of the Employer.

(4) Following the merger of the Valley Plan with the Plan, and before the transfer of assets to the Trustee, the Committee determined that the unimproved parcel, the secured notes, and the unsecured notes were assets of marginal value, and that it would be imprudent for the Plan to receive and retain these assets. Also, at that time, the Trustee made the determination that these same assets were unacceptable for the Plan's purposes because of the substantial administrative burdens and expenses to be incurred in servicing such non-liquid investments. It was recognized that the unimproved parcel was non-income producing with no foreseeable purchasers. Seventy-five percent of the secured notes were in default; and, due to their location, their underlying security (the vacant lots) had been adversely affected as to value and marketability by the oil crisis. It was believed that the Valley Plan and the Plan would suffer losses if an attempt had been made to sell these assets in the open market. As a consequence of these above determinations, on December 30, 1975, the Valley Plan sold to Valley, Inc., for cash at book value, the unimproved parcel for $5,826.67; the secured notes for $167,596.09; and the unsecured notes for $17,722.97. These sales transactions totalled $191,145.73, or the equivalent of only 2.186 percent of the then current assets of the Plan ($8,741,759). The applicant was unaware of the prohibited transactions perpetrated until the initial audit of the Plan; whereupon, an application for exemption was filed with the explanation that the sales transactions were undertaken in the interests of, and for the protection of, the Plan and its participants and beneficiaries.

(5) The Trustee and applicant believed that these sales transactions of the marginal assets by the Valley Plan to Valley, Inc. served the interests of the Plan and its participants and beneficiaries. These sales terminated and avoided declining values of certain assets and permitted the cash investment in assets producing greater yields for the Plan. Through February 28, 1978, the Plan experienced an investment gain of $44,765.57 from the cash consideration received from the sales of Valley, Inc.; while, during the same period, the secured and unsecured notes sold to Valley, Inc. had interest earnings of only $29,552.33. Had not these sales been made to Valley, Inc., the Trustee and applicant believed that the Plan would have suffered losses on investment income and from foreclosures on mortgages, as well as, incurred additional expenses from delinquent property taxes, commissions, and administrative activities.

(6) In summary, the applicant represents that the sales of these marginal assets to Valley, Inc. by the Valley Plan meets the statutory criteria for an exemption under section 408(a) of the Act because (1) it was a one-time transaction for cash, (2) it avoided additional servicing costs involved in retention of marginal assets and surmounted the illiquidity of these assets, (3) it obtained a timely and optimal selling price for defaulting notes with diminishing security, (4) it permitted the Plan to invest its cash in assets with greater yields, and (5)

avoided additional expenses and potential losses from sales in the open market.

Notice to Interested Persons

Notice of the proposed exemption as published in the **Federal Register** will be posted on employee bulletin boards of the Employer and delivered to each participant and beneficiary of the Valley Plan and to the Trustee within 15 days of its publication in the **Federal Register.**

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4075(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale of the aforementioned unimproved parcel of real property, the thirty-one (31) secured promissory notes, and the three (3) unsecured promissory notes to Valley, Inc. by the Valley Plan in accordance with the terms set forth in the application for exemption; *provided, however,* That the sales prices were not less than the fair market values of the unimproved parcel of real property and the secured and unsecured promissory notes at the time of consummation of the sales.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 2nd day of June 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-17489 Filed 6-9-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1775]

Proposed Exemption for Certain Transactions Involving the Carolina Plating and Stamping Co., Inc., Profit Sharing Plan Located in Greenville, S.C.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of certain real property by the Carolina Plating and Stamping Co., Inc. Profit Sharing Plan (the Plan) to Sam L. Huffman (Huffman) and Lewis M. Walker (Walker), parties in interest with respect to the Plan. The proposed exemption, if granted, would affect Carolina Plating and Stamping Co., Inc. (the Employer), the sponsor of the Plan, Carolina Plating Co., Inc. (Plating), participants and beneficiaries of the Plan, and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before July 25, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1775. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216

FOR FURTHER INFORMATION CONTACT: Mr. Louis Campagna of the Department of Labor, telephone (202) 523-7352. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pedency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Huffman, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the

Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with 45 participants. As of October 31, 1978, the Plan had total assets of $677,825.66. The trustee of the Plan is Huffman. Huffman owns 66% of the outstanding stock of the Employer and 10% of the outstanding stock of plating which is a party in interest with respect to the Plan. Huffman is President and Treasurer of the Employer and a member of the Board of Directors of Plating. Walker is the owner of 30% of the common stock of Plating.

2. In 1972, the Plan purchased for $18,050 from a person unrelated to the Plan, two unimproved lots (the Lots) on White Horse Road in Greenville, South Carolina. In 1973, the Plan constructed a building (the 1973 Building) on the Lots at a cost to the Plan of $59,031.40 and leased by oral contract the 1973 Building to Plating. In 1975, the Plan constructed an office building (the 1975 Building) on the Lots at a cost to the Plan of $28,391.82 and immediately leased the 1975 Building by oral contract to Plating. In 1976 the Plan constructed additions (the Additions) to the 1973 Building at a cost to the Plan of $24,167.23. The Additions were leased by oral contract at that time by the Plan to Plating. In 1978, at a cost to the Plan of $72,799.29, the Plan constructed a building (the 1978 Building) on a separate lot owned by the Employer and at that time leased the 1978 Building by oral contract to Plating. The 1973 Building, the 1975 Building, the Additions and the 1978 Building are all contiguous structures and are used by Plating in its manufacturing operations.

3. The 1973 Building, the 1975 Building, the Additions and the 1978 Building are special use properties which, without extensive modifications, are of value only to Plating. Huffman represents that if Plating were to cease operations, the Plan would sustain a substantial loss in any attempted sale of the properties to an outside party.

4. In order to eliminate any risk to the Plan and to increase the liquidity of the Plan, the applicant is requesting an exemption to allow the Plan to sell the Lots, the 1973 Building, the 1975 Building, the Additions and the 1978 Building to Huffman and Walker for a cash price of $203,800.

Paul S. Goldsmith, M.A.I. of Greenville, South Carolina valued the properties as of February 12, 1979 at $188,790; James H. Robinson, M.A.I. (Robinson) of Greenville, South Carolina valued the properties as of January 15, 1979 at $203,800. Robinson's appraisal reflected the special purpose nature of the properties. Based on the assumption that Plating would remain in possession of the properties following any sale, Robinson included in his appraised value of $203,800 an amount of $32,300 which reflected the value of certain specialized installations on the properties which are of importance to Plating's business operations and which would be of little or no value to a purchaser or tenant other than Plating. No real estate commissions will be charged in the proposed transaction.

5. The applicant recognizes that the leasing arrangements described above may constitute prohibited transactions under the Act and Code. Accordingly, Plating represents that it will pay all excise taxes which are applicable under section 4975(a) of the Code by reason of the leasing arrangements within 60 days of the publication in the **Federal Register** of a final notice of the granting of the exemption proposed herein.

6. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act as follows: (1) the trustee of the Plan represents that the sale would be in the best interests of the Plan; (2) the sale will be a one-time transaction for cash; (3) the Plan will receive a price for the properties established by the higher of two independent appraisals; (4) no real estate commissions will be charged; and (5) with respect to the prohibited leasing arrangements, the parties will fully comply with the excise tax provisions of section 4975(a) of the Code.

Notice to Interested Persons

Notification will include a copy of the notice of pendency and a statement informing interested persons of their right to comment or request a hearing. Notification will be made by mail to all plan participants and beneficiaries within fourteen days of this publication of the notice of pendency in the **Federal Register.** Notification also will be posted on bulletin boards at the Employer's offices at places regularly reviewed by all plan members.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the

procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of certain real property located at 4412 White Horse Road, Greenville, South Carolina by the Plan to Huffman and Walker for $203,800 provided that this amount is at least the fair market value of the property at the time of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 4th day of June 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-17490 Filed 6-9-80; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

[TA-W-7185, 7277, 7278, 7279]

Complete Auto Transit, et al.; Negative Determinations Regarding Application for Reconsideration

In the matter of Complete Auto Transit, Automobile Carriers, Inc., B & C, Inc, and F. J. Boutell, Driveaway, all of Flint, Michigan.

By letter of May 12, 1980, the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America requested administrative reconsideration of the Department of Labor's Negative Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of the subject companies. The determinations were published in the **Federal Register** on May 2, 1980, (45 FR 29437) and May 9, 1980, (45 FR 30743 and 30745).

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 union claims that the hauling of cars and trucks is an integral part of the production of automobiles and trucks and that workers engaged in such hauling activities should be covered under the adjustment assistance program. Further, the union pointed to a number of statements in the legislative history of the Trade Act of 1974 suggesting a liberal interpretation of program coverage.

The Department's review revealed that the firms which are the subject of these determinations are engaged in providing the service of transporting cars and trucks and, as such, do not produce an article within the meaning of section 222(3) of the Trade Act.

In its review, the Department confirmed that these subject firms are independent companies providing a service and are not controlled by their customers. The Department's use of the term "control" does not mean control by production schedules or market forces but financial and administrative control such as personnel actions and payroll transactions. Workers providing services, like transportation services, may only be certified if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related by ownership to the firm providing the service, or a firm related by control with the reduction in demand for services originating at a production facility whose workers independently meet the statutory criteria for certification and that reduction must relate directly to the product impacted by imports.

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 decisions. The application is, therefore, denied.

Signed at Washington, D.C., this 3rd day of June 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-17486 Filed 6-9-80; 8:45 am]

BILLING CODE 4510-28-M

Fresh Cut Roses; Determination

On April 15, 1980, the U.S. International Trade Commission (ITC) determined that increased imports of "Fresh Cut Roses" are not a substantial cause of serious injury, or the threat thereof, to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (45 FR 27579).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC brings an investigation under the import relief provisions of the Act. The purposes of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance, and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The U.S. Department of Labor has concluded its report on "Fresh Cut Roses". The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the U.S. Department of Labor has received no petitions for certification of eligibility to apply for adjustment assistance from workers producing fresh cut roses.

2. Employment of workers producing fresh cut roses increased steadily over the period under consideration. Person-hours worked also increased steadily through 1978 but declined very slightly in 1979. Neither significant increases nor significant decreases in employment are anticipated over the next several months. Depending on individual establishment experience, workers who do become separated may be eligible for trade adjustment assistance.

3. Based on local unemployment rates and industry turnover data, prospects for separated workers range from good to poor. Local unemployment rates range from 3.7 percent (unadjusted) to 16.7 percent (unadjusted) for January, 1980, compared to the national unemployment rate of 6.8 percent (unadjusted) for that month. Prospects in the majority of areas are unfavorable or poor.

4. Ninety-two percent of the CETA prime sponsors for areas having fresh cut roses production facilities indicated that their level of accrued expenditures was below the planned level for the quarter ended September 30, 1979. Enrollments substantially above planned levels, particularly in areas

having unfavorable or poor prospects, may have limited training opportunities for some separated workers. On balance, however, the training needs of the majority of eligible workers were probably satisfied in fiscal year 1979, especially in terms of funds availability. Prime sponsors should be able to continue meeting these needs during fiscal year 1980. In cases where trade impacted fresh cut rose workers are ineligible to participate in CETA prime sponsor training programs, the Employment and Training Administration is authorized, within funding limitations, to purchase training in their behalf; such training may be purchased only if those workers are subsequently certified as eligible to apply for adjustment assistance under Sections 222 and 223 of the Trade Act of 1974.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (phone 202-523-7665).

Signed at Washington, D.C. this 2nd day of June 1980.

Herbert N. Blackman,

Associate Deputy Under Secretary International Affairs.

[FR Doc. 80-17488 Filed 6-9-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7075]

General Motors Corp., General Motors Assembly Division; Affirmative Determination Regarding Application for Reconsideration

On May 8, 1980, the petitioner requested administrative reconsideration of the impact date of the Department of Labor's Certification Regarding Eligibility to Apply for Workers Adjustment Assistance for Workers and former workers of General Motors Corporation's Assembly Division in Fremont, California. This determination was published in the **Federal Register** on May 2, 1980, (45 FR 29434).

The petitioner claims that the Department's certification of General Motors's Fremont, California, assembly plant fails to cover 3,500 workers at that plant who were laid off indefinitely on July 27, 1979. The impact date on the Department's certification is September 1, 1979, (TA-W-7075).

Conclusion

After review of the application, I conclude that the petitioner's claim if of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 30th day of May 1980.

Herbert N. Blackman,

Associate Deputy Under Secretary International Affairs.

[FR Doc. 80-17485 Filed 6-9-80; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90-12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90-13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 20, 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 June 20, 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 2nd day of June 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
Anderson Pattern, Inc. (Pattern makers Assoc.).	Muskegon Heights, Mich	5/2/80	4/22/80	TA-W-8,384	Patterns, coreboxes and foundry equipment.
L & L Patterns (Pattern Makers Assoc.)	Muskegon Heights, Mich	5/2/80	4/22/80	TA-W-8,385	Wood and metal patterns and coreboxes and related foundry equipment.
Monarch Pattern Corporation (Pattern Makers Assoc.).	Fruitport, Mich	5/2/80	4/22/80	TA-W-8,386	Patterns and coreboxes and related foundry equipment.
Muskegon Pattern, Inc. (Pattern Makers Assoc.).	Muskegon Heights, Mich	5/2/80	4/22/80	TA-W-8,387	Patterns and coreboxes and related foundry equipment.
Noren Pattern & Foundry Company (Pattern Makers Assoc.).	Fruitport, Mich	5/2/80	4/22/80	TA-W-8,388	Patterns and coreboxes and related foundry equipment.
Norton Pattern & Engineering (Pattern Makers Assoc.).	Muskegon, Mich	5/2/80	4/22/80	TA-W-8,389	Patterns and coreboxes for auto industry.
Nova Pattern, Inc. (Pattern Makers Assoc.)	Montague, Mich	5/2/80	4/22/80	TA-W-8,390	Patterns and coreboxes for auto industry.
Paragon Pattern and Manufacturing Company (Pattern Makers Assoc.).	Muskegon Heights, Mich	5/2/80	4/22/80	TA-W-8,391	Patterns and coreboxes for auto industry.
Quality Pattern Company (Pattern Makers Assoc.).	Grand Haven, Mich	5/2/80	4/22/80	TA-W-8,392	Patterns and coreboxes for auto industry.

Appendix—Continued

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Seaway Pattern, Inc. (Pattern makers Assoc.)	Muskegon, Mich	5/2/80	4/22/80	TA-W-8,393	Patterns and coreboxes for auto industry.
The Budd Company, Red Cedar Plant (UAW)	Philadelphia, Pa	5/9/80	5/5/80	TA-W-8,394	Frames for AMC jeeps.
Grue Clothing Co. (ACTWU)	Baltimore, Md	5/12/80	5/8/80	TA-W-8,395	Men's tailored clothing.
T. I. Swartz Clothiers, Inc. (ACTWU)	Baltimore, Md	5/12/80	5/8/80	TA-W-8,396	Men's tailored clothing.
Wilderness Industries of Indiana, Inc. (workers).	Frankfort, Ind	5/12/80	5/2/80	TA-W-8,397	All parts pertaining to travel trailers.
Auto Specialties (workers)	Riverside, Mich	5/9/80	5/6/80	TA-W-8,398	Car housing, car jacks, jack stands, brake linings, floor jacks.
Auto Specialties (workers)	St. Joseph, Mich	5/9/80	5/6/80	TA-W-8,399	Car housing, car jacks, jack stands, brake linings, floor jacks.
Auto Specialties (workers)	Hartford, Mich	5/9/80	5/6/80	TA-W-8,400	Car housing, car jacks, jack stands, brake linings, floor jacks.
Uniroyal, Inc., Uniroyal Coated Fabrics Plant (company).	Stoughton, Wis	5/19/80	5/16/80	TA-W-8,401	Vinyl coated fabrics.
Uniroyal, Inc., Plastic Plant (company)	Chicago, Ill	5/19/80	5/16/80	TA-W-8,402	Gear shift consoles.
Uniroyal, Inc., (workers)	Mishawaka, Ind	5/21/80	5/19/80	TA-W-8,403	Rubber and plastics.
Pandora Industries, Inc., Riverside Div. (workers).	Wilton, N.H	5/21/80	5/12/80	TA-W-8,404	Women's sportswear.
Breaker Shake (workers)	Hoquiam, Wash	4/6/80	5/14/80	TA-W-8,405	Shakes and ridges.
Stant, Inc. (workers)	Connersville, Ind	5/6/80	5/2/80	TA-W-8,406	Auto closure caps.
Variety Stamping Corporation (company)	Cleveland, Ohio	5/27/80	5/20/80	TA-W-8,407	Metal stamping.
Caro Products, Inc. (company)	Caro, Mich	5/27/80	5/28/80	TA-W-8,408	Racks used for internal function of cars.
Prestolite Electronics (company)	Decatur, Ala	5/27/80	5/20/80	TA-W-8,409	Automotive parts.
Sealed Power Corp. (company)	Franklin, Ky	5/27/80	5/16/80	TA-W-8,410	Transmission rings, braking system rings.
Chemetron Corp., Tube Turns Div. (IAM & AW).	Philadelphia, Pa	5/13/80	5/8/80	TA-W-8,411	Forging and machining of flanges.
Uniroyal, Inc., Hogansville Fiber & Textile Plant (company).	Hogansville, Ga	5/22/80	5/20/80	TA-W-8,412	Hose and belting yarns and fabrics and high temperature yarn.
Uniroyal, Inc., Scottsville Fiber & Textile Plant (company).	Scottsville, Va	5/22/80	5/20/80	TA-W-8,413	Tire cord fabrics.
Uniroyal, Inc., Winnsboro Fiber & Textile Plant (company).	Winnsboro, S.C	5/22/80	5/20/80	TA-W-8,414	Tire cord fabrics, royal cord and knitted fabrics and yarns.
Uniroyal, Inc., Shelbyville Mfg. Plant (company).	Shelbyville, Tenn	5/22/80	5/20/80	TA-W-8,415	Tire cord fabrics and other related fabrics.
Ken-Moore Die Cast Company (company)	Livonia, Mich	5/22/80	5/2/80	TA-W-8,416	Metal stampings.
Automotive Appliance Company (company)	Livonia, Mich	5/22/80	5/2/80	TA-W-8,417	Metal stampings.
Bank Village Sportswear, Inc. (company)	New Ipswich, N.H	5/22/80	5/16/80	TA-W-8,418	Junior and missey sportswear and swimwear.
Bank Village Sportswear, Inc. (company)	Keene, N.H	5/22/80	5/16/80	TA-W-8,419	Junior and missey sportswear and swimwear.
Bank Village Sportswear, Inc. (company)	New Ipswich, N.H. (Professional Bldg.).	5/22/80	5/16/80	TA-W-8,420	Junior and missey sportswear and swimwear.
Boykins Narrow Fabrics (UBC & J of A)	Boykins, Va	5/22/80	5/12/80	TA-W-8,421	Seat belt webbing.
FabriSteel Products, Inc. (company)	Southfield, Mich	5/22/80	5/13/80	TA-W-8,422	Pierce nuts.
York Luggage Corporation (company)	Lambertville, N.J	5/22/80	5/12/80	TA-W-8,423	Vinyl, nylon and leataher luggage.
Machining Enterprises Inc. (company)	Mt. Clemens, Mich	5/22/80	5/19/80	TA-W-8,424	Machines exhaust manifolds, intake manifolds and various engine brackets.
Marsa Sportswear Corporation (workers)	New York, N.Y	5/9/80	4/30/80	TA-W-8,425	Dresses.
Uniroyal, Inc., Plastic Plant (company)	Port Clinton, Ohio	5/23/80	5/16/80	TA-W-8,426	Vinyl coated fabrics.
Uniroyal Tire Co. (company)	Los Angeles, Calif	5/23/80	4/29/80	TA-W-8,427	Radial and bias passenger car tires and truck tires.
Star Watch Case Co. (AIW)	Ludington, Mich	5/15/80	5/9/80	TA-W-8,428	Watch cases.
White Cloud Products, Inc. (AIW)	White Cloud, Mich	5/15/80	4/30/80	TA-W-8,429	Parking brakes, ashtrays.
Adria Industries, Inc. (workers)	Brookyln, N.Y	5/13/80	5/4/80	TA-W-8,430	Knitwear.
Ramsey Corporation (IAMAW)	St. Louis, Mo	5/21/80	5/14/80	TA-W-8,431	Piston rings.
Standard Metals Co., Inc. (workers)	Junction City, Ky	5/12/80	5/1/80	TA-W-8,432	Coal processing machinery.
Ford Motor Co., Romeo Tractor Plant (workers).	Romeo, Mich	5/19/80	5/7/80	TA-W-8,433	Farm tractors, industrial tractors, backhoes.
Hoganaes Iron & Steel Powder (USWA)	Riverton, N.J	5/19/80	5/2/80	TA-W-8,434	Powdered metals for auto parts mfg.
Summa-Harrison Metal Products (UAW)	Hazel Park, Mich	5/15/80	5/12/80	TA-W-8,435	Auto and light truck stampings.
Summa-Harrison Metal Products (UAW)	Mancelona, Mich	5/15/80	5/12/80	TA-W-8,436	Auto and light truck stampings.
Ford Motor Co. International Governmental Affairs (company).	New York, N.Y	5/20/80	5/15/80	TA-W-8,437	Support facility.
Ford Motor Co. Washington Affairs/International Affairs (company).	Wasington, D.C	5/20/80	5/15/80	TA-W-8,438	Support facility.
Ford Motor Company, Midwest Regional Affairs Office (company).	Columbus, Ohio	5/20/80	5/15/80	TA-W-8,439	Support facility.
Ford Motor Company, Central Regional Affairs Office (company).	Chicago, Ill	5/20/80	5/15/80	TA-W-8,440	Support facility.
Ford Motor Company, Albany Office (company).	Albany, N.Y	5/20/80	5/15/80	TA-W-8,441	Support facility.
Ford Motor Company, Western Regional Affairs Office (company).	Sacramento, Calif	5/20/80	5/15/80	TA-W-8,442	Support facility.
Ford Motor Company, Southeast Regional Affairs Office (company).	Atlanta, Ga	5/20/80	5/15/80	TA-W-8,443	Support facility.
Ford Motor Company, Eastern Regional Affairs Office (company).	Trenton, N.J	5/20/80	5/15/80	TA-W-8,444	Support facility.
Ford Motor Company, Atlanta Dealer Development Office (company).	Hapeville, Ga	5/20/80	5/15/80	TA-W-8,445	Support facility.
Ford Motor Company, Boston Dealer Development Office (company).	Boston, Mass	5/20/80	5/15/80	TA-W-8,446	Support facility.
Ford Motor Company, Chicago Dealer Development Office (company).	Melrose Park, Ill	5/20/80	5/15/80	TA-W-8,447	Support facility.
Ford Motor Company, Cincinnati Dealer Development Office (company).	Cincinnati, Ohio	5/20/80	5/15/80	TA-W-8,448	Support facility.
Ford Motor Company, Dallas Dealer Development Office (company).	Carrollton, Tex	5/20/80	5/15/80	TA-W-8,449	Support facility.
Ford Motor Company, Detroit Dealer Development Office (company).	Wixom, Mich	5/20/80	5/15/80	TA-W-8,450	Support facility.

Appendix—Continued

Petitioner union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ford Motor Company, Los Angeles Dealer Development Office (company).	Pico Rivera, Calif	5/20/80	5/15/80	TA-W-8,451	Support facility.
Ford Motor Company, New York Dealer Development Office (company).	Teterboro, N.J	5/20/80	5/15/80	TA-W-8,452	Support facility.
Ford Motor Company, Pittsburgh Dealer Development Office (company).	Pittsburgh, Pa	5/20/80	5/15/80	TA-W-8,453	Support facility.
Ford Motor Company, San Francisco Dealer Development Office (company).	Milpitas, Calif	5/20/80	5/15/80	TA-W-8,454	Support facility.
Ford Motor Company, Atlanta Marketing Institute (company).	Hapeville, Ga	5/20/80	5/15/80	TA-W-8,455	Support facility.
Ford Motor Company, Chicago Marketing Institute (company).	Des Plaines, Ill	5/20/80	5/15/80	TA-W-8,456	Support facility.
Ford Motor Company, Detroit Marketing Institute (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,457	Support facility.
Ford Motor Company, New York Marketing Institute (company).	Englewood, NJ	5/20/80	5/15/80	TA-W-8,458	Support facility.
Ford Motor Company, San Francisco Marketing Institute (company).	Burlingame, Calif	5/20/80	5/15/80	TA-W-8,459	Support facility.
Ford Motor Company, Atlanta Regional Public Relations Office (company).	Atlanta, Ga	5/20/80	5/15/80	TA-W-8,460	Support facility.
Ford Motor Company, Chicago Regional Public Relations Office (company).	Chicago, Ill	5/20/80	5/15/80	TA-W-8,461	Support facility.
Ford Motor Company, Cleveland Regional Public Relations Office (company).	Cleveland, Ohio	5/20/80	5/15/80	TA-W-8,462	Support facility.
Ford Motor Company, Los Angeles Regional Public Relations Office (company).	Los Angeles, Calif	5/20/80	5/15/80	TA-W-8,463	Support facility.
Ford Motor Company, New York Regional Public Relations Office (company).	New York, N.Y	5/20/80	5/15/80	TA-W-8,464	Support facility.
Ford Motor Company, Washington Regional Public Relations Office (company).	Washington, D.C	5/20/80	5/15/80	TA-W-8,465	Support facility.
Ford Motor Company, Atlanta District Sales Office (company).	East Point, Ga	5/20/80	5/15/80	TA-W-8,466	Support facility.
Ford Motor Company, Boston District Sales Office (company).	Waltham, Mass	5/20/80	5/15/80	TA-W-8,467	Support facility.
Ford Motor Company, Buffalo District Sales Office (company).	Williamsville, N.Y	5/20/80	5/15/80	TA-W-8,468	Support facility.
Ford Motor Company, Charlotte District Sales Office (company).	Charlotte, N.C	5/20/80	5/15/80	TA-W-8,469	Support facility.
Ford Motor Company, Cincinnati District Sales Office (company).	Cincinnati, Ohio	5/20/80	5/15/80	TA-W-8,470	Support facility.
Ford Motor Company, Cleveland District Sales Office (company).	Brecksville, Ohio	5/20/80	5/15/80	TA-W-8,471	Support facility.
Ford Motor Company, Dallas District Sales Office (company).	Carrollton, Tex	5/20/80	5/15/80	TA-W-8,472	Support facility.
Ford Motor Company, Davenport District Sales Office (company).	Davenport, Iowa	5/20/80	5/15/80	TA-W-8,473	Support facility.
Ford Motor Company, Denver District Sales Office (company).	Denver, Colo	5/20/80	5/15/80	TA-W-8,474	Support facility.
Ford Motor Company, Houston District Sales Office (company).	Houston, Tex	5/20/80	5/15/80	TA-W-8,475	Support facility.
Ford Motor Company, Indianapolis District Sales Office (company).	Indianapolis, Ind	5/20/80	5/15/80	TA-W-8,476	Support facility.
Ford Motor Company, Jacksonville District Sales Office (company).	Jacksonville, Fla	5/20/80	5/15/80	TA-W-8,477	Support facility.
Ford Motor Company, Lansing District Sales Office (company).	Lansing, Mich	5/20/80	5/15/80	TA-W-8,478	Support facility.
Ford Motor Company, Los Angeles District Sales Office (company).	Pico Rivera, Calif	5/20/80	5/15/80	TA-W-8,479	Support facility.
Ford Motor Company, Louisville District Sales Office (company).	Louisville, Ky	5/20/80	5/15/80	TA-W-8,480	Support facility.
Ford Motor Company, Memphis District Sales Office (company).	Memphis, Tenn	5/20/80	5/15/80	TA-W-8,481	Support facility.
Ford Motor Company, Milwaukee District Sales Office (company).	Brookfield, Wis	5/20/80	5/15/80	TA-W-8,482	Support facility.
Ford Motor Company, New Orleans District Sales Office (company).	Metairie, La	5/20/80	5/15/80	TA-W-8,483	Support facility.
Ford Motor Company, New York District Sales Office (company).	White Plains, N.Y	5/20/80	5/15/80	TA-W-8,484	Support facility.
Ford Motor Company, Omaha District Sales Office (company).	Omaha, Nebr	5/20/80	5/15/80	TA-W-8,485	Support facility.
Ford Motor Company, Philadelphia District Sales Office (company).	Pennsauken, N.J	5/20/80	5/15/80	TA-W-8,486	Support facility.
Ford Motor Company, Phoenix District Sales Office (company).	Phoenix, Ariz	5/20/80	5/15/80	TA-W-8,487	Support facility.
Ford Motor Company, Pittsburgh District Sales Office (company).	Pittsburgh, Pa	5/20/80	5/15/80	TA-W-8,488	Support facility.
Ford Motor Company, Richmond District Sales Office (company).	Sandston, Va	5/20/80	5/15/80	TA-W-8,489	Support facility.
Ford Motor Company, St. Louis District Sales Office Louis, Mo.	St. Louis, Mo	5/20/80	5/15/80	TA-W-8,490	Support facility.
Ford Motor Company, Salt Lake City District Sales Office (company).	Salt Lake City, Utah	5/20/80	5/15/80	TA-W-8,491	Support facility.
Ford Motor Company, San Jose District Sales Office (company).	Milpitas Calif	5/20/80	5/15/80	TA-W-8,492	Support facility.

Appendix—Continued

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ford Motor Company, Seattle District Sales Office (company).	Seattle, Wash	5/20/80	5/15/80	TA-W-8,493	Support facility.
Ford Motor Company, Twin Cities District Sales Office (company).	Minneapolis, Minn	5/20/80	5/15/80	TA-W-8,494	Support facility.
Ford Motor Company, Regional & District Sales Offices (company).	Teterboro, NJ	5/20/80	5/15/80	TA-W-8,495	Support facility.
Ford Motor Company, Mid-Atlantic Regional & Washington District Sales Office (company).	Falls Church, Va	5/20/80	5/15/80	TA-W-8,496	Support facility.
Ford Motor Company, Southeast Regional Sales Office (company).	Hapeville, Ga	5/20/80	5/15/80	TA-W-8,497	Support facility.
Ford Motor Company, Great Lakes Regional & District Sales Office (company).	Wixum, Mich	5/20/80	5/15/80	TA-W-8,498	Support facility.
Ford Motor Company, Midwest Regional & Chicago District Sales Office (company).	Melrose Park, Ill	5/20/80	5/15/80	TA-W-8,499	Support facility.
Ford Motor Company, Central Regional & Kansas City District Sales Office (company).	Claycomo (Kansas City), Mo	5/20/80	5/15/80	TA-W-8,500	Support facility.
Ford Motor Company, Western Regional Sales Office (company).	Milpitas, Calif	5/20/80	5/15/80	TA-W-8,501	Support facility.
Ford Motor Company, Buffalo District Sales Office (company).	Buffalo, N.Y	5/20/80	5/15/80	TA-W-8,502	Support facility.
Ford Motor Company, Cincinnati District Sales Office (company).	Cincinnati, Ohio	5/20/80	5/15/80	TA-W-8,503	Support facility.
Ford Motor Company, Cleveland District Sales Office (company).	Cleveland, Ohio	5/20/80	5/15/80	TA-W-8,504	Support facility.
Ford Motor Company, Oakland District Sales Office (company).	Oakland, Calif	5/20/80	5/15/80	TA-W-8,505	Support facility.
Ford Motor Company, Philadelphia District Sales Office (company).	Cherry Hills, N.J	5/20/80	5/15/80	TA-W-8,506	Support facility.
Ford Motor Company, Seattle District Sales Office (company).	Kirkland, Wash	5/20/80	5/15/80	TA-W-8,507	Support facility.
Ford Motor Company, Twin Cities District Sales Office (company).	Minneapolis, Minn	5/20/80	5/15/80	TA-W-8,508	Support facility.
Ford Motor Company, Southern Regional & Atlanta District Sales Office (company).	Atlanta, Ga	5/20/80	5/15/80	TA-W-8,509	Support facility.
Ford Motor Company, Western Regional Sales Office (company).	Richmond, Calif	5/20/80	5/15/80	TA-W-8,510	Support facility.
Ford Motor Company, Ford Parts & Service Division, Parts Redistribution Center (company).	Wayne County (Detroit), Mich	5/20/80	5/15/80	TA-W-8,511	Auto parts and accessories.
Ford Motor Company, Atlanta Parts Distribution Center (company).	East Point, Ga	5/20/80	5/15/80	TA-W-8,512	Auto parts and accessories.
Ford Motor Company, Boston Parts Distribution Center (company).	Natick, Mass	5/20/80	5/15/80	TA-W-8,513	Auto parts and accessories.
Ford Motor Company, Charlotte Parts Distribution Center (company).	Charlotte, N.C	5/20/80	5/18/80	TA-W-8,514	Auto parts and accessories.
Ford Motor Company, Chicago Parts Distribution Center (company).	Melrose Park, Ill	5/20/80	5/15/80	TA-W-8,515	Auto parts and accessories.
Ford Motor Company, Cincinnati Parts Distribution Center (company).	Cincinnati, Ohio	5/20/80	5/15/80	TA-W-8,516	Auto parts and accessories.
Ford Motor Company, Cleveland Parts Distribution Center (company).	Cleveland, Ohio	5/20/80	5/15/80	TA-W-8,517	Auto parts and accessories.
Ford Motor Company, Dallas Parts Distribution Center (company).	Carrollton, Tex	5/20/80	5/15/80	TA-W-8,518	Auto parts and accessories.
Ford Motor Company, Delaware Valley Parts Distribution Center (company).	Pennsauken, N.J	5/20/80	5/15/80	TA-W-8,519	Auto parts and accessories.
Ford Motor Company, Denver Parts Distribution Center (company).	Denver, Colo	5/20/80	5/15/80	TA-W-8,520	Auto parts and accessories.
Ford Motor Company, Detroit Parts Distribution Center (company).	Detroit, Mich	5/20/80	5/15/80	TA-W-8,521	Auto parts and accessories.
Ford Motor Company, Houston Parts Distribution Center (company).	Houston, Tex	5/20/80	5/15/80	TA-W-8,522	Auto parts and accessories.
Ford Motor Company, Jacksonville Parts Distribution Center (company).	Jacksonville, Fla	5/20/80	5/15/80	TA-W-8,523	Auto parts and accessories.
Ford Motor Company, Kansas City Parts Distribution Center (company).	Lenexa, Kans	5/20/80	5/15/80	TA-W-8,524	Auto parts and accessories.
Ford Motor Company, Los Angeles Parts Distribution Center (company).	Los Angeles, Calif	5/20/80	5/15/80	TA-W-8,525	Auto parts and accessories.
Ford Motor Company, Memphis Parts Distribution Center (company).	Memphis, Tenn	5/20/80	5/15/80	TA-W-8,526	Auto parts and accessories.
Ford Motor Company, National Parts Distribution Center (company).	Livonia, Mich	5/20/80	5/15/80	TA-W-8,527	Auto parts and accessories.
Ford Motor Company, New York Parts Distribution Center (company).	Teterboro, N.J	5/20/80	5/15/80	TA-W-8,528	Auto parts and accessories.
Ford Motor Company, Predelivery Service Corp. (company).	Detroit, Mich	5/20/80	5/15/80	TA-W-8,529	Auto parts and accessories.
Ford Motor Company, San Francisco Parts Distribution Center (company).	Richmond, Calif	5/20/80	5/15/80	TA-W-8,530	Auto parts and accessories.
Ford Motor Company, Seattle Parts Distribution Center (company).	Seattle, Wash	5/20/80	5/15/80	TA-W-8,531	Auto parts and accessories.
Ford Motor Company, Service Research Center (company).	Dearborn, Mich	5/20/80	5/15/80	TA-W-8,532	Auto parts and accessories.
Ford Motor Company, Twin Cities Parts Distribution Center (company).	Minneapolis, Minn	5/20/80	5/15/80	TA-W-8,533	Auto parts and accessories.
Ford Motor Company, Virginia Parts Distribution Center (company).	Richmond, Va	5/20/80	5/15/80	TA-W-8,534	Auto parts and accessories.
Ford Motor Company, Atlanta Regional Office (company).	Atlanta, Ga	5/20/80	5/15/80	TA-W-8,535	Support facility.
Ford Motor Company, Boston District Office (company).	Waltham, Mass	5/20/80	5/15/80	TA-W-8,536	Support facility.

Appendix—Continued

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ford Motor Company, Buffalo District Office (company).	Buffalo, N.Y.	5/20/80	5/15/80	TA-W-8,537	Support facility.
Ford Motor Company, Charlotte District Office (company).	Charlotte, N.C.	5/20/80	5/15/80	TA-W-8,538	Support facility.
Ford Motor Company, Chicago Regional District Office (company).	Melrose Park, Ill.	5/20/80	5/15/80	TA-W-8,539	Support facility.
Ford Motor Company, Cincinnati District Office (company).	Cincinnati, Ohio	5/20/80	5/15/80	TA-W-8,540	Support facility.
Ford Motor Company, Cleveland District Office (company).	Brecksville, Ohio	5/20/80	5/15/80	TA-W-8,541	Support facility.
Ford Motor Company, Dallas District Office (company).	Carrollton, Tex.	5/20/80	5/15/80	TA-W-8,542	Support facility.
Ford Motor Company, Davenport District Office (company).	Davenport, Iowa	5/20/80	5/15/80	TA-W-8,543	Support facility.
Ford Motor Company, Denver District Office (company).	Denver, Colo.	5/20/80	5/15/80	TA-W-8,544	Support facility.
Ford Motor Company, Detroit District Office (company).	Wixom, Mich.	5/20/80	5/15/80	TA-W-8,545	Support facility.
Ford Motor Company, Houston District Office (company).	Houston, Tex.	5/20/80	5/15/80	TA-W-8,546	Support facility.
Ford Motor Company, Indianapolis District Office (company).	Indianapolis, Ind.	5/20/80	5/15/80	TA-W-8,547	Support facility.
Ford Motor Company, Jacksonville District Office (company).	Jacksonville, Fla.	5/20/80	5/15/80	TA-W-8,548	Support facility.
Ford Motor Company, Kansas City Regional & District Office, Kansas City Assembly Plant (company).	Claycomo, Mo.	5/20/80	5/15/80	TA-W-8,549	Support facility.
Ford Motor Company, Lansing District Office (company).	Lansing, Mich.	5/20/80	5/15/80	TA-W-8,550	Support facility.
Ford Motor Company, Los Angeles District Office (company).	Pico Rivera, Calif.	5/20/80	5/15/80	TA-W-8,551	Support facility.
Ford Motor Company, Louisville District Office (company).	Louisville, Ky.	5/20/80	5/15/80	TA-W-8,552	Support facility.
Ford Motor Company, Memphis District Office (company).	Memphis, Tenn.	5/20/80	5/15/80	TA-W-8,553	Support facility.
Ford Motor Company, Milwaukee District Office (company).	Brookfield, Wis.	5/20/80	5/15/80	TA-W-8,554	Support facility.
Ford Motor Company, Newark Regional & District Office (company).	Teterboro, N.J.	5/20/80	5/15/80	TA-W-8,555	Support facility.
Ford Motor Company, New Orleans District Office (company).	Metairie, La.	5/20/80	5/15/80	TA-W-8,556	Support facility.
Ford Motor Company, New York District Office (company).	White Plains, N.Y.	5/20/80	5/15/80	TA-W-8,557	Support facility.
Ford Motor Company, Omaha District Office (company).	Omaha, Nebr.	5/20/80	5/15/80	TA-W-8,558	Support facility.
Ford Motor Company, Philadelphia District Office (company).	Pennsauken, N.J.	5/20/80	5/15/80	TA-W-8,559	Support facility.
Ford Motor Company, Phoenix District Office (company).	Phoenix, Ariz.	5/20/80	5/15/80	TA-W-8,560	Support facility.
Ford Motor Company, Pittsburgh District Office (company).	Pittsburgh, Pa.	5/20/80	5/15/80	TA-W-8,561	Support facility.
Ford Motor Company, Richmond District Office (company).	Richmond, Va.	5/20/80	5/15/80	TA-W-8,562	Support facility.
Ford Motor Company, San Jose Regional & District Office (company).	Milpitas, Calif.	5/20/80	5/15/80	TA-W-8,563	Support facility.
Ford Motor Company, Salt Lake City District Office (company).	Salt Lake City, Utah	5/20/80	5/15/80	TA-W-8,564	Support facility.
Ford Motor Company, Seattle District Office (company).	Kirkland, Wash.	5/20/80	5/15/80	TA-W-8,565	Support facility.
Ford Motor Company, St. Louis District Office (company).	St. Louis, Mo.	5/20/80	5/15/80	TA-W-8,566	Support facility.
Ford Motor Company, Twin Cities District Office (company).	Bloomington, Minn.	5/20/80	5/15/80	TA-W-8,567	Support facility.
Ford Motor Company, Washington, D.C. District Office (company).	Falls Church, Va.	5/20/80	5/15/80	TA-W-8,568	Support facility.
Ford Motor Company, Climate Control Div. (company).	Dearborn, Mich.	5/20/80	5/15/80	TA-W-8,569	Support facility.
U.S. Steel Corp. (workers)	Fairfield, Ala.	5/22/80	5/19/80	TA-W-8,570	Plates, iron products, wire, structural & rail, galvanized sheet, painted sheet, axels, spiles & tie plates.
U.S. Steel Corp., American Bridge Division (workers).	Gary, Ind.	5/19/80	5/5/80	TA-W-8,571	Fabricated all types of structural steel.
General Motors Corporation, Delco Air (IUE)	Dayton, Ohio	5/29/80	4/30/80	TA-W-8,572	Air compressors, air conditioners.
Mitchell Corp. of Owosso—Cadillac Div. (workers).	Cadillac, Mich.	4/28/80	4/25/80	TA-W-8,573	Seat coverings and they build seats for autos.
Peterbilt Motor Co. (UAW)	Madison, Tenn.	5/8/80	5/1/80	TA-W-8,574	Assembling Peterbilt tractor trucks.
Chrysler Financial Corporation (company)	Troy, Mich.	5/27/80	5/14/80	TA-W-8,575	Retail and wholesale financing of Chrysler cars & trucks.
Chrysler Credit Corporation (company)	Troy, Mich.	5/27/80	5/14/80	TA-W-8,576	Retail and wholesale financing of Chrysler cars and trucks.
Chrysler Service Contract Company (company).	Troy, Mich.	5/27/80	5/14/80	TA-W-8,577	Administration of Chrysler Corp. service contracts regarding maintenance of Chrysler cars and trucks.
Chrysler Insurance Company (company)	Troy, Mich.	5/27/80	5/14/80	TA-W-8,578	Sale and administration of automobile insurance programs.
Chrysler Life Insurance Company (company)	Troy, Mich.	5/27/80	5/14/80	TA-W-8,579	Sale and administration of life insurance programs related to automobile collision.
International Shoe Co. (workers)	Eldorado Springs, Mo.	5/20/80	5/15/80	TA-W-8,580	Juvenile's shoes.

[FR Doc. 80-17487 Filed 6-9-80; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Dance Panel (Dance/Film/Video); Meeting

Pursuant to section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Panel (Dance/Film/Video) to the National Council on the Arts will be held July 14, 1980 from 9:00 a.m.–6:00 p.m. and July 15, 1980 from 9:00 a.m.–6:00 p.m. in Room 1426, Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endownment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

May 30, 1980.

[FR Doc. 80–17526 Filed 6–9–80; 8:45 am]

BILLING CODE 7537–01–M

Dance Panel (Services to the Field, Sponsors, Presentation); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Panel (Services to the Field, Sponsors, Presentation) to the National Council on the Arts will be held July 9, 1980 from 9:00 a.m.–6:00 p.m. and July 10, 1980 from 9:00 a.m.–6:00 p.m., in Room 1422, Columbia Plaza Office Complex, 240 E St., N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (b) of section 552b of Titles, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

May 30, 1980.

[FR Doc. 80–17525 Filed 6–9–80; 8:45 am]

BILLING CODE 7537–01–M

Office for Partnership Panel (State Programs); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the State Programs Panel to the National Council on the Arts will be held June 26, 1980 from 9:00 a.m.–5.00 p.m. and June 27, 1980 from 9:00 a.m.–4:00 p.m., in Room 1422, Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on June 26, 1980 from 9:00 a.m.–5:00 p.m.; June 27, 1980 from 9:00 a.m.–1:30 p.m., and 2:30 p.m.–4:00 p.m. for the discussion of Policy and Guidelines.

The remaining sessions of this meeting on June 27, 1980 from 1:30 p.m.–2:30 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: May 30, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80–17528 Filed 6–9–80; 8:45 am]

BILLING CODE 7537–01–M

Visual Arts Panel (Critics' Fellowships); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Critics' Fellowships) to the National Council on the Arts will be held June 30, 1980 from 9:00 a.m.–5:30 p.m. in Room 1340, Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: June 2, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80–17529 Filed 6–9–80; 8:45 am]

BILLING CODE 7537–01–M

Federal Graphics Improvement Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Federal Graphics Improvement Advisory Panel to the National Endowment for the Arts will be held on June 27, 1980, from 9:30 a.m.–4:30 p.m. in Room 1426, Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

This meeting will be open to the public on a space available basis. Accommodations are limited. Interested persons may submit written statements to the panel.

The agenda for this meeting will include Graphics Material of Bureau of Land Management—Department of the Interior.

Further information with reference to this meeting can be obtained from Mr. Lance Jay Brown, Coordinator of Federal Graphics, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–4276.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

May 30, 1980.

[FR Doc. 80–17527 Filed 6–9–80; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289]

Metropolitan Edison Co., Jersey Central Power & Light Co., and Pennsylvania Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 55 to Facility Operating License No. DPR–50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, and Pennsylvania Electric Company (the licensees), which revises Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment revised the Technical Specifications for TMI–1 to include revised requirements for the air treatment systems consisting of the emergency control room air treatment system, the reactor building purge air treatment system and the auxiliary and fuel handling exhaust air treatment system. The amendment includes Technical Specifications on the existing auxiliary/fuel handling building exhaust air treatment system for which modifications are scheduled but not prior to restart.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 30, 1975, as supplemented and revised October 28, 1975, (2) Amendment No. 55 to License No. DPR–50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555, and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 3rd day of June, 1980.

For the Nuclear Regulatory Commission,

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80–17524 Filed 6–9–80; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Range Conservation Series, GS–454; Establishment of Prescribed Minimum Educational Requirements

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management has revised the prescribed minimum educational requirement for range conservationists and range scientists employed within the Federal service. Range Conservation is a professional occupation and the revised requirement will facilitate the procurement of qualified candidates for range conservationist and range scientist positions in the Federal service. The minimum educational requirement for this occupation was last revised in 1966.

EFFECTIVE DATE: June 10, 1980.

FOR FURTHER INFORMATION CONTACT: Donald G. Brauer, Chief, Engineering and Science Occupations Branch, Standards Development Center, Staffing Services Group, U.S. Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, 202–632–5612.

SUPPLEMENTARY INFORMATION: In accordance with Section 3308 of Title 5, United States Code, the Office of Personnel Management has established a prescribed minimum educational requirement for range conservationists and range scientists employed within the Federal service. The requirement, the duties of the positions, and the reasons for the Office of Personnel Management's decision that the requirement is necessary are set forth below:

The Range Conservation Series, GS–454, GS–5 through GS–15

Minimum Educational Requirement

1. Candidates for Range Conservationist positions must demonstrate sucessful completion of the requirements in paragraph A or paragraph B below:

A. A full 4-year or longer course of study in an accredited college or university leading to a bachelor's or higher degree with major study in range management or a directly related subject-matter field. This course of study must have included a total of at least 42 semester hours in a combination of the plant, animal, and soil sciences

and natural resources management and must be diversified as follows:

—Range Management Candidates must have completed at least 18 semester hours of course work in range management. Acceptable course work includes, but is not limited to, courses in such areas as basic principles of range management; range plants; range ecology; range inventories and studies; range improvements; and range or rangeland planning.
—Directly Related Plant, Animal and Soil Sciences Candidates must have completed at least 15 semester hours of directly related course work in the plant, animal and soil sciences. This course work must have included at least one course in each of these three scientific areas, i.e., plant, animal and soil sciences. Acceptable course work includes, but is not limited to, courses in such areas as plant taxonomy; plant physiology; plant ecology; animal nutrition; livestock production; and soil morphology or soil classification.
—Related Resource Management Studies Candidates must have completed at least 9 semester hours of course work in related resource management subjects. Acceptable course work includes, but is not limited to, courses in such areas as wildlife management; watershed management; natural resource or agricultural economics; forestry; agronomy; forages; and outdoor recreation management.

B. A total of at least 42 semester hours of course work in an accredited college or university in a combination of the plant, animal and soil sciences and natural resources management. The requirements for diversification of these 42 semester hours are the same as specified in paragraph A, above. In addition to these requirements, candidates must have additional education and/or experience which, when combined with the 42 semester hours of course work, will total 4 years of education or 4 years of combined education and experience.

The quality of such additional education or experience must have been sufficient to give the candidate professional and scientific knowledge equivalent to that normally acquired through the successful completion of a full 4-year course of study as described in A above. In combining undergraduate education with experience, an academic year of study which comprises 30 semester hours or 45 quarter hours will be considered equivalent to 9 months of experience.

2. Candidates for Range Scientist positions must have successfully completed the full 4-year course of study described in paragraph A above.

Duties.—Range Conservationists perform professional work concerned with inventorying, analyzing, improving, protecting, utilizing, and managing the natural resources of rangelands and related grazing lands; regulating grazing on public rangelands; developing cooperative relationships with range users and other groups; assisting private and Indian landowners to plan and apply range conservation programs on the rangelands under their controls; and developing technical standards and specifications for range conservation and management.

Range Scientists carry our basic and applied research to discover principles underlying range conservation activities and to develop new or improved practices, techniques, or equipment for range conservation work.

Reasons for Establishing Requirements.—A thorough knowledge of the principles, concepts, techniques, and practices of range management and of the underlying scientific concepts is essential for performing the work of range conservationist or range scientist positions. The only method by which the necessary knowledge and training may be acquired is through a directed course of study in an accredited college or university where competent instruction and guidance are available; where there are adequate scientific libraries, laboratories, and facilities for field study; where the course work is arranged in a systematic, progressive schedule; and where progress in the acquisition of professional and scientific knowledge and skill may be competently evaluated.

The revision in the minimum educational requirement increases the required course work in the plant, animal and soil sciences and natural resources management. This revision reflects increased demands on range conservationists and range scientists resulting from such factors as the deterioration and need for improvements of public rangelands; the growing concern for the environment; and the current emphasis on the multiple uses of rangelands.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

[FR Doc. 80-17499 Filed 6-9-80; 8:45 am]

BILLING CODE 6325-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0184]

Grocers Capital Co., Inc.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Grocers Capital Company (Grocers), 2601 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to Section 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004(1980)) for approval of a conflict of interest transaction.

Grocers proposes to loan $40,000 to Hermanson and Scalzo, d/b/a the Carlos O'Brien Restaurant (O'Brien), 22640 E. Golden Springs Road, Diamond Bar, California 91765. The proceeds of the loan will be used to purchase restaurant equipment from Grocers Equipment Company (G.E.C.). All of Grocers' stock is owned by subsidiaries of Certified Grocers of California, Ltd. (Certified), a retailer-owned grocery cooperative. G.E.C., a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate by Section 107.3 of SBA Rules and Regulations. As a result, Grocers financing of O'Brien falls within the purview of Section 107.1004(b)(5) of the SBA Regulations. In addition since 50 or more percent of the funds are to be used to purchase goods or services from an Associate of Grocers, the transaction falls within the restrictions of Section 107.1001(g) of the SBA Regulations. Grocers loan to O'Brien requires prior written approval of SBA.

Notice is hereby given that any person may not later than 15 days from the date of publication of this Notice submit written comments to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in the Los Angeles, California area.

(Catalog of Federal Domestic Assistance Programs No. 95.011, Small Business Investment Companies)

Dated: June 2, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-17498 Filed 6-9-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/305]

National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the National Committee of the U.S.

Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on July 1, 1980 at 2:00 p.m. in Room 1406, Department of State, 2201 C Street, N.W., Washington, D.C.

The National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCITT activities; provides advice on matters of policy and positions in the preparation for CCITT Plenary Assemblies and meetings of the International Study Groups; provides advice and recommendations in regard to the work of the U.S. CCITT Study Groups; and recommends the disposition of proposed U.S. contributions to the international CCITT which are submitted to the Committee for consideration.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to July 1, 1980, members of the general public who plan to attend the meeting inform Mr. Richard H. Howarth, Office of International Communications Policy, Department of State, telephone (202) 632–1007, of their intention. All non/governmental attendees must use the C Street entrance to the building.

The purpose for the meeting on July 1 will be to discuss preparations for U.S. participation at the Plenary Assembly of the CCITT, to be held in November 10–21, 1980, in Geneva, Switzerland. This will be the first of two such preparatory meetings.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

[FR Doc. 80-17540 Filed 6-9-80; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/306]

Secretary of State's Advisory Committee on Private International Law; Study Group on Leasing of Movable Property; Meeting

There will be a meeting of the Study Group on Leasing of Moveable Property, a study group of the subject Advisory Committee, at 10:30 a.m. on Wednesday, June 25, 1980 in Room 5519 of the Department of State. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The purpose of the meeting will be to review the text of the draft uniform rules on the *sui generis* form of leasing transactions drawn up under the auspices of the International Institute for the Unification of Private International Law (UNIDROIT) which is to be the subject of a meeting in autumn, 1980 of UNIDROIT's study group on the leasing contract.

Entry to the Department of State building is controlled and members of the general public should use the "C" Street entrance. As entry will be facilitated by advance arrangements, members of the general public planning to attend should, prior to June 25, notify Mrs. Kathleen Padovano, Office of the Assistant Legal Adviser for Private International Law, Department of State, (telephone: (202) 632–8134) of their name, affiliation and address.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law and Vice-Chairman, Advisory Committee on Private International Law.

June 2, 1980.

[FR Doc. 80-17541 Filed 6-9-80; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF THE TREASURY

[Supplement to Department Circular, Public Debt Series—No. 18–80]

Interest Rates on Notes of Series E-1985

Washington, June 4, 1980.

The Secretary announced on June 3, 1980, that the interest rate on the notes designated Series E–1985, described in Department Circular—Public Debt Series—No. 18–80, as amended, dated May 22, 1980, will be 9⅝ percent. Interest on the notes will be payable at the rate of 9⅝ percent per annum.

SUPPLEMENTARY STATEMENT: The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-17469 Filed 6-9-80; 8:45 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Administration Building and Entrance Area, Fort Logan National Cemetery, Fort Logan, Colo.; Notice of Finding of No Significant Impact

The Veterans Administration has assessed the potential environmental impacts that may occur as a result of the construction of an Administration Building and Entrance Area, Fort Logan National Cemetery, CO.

The administration building project involves construction of 2,260 gross square foot building, a new entrance gate area and road and removal of approximately 1,200 ft. of abandoned roadway.

Development of this will have impacts on the environment as it affects: existing vegetation, soils, soil erosion, sedimentation and noise levels.

Mitigation of the project's impact will include adequate construction methods (i.e. erosion control measures, minimal site grading, correct and specific site design and engineering) and onsite noise abatement.

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 1027A, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202–389–2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: June 4, 1980.

By direction of the Administrator:

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

[FR Doc. 80-17475 Filed 6-9-80; 8:45 am]

BILLING CODE 8320-01-M

Columbaria, Willamette National Cemetery, Portland, Oreg.; Notice of Finding of No Significant Impact

The Veterans Administration has assessed the potential environmental impacts that may occur as a result of the construction of the Columbaria at the Willamette National Cemetery, Portland, Oregon.

The project proposes the construction of a Columbaria in the area of the administration building. Development of the project will have minimal impacts on the human and natural environment. These impacts affect topography, surface runoff and erosion. In addition, construction noise, dust and visual impacts will exist during construction of the project. Mitigation of the project

impacts on the environment include erosion control measures, slope stabilization and onsite noise abatement methods.

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 1027A, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202–389–2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: June 4, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

[FR Doc. 80–17476 Filed 6–9–80; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 113
Tuesday, June 10, 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

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, June 11, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting following the open meeting which commences at 9:30 a.m.

MATTERS TO BE CONSIDERED:

Agenda, Item number, and Subjects

Assignment and Transfer—1—Assignment of Stations KLBK and KLBK-FM Lubbock, Texas, from Grayson Enterprises, Inc., to Southern Minnesota Broadcasting Co.

Hearing—1—Application for review of a Review Broad decision in the matter of the applications for transfer of control of 5 UHF TV construction permits from D. H. Overmyer to U.S. Communications Corporation (Docket No. 19850).

Hearing—2—Motion for Leave to Amend; Motion for Leave to Intervene; Motion to Enlarge Issues; Motion to Return Application to the End of the Processing Line; and related pleadings in the Harriman, Tennessee FM radio proceeding (Docket No. 19812).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: June 5, 1980.

[S-1116-80 Filed 6-6-80; 2:13 pm]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, June 11, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item Number, and Subject

General—1—*Title: Notice of Inquiry in the matter of Interference from Spark-Type Ignition Systems in Motor Vehicles* Docket No. 20654. *Summary:* The purpose of this proceeding is to explore the causes, effects, and possible cures to electromagnetic interference to radio communications caused by the use of spark-type ignition systems in motor vehicles.

Hearing—2—*Title:* Petition for Rule making asking that the Commission adopt a predesignation procedure prior to Commission consideration of an investigatory report. *Summary:* Proposed Procedure would make investigatory report, witness statements, and staff recommendation available to the broadcast licensee under investigation prior to Commission consideration.

General—3—*Title:* Siemens petition to amend Part 15 to provide for operation of automatic vehicle identification systems (RM-2998). *Summary:* The Commission is considering a petition for rulemaking submitted by the Siemens Corporation which asks the Commission to amend Part 15 to allow for operation of microwave (2.9 to 4.1 GHz) swept frequency automatic car identification devices. No provisions for operation of such devices exist in the present rules. The Siemens identification system, as described in the petition, automatically identifies railroad cars to expedite rail operations.

General—4—*Title:* Closing Commission Meetings under the Sunshine Act. *Summary:* This is an item discussing agency procedures under the Government in the Sunshime Act.

General—5—*Title:* Report and Order considering comments filed in response to an *Order, Notice of Inquiry and Interim Policy Statement* issued in Gen. Docket No. 78-167. *Summary:* The Commission will decide whether to adopt a Report and Order in Docket 78-167 establishing policies and procedures regarding *ex parte* communications during informal rulemaking proceedings. In an *Order, Notice of Inquiry and Interim Policy Statement*, 68 FCC 2d 804 (1978), the Commission proposed to adopt (and did adopt on an interim basis) procedures calling for the disclosure of *ex parte* presentations in most notice and comment proceedings, and for the prohibition of such contacts in some situations. Comments have been filed, and the Commission must now decide whether it will continue to follow these procedures in the future.

General—6—*Title:* Proposal establishing verification and methods of measurement procedures for computing devices. *Summary:* The FCC considers a proposal to formalize the methods of measurement and the procedure for verification of computing devices subject to the technical standards in Subpart J of Part 15. The new technical standards, which are designed to control the interference caused by computers and similar electronic equipment to radio communications, were adopted by the Commission on September 18, 1979 in a First Report & Order in FCC Docket No. 20780. The effective date of the new rules along with some other requirements were subsequently changed in an Order Granting Reconsideration on March 27, 1980.

Private Radio—1—*Title:* Revision of the General Mobile Radio Service Rules to implement "system licensing." *Summary:* The Commission will consider a proposal to implement a system licensing program in the General Mobile Radio Service (GMRS). System licensing allows a group of intercommunicating stations to be licensed under a single authorization. In addition, the Commission will consider a proposal to eliminate the requirement that GMRS applicants supply geographic coordinates for those control stations with antennas extending less than 20 feet above the ground or supporting structure (other than antenna towers). Instead, applicants would furnish the street address of these control stations.

Private Radio—2—*Title:* Memorandum Opinion and Order considering a Petition for Reconsideration of a *Notice of Proposed Rule Making, Order, and Notice of Inquiry* issued in Gen. Docket No. 80-1. *Summary:* The FCC will decide whether to adopt a Memorandum Opinion and Order which considers a Petition for Reconsideration filed by the Marine Telephone Operators Association in Gen. Docket No. 80-1. The petition argues that in the *Notice* the Commission, in effect, granted an application filed by the Waterway Communications System, Inc. for a certificate of public convenience and necessity under Section 214 of the Communications Act. Essentially Gen. Docket No. 80-1 looks towards the allocation of frequencies for an automated, interconnected maritime communications system for the Mississippi River System.

Common Carrier—1—*Title:* Mark Edwards, dba Edwards Industries and Edwards Industries, Inc. v. Bell Telephone Company of Nevada, The Pacific Telephone Company, and American Telephone and Telegraph Company (File No. TS 5-79). *Summary:* Complainants, communications equipment manufacturers and consultants, allege that Nevada Bell interfered with use

of Compainants' products by their customers. The first of three claims alleges that Nevada Bell supplied an inadequate line for a customer of Complainants and refused to provide actual measured values for various characteristics of the line, which would have enabled Complainants to analyze the problem. The second claim alleges that Nevada Bell refused to connect twenty-five different lines of Complainants and their customers to a common jack. The third claim alleges that Nevada Bill improperly connected a Private Branch Exchange for a customer of Complainants and blamed the resulting poor service on a coupler which was manufactured by Complainants.

Common Carrier—2—*Title:* Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board. *Summary:* The Commission will consider a Notice of Proposed Rulemaking regarding revisions to the Separations Manual and will consider convening a Joint Board to address the separations questions. Among the issues to be considered are the treatment of FX/CCSA access lines, the effects of terminal equipment deregulation, and the level of cost allocation to the interstate jurisdiction.

Cable Television—1—"Petition for Special Relief" (CSR–1401) filed November 22, 1978 by Television Cable Service, Inc. Television Cable Service, Inc. requests a waiver of Section 76.59 of the Commission's Rules to enable it to add three independent television broadcast stations: WGN–TV (Ind., Channel 9), Chicago, Illinois; WTBS (Ind., Channel 17), Atlanta, Georgia; and KTVU (Ind., Channel 2), Oakland, California. In support of this request, TCS has submitted an impact formula which predicts that if every cable television system within thirty-five miles of the local commercial broadcast station (KLTV) were authorized to add the signals requested, the total cumulative impact would be 2.027 percent. An analysis by the Commission's staff has estimated the cumulative impact as 2.55 percent.

Cable Television—2—"Petition for Special Relief" (CSR–1399) filed November 22, 1978 by Cass Community Antenna TV, Inc. Cass Community Antenna TV, Inc. requests a waiver of Section 76.63, as it relates to Section 76.61, of the Commission's Rules to enable it to add two independent stations, WTBS (Ind., Channel 17), Atanta, Georgia and KTVU (Ind., Channel 2), Oakland, California. In support of this request, Cass has submitted an impact formula which predicts that if every cable television system within thirty-five miles of the local commercial broadcast stations (WAND, WCIA, WICD, and WICS) were authorized to add the signals requested, the total cumulative impact would be as follows: WAND = 0.919 percent, WCIA = 0.528 percent, WICD = 0.266 percent, and WICS = 0.584 percent. An analysis by the Commission's staff has estimated the cumulative impact on WAND, the only local station, as 0.48 percent.

Assignment and Transfer—1—*Title:* Request for tax certificate in connenction with the sale of stations KVML and KROG–FM, Sonora, California from Herold Broadcasting Company to Portuguese American Communications Corporation. *Summary:* On October 30, 1979, the Chief, Broadcast Bureau, pursuant to delegated authority, granted the applications for voluntary assignment of licenses of stations KVML and KROG–FM, Sonora, California. The assignor, Herold Broadcasting Company, has requested a tax certificate pursuant to the Commission's Statement of *Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 (1978).

Aural—1—*Title:* Application of The Board of Trustees of the University of Cincinnati (WGUS–FM), Cincinnati, Ohio, for a construction permit to modify facilities. *Summary:* The FCC is considering the above application proposing transmitter power in excess of that presently authorized.

Aural—2—*Title:* In re Applications of Board of Trustees, The University of Alabama for a change in facilities in WUAL–FM, Tuscaloosa, Alabama, and for a new educational FM station for Tuscaloosa, Alabama. *Summary:* The Commission is considering a petition to deny filed by Taft Broadcasting Company, licensee of WRBC–TV, Birmingham, Alabama operating Channel no. 6 (82–88 MHz) alleging that a grant of the instant applications may cause objectionable interference.

Television—1—*Title:* Applications to construct four new TV translator stations (file Nos. BPTT–3617, 3626, 3627 and 780911IA) filed by U.P. TV Systems, Inc., are the subject of Petitions to Deny filed by Teleprompter. *Summary:* The Petitions raise questions regarding (a) use of the translators to relay the TV signals to fixed points as a substitute for common carrier in violation of Section 74.731(c) of our Rules; (b) concentration of control and multiple ownership questions; and (c) and the signal interference potential with respect to the channel 53 application.

Broadcast—1—*Title:* Memorandum Opinion and Order relative to Motion for Procedural Relief filed by the ACLU, *et al.* in the matter of deregulation of radio. *Subject:* The ALCU and seven other organizations petition the Commission to revise the release date of an Order released January 4, 1980, which responded to a petition filed by these same organizations, due to an asserted lack of service of the Order upon the petitioners.

Broadcast—2—*Title:* Report and Order in Docket No. 19121, concerning a Commission proposal to amend Part 74 of the Rules governing television broadcast translator stations. *Summary:* The Commission considers Docket No. 19121 proposing administrative changes in the television broadcast translator rules.

Broadcast—3—*Title:* Amendments to Part 0, § 0.281(b)(6), and Part 1, §§ 1.401 and 1.405(d) of the Commission's Rules, with respect to delegation of authority to Chief, Broadcast Bureau, and procedures regarding petitions for rule making. *Summary:* The Commission will consider amendments to its rules concerning petitions for rule making which are moot, repetitive, or premature, frivolous, do not warrant Commission consideration.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: June 5, 1980.

[S–1117–80 Filed 6–6–80; 2:13 pm]

BILLING CODE 6712–01–M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

June 5, 1980.

TIME AND DATE: 10 a.m., Wednesday, June 11, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Scotia Coal Company, BARB 78–306, etc., Petition for Interlocutory Review (issues include whether the administrative law judge erred in denying disqualification motion).

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

FR Doc. 80–1118 Filed 6–6–80; 3:34 pm]

BILLING CODE 6820–12–M

4

FEDERAL RESERVE SYSTEM.

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, June 16, 1980.

PLACE: 20th Street and Constitution Avenue NW, Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

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: June 6, 1980.

Theodore E. Allison,

Secretary of the Board.

[S-1119-80 Filed 6-6-80; 3:43 pm]

BILLING CODE 6210-01-M

5

[USITC ERB-80-7]

INTERNATIONAL TRADE COMMISSION.

Executive Resources Board (ERB).

TIME AND DATE: 10 a.m., Monday, June 16, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Old Business.

a. SES Removal/Reassignment Procedures.
b. Reservation at the Federal Executive Institute for fiscal year 1981.

2. New Business:

a. SES Pay Management Procedures.
b. Establishment of SES Position Qualifications.
c. Review of the SES by the Office of Personnel Management.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1121-80 Filed 6-6-80; 3:59 pm]

BILLING CODE 7020-02-M

6

[USITC SE-80-33]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, June 19, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
a. Coin-operated games (Docket No. 657).
5. Canned hams (Inv. 701-TA-31 through -39 [Final])—briefing and vote.
6. Nonquota cheese from the EC (Inv. 701-TA-52 through -60)—possible reconsideration of the vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1120-80 Filed 6-6-80; 3:56 pm]

BILLING CODE 7020-02-M

7

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

June 6, 1980.

The National Commission on Libraries and Information Science, 1717 K Street, N.W., Washington, D.C. 20036, (202) 653-6252, would like to give notice of a meeting being sponsored by our Commission.

Public/Private Sector Relations Task Force Meeting, June 12-13, 1980, 9:00 a.m.-5:00 p.m., Cannon House Office Building, room 121, Washington, D.C., (open meeting).

Alphonse F. Trezza,

Executive Director.

[S-1115-80 Filed 6-6-80; 11:49 am]

BILLING CODE 7527-01-M

9

NATIONAL LABOR RELATIONS BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 37800, June 4, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:30 a.m., Monday, June 9, 1980.

CHANGES IN THE MEETING: The time of the meeting has been changed to 10 a.m., Monday, June 9, 1980.

Dated: Washington, D.C., June 5, 1980.

By direction of the Board.

George A. Leet,

Associate Executive Secretary, National Labor Relations Board.

[S-1112-80 Filed 6-5-80; 4:09 pm]

BILLING CODE 7545-01-M

9

PAROLE COMMISSION.

TIME AND DATE: 9 a.m.-5:30 p.m., Friday, June 20, 1980.

PLACE: Room 818, 320 First Street NW, Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED:

1. Appeals to the Commission of approximately 14 cases decided by the National Commissioners pursuant to a reference under 28 C.F.R. § 2.17 and appealed pursuant to 29 C.F.R. § 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.
2. An application for a Certificate of Exemption under the Labor-Management Reporting and Disclosure Act of 1959.

CONTACT PERSONS FOR MORE INFORMATION: Linda Wines Marble, Analyst, 320 First Street NW, Washington, D.C. (202) 724-3094.

[S-1113-80 Filed 6-5-80; 4:09 pm]

BILLING CODE 4410-01-M

10

POSTAL SERVICE.

(Board of Governors)

Notice of Vote to Close Meeting: On June 3, 1980, the Board of Governors of the United States Postal Service voted to close to public observation its meeting scheduled for June 30, 1980. Each of the members of the Board voted in favor of closing this meeting, which is expected to be attended by the following persons: Governors Wright, Hardesty, Allen, Camp, Ching and Sullivan; Postmaster General Bolger; and Secretary of the Board Cox.

A portion of the meeting to be closed will consist of a continuation of the discussion by the Governors of the Opinion and Recommended Decision Upon Reconsideration of the Postal Rate Commission re Electronic Mail Classification Proposal, 1978 (Commission Docket No. MC78-3), dated April 8, 1980.

The Governors are of the opinion that public access to the discussion would be likely to disclose matters whose disclosure would be inconsistent with the public's interest in having the Governors candidly discuss the pro's and con's of possible alternatives open to them under the pertinent part of the Postal Reorganization Act (39 U.S.C. § 3625(a)) without concern for unreasonably influencing particular litigation, including both litigation that may arise from the Governors' final decision in the Electronic Mail case and litigation currently pending before the Court of Appeals for the D.C. Circuit concerning the jurisdiction of the Federal Communications Commission over the Postal Service's planned Electronic Computer Originated Mail (E-COM) service.

Accordingly, the Governors have determined that, pursuant to section 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act in that it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding, and that the public interest does not require the discussion of this matter to be open to the public. In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of

Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed might properly be closed to public observation pursuant to 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations.

A second portion of the meeting to be closed is to involve a discussion of the possible appointment of a new Deputy Postmaster General. The Board is of the opinion that public access to this discussion would be likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy, not only in regard to the privacy of the person immediately affected, but also in regard to the privacy of others whose comparative performance might be discussed.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(6) of title 5, United States Code, and section 7.3(f) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. § 552b(b)), in that it is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. The Board has also determined that the public interest does not require that the Board's discussion of this matter to be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that, in his opinion, the portion of the meeting to be closed may properly be closed to public observation, pursuant to section 552b(c)(6) of title 5, United States Code and section 6.3(f) of title 39, Code of Federal Regulations.

Lastly, a third portion of the meeting to be closed is to involve a discussion of individuals in connection with a possible decision to engage independent staff assistance for the Governors. The Board is of the opinion that public access to this discussion would be likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy, not only in regard to the privacy of the persons immediately affected, but also in regard to the privacy of others whose comparative performance might be discussed.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(6) of title 5, United States Code, and section 7.3(f) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. § 552b(b)), in that it is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. The Board has also determined that the public interest does not require that the Board's discussion of this matter to be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that, in his opinion, the portion of the meeting to be closed may properly be closed to public observation, pursuant to section 552b(c)(6) of title 5, United States Code and section 7.3(f) of title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S-1114-80 Filed 6-10-80; 8:45 am]

BILLING CODE 7710-12-M

federal register

Tuesday
June 10, 1980

Part II

Department of Defense

Army Corps of Engineers

Water Resources Policies and Authorities; Implementation of Executive Order 11990—Protection of Wetlands

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 235

Water Resources Policies and Authorities; Implementation of Executive Order 11990—Protection of Wetlands

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

ACTION: Proposed regulation.

SUMMARY: This proposed regulation provides policy and guidance to be utilized by the Corps of Engineers for implementing Executive Order 11990, Protection of Wetlands. The proposed policy will apply to civil works planning, design, construction, operation, maintenance and real estate activities of the Corps of Engineers. It is not applicable to the Corps regulatory program for activities involving wetlands on non-Federal property. These are covered by separate regulations (33 CFR Part 320 et. seq.) in accordance with Section 404 of the Clean Water Act, as amended (Pub. L. 95–217).

DATE: Comments on the proposed policy are due on or before July 24, 1980.

ADDRESS: Send comments to Department of the Army, Office, Chief of Engineers, ATTN: DAEN–CWR–R, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Maurice B. Jackson, Office of Policy, Directorate of Civil Works, (DAEN–CWR–R) Wash., D.C. 20314 (202) 272–0123.

SUPPLEMENTARY INFORMATION: As required by Executive Order 11990, the Corps, on 1 October 1977, issued interim policy guidance and procedures to its field offices for implementing the Order. Policy guidance was provided for activities under the operation and maintenance programs of the Corps and for implementation of Federal statutes, Executive Orders and regulations related to water quality, ocean dumping and wetlands in the planning, design and construction of civil works projects. This proposed regulation consolidates all the previous issued guidance on Executive Order 11990 for all Corps civil works programs and activities.

Dated: May 28, 1980.

John J. Quinn, Jr.,

Acting Executive Director, Engineer Staff.

Accordingly, the Army proposes to amend 33 CFR by adding a new Part 235 to read as follows:

PART 235—WATER RESOURCES POLICIES AND AUTHORITIES IMPLEMENTATION OF EXECUTIVE ORDER 11990, PROTECTION OF WETLANDS

Sec.

235.1 Purpose.
235.2 Applicability.
235.3 References.
235.4 Definitions.
235.5 General.
235.6 Wetlands functions.
235.7 Policies for implementing Executive Order 11990.
235.8 General procedures.
235.9 Public involvement and reporting.
235.10 Real estate activities.
235.11 Application of Executive Order 11990 to civil works activities.

Authority: E.O. 11990, 42 FR 26961.

§ 235.1 Purpose.

The purpose of this regulation is to set forth general policy and guidance for Corps of Engineers implementation of Executive Order 11990, Protection of Wetlands, in the Civil Works planning, design, construction, operation and maintenance activities and the real estate activities of the Corps.

§ 235.2 Applicability.

This regulation is applicable to all Office, Chief of Engineers (OCE) elements and all field operating agencies having Civil Works responsibilities. It is not applicable to the Corps regulatory program for activities involving wetlands on non-Federal property. These are covered by separate regulations (33 CFR Part 320 et seq.) in accordance with Section 404 of the Clean Water Act, as amended (Pub. L. 95–217).

§ 235.3 References.

(a) Executive Order 11990, *Protection of Wetlands*, 24 May 1977.

(b) Executive Order 11988, *Floodplain Management*, 24 May 1977.

(c) 33 CFR Parts 320 through 329 (42 FR 37121–37164, July 19, 1977)

(d) ER 200–2–2

(e) ER 1105–2–50

(f) ER 1105–2–200 (series)

(g) ER 1105–2–502

(h) ER 1105–2–800

(i) ER 1165–2–26

§ 235.4 Definitions.

The following definitions are applicable to this regulation.

(a) "New construction" means activities, structures or facilities begun or authorized after 1 October 1977 and may include draining, dredging, channelizing, filling, diking, impounding, and related activities.

(b) "Present and past construction" means activities, structures or facilities that were under construction before 24 May 1977; or where all the funds were appropriated through FY 77; or where a draft or final Environmental Impact Statement (EIS) was filed prior to 1 October 1977.

(c) "Wetlands" are those areas that are inundated or saturated by surface or ground water at frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas, such as sloughs, potholes, wet meadows, river overflows, mud flats and natural ponds.

(d) "Practicable" means capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of pertinent factors such as economic, environmental, social or technology.

(e) "Preserve" means to prevent adverse impacts to wetlands and their functions. Preservation of wetlands and their values can best be accomplished by avoiding wetlands altogether.

(f) "Enhance" means to increase the quantity and/or quality of wetlands compared to "without project" conditions.

(g) "Action" means any Federal activity, including (1) acquiring, managing and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including, but not limited to, water and related land resources planning.

§ 235.5 General.

Wetlands are important natural resources that contribute significant benefits to both the natural and human environment. Executive Order 11990 recognizes the significant values provided by wetlands warranting specific measures for their preservation. The Order sets forth several major requirements for Federal agencies whenever new construction may be undertaken in wetlands. The requirements are:

(a) Prior to undertaking any action in wetlands determine whether a practicable alternative to the action exists.

(b) Minimize the loss and degradation of the beneficial values of wetlands.

(c) Preserve and enhance the beneficial values of wetlands.

(d) For actions involving new construction in wetlands, involve the

public early in the decision making process.

§ 235.6 Wetlands functions.

Prior to the issuance of Executive Order 11990, the Corps of Engineers recognized that wetlands are productive and valuable public resources and through its regulatory program, as a matter of policy, gives special consideration to applications for activities in wetlands. This policy is contained in (33 CFR Part 320) and is as follows:

(a) Wetlands are vital areas that constitute a productive and valuable public resource, the unnecessary alteration or destruction of which shall be discouraged as contrary to the public interest.

(b) Wetlands considered to perform functions important to the public interest include:

(1) Wetlands which serve important natural biological functions, including food chain production, general habitat, and nesting, spawning, rearing and resting sites for aquatic or terrestrial wildlife species;

(2) Wetlands set aside for study of the aquatic environment or as sanctuaries or refuges;

(3) Wetlands, the destruction or alteration of which would affect detrimentally natural drainage characteristics, sedimentation patterns, salinity distribution, flushing characteristics, current patterns, or other environmental characteristics;

(4) Wetlands which are significant in shielding other areas from wave action, erosion, or storm damage. Such wetlands are often associated with barrier beaches, islands, reefs and bars;

(5) Wetlands which serve as valuable storage areas for storm and flood waters;

(6) Wetlands which are prime natural recharge areas. Prime recharge areas are locations where surface and ground water are directly interconnected; and

(7) Wetlands which through natural water filtration processes serve to purify water.

(c) Although a particular alteration of wetlands may constitute a minor change, the cumulative effect of numerous such piecemeal changes often results in a major impairment of the wetland resources. Thus, the particular wetlands site involved in a Federal project will be evaluated consistent with the recognition that it is an integral part of a complete and interrelated wetland ecosystem. In addition, the district engineer may undertake review of particular wetland areas in consultation with the appropriate Regional Director of the U. S. Fish and Wildlife Service, of the Department of Interior, the Regional Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, the Regional Administrator of the Environmental Protection Agency, the local representative of the Soil Conservation Service of the Department of Agriculture, and the head of the appropriate state agency to assess the cumulative effect of activities in such areas.

§ 235.7 Policies for implementing Executive Order 11990.

Corps policy for implementing the major requirements of Executive Order 11990, listed in § 235.5 above for civil works planning, design, construction, operation and maintenance activities is as follows:

(a) It shall be Corps policy to avoid undertaking actions in wetlands that are identified as important, based on the wetlands functions described in § 235.6 above unless the district engineer concludes on the basis of the following analysis that no practicable alternative to undertaking the action in wetlands exists. The decision on whether a practicable alternative exists will be based on an evaluation of the probable impact of the proposed activity and its intended use on the public interest. Evaluation of the probable impact which the proposed action may have on the public interest requires a careful weighing of all factors which become relevant in each case, including the functional values of the specific wetland. Benefits which reasonably may be expected to accrue from the proposed action must be balanced against its reasonably foreseeable detriments. The decision on whether to undertake an action in wetlands and the conditions under which it will be allowed to occur are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered; among those are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, health and safety, food production, whether the action is functionally dependent on being located in an aquatic environment to fulfill its basic purpose, and the needs and welfare of the people. When evaluating practicable alternatives care must be exercised to avoid shifting the proposed action to a floodplain location that could result in violating the requirements of Executive Order 11988 on flood plain management.

(b) It is Corps policy that the planning, design, construction and management of Civil Works projects and activities shall be accomplished so as to minimize the loss and degradation of beneficial value of wetlands. Minimize is to reduce within practical limitations any adverse impacts that would result in the loss and degradation of beneficial values because of an action in wetlands. Although minimization by definition is broad, there is an implicit acceptance of practical limitations which makes it consistent with the Principles and Standards. Successive iterations of the planning process should normally result in the surfacing of viable minimization measures.

(c) Whenever wetlands are impacted, it is Corps policy to undertake measures and actions to preserve and enhance the beneficial values of wetlands. Preservation and enhancement are methods of maintaining or improving the natural and beneficial values of wetlands. These are primarily environmental values falling within the broad scope of multiobjective planning of the Priniciples and Standards and the ER 1105–2–200 series of regulations.

(d) It is Corps policy to provide the affected public opportunity for early public review of plans or proposals for new construction in wetlands. This will include providing the public with timely and relevant study information, data on alternative courses of actions considered and holding timely public meetings during the decision making process.

§ 235.8 General procedures.

General procedures for incorporating Executive Order 11990 in the planning, design, construction, and management of civil works activities are outlined below. These procedures are to be included in the multiobjective planning process under the WRC Principles and Standards.

(a) Determine if wetlands are present within the study area.

(b) If wetlands are present, make protection and/or enhancement of the beneficial values of wetlands a planning objective.

(c) During the plan formulation process, include appropriate wetlands protection and/or enhancement measures in alternative plans.

(d) If the proposed Corps-action would be located in wetlands, identify and evaluate practicable alternatives to wetlands location as indicated in paragraph § 235.7(a) above. If other

floodplain site(s) are considered as an alternative(s) the requirements of reference § 235.3(i) should be addressed.

(e) Identify and evaluate adverse impacts related to the loss and degradation of beneficial values of wetlands.

(f) Include appropriate measures in alternative plans to minimize unavoidable adverse impacts to beneficial wetlands and their functions.

(g) Based on the above, and in close coordination with appropriate agencies and the public throughout the planning process, recommend the plan most responsive to the planning objectives and evaluation criteria.

§ 235.9 Public involvement and reporting.

Executive Order 11990 requires agencies to provide opportunity for early public review of plans or proposals for new construction in wetlands. Existing Corps procedures concerning public involvement and participation, contained in references § 235.3(g) and 235.3(h), satisfy the requirements and intent of Section 2b and therefore should continue to be utilized. Section 3 of the Order requires that any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate whether the proposed action is located in wetlands. If the action is located in wetlands, the transmittal will provide information on whether the proposed action is in accord with the Executive Order.

§ 235.10 Real estate activities.

Where Federally-owned wetlands or portions of wetlands are proposed for outgrant or disposal to non-Federal public or private parties, the Corps shall reference in the instrument those uses that are restricted under identified Federal, State, or local regulations; attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successor, except where prohibited by law; or withhold such properties from outgrant or disposal. Also, reports of excess land to the General Services Administration will identify what wetlands, if any, are included.

§ 235.11 Application of Executive Order 11990 to civil works activities.

The provisions of this regulation are applicable to the Corps of Engineers Civil Works activities as outlined below.

(a) *Preauthorization Studies.* At the earliest stages of planning, the policies and procedures of this regulation shall be incorporated in the multiobjective planning process (ER 1105–2–200 series of regulations) to a scope and level of detail appropriate for preauthorization studies.

(b) *Advanced Engineering and Design.* Executive Order 11990 is applicable to projects in this category unless a draft or final environmental impact statement (EIS) has been filed prior to 1 October 1977.

(c) *Continuing Authorities Program.* At the earliest stages of planning, the policies and procedures of this regulation are applicable to the planning and design of projects under the continuing authorities program. On-going activities under this program shall incorporate the requirements of this regulation early in the multiobjective planning process as required by reference § 235.3(e).

(d) *Projects Under Construction.* Executive Order 11990 is not applicable to projects which were under construction on or before 24 May 1977.

(e) *Completed Projects.* District engineers are delegated the authority to make the findings required by Section 2(a) of the Executive Order in conjunction with operations and maintenance activities. Evaluation of operations and maintenance activities under the Executive Order, and the makings of such findings, is required if any of the following conditions exist:

(1) An environmental assessment, draft or final EIS, or EIS Supplement is filed on or after 1 October 1977 on an activity impacting wetlands.

(2) A Master Plan, Lakeshore Management Plan approved after 1 October 1977 involving an activity impacting wetlands.

(3) In the case of maintenance dredging impacting on wetlands, a change in method of operation, disposal area or frequency (in years) is approved after 1 October 1977.

(4) In the case of new construction at completed projects impacting on wetlands, the work was not previously evaluated under the Chief of Engineers wetlands policy.

(f) *Emergency Activities.* In the case of emergency work performed under one of the authorities listed in paragraph 8a, ER 200–2–2, the district engineer shall accomplish the evaluation and coordination requirements of the Executive Order only to the extent that he determines delays caused by such evaluation and coordination will not result in unacceptable risks to health, life or property, or severe and unacceptable economic losses. If the work involves wetlands, and if the emergency nature of such work does not permit implementation of the Executive Order, the district engineer shall so state this condition in his report and request for funds.

[FR Doc. 80–16998 Filed 6–9–80; 8:45 am]
BILLING CODE 3710–92–M

federal register

Tuesday
June 10, 1980

Part III

Department of the Interior

Bureau of Land Management

Sales of Public Lands; Procedures

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2710, 2730, 2750 and 2760

[Circular No. 2467]

Sales—Federal Land Policy and Management Act; Sale of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: The Secretary of the Interior is authorized by section 203 of the Federal Land Policy and Management Act of 1976 to sell tracts of public lands, except lands in units of the National Wilderness Preservation System, National Wild and Scenic Rivers System and National System of Trails, where such action is indicated as a result of land use planning and specific criteria set forth in the Act are met. This final rulemaking sets forth the procedure that will be used in making sales of the public lands.

EFFECTIVE DATE: July 10, 1980.

ADDRESS: Any suggestions or inquiries should be sent to: Director (320), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Keith Corrigall, 202 343–8693.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published in the **Federal Register** on October 26, 1979 (44 FR 61880). Comments were invited for 60 days. Comments were received from 25 sources, with 8 coming from Federal agencies, 7 from State and local governments, 5 from individuals, 3 from associations and 2 from businesses.

In general, the comments expressed the opinion that the proposed rulemaking was thorough, well thought out and reflected the intent of section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713). The comments recommended some changes that would make the final rulemaking clearer and more easily understood. Those changes are discussed on a section-by-section basis, with only those sections receiving comments being discussed.

Definitions

The first section of the proposed rulemaking that was the object of comments was the definitions section. A comment questioned the definition of the term "family-sized farm" and recommended changes in that definition, with emphasis on more flexibility in the term. After careful study and consultation, the term has been redefined.

Policy

This section of the proposed rulemaking drew several comments. One area that was of particular concern to several of those commenting on this section was the statement that sales would only be made in implementation of a land use plan. One comment asked if this meant that a sale could only occur at the precise time a land use plan is completed and not at a later time. If a land use plan designates land for disposal through sale, that land will be offered as soon as steps can be taken to make it available for sale. Another concern raised concerning this section and § 2711.1–1 was how an individual could approach the Bureau of Land Management for the purpose of discussing the possibility of having a designated piece of land considered for disposal by sale. The land use planning provisions of this title, 43 CFR Part 1601, provide ample methods for amending or revising a land use plan or methods that can be used by individuals interested in designated tracts of land.

Another concern raised by the comments regarding the land use planning policy statement was the problem of handling lands in an area where there was no land use plan. Again, the planning regulations have adequate provisions for handling lands in areas not covered by completed land use plans. No changes have been made in this section as it relates to land use planning or the making of sales on the initiative of the Bureau of Land Management.

A comment raised a question about the ability of a person 18 years of age or older who is a member of a family to bid at a sale of family-sized farms if another member of that family was also a bidder. The policy allows any person 18 years of age or older to participate in sales of family-sized farms as an individual, even if the head of that family is also a participant in these sales. This interpretation is consistent with the law and no change has been made in the section as it regards this issue.

Some of the State and local governments raised a concern about the requirement that sales be made only for fair market value and suggested that some special consideration should be made to meet the special needs of State and local governments for lands. Section 203(d) of the Federal Land Policy and Management Act of 1976 requires that the sale of public lands be made at not less than their fair market value as determined by the Secretary of the Interior. This mandate is carried out in this rulemaking and no change has been made. However, the Secretary of the Interior has other statutory authority for meeting the special needs of State and local governments for public lands, i.e., The Recreation and Public Purposes Act.

Finally, several comments raised questions about the inclusion of improvements as part of the appraised value of the lands. This issue has been clarified by the addition of language that makes it clear that improvements are not to be considered as part of the appraised value of the lands.

Lands Subject to Sale

A few comments on this section raised questions about the disposal requirements set forth in section 203 of the Federal Land Policy and Management Act and their application to lands subject to sale. The disposal requirements of section 203 must be met before lands can be sold and language making this clear has been added to the section.

Two other points raised in the comments have also been clarified by the addition of language to this section. The two additions make it clear that the public lands that are withdrawn, classified, reserved or otherwise designated are not available for sale until the circumstances preventing the sale have been removed and that unsurveyed lands cannot be sold until they are surveyed.

Identification of Tracts by Land Use Planning

As discussed earlier in this preamble, the rulemaking provides that sales of public lands will be made as part of the implementation of land use plans prepared pursuant to 43 CFR Part 1601. The planning regulations provide ample opportunity for consideration of tracts of land not covered by a plan through the amendment or revision process. This process will allow any person interested in acquiring a piece of public lands that is not covered by a disposal action in an existing land use plan to request that the land use plan be amended or revised to provide for disposal. No change has been made in this section.

Notice of Realty Action

A few comments recommended that the comment period provided for in this section be for a period longer than 30 days to give the interested public adequate time to make its views known on the proposed sale. In adopting this comment, the period for comments has been extended to 45 days and the language of the section has been

amended slightly to make it clear that the comment period begins as of the date of issuance of the notice of realty action.

Some comments from State and local governmental entities recommended that the notice to State and local governments include those local jurisdictions that have administrative jurisdiction over the area where the lands to be sold are located or who furnish services to that area. This comment has been adopted and the necessary language added to the section.

Several comments raised questions about the publication provision of the rulemaking and requested that the section be made more flexible and clearer as to the required local publication. The requirement that the notice be published in the **Federal Register** on the first Wednesday of the month has been deleted and the whole section rewritten to make it clearer.

Finally, the requirement for submission of any sale of public lands in excess of 2,500 acres to the Congress for its consideration is a requirement of the Federal Land Policy and Management Act and must be included in the rulemaking. The placing of the requirement at this point in the rulemaking rather than in the policy section, as suggested in a couple of the comments, seems appropriate. No change has been made in this paragraph.

Sales Requiring Grazing Permit or Lease Cancellations

A few of the comments were confused by the language of the section and wanted it clarified concerning the cancellation provisions. The section has been amended to make it clear that the 2-year cancellation notice for grazing leases or permits is required only when the lease or permit is cancelled in its entirety.

A second change made in this section is the addition of language that makes the publication of the notice of realty action a notice of cancellation if such notice has not been previously given. In nearly every instance, the lessee or permittee will have been given a notice of cancellation long before a notice of realty action is published, but in case such notice has not been given, then the publication of the notice of realty action will serve as a notice of cancellation of the grazing lease or permit.

Qualified Conveyees

Nearly all of the comments noted that the age had been misprinted in paragraph (a) of this section. The age will be corrected to 18 as it should have read in the proposed rulemaking. Several of the comments noted that qualified conveyees did not include associations, partnerships and other legal entities that might purchase public lands. The section has been amended as suggested by the comments to include language covering such entities.

Sales Through Competitive Bidding

One of the comments objected to the requirement for 20 percent of the purchase price as a deposit that accompanies each bid. The comment suggested that the amount be reduced to 10 percent. The 20 percent has not been changed. This represents a reduction from the requirement that the full purchase price accompany a bid in the existing regulations. The 20 percent, while less than the full purchase price, does represent a substantial investment on the part of a bidder and makes a bidder fully aware of the responsibility of participating in a sale of public lands.

A comment questioned at what point the drawing would be held that would determine who would be the high bidder if tie bids were received. While providing for a drawing, the proposed rulemaking did not provide a time for such a drawing and it has been amended to provide that the drawing will be held immediately following the opening of the sealed bids.

Several comments were directed at the bidding system provided for in paragraph (d) and requested that various changes be made to clarify the system. The bidding system has been carefully restudied, taking into consideration the views expressed in the comments. As a result of the reexamination of the bidding procedures, the section has been amended to make it clearer. Most of the comments on this paragraph have been included in the amendments.

The section on acceptance or rejection of bids did not include language covering bids on a sale of lands in excess of 2,500 acres and the requirement for Congressional review. This oversight has been corrected by the addition of language specifically covering that situation.

Sale by Other Than Competitive Bidding

A few comments expressed the view that the paragraph setting out the option of offering designated bidders the opportunity to meet the high bid was not clear. This paragraph has been rewritten as suggested in the comments to clarify the rights involved in this option.

Finally, a paragraph has been added to the section that sets forth the acceptance or rejection process for sales made under other than competitive bidding procedures. The paragraph provides that the same procedure will be used as in competitive bids.

Other Private Improvements

This section drew a large number of comments, most of which objected to the language that allows a purchaser to determine whether or not there will be compensation for the improvements on the land. The rulemaking gives the owner of the improvements the right to remove them if the purchaser of the lands does not want to purchase them. It is recognized that some improvements cannot be removed and the previous user of the lands would lose that investment if the purchaser did not want to purchase them. However, it would be unfair to force the purchaser of the lands to pay for something that is of no use to him. Only a minor change has been made in this section, a change that makes clear that the provision concerning purchase of improvements applies only when the owner of the improvements is not declared the purchaser.

Mineral Reservation

A couple of comments requested that the rulemaking give the authorized officer the option of withholding the issuance of a conveyance document in those instances where the designated purchaser has filed an application to acquire the mineral estate, until action on the application has been completed. This suggestion has been adopted and the necessary language added to the rulemaking.

Terms, Covenants, Conditions and Reservations

A few of the comments made the observation that the use of terms, covenants, conditions and reservations should be done sparingly. This section, when read in combination with the policy section on the use of terms, covenants, conditions and reservations, makes it clear that they will be used only rarely and guidance on their use will be set out in the Bureau of Land Management's manual on sales.

One change was made to this section in response to a comment which pointed out the omission of any reference to section 208 in the proposed rulemaking. The change makes it clear that the terms, covenants, conditions and reservations used will be those authorized by section 208 of the Federal Land Policy and Management Act.

The principal author of this final rulemaking is Keith Corrigall of the Branch of Land Resources, assisted by the staff of the Office of Legislation and

Regulatory Management, Bureau of Land Management.

The Department of the Interior had determined that this document is not a significant regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of section 203 and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713, 1740), Group 2700, Subchapter B, Chapter II, Title 43 of the Code of Federal Regulations is amended as follows.

Guy R. Martin,

Assistant Secretary of the Interior.

June 3, 1980.

1. Part 2710 is revised as follows:

Group 2700—Disposition—Sales

PART 2710—SALES—FEDERAL LAND POLICY AND MANAGEMENT ACT

Subpart 2710—Sales—General Provisions

Sec.

2710.0–1 Purpose.
2710.0–2 Objective.
2710.0–3 Authority.
2710.0–5 Definitions.
2710.0–6 Policy.
2710.0–8 Lands subject to sale.

Subpart 2711—Sales—Procedures

Sec.

2711.1 Initiation of sale.
2711.1–1 Identification of tracts by land use planning.
2711.1–2 Notice of realty action.
2711.1–3 Sales requiring grazing permit or lease cancellations.
2711.2 Qualified conveyees.
2711.3. Procedures for sale.
2711.3–1 Sales through competitive bidding.
2711.3–2 Sale by other than competitive bidding.
2711.4 Compensation for authorized improvements.
2711.4–1 Grazing improvements.
2711.4–2 Other private improvements.
2711.5 Conveyance documents.
2711.5–1 Mineral reservation.
2711.5–2 Terms, convenants, conditions and reservations.
2711.5–3 Notice of conveyance.

Authority: 43 U.S.C. 1713, 1740.

Subpart 2710—Sales—General provisions

§ 2710.0–1 Purpose.

The regulations in this part implement the sale authority of section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1713).

§ 2710.0–2 Objective.

The objective is to provide for the orderly disposition at not less than fair market value of public lands identified for sale as part of the land use planning process.

§ 2710.0–3 Authority.

(a) The Secretary of the Interior is authorized by the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1713), to sell public lands where, as a result of land use planning, it is determined that the sale of such tract meets any or all of the following disposal criteria:

(1) Such tract was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or

(2) Disposal of such tract shall serve important public objectives, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on lands other than public lands and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership; or

(3) Such tract, because of its location or other characteristics is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency.

(b) The Secretary of the Interior is authorized by section 310 of the Federal Land Policy and Management Act (43 U.S.C. 1740) to promulgate rules and regulations to carry out the purpose of the Act.

§ 2710.0–5 Definitions.

As used in this part, the term

(a) "Public lands" means any lands and interest in lands owned by the United States and administered by the Secretary through the Bureau of Land Management except:

(1) Lands located on the Outer Continental Shelf;

(2) Lands held for the benefit of Indians, Aleuts, and Eskimos.

(b) "Secretary" means the Secretary of the Interior.

(c) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this part.

(d) "Act" means the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701).

(e) "Family sized farm" means the unit of public lands determined to be chiefly valuable for agriculture, and that is of sufficient size, based on land use capabilities, development requirements and economic capability, to provide a level of net income, after payment of expenses and taxes, which will sustain a family sized agribusiness operation above the poverty level for a rural farm family of 4 as determined by the Bureau of Labor Statistics, U.S. Department of Labor, for the calender year immediately preceeding the year of the proposed sale under the regulations of this part. The determination of the practical size is an economic decision to be made on a local area basis considering, but not limited to, factors such as: climatic conditions, soil character, availability of irrigation water, topography, usual crop(s) of the locale, marketability of the crop(s), production and development costs, and other physical characteristics which shall give reasonable assurance of continued production under proper conservation management.

§ 2710.0–6 Policy.

(a) Sales under this part shall be made only in implementation of an approved land use plan or analysis in accordance with Part 1600 of this title.

(b) Public lands determined to be suitable for sale shall be offered only on the initiative of the Burau of Land Management. Indications of interest to have specific tracts of public lands offered for sale shall be accomplished through public input to the land use planning process. (See §§ 1601.1–1 and 1601.8 of this title).

(c) Sales of public lands shall generally be through competitive bidding procedures provided for in § 2711.3–1 of this title.

(d) Sales of public lands determined to be chiefly valuable for agriculture shall be no larger than necessary to support a family-sized farm.

(e) The sale of family-sized farm units, at any given sale, shall be limited to one unit per bidder and one unit per family. The limit of one unit per family is not to be be construed as limiting children eighteen years or older from bidding in their own right.

(f) Sales under this part shall not be made at less than fair market value. Such value is to be determined by an appraisal performed by a Federal or independent appraiser, as determined by the authorized officer, using the principles contained in the *Uniform Appraisal Standards for Federal Land Acquisitions*. The value of authorized improvements owned by anyone other than the United States upon lands being sold shall not be included in the determination of fair market value. Technical review and approval for conformance with appraisal standards shall be conducted by the authorized officer.

(g) Constraint and discretion shall be used with regard to the terms,

covenants, conditions and reservations authorized by section 208 of the act that are to be in sales patents and other conveyance documents, except where inclusion of such provisions is required by law or for protection of valid existing rights.

§ 2710.0–8 Lands subject to sale.

(a) All public lands, as defined by § 2710.0–5 of this title, and, which meet the disposal criteria specified under § 2710.0–3 of this title, are subject to sale pursuant to this part, except:

(1) Those public lands within the revested Oregon California Railroad and reconveyed Coos Bay Wagon Road grants which are more suitable for management and administration for permanent forest protection and other purposes as provided for in the Acts of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181(a)); May 24, 1939 (53 Stat. 753); and section 701(b) of the act.

(2) Public lands in units of the National Wilderness Preservation System, National Wild and Scenic Rivers System and National System of Trails.

(3) Public lands classified, withdrawn, reserved or otherwise designated as not available or subject to sale shall not be sold under the regulations of this part until issuance of an order or notice which either opens or provides for such disposition.

(b) Unsurveyed public lands shall not be sold under the regulations of this part until they are officially surveyed under the public land survey system of the United States. Such survey shall be completed and approved by the Secretary prior to any sale.

Subpart 2711—Sales—Procedures

§ 2711.1 Initiation of sale.

§ 2711.1–1 Identification of tracts by land use planning.

(a) Tracts of public lands shall only be offered for sale in implementation of land use planning prepared and/or approved in accordance with subpart 1601 of this title.

(b) Public input proposing tracts of public lands for disposal through sale as part of the land use planning process may be made in accordance with §§ 1601.3, 1601.6–3 or § 1601.8 of this title.

§ 2711.1–2 Notice of realty action.

(a) A notice of realty action offering for sale a tract or tracts of public lands identified for disposal by sale shall be issued, published and sent to parties of interest by the authorized officer not less than 60 days prior to the sale. The notice shall include the terms, convenants, conditions and reservations which are to be included in the conveyance document and the method of sale. The notice shall also provide 45 days after the date of issuance for the right of comment by the public and interested parties.

(b) The notice shall be sent to the Governor of the State within which the public lands are located, the head of the governing body of any political subdivision having zoning or other land use regulatory responsibilities in the geographical area within which the public lands and the head of any political subdivision having administration or public services responsibility in the geographic area within which the public lands are located, are located not less than 60 days prior to the sale. The notice shall be sent to other known interested parties of record including, but not limited to, adjoining landowners and current or past land users.

(c) The notice shall be published once in the **Federal Register** and once a week for 3 weeks thereafter in a newspaper of general circulation in the general vicinity of the public lands being proposed to be offered for sale.

(d) For tracts of public lands in excess of 2,500 acres, the notice shall be submitted to the Senate and the House of Representatives not less than the 90 days prescribed by section 203 of the act (43 U.S.C. 1713(c)) prior to the date of sale. The sale may not be held prior to the completion of the congressional notice period unless such period is waived by Congress.

§ 2711.1–3 Sales requiring grazing permit or lease cancellations.

When the sale of a tract, as identified, requires the cancellation of a grazing permit or lease, in its entirety, notice shall be given the permittee or lessee 2 years prior to disposal except in cases of emergency. A permittee or lessee may unconditionally waive the 2-year notice (See 43 CFR 4110.4–2(b)). The publication of a notice of realty action as provided in § 2711.1–2(c) of this title shall constitute notice to the grazing permittee or lessee if such notice has not been previously given.

§ 2711.2 Qualified conveyees.

Tracts sold under this part may only be conveyed to:

(a) A citizen of the United States 18 years of age or over;

(b) A corporation subject to the law of any State or of the United States;

(c) A State, State instrumentality or political subdivision authorized to hold property; and

(d) An entity legally capable of conveying and holding lands or interests therein under the laws of the State within which the lands to be conveyed are located. Where applicable, the entity shall also meet the requirements of paragraphs (a) and (b) of this section.

§ 2711.3 Procedures for sale.

§ 2711.3–1 Sales through competitive bidding.

When public lands are offered through competitive bidding:

(a) The date, time, place, and manner for submitting bids shall be specified in the notice required by § 2711.1–2 of this title.

(b) Bids may be made by a principal or a duly qualified agent.

(c) Sealed bids shall be considered only if received at the place of sale prior to the hour fixed in the notice and are made for at least the fair market value. Each bid shall be accompanied by certified check, postal money order, bank draft or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid, and shall be enclosed in a sealed envelope which shall be marked as prescribed in the notice. If 2 of more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing shall be held by the authorized officer immediately following the opening of the sealed bids.

(d) The highest qualifying sealed bid received shall be publicly declared by the authorized officer. If the notice published pursuant to § 2711.1–2 of this title provides for oral bids, such bids, in increments specified by the authorized officer, shall then be invited. After oral bids, if any, are received, the highest qualifying bid, designated by type, whether sealed or oral, shall be declared by the authorized officer. The person declared to have entered the highest qualifying oral bid shall submit payment by cash, personal check, bank draft, money order, or any combination for not less than one-fifth of the amount of the bid immediately following the close of the sale. The successful bidder, whether such bid is a sealed or oral bid, shall submit the remainder of the full bid price prior to the expiration of 30 days from the date of the sale. Failure to submit the full bid price prior to, but not including the 30th day following the day of the sale, shall result in cancellation of the sale of the specific parcel and the deposit shall be forfeited and disposed of as other receipts of sale. In the event the authorized officer rejects the highest qualified bid or releases the bidder from

it, the authorized officer shall determine whether the public lands shall be withdrawn from the market or be reoffered.

(e) If the public lands are not sold pursuant to the notice issued under § 2711.1–2 of this title, they may remain available for sale on a continuing basis until sold as specified in the notice.

(f) The acceptance or rejection of any offer to purchase shall be in writing no later than 30 days after receipt of such offer unless the offerer waives his right to a decision within such 30-day period. In case of a tract of land in excess of 2,500 acres, such acceptance or rejection shall not be given until the expiration of 30 days after the end of the notice to the Congress provided for in § 2711.1–2(d) of this title.

Prior to the expiration of such periods the authorized officer may refuse to accept any offer or may withdraw any tract from sale if he determines that:

(1) Consummation of the sale would be inconsistent with the provisions of any existing law; or

(2) Collusive or other activities have hindered or restrained free and open bidding; or

(3) Consummation of the sale would encourage or promote speculation in public lands.

(g) Until the acceptance of the offer and payment of the purchase price, the bidder has no contractual or other rights against the United States, and no action taken shall create any contractual or other obligations of the United States.

§ 2711.3–2 Sale by other than competitive bidding.

(a) Public lands may be offered for sale utilizing modified competitive bidding procedures when the authorized officer determines it is necessary in order to assure equitable distribution of land among purchasers or to recognize equitable considerations or public policies.

(1) Modified competitive bidding includes, but is not limited to:

(i) Offering to designated bidders the right to meet the highest bid. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions; or

(ii) A limitation of persons permitted to bid on a specific tract of land offered for sale.

(2) Factors that shall be considered in determining when modified competitive bidding procedures shall be used, include but are not limited to: needs of State and/or local government, adjoining landowners, historical users, and other needs for the tract. A description of the method of modified competitive bidding to be used and a statement indicating the purpose or objective of the bidding procedure selected shall be specified in the notice of realty action required in § 2711.1–2 of this title.

(b) Noncompetitive sales may be utilized when, in the opinion of the authorized officer the public interest would best be served by a direct sale. Examples include, but are not limited to: (1) A tract identified for transfer to State of local government; (2) a tract identified for sale that is an integral part of a project of public importance and speculative bidding would jeopardize the timely completion and economic viability of the project; or (3) there is a need to recognize authorized use, for example, when an existing business would be threatened if the tract were purchased by other than the authorized user.

(c) Once the method of modified competitive or noncompetitive sale is determined and such determination has been issued, published and sent in accordance with procedures of this part, payment shall be by the same instruments as authorized in § 2711.3–1(c) of this title.

(d) Acceptance or rejection of any offer to purchase shall be in accordance with the procedures set forth in § 2711.3–1 (f) and (g) of this title.

§ 2711.4 Compensation for authorized improvements.

§ 2711.4–1 Grazing improvements.

No public lands in a grazing lease or permit may be conveyed until the provisions of Part 4100 of this title concerning compensation for any authorized grazing improvements have been met.

§ 2711.4–2 Other private improvements.

Where public lands to be sold under this part contain authorized private improvements, other than those identified in § 2711.4–1 of this title or those subject to a patent reservation, the owner of such improvements shall be given an opportunity to remove them if such owner has not been declared the purchaser of the lands sold, or the prospective purchaser may compensate the owner of such authorized private improvements and submit proof of compensation to the authorized officer.

§ 2711.5 Conveyance documents.

§ 2711.5–1 Mineral reservation.

Patents and other conveyance documents issued under this part shall contain a reservation to the United States of all minerals. Such minerals shall be subject to the right to explore, prospect for, mine, and remove under applicable law and such regulations as the Secretary may prescribe. However, upon the filing of an application as provided in Part 2720 of this title, the Secretary may convey the mineral interest if all requirements of the law are met. Where such application has been filed and meets the requirements for conveyance, the authorized officer may withhold issuance of a patent or other document of conveyance on lands sold under this part until processing of the mineral conveyance application is completed, at which time a single patent or document of conveyance for the entire estate or interest of the United States may be issued.

§ 2711.5–2 Terms, covenants, conditions, and reservations.

Patents or other conveyance documents issued under this part may contain such terms, covenants, conditions, and reservations as the authorized officer determines are necessary in the public interest to insure proper land use and protection of the public interest as authorized by section 208 of the act.

§ 2711.5–3 Notice of conveyance.

The authorized officer shall publish a notice in the **Federal Register** and immediately notify the Governor and the heads of local government of the issuance of conveyance documents for public lands within their respective jurisdiction.

2. Group 2700 is further revised by the deletion of the following parts.

PART 2730 [DELETED]

(a) Part 2730 is deleted. However, this Part will remain applicable to existing Small Tract Act leases and their renewal or sale pursuant to Subpart 2913 by reference in that subpart.

PART 2750 [DELETED]

(b) Part 2750 is deleted.

PART 2760 [AMENDED]

(c) Part 2760 is deleted except for subparts 2764 and 2765 which are retained.

[FR Doc. 80–17322 Filed 6–9–80; 8:45 am]
BILLING CODE 4310–84–M

federal register

Tuesday
June 10, 1980

Part IV

Department of Housing and Urban Development

Office of Inspector General

Audit Guide for Audits of GNMA Approved Issuers of Mortgage-Backed Securities for Use by Independent Public Accountants

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Inspector General

[Docket No. N-80-1009]

Audit Guide for Audits of GNMA Approved Issuers of Mortgage-Backed Securities for Use by Independent Public Accountants

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of draft audit guide.

SUMMARY: HUD is inviting public comment on the draft audit guide for use by Independent Public Accountants (IPAs) in conducting audits of Mortgage-Backed Securities Issuers. Based on public comment received, HUD will revise the audit guide as required and publish the final guidelines not later than 6 months.

FOR FURTHER INFORMATION CONTACT: Leonard M. Wolin, Director, Technical Services Division, Office of Inspector General, Room 8176, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, telephone (202) 755-7217 (this is not a toll-free number).

COMMENT DUE DATE: Comments on the draft audit guide should be filed within July 25, 1980. Comments should be submitted to: The Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This audit guide was developed as a substitute for those audit steps included in Appendix 3 of IG 4000.3 REV, "Audit Guide for Audits of HUD Approved Nonsupervised Mortgages." In addition, there are no current guidelines in effect for use by IPAs in reviewing supervised mortgagees who are GNMA Mortgage-Backed Securities (MBS) Issuers. We believe these guidelines are needed to ensure adequate audit coverage by IPAs which is sufficiently comprehensive to protect the Government's interest as guarantor.

These guidelines were established pursuant to the Inspector General's responsibilities as stated in Section 3(a)(3) of the Inspector General Act of 1978. The Act authorized the Inspector General to "take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General * * *."

The Issuer agrees in the Guaranty Agreement that GNMA shall have the right to examine and audit at such times as might seem reasonable, any books, records or other information of the Issuer or held by another for the Issuer with respect to or concerning mortgage pools. The Issuer is required to submit copies of its annual financial statements audited and certified by an IPA within 90 days following the end of the Issuer's fiscal year. The compliance work required by this guide is considered within the purview of the examination which may be required by the Secretary. Specific compliance testing is required in the appendices of the draft audit guide.

A finding of inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410.

Accordingly, it is proposed to adopt the Draft Audit Guide as set forth hereinafter.

Issued at Washington, D.C., June 2, 1980.

John C. Yazurlo,

Deputy Inspector General.

Foreword

The Office of Inspector General, Office of Audit, of the Department of Housing and Urban Development has developed this guide for the use of Certified Public Accountants, or Public Accountants licensed by a regulatory authority of a state or other political subdivision of the United States on or prior to December 31, 1970. This guide is to assist such Accountants in (1) understanding certain requirements related to GNMA Mortgage-Backed Securities, and (2) identifying instances of noncompliance as prescribed in Appendix 2—Tests for Compliance.

GNMA requires the submission of annual audited financial statements as a condition for continued approval as a GNMA Issuer. The Issuer is required by and responsible to GNMA for compliance with GNMA regulations and GNMA Handbook instructions. Accordingly, certain audit tests concerning net worth and compliance activities are prescribed in Appendix 1 and Appendix 2, respectively.

This guide is not intended to be an audit program, nor is it intended to supplant the Accountant's judgment as to the nature and scope of work to be performed.

Audit Guide for Audits of GNMA Approved Issuers of Mortgage-Backed Securities for Use by Independent Public Accountants

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Paragraph:
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2. Background.
3. Reference Material.
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6. Audit Standards.
7. Audit Requirements.
8. Reporting Requirements.
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Appendices:
1. Sample Format for Presentation of Adjusted Net Worth and Nonacceptable Assets for Computation of Adjusted Net Worth.
2. Tests for Compliance.
3. Sample Format For Presenting Exceptions Taken to Documents.
4. Sample Compliance Letter.
5. Regional Inspectors General for Audit.

Audit Guide for Audits of GNMA Approved Issuers of Mortgage-Backed Securities for Use by Independent Public Accountants

1. *Purpose.* This guide sets forth (a) the procedures to be followed in the conduct of audits of approved GNMA Issuers, (b) the scope of the review, and (c) an example of the type of report format which will be acceptable to the Government National Mortgage Association (GNMA). It provides detailed compliance tests but is not intended to supplant the Accountant's judgment as to the work required to be performed.

2. *Background.* This section is intended to familiarize the Accountant with the GNMA regulations and GNMA Handbook instructions that Issuers of GNMA mortgage-backed securities are required to follow. This section is not intended to serve as a substitute for the regulations or as a reference document. This paragraph does not contain any instructions or procedures requiring work by the Independent Public Accountant (IPA).

a. GNMA is a wholly owned corporate instrumentality of the United States within the Department of Housing and Urban Development. Its powers are prescribed generally by Title III of the National Housing Act, as amended (12 U.S.C. 1716 et seq.).

GNMA is authorized by Section 306(g) of the National Housing Act to guarantee the timely payment of principal and interest on securities that are based on and backed by a trust or pool composed of mortgages which are insured or guaranteed by the Federal Housing Administration (FHA), the Farmers Home Administration (FmHA),

or the Veterans Administration (VA). GNMA's guaranty of mortgage-backed securities is backed by the full faith and credit of the United States.

b. GNMA, through the Mortgage-Backed Securities Program, guarantees privately issued securities backed by pools of mortgages. Holders of the securities (the investors) receive a "pass-through" of the principal and interest payments on the pool of mortgages, less amounts to cover servicing costs and certain GNMA fees. The GNMA guaranty assures the registered holder of the security certificate of receiving the timely payment of scheduled monthly principal and interest and of certain prepayments and early recoveries of principal on the underlying mortgages. If mortgagors fail to make timely payments on the mortgages, under the "modified pass-through" approach, the securities Issuers must make timely payments to the registered holders, using their own resources.

The Mortgage-Backed Securities Program provides a means for channeling funds from the Nation's securities markets into the housing market. The U.S. Government's full faith and credit guaranty of securities makes them widely accepted in those sectors of the capital markets that otherwise would not be likely to supply funds to the mortgage market. The funds raised through the Securities issued are used to make residential and other mortgage loans. Through this process, the program serves to increase the overall supply of credit available for housing and helps to assure that this credit is available at reasonable interest rates.

c. An Issuer of GNMA-guaranteed mortgage-backed securities is responsible for acquiring eligible mortgages, creating a pool of mortgages to be held by a Custodian, issuing the securities backed by the pool of mortgages, arranging for the marketing of the securities, servicing the mortgages in the pool, administering the securities outstanding, and making the full and timely payment of all amounts due to securities holders.

d. To be approved to issue GNMA-guaranteed mortgage-backed securities, including the receipt of commitments for the guaranty of mortgage-backed securities, an applicant must meet and maintain the following requirements:

(1) Be an FHA-Approved Mortgage in good standing.

(2) Be a FNMA or GNMA-Approved Mortgage Servicer in good standing.

(3) Have as a principal element of its business operation, the origination or servicing of mortgage loans.

(4) Conduct its business operations in accordance with accepted sound mortgage lending and servicing practices, ethics, and standards, and have the experience, management capability, and facilities necessary to assure GNMA of its ability to issue and service mortgage-backed securities.

(5) Maintain policies that prohibit any discrimination based on race, religion, color, sex, national origin, or age.

(6) Have a net worth (based on an audited financial statement) in assets acceptable to GNMA of at least the amounts provided in this paragraph. For the purpose of this paragraph, the term "securities outstanding" means: the unpaid principal balance of securities outstanding in the name of the Issuer, plus the outstanding amount of any commitments for guaranty issued by GNMA, plus the amount of any commitments to guaranty being requested. However, the amount of any project security commitments outstanding or requested in connection with cases where construction security commitments are outstanding or requested for the same project shall not be included in this computation. Further, in calculating the required minimum net worth, the amount of any "securities outstanding" that are based on internal reserve pools will be reduced by one half in the making of such calculations.

(a) *For securities based on single family mortgages:* $100,000, plus 1 percent of the amount of securities outstanding in excess of $5 million, but less than $20 million, plus 0.2 percent of any additional such securities outstanding in excess of $20 million.

(b) *For securities based on loans on mobile homes:* $500,000, plus 0.2 percent of such securities outstanding in excess of $35 million. (Note that all mobile home loan pools are internal reserve type pools, so that the amount of securities outstanding is reduced by one half in all instances.)

(c) *For securities based on construction or long-term mortgages on multifamily projects:* $500,000, plus 0.2 percent of any securities outstanding in excess of $35 million. (This requirement is applicable with respect to securities for which the first issue within any pool or project occurs on or after October 1, 1979.)

(d) *For Issuers of more than one type of security:* $500,000, plus 0.2 percent of any securities outstanding in excess of $35 million.

(7) In addition, approved Issuers must:

(a) Maintain sound mortgage servicing, without excessive delinquency rates for pools outstanding. Generally, new commitments will not be approved if the issuer has more than 7.5 percent of the loans in its existing pools in a delinquency status of two or more months (excluding loans in foreclosure). A lower delinquency ratio, however, will not assure the issuance of further commitments.

(b) Maintain adequate administration of pools and securities outstanding, and meet all GNMA reporting requirements.

(c) Exercise prudent business practices in the marketing of securities.

(d) Maintain a sound financial, business, and management structure of the Issuer firm. Withdrawal or suspension of the Issuer's FHA approval status, or FNMA or GNMA approved servicer status, or the inclusion of material detrimental findings in a HUD or other official audit or investigation of the Issuer will be considered to constitute a material change in business structure.

e. The Mortgage-Backed Securities Program creates a unique role for the mortgage lender. As an Issuer is GNMA-guaranteed mortgage-backed securities, such a lender can create the vehicle for transferring funds from the securities markets into the mortgage market.

To start this process, the lender applies to GNMA for *approval to become an Issuer* and, simultaneously, for a *commitment* for guaranty of a security. Once approval of Issuer status is granted, subsequent commitments are issued through a modified process.

With the commitment in hand, the Issuer proceeds to originate or acquire mortgage loans and to package a "*pool of mortgages.* Typically, the Issuer also makes arrangments with a Securities Dealer *to market the mortgage-backed securities* when they become available. Arrangements also must be made for a Custodian to maintain *possession of the mortgage and other documents* and for the holding of principal & interest and tax & insurance funds at a financial institution(s) in *custodial accounts.*

When a pool of mortgages is assembled, the Issuer submits to GNMA all the documents needed for final approval of the issuance.

Upon approval of the pool documents, GNMA will instruct its transfer agent to actually prepare and deliver the certificates in accordance with instructions provided by the Issuer. With the timely delivery of the certificates assured, the Issuer can make firm plans for the sale of the certificates to investors.

Once the securities are issued, the Issuer thereafter is responsible for passing through to the holders the monthly payments provided for in the securities. The Issuer is also required to provide for the servicing of the mortgages, administration of the

securities, and periodic reporting to GNMA.

f. Two types of securities are eligible for guarantee:

(1) The Bond type which has the usual characteristics of a long-term obligation providing for payment of interest semiannually and for principal at stated redemption dates.

(2) The Pass-Through type provides for monthly payments of interest and principal from montly installment collections on the underlying mortgages.

g. Pass-Through type securities may be backed by pools of home or multifamily mortgages, including mortgates on projects under construction and mobile home loans insured by the FHA and Title I of the National Housing Act. The pooled mortgages must have been insured or guaranteed within 1 year to the date of the commitment to issue the securities, and all mortgages in each pool must bear the same rate of interest.

Most GNMA securities issues are of the modified pass-through type. Modified pass-through securities require the Issuer to pay securities holders amounts of principal and interest scheduled to be paid on the mortgages whether or not it is actually collected. The Issuer must make advances from its own resources to cover any shortfalls in collections.

h. All securities are issues in registered form and the certificates are prepared, registered and distributed by GNMA, or its agent, both at the time of original issuance and upon transfer. The Issuer is responsible for administering the pooled mortgages, including collecting the principal and interest as it becomes due. The mortgae documents are physically maintained by a Custodian. In the event that an Issuer defaults in making payment to the security holder, GNMA will make the payment, and has the right to declare a default and take title to the mortgages in the pool.

3. *Reference Material.* The GNMA regulations and requirements are stated in GNMA Handbook 5500.1 including current revisions, as well as published in the Code of Federal Regulations. 24 CFR, Chapter 3, Parts 300 through 390. Interim instructions to Issuers are also issued periodically to clarify or implement GNMA requirements. The Issuer should have a copy of the current GNMA Handbook and other issuances in its office. Issuers may not possess the Code of Federal Regulations, but can find the regulations in an Appendix to the Handbook.

Appendix 2 identifies the specific chapter, as appropriate, of the Handbook relating to the work to be performed by the IPA. In the event the Issuer does not have the reference material, it may be obtained from the GNMA office. If the IPA wants to ensure that the mortgagee has the most recent issuance, that information may also be obtained from the GNMA office.

To assist, the IPA, this Handbook will be updated annually to indicate current reference material.

4. *Audit Authorization.*

a. The Inspector General reports directly to the Secretary and is responsible for and directs the overall audit activities relating to HUD programs. The Assistant Inspector General for Audit is responsible for carrying out audit activities on behalf of the Inspector General.

The Issuer agrees in the Guaranty Agreement that GNMA shall have the right to examine and audit at such times as might seem reasonable, any books, records or other information of the Issuer or held by another for the Issuer with respect to or concerning mortgage pools. The Issuer is required to submit copies of its annual financial statements audited and certified by a Certified Public Accountant or an Independent Public Accountant (both referred to as an IPA) within 90 days following the end of the Issuer's fiscal year.

The compliance work required by this guide is considered within the purview of the examination which may be required by the Secretary.

b. To be acceptable to HUD, an IPA must either by a Certified Public Accountant, or a Public Accountant licensed by a regulatory authority of a State or other political subdivision of the United States on or prior to December 31, 1970. As required by AICPA standards, or the equivalent thereof, the IPA must be independent within the meaning of the code of professional ethics of the AICPA.

5. *Audit Scope and Coverage.*

a. The financial and compliance tests contained in Appendix 1 and Appendix 2 of this guide are to be performed. The IPA is to report on the results of such work in accordance with the reporting requirements herein. Comments on Issuer compliance may be part of the financial report required by the Guaranty Agreement, or may be reported in a separate compliance letter attached to the audit report (Appendix 4).

b. The audit work may be performed on a selective test basis, to the extent deemed necessary by the IPA in each area of activity. The IPA may use judgmental or statistical sampling techniques in making the compliance tests. However, the IPA must fully document in the working papers the basis for the compliance test method(s) used.

A. *Audit Standards.* The audit work be performed in accordance with auditing standards established by the General Accounting Office publication, *Standards for Audit of Governmental Organization, Programs, Activities and Functions,* as these standards pertain to financial and compliance examinations and those auditing standards established by the American Institute of Certified Public Accountants (AICPA).

The IPA's working papers are expected to conform to the guidelines prescribed in the AICPA *Statement on Auditing Standards.*

7. *Audit Requirements.* The following audit requirements are not intended to limit in any way the scope of audit, examination of transaction or extent of tests. The audit coverage and extent of tests will be determined by the IPA in accordance with prescribed auditing standards and should be shown in the audit working paper. The IPA must report on the results of each of the following audit requirements:

a. *Analysis of Net Worth.*

Certain assets are not considered acceptable by GNMA for the computation of adjusted net worth to determine whether minimum financial requirements have been meet for continued GNMA approval as an Issuer. The analysis of net worth is designed to eliminate those assets not considered acceptable by GNMA in computing the Issuer's adjusted net worth figure. In general, the analysis consists of tabulating those assets not considered acceptable to GNMA and reducing the net worth shown on the certified financial statement (balance sheet) by that amount. Unacceptable assets are those of doubtful economic value, those of doubtful liquidity, those the value of which is difficult to evaluate, and those not reported according to generally accepted accounting principles. Specifically, GNMA Handbook 5500.1, paragraph 2–4 states that assets unacceptable to GNMA are considered to be those assets that are unacceptable to HUD-FHA in determining whether a nonsupervised lender qualifies as an FHA-approved mortgagee, plus such other assets as GNMA may determine do not meet the objectives of its requirements.

Appendix 1 contains a listing of assets which are considered nonacceptable to GNMA and guidelines for the presentation of both the GNMA *required* net worth and the Issuer's actual *adjusted* net worth.

b. *Compliance Audit Reviews.*

The examination by the IPA will include a review of the operations and

records of the Issuer and Custodian, in accordance with the compliance tests in Appendix 2. The compliance reviews and questions presented in Appendix 2 are intended to guide the IPA in reviewing Issuer and Custodian files to fulfill the audit requirements of this guide. For expeditious gathering of audit information, it is recommended that the following confirmations be sent or telephone contacts be made prior to testing:

(1) Confirm with security holders, on a test basis, balances of securities and amounts of monthly payments (see Appendix 2, Review of Issuer's Administration of Pooled Mortgages, item 8).

(2) Confirm with the FNMA Mortgage-Backed Securities Administration staff* the Monthly Accounting Report information submitted by the Issuer, on a test basis (see Appendix 2, review of Monthly Accounting Report, items 1 and 2).

(3) Confirm with title insurance holders, on a test basis, assurance that the holder have obtained Title Insurance Policies.

(4) Confirm with any Custodian that may be located in a distant city from that of the Issuer to review its files for the documents described in items 4a through g of Appendix 2, Review of Custodial Documents.

Note.—If the Custodian location requires long distance travel, the confirmation approach will be necessary.

Evaluation of the significance of departures from compliance with GNMA regulations and guidelines requires the exercise of professional judgment by the IPA. The compliance review guidelines in Appendix 2 are not intended to limit the exercise of professional judgment by the IPA, but are for the purposes of providing a basis for evaluation.

8. *Reporting Requirements.* The IPA's report regarding tests of compliance should reflect the results of the compliance reviews. The IPA must report the number of pools and the aggregate dollar amount of "pool principal" for all pools in the Issuer's inventory. This report should accompany the financial reports submitted to GNMA.

The report should include items which the IPA has either: (1) Concluded are a significant departure from compliance with GNMA regulations or requirements and (2) formed no conclusion in this respect. In addition, the report should also contain a computation of the Issuer's adjusted net worth as prescribed in Appendix 1. This statement may be included as supplemental information.

The report need not include a list of each exception or error found in the records by the IPA during the audit. Exceptions or error in records generally will not be reported when the IPA believes such conditions represent isolated exceptions or error that are not significant in relation to the number of records examined or have been corrected in the normal functioning of the accounting system. Errors or exceptions which the IPA judges to be significant or that represent a pattern of noncompliance with GNMA regulations or instructions must be reported.

Note.—IPA working papers should show each exception or error detected regardless of its significance.

In reporting items on which the IPA has formed no conclusions as to compliance, explanatory comments should be included in the report to permit the reader to make an evaluation as to compliance. Comments concerning items which are not considered significant by the IPA and are not included in the report, would generally be provided to the Issuer for his action.

In instances of fraudulent reports or statements to GNMA or defalcations related to GNMA mortgage-backed securities pools, the IPA should refer to AICPA Statement of Auditing Standards 16, dated January 1977: "The Independent Auditor's Responsibility for the Detection of Errors or Irregularities." Also refer to Statement on Auditing Standard 17: Illegal Acts by Clients." Any irregularities should be promply reported to GNMA and the appropriate Regional Inspector General for Audit (Appendix 5).

The Issuer is required to submit two copies of the report directly to GNMA. The reports should be sent to: U.S. Department of Housing and Urban Development, Office of Mortgage-Backed Securities, Government National Mortgage Association, 451 Seventh Street, SW., Washington, D.C. 20410.

9. *General.* The working papers of the IPA are to be made available, with the approval of the Issuer, to representatives of HUD upon request by the Inspector General, HUD, or his authorized representatives for at least 3 years after issuance of the audit report. The working papers may be reproduced by HUD at its own expense, if such need arises.

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*Federal National Mortgage Association, 3900 Wisconsin Avenue, N.W., Washington, D.C. 20016; telephone: 202-537-7870.

APPENDIX 1

SAMPLE FORMAT FOR PRESENTATION OF ADJUSTED NET WORTH

Stockholder's Equity per Balance Sheet		$_____
Less:		
Unacceptable Asset Items 1/ (List and Explain)	$_____	
	$_____	$_____
Adjusted Net Worth		$_____ 2/
GNMA Required Net Worth		
Unpaid Balances of Outstanding Securities	$_____	
Outstanding Commitments	$_____	
Securities Outstanding	$_____	
Computed Net Worth Requirement (GNMA Handbook 5500.1 par. 2-2)		$_____

1/ The following page describes assets that GNMA considers nonacceptble in computing adjusted net worth.

2/ In the event adjusted net worth does not meet or exceed the GNMA requirement, the IPA may include any comments from representatives of the Issuer on corrective measures contemplated.

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Nonacceptable Assets for Computation of Adjusted Net Worth

1. That potion of an Issuer's assets pledged to secure obligations of any person or entity other than that of the Issuer.

2. Any asset (except construction loans receivable, secured by first mortgages, from related companies) due from officers or stockholders of the Issuer or related companies in which the Issuer's officers and stockholders have an interest.

3. That portion of any marketable security (listed or unlisted) not shown at lower of cost or market, except for any shares of FNMA stock required to be held under a servicing agreement which should be carried at cost.

4. Any real estate held for sale or investment where development will not start within 2 years from date of acquisition.

5. Any amount in excess of the lower of the cost or market value of mortgages in foreclosure, construction loans, or foreclosed property acquired through foreclosure.

6. Any amount shown on the books for investment in and advances to joint ventures, subsidiaries, affiliates, and/or related companies which is greater than the value of said assets at equity.

7. Goodwill or value placed on insurance renewals or property management contract renewals or other similar intangibles.

8. Organization costs.

9. Any leasehold improvements not being amortized over the lesser of the expected life of the asset or the remaining term of the lease.

10. Commitment fees paid which are not recoverable through the closing or selling of loans.

11. The value of any servicing contracts *not* determined in accordance with AICPA Statement of Position 76-2, dated August 25, 1976.

Appendix 2—Tests for Compliance

Review of custodial documents.
Review of Issuer's administration of pooled mortgages.
Review of monthly accounting report.
Review of prudent business practices.

Review of Custodial Documents (GNMA Handbook 5500.1—Chapter 8)

Each Issuer of securities must enter into a custodial agreement with a federally regulated financial institution satisfactory to GNMA. The custodial agreement shall provide for certification that the Custodian is in receipt of the loan documents and that these documents relate to the loans listed on the Schedule of Pooled Mortgages. The auditor will find continuous variations in each Custodian file; that is, the files may be arranged alphabetically, by loan number, or by HUD Form 1706 (Schedule of Pooled Mortgages) processing date. Review will be facilitated by advising the Custodian of the pools selected for testing. The initial contact with the Custodian should be made through the Issuer. The review of Custodian documents should include the following:

1. Obtain HUD Form 1710D (Issuer's Monthly Summary Report) from the Federal National Mortgage Asscciation Mortgage-Backed Securities Unit* which is a list of pools in effect for the Issuer. Compare the 1710D listing to the Issuer's records to assure accuracy.

2. Using the HUD Form 1710D (Issuer's Monthly Summary Report), the IPA should select a representative sample of GNMA pools for review.

3. Obtain a copy of the original Schedule of Pooled Mortgages (HUD Form 1706) from the document Custodian for pools selected. The purpose of the HUD Form 1706 is to provide a means of identifying and controlling mortages to be placed in the pool securing the obligations issued. Therefore, on a test basis, select mortgages to be reviewed.

4. For mortgages selected from the HUD Form 1706, Schedule of Pooled Mortgages, review the Custodial files at the Custodian's office, for the following documents and compare the information shown on these documents to the information on the HUD Form 1706. (NOTE: A machine printout giving the required data may be used, provided a HUD Form 1706 signed by both Issuer and Custodian is attached, listing the totals. The machine printout must have the same format as the HUD Form 1706.)

a. The original note or other evidence of indebtedness endorsed in blank and without recourse.

b. An assignment to GMNA of the mortage or other security instrument in recordable form but not recorded. If the mortgage was originated by a mortgagee other than the Issuer, there also must be an executed assignment of the mortgage from the originating mortgagee to any intervening interest holder and from such holder to any further holders of mortgage ownership. An assignment to the Issuer must immediately precede the assignment to GNMA. These interim assignments must be either originals or certified copies of the originals.

c. An executed original HUD Form 1711A (Release of Security Interest) executed by any and all secured institution(s) relating to any or all mortgages included in the mortgage pool which states that:

The lending or other financing institution named herein agrees to relinquish any and all right, title or interest it may have in mortgages to be placed in this GNMA mortgage-backed securities pool no later than the date and time of delivery (release) of the securities by GNMA or its agent.

d. An executed original HUD Form 1711B (Certification) signed by an officer of the Issuer stating that:

1. Release(s) of security interest (HUD Forms 1711A) delivered by the Issuer to the Custodian comprise all evidence of any security agreements affecting any and all mortgages in this pool; or

2. Other than the assignment to GNMA, there are and will be no other security agreements affecting any mortgages in this pool.

e. Evidence of insurance or guaranty signed by FHA, VA or FmHA.

If evidence of insurance or guarantees is not on file; determine from the Issuer why the required documents are missing. Uninsured loans must be withdrawn from the pool. The auditor shall determine that such withdrawals are made where insurance or guarantees are unobtainable.

f. Original recorded mortgages (or other security instruments) signed by the mortgagor securing repayment of the indebtedness.

Note.—Compare mortgagor signature with that which appears on the recorded mortgage to assure identity.

g. Mortgagee title insurance policy. (Not required in cases involving conveyance of HUD Secretary-Owned property.)

Any discrepancies should be noted on the exceptions listing shown as Appendix 3 and followed up with the Issuer. Any exceptions which are not cleared and are considered significant by the IPA should be made a matter of record in the audit report.

Note.—GNMA requires Issuers and Custodians to be in compliance with the HUD Forms 1711A and 1711B procedures with respect to all pools with an issue date on or after April 1, 1979.

5. Documents released from custodial files should be supported by a Request for Release of Documents (HUD Form 1708). The auditor shall:

a. Ascertain whether Custodian is in possession of a Form 1708 for documents not found in the custodial files for mortgages reviewed.

b. discuss with the Custodian any documents missing from the files which are not supported by Form 1708.

c. Prepare a list of missing documents not supported by a Form1708. The Issuer

*Federal National Mortgage Association, 3900 Wisconsin Avenue, N.W., Washington, D.C. 20016; telephone: 202-537-7870.

should be questioned as to the location of the documents and the reason they were removed from the custodian.

d. Select paid in full and/or foreclosed mortgages listed on Form 1708 on a test basis. These mortgages should no longer be with the Custodian. The Custodian should note this removal on its inventory control records (The Schedule of Pooled Mortgages).

Any exceptions which are not cleared and are considered significant by the IPA should be made a matter of record in the audit report.

Review of Issuer's Administration of Pooled Mortgages (GNMA Handbook 5500.1—Chapter 11)

Administration of the pool of mortgages is the responsibility of the Issuer. The IPA should, on a test basis, review the Issuer's administration of the pooled mortgages and pools. The test should include some of the same mortgages reviewed at the Custodian's office.

1. Ascertain whether the Issuer maintains separate clearing and custodial bank accounts for principal interest collections and escrow (tax and insurance) funds applicable to pooled mortgages, since GNMA requires that separate bank accounts be maintained. Assure that the clearing accounts and the custodial accounts have titles as required by GNMA Letter Agreement HUD–1709 and HUD–1720.

Note.—It is not necessary for both accounts to be maintained for each pool.

2. Trace the monthly collections of mortgage principal and interest and collection of claims on defaulted mortgages to ensure the funds are being deposited in the proper custodial accounts.

3. Ascertain whether the Issuer is making timely payments of funds received because of early recoveries of principal, payments in full, assignments, and foreclosures. All early recoveries must be passed through to securities holders in the next regular monthly payment. Test to determine that all such recoveries are deposited in a timely manner to custodial accounts, passed through to securities holders, properly recorded on MBS report controls, and that pool collateral is properly removed from the Custodial's possession with adequate records of its removal.

4. Using the mortgages selected in audit step 5d (Review of Custodial Documents), these mortgages should be compared to the Issuer's Liquidation Schedule to ensure proper disposition of released documents. Tests shall be performed to assure that all principal prepayments on mortgages are actually being paid out to securities holders in a timely manner, and that curtailments are handled in accordance with GNMA instructions.

5. Review payments and disbursements from pool accounts to ensure accuracy; that is, payments are being made to security holders listed in the Security Holder Register and for the proper pool.

6. Ascertain that disbursements from pool accounts to other than holders of record are authorized pursuant to the Guaranty Agreement. Generally, such other payments are authorized only to be made to GNMA (for its guaranty fee) and to the Issuer (for its servicing fee). Test to ascertain that only authorized payments are being made.

7. Ascertain whether the Issuer is making payments in a timely manner so as to reach the security holder by the 15th of the month.

8. Confirm with security holders, on a test basis, balances of securities and amounts of monthly payments. The confirmation should also ascertain whether payments are received by the 15th of the month.

9. Test to determine whether the Issuer is using its own resources to:

(a) Make advances to the pool accounts to cover shortfalls in collections from mortgagors, and

(b) Cover principal amounts not recovered in claim settlements or which are due in connection with defective loans. (Issuers are required to "buy out" uninsured or otherwise defective loans from the pools in accordance with instructions in the GNMA Handbook 5500.1, using the Issuer's own funds.)

10. Ascertain that the Issuer has, and uses, a system to project the need for and availability of funds to make advances to securities holders in a timely manner. (Such a system is required by Section 4.02 of the guaranty agreement.)

11. Ascertain that the Issuer is obtaining Final Certifications from the document Custodian in a timely manner and is promptly submitting them to GNMA.

12. Ascertain that the Issuer has established a securities holder register in accordance with GNMA instructions, and has in place systems to update the register on a timely basis up through the seventh day of each month.

Review of Monthly Accounting Report (GNMA Handbook 5500.1—Appendix 11)

The Issuer is required to submit a Monthly Accounting Report (HUD Form 1710A) for all MBS issues except the straight pass-through type. For the straight pass-through type of security, the Issuer must send the HUD Form 1710 to GNMA. The IPA should, on a test basis, review the information reported to GNMA, including the confirmations previously submitted (see Audit Requirements, paragraph 7b):

1. Trace delinquency information (HUD Form 1710A) to the Issuer's delinquency report.

2. Ascertain the Issuer's procedures for liquidation-in-full, including any transaction that reduces the balance of mortgage property account to zero exclusive of a residual balance amount to be charged off. Entries for liquidation-in-full should cover removal of the fixed installment (P&I) from the control for the mortgage(s) liquidated. The number of mortgages actually liquidated-in-full should be reported monthly on the HUD Form 1710A. Also, the computed interest in the settlement, including per diem interest collected at the time of payoff, should be entered in the Pool Interest column and the remainder in the principal column of the HUD Form 1710A.

Note.—A liquidation schedule must be remitted for each loan removed from the pool. Determine the accuracy of the amount reported on the Monthly Accounting Report (HUD Form 1710A).

3. Trace to the Issuer's records the amount of checks sent to security holders for the month, as reported to GNMA.

4. Verify the balances of funds in custodial accounts as shown in the report.

5. Compare the month-end "Pool Principal" balance (HUD Form 1710A), to the Issuer's financial records for each GNMA pool administered by the Issuer. The IPA must include in his report the total number of pools and the aggregate dollar amount of "Pool Principal" for all pools.

Note.—Aggregate dollar amounts for all pools may be obtained from HUD Form 1710D (Issuer's Monthly Summary Report). This audit step is not intended to require any additional verification work not called for in other audit steps.

Review of Prudent Business Practices (GNMA Handbook 5500.1—CHAPTER 2)

Issuers of mortgage-backed securities are required to exercise sound and prudent business practices in the marketing of GNMA-guaranteed securities. For the most part, Issuers' relationships with the investing public are carried out through Securities Dealers. However, prudent business practices apply to Issuers' direct relationships with Dealers as well as Investment Bankers, Individuals, Corporations, Trusts, and other entities

to which the Issuer delivers, or makes commitments to deliver or purchase, mortgage-backed securities. The IPA should perform the following steps to determine whether management has taken necessary steps to ensure prudent business practices are adhered to in the issuance of, and in the making of commitments relating to, GNMA-guaranteed securities.

1. The Issuer must establish procedures to provide a basis for determining the financial integrity of the Securities Dealers and Investors with which they conduct business, and to ensure that relationships with Dealers and Investors are carried out in a businesslike manner. These procedures must be in written form and provided to all members of the Issuer's firm empowered to make commitments. As a minimum, the IPA should ascertain that the procedures require the Issuer to:

a. Obtain and review audited financial statements with a view toward assuring the adequacy of the Dealer's or Investor's capital.

b. Obtain financial and business references on the Dealer or Investor firm.

c. Obtain a general resolution of the Board of Directors (or other governing body) of the Dealer or Investor firm designating the specific individuals associated with the Dealer or Investor who are authorized to carry out transactions in GNMA-guaranteed securities.

d. Establish and record all of the terms and conditions of each commitment entered into and verify all confirmations previously submitted (see Audit Requirements, paragraph 7b) to assure they are complete and accurate.

2. Ascertain whether the Board of Directors of the Issuer executed a written resolution designating a key person(s) responsible for overall supervision and coordination of Issuer activities relating to the marketing of mortgage-backed securities, including the maintenance of records on such activities.

3. Ascertain whether the key person maintains a list of individuals authorized to make commitments involving mortgage-backed securities.

4. Ascertain whether records are maintained, pursuant to GNMA guidelines, to adequately record all commitments entered into to either deliver or acquire mortgage-backed securities. The records must also show the Issuer's "net position" calculated and recorded at least once each week (see GNMA 5500.1 REV–4, paragraph 2–5b(3) of the Handbook).

5. Ascertain that the Issuer's "net position" with respect to forward and future securities market transactions represents a prudent and suitable investment position taking into account the long-term financial stability of the firm.

6. Ascertain that the Issuer is in compliance with GNMA's mark-to-market deposit requirements with respect to forward delivery contract transactions.

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APPENDIX 3

EXCEPTIONS TAKEN TO DOCUMENTS

ISSUER:_____ DATE OF REVIEW:_____

POOL NO:_____

1706 Page Number	Mortgagor	Exception or Defect

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Appendix 4

June 30, 19XX.

To the Directors, XYZ Mortgage Corporation.

Introduction

We have examined selected books and records of XYZ Mortgage Corporation (Issuer), Juneau, Alaska. Our review encompassed 9 of 104 pools originated and serviced by the Issuer from February 12, 19XX, through June 30, 19XX. The audit began July 26, 19XX, and was completed August 10, 19XX.

The purpose of our examination was to evaluate the degree of compliance with the Government National Mortgage Association (GNMA) policies, procedures and regulations for its GNMA Mortgage-Backed Securities Program and included tests and procedures for ascertaining compliance with the following requirements:

a. The Issuer (1) maintained adequate controls to exercise sound and prudent business practices in the marketing of GNMA Mortgage-Backed Securities, (2) maintained separate custodial bank accounts for pooled mortgages, (3) made timely payments of all amounts due security holders, (4) deposited monthly collections of mortgage principal and interest to proper custodial accounts, and (5) submitted monthly accounting reports to GNMA which were completed in accordance with GNMA requirements and which accurately present the status of Issuer's GNMA activities and account balances.

b. The Custodian (1) had possession of required loan documents in the required format and segregated by pool numbers, (2) properly executed releases supporting any documents released to the Issuer, and (3) maintained adequate control over pool documents.

Our review was made in accordance with generally accepted auditing standards and included such tests of the accounting records and such other auditing procedures as were considered necessary.

Summary

Our review disclosed that the Issuer generally complied with GNMA policies, procedures and regulations, in its Mortgage-Backed Securities Program. The issuer has adequate controls present to exercise sound and prudent business practices. Separate custodial bank accounts were maintained for pooled mortgages. The Custodian had possession of the required loan documents and is maintaining adequate control to assure safe and proper execution of releases related to the Issuer. We found two areas of weakness in our review of the Issuer's Mortgage-Backed Securities. All collections were not deposited to proper custodial accounts. We found curtailments were used to defray the mortgagees' costs for mortgage pool delinquencies. Procedures had not been implemented to ensure that early payments on mortgages were immediately placed in the custodial account and paid to security holders. We also found, the Issuer's monthly accounting reports to GNMA, Form HUD–1710A, were inaccurate. Of the nine pools tested, we found that in two pools the actual number of mortgages were different than the number of mortgages reported to GNMA.

Finding 1.—Need to ensure the timely pass-through of mortgage proceeds to security holders.

The Issuer had not developed adequate controls to ensure that prepayments of principal (curtailments) were passed through to security holders. We identified four curtailments during our review of nine mortgage pools. We found the Issuer used curtailments to pay the monthly principal and interest payments due security holders for delinquent loans in the mortgage pool as follows:

Pool No.	Date of HUD–1710A	Actual pool delinquency	HUD–1710A reported pool delinquency	Curtailments used to reduce delinquency
3903	March 19XX...	$3,200	$200	$3,000
3903	April 19XX.....	1,725	125	1,600
8204	June 19XX.....	4,021	521	3,500
8032	July 19XX.....	3,012	1,012	2,000

Paragraph 2–1 of GNMA 5500.1 states that "* * * the issuer is responsible for using its own resources to cover shortfalls in amounts due to security holders that result from mortgagor delinquencies or foreclosures." Paragraph 11–2 requires the prompt payment of monthly principal and interest for pooled mortgages. Under the terms of the security agreement, these monthly payments are to include any early recoveries on mortgages. The failure to pass these curtailments through timely, resulted in lost income to security holders.

The Issuer advised us that he did not realize that curtailments were being improperly handled. He did not feel it was necessary to make any payments to security holders over and above the regular monthly principal and interest payments. After we identified the Handbook requirement, the Issuer indicated he would take action to pass through curtailments for those mortgages identified. Written procedures would be developed within 30 days to preclude future occurrences.

Recommendation **

We recommend the Issuer furnish evidence to GNMA that procedures have been developed to ensure that all proceeds relating to pooled mortgages are transferred to the custodial account for pass through to security holders. In addition, the Issuer should review other mortgage pools for curtailments not passed through to security holders. Any curtailments identified should be immediately passed through and GNMA should be notified of the actions taken.

Finding 2.—Need for reporting correct number of mortgages in GNMA pools.

We reviewed the Issuer's Monthly Accounting Report, Form HUD–1710A, for April 30, 19XX, for five pools and found that in two pools the number of mortgages reported to GNMA was not correct. Details are as follows:

Pool No.	Number of mortgages per	
	HUD–1710A	OIG
3606	118	114
8748	30	28

HUD Handbook, GNMA 5500.1, Paragraph 11–3b, states that the accounts and records relating to pooled mortgages shall be maintained in accordance with sound accounting practices.

The Issuer advised us that they were unaware of the difference; that an employee who maintained data relative to the pools was recently terminated; and a change had occurred in the data processing system. The Issuer further advised that they would research the matter and make corrections as appropriate. We provided details of our computations to assist the Issuer.

The Issuer was advised to review all its pools for similar errors and to revise its operating procedures to eliminate opportunities for reoccurrence of the errors.

While the monetary amounts reported agreed with the Issuer's accounting records, the erroneous reporting of the number of mortgages distorts the percentage computation for delinquent mortgages included on Form HUD–1710A.

Recommendation **

We recommend the Issuer furnish evidence to GNMA that the correct number of mortgages constituting the pools are being accurately submitted. In addition, the Issuer should provide

**See Appendix 3.

**See Appendix 3.

GNMA corrected data on GNMA Pool Nos. 3606 and 8748.

Appendix 5.—*Regional Inspectors General for Audit*

	Jurisdiction
Region I (Boston)	
Regional Inspector General for Audit, Department of Housing and Urban Development, 510 B, John F. Kennedy Federal Building, Boston, Massachusetts, 02203; (617) 223–4144.	States of: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont
Region II (New York)	
Regional Inspector General for Audit, Department of Housing and Urban Development, 26 Federal Plaza, Room 3441, New York, New York 10007; (212) 264–4174.	States of: New York and New Jersey; and Puerto Rico and the Virgin Islands
Region III (Philadelphia)	
Regional Inspector General for Audit, Department of Housing and Urban Development, Curtis Building, Room 855, Richard Allen Avenue and Walnut Streets, Philadelphia, Pennsylvania 19106; (215) 597–2462.	States of: Delaware, Maryland, Pennsylvania, Virginia, and West Virginia; and the District of Columbia
Region IV (Atlanta)	
Regional Inspector General for Audit, Department of Housing and Urban Development, 75 Spring Street, Room 734, Atlanta, Georgia 30303; (404) 221–5195.	States of: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee
Region V (Chicago)	
Regional Inspector General for Audit, Department of Housing and Urban Development, 300 South Wacker Drive, Chicago, Illinois 60606; (312) 353–7832.	States of: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin
Region VI (Fort Worth)	
Regional Inspector General for Audit, Department of Housing and Urban Development, 221 W. Lancaster Avenue, P.O. Box 2905, Fort Worth, Texas 76113; (817) 870–5551.	States of: Arkansas, Louisiana, New Mexico, Oklahoma and Texas
Region VII (Kansas City)	
Regional Inspector General for Audit, Department of Housing and Urban Development, 1103 Grand Avenue, Room 1300, Kansas City, Kansas 64106; (816) 374–5661.	States of: Iowa, Kansas, Missouri and Nebraska
Region VIII (Denver)	
Regional Inspector General for Audit, Department of Housing and Urban Development, 1405 Curtis Street, Executive Tower, 25th Floor, Denver, Colorado 80202; (303) 837–4365.	States of: Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming
Region IX (San Francisco)	
Regional Inspector General for Audit, Department of Housing and Urban Development, #1 Embarcadero Center—15th Floor, San Francisco, California 94111; (415) 556–6895.	States of: Arizona, California, Hawaii, Nevada; and Guam and American Samoa
Region X (Seattle)	
Regional Inspector General for Audit, Department of Housing and Urban Development, 1321 Second Avenue, Seattle, Washington, 98101; (206) 442–0270.	States of: Alaska, Idaho, Oregon and Washington

[FR Doc. 80-17393 Filed 6-9-80; 8:45 am]

BILLING CODE 4210-01-M

federal register

Tuesday
June 10, 1980

Part V

Consumer Product Safety Commission

Urea-Formaldehyde Foam Insulation; Proposed Notice to Purchasers

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1405

Urea-Formaldehyde Foam Insulation; Proposed Notice to Purchasers

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to require manufacturers of urea-formaldehyde (U.F.) foam insulation to give specified performance and technical information to prospective purchasers and purchasers to alert them about the possible adverse health effects associated with the release of formaldehyde gas from the product after it is installed in residences. Based on consumer complaints and other available medical and scientific information, the Commission believes that consumers who are exposed to formaldehyde gas may suffer eye, nose, and throat irritation, coughing, shortness of breath, skin irritation, nausea, headaches, and dizziness. People with respiratory problems or allergies, especially persons who are allergic to formaldehyde, may suffer more serious reactions. The Commission believes that this rule will ensure that consumers are given accurate safety-related information concerning the product, so that they may make informed choices in purchasing the product.

DATES: Under the proposal, manufacturers of urea-formaldehyde foam insulation would have to comply with this disclosure requirement for sales to consumers or for contracts of sale that are presented to consumers beginning six weeks after publication of a final regulation. Written comments on this proposal must be submitted to the Commission on or before August 11, 1980.

ADDRESS: Written comments, preferably in five copies, should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C., and should be titled *U.F. Foam Insulation, Section 27(e) Proposal.*

All materials the Commission has that are relevant to this proceeding, including any comments that may be received on this proposal, may be seen in, or copies obtained from, the Office of the Secretary, Third Floor, 1111 18th Street, N.W., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Harry Cohen, Program Manager, or Nick Marchica, Project Manager, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492–6453.

SUPPLEMENTARY INFORMATION:

A. Background

The Commission is proposing this rule because it is concerned about adverse health effects associated with the release of formaldehyde gas from urea formaldehyde (U.F.) foam insulation after it is installed in homes. As described in section D(1) of this preamble, the Commission has received over 1000 consumer complaints of adverse health effects from the release of formaldehyde gas from U.F. foam insulation.

The range of severity of reported reactions varies from short term discomfort to chronic impairment, such as the loss of visual acuity, reduction in lung function, and sensitization to other sources of formaldehyde. In some cases consumers were hospitalized or forced to vacate their homes. Based on this information and other medical and scientific information discussed in section D(2) of this preamble concerning the human health effects of exposure to formaldehyde gas, the Commission believes that formaldehyde released from U.F. foam insulation can cause serious illness in humans. The most common reactions are eye, nose, and throat irritation, coughing, shortness of breath, skin irritation, nausea, headaches, and dizziness. Persons with respiratory problems or allergies, especially persons who are allergic to formaldehyde, can suffer more serious reactions. As discussed in section M of this preamble, the Commission has preliminarily determined that there is an unreasonable risk of injury association with U.F. foam insulation that is sold by manufacturers without the information in the proposed regulation.

The Commission staff learned of possible health problems associated with U.F. foam insulation as early as 1976. In October, 1976, the Metropolitan Denver District Attorneys' Consumer Office filed a petition under section 10 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2059, requesting the Commission to develop a safety standard under section 7 of the CPSA, 15 U.S.C. 2065, for certain types of home insulation products, including U.F. foam insulation. The petitioner claimed that there is an unreasonable risk of injury of irritation and poisoning associated with UF foam insulation. After considering information compiled by the Commission staff, on March 5, 1979 the Commission decided to defer a decision on the part of the petition relating to U.F. foam insulation and instructed the Commission staff to evaluate additional information on possible means of addressing this alleged unreasonable risk of injury (44 FR 12080).

After gathering additional information, on November 8, and 9, 1979 the Commission staff briefed the Commission on the status of work concerning formaldehyde toxicity and U.F. foam insulation. As a result of these briefings, the Commission decided to hold public hearings to obtain additional information on safety and health problems associated with U.F. foam insulation (44 FR 69578, December 3, 1979). The Commission held public hearings in Portland, Oregon; Atlanta, Georgia; Minneapolis, Minnesota; and Hartford, Connecticut from December 1979 through February, 1980.

Consumers, industry representatives, state and local government officials, scientists, and others testified at the hearings as to their experiences with U.F. foam insulation and formaldehyde. Many of these people expressed support for a written notification of safety-related information to consumers. Based on the information obtained in these hearings as well as the consumer complaints and medical and scientific information described in this notice, the Commission has decided it is important that consumers be given technical and performance information concerning the potential release of formaldehyde from U.F. foam insulation installed in homes. The Commission believes that this technical and performance information related to safety should be provided to consumers before the insulation is installed so they can make an informed choice about its use. Therefore, the Commission is proposing the regulation below.

The Commission would like to emphasize that the regulation proposed here may be followed by further Commission action. The regulation could be replaced or supplemented by other regulations, such as a standard for the product or a ban of the product, if the Commission determines that other regulations are necessary to protect the public. The Commission staff intends to complete research projects concerning the release of formaldehyde gas this summer, and expects to brief the Commission this fall on the need, if any, for additional regulatory action.

B. Description of the Proposal

The Commission would issue the proposed regulation under section 27(e) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2076(e)). This section of the act authorizes the Commission to require manufacturers of consumer products to provide the Commission

with such performance and technical data related to performance and safety as may be required to carry out the purpose of the act. Section 27(e) also authorizes the Commission to require manufacturers of consumer products to give notification of such performance and technical data at the time of original purchase to prospective purchasers and to the first purchaser for purposes other than resale, as it determines necessary to carry out the purposes of the act. As provided in section 2(b) of the CPSA (15 U.S.C. 2051(b)), two purposes of the act are to protect the public against unreasonable risks of injury associated with consumer products and to assist consumers in evaluating the comparative safety of consumer products.

The proposal would require manufacturers of U.F. foam insulation to provide specified performance and technical data about the product to prospective purchasers of the product for use in homes and to purchasers of the product for use in homes. Manufacturers must do this by giving the consumer a written notice before the U.F. foam insulation is installed. The contents of the notice are prescribed in § 1405.4(b).

Proposed § 1405.1(a) provides that this rule applies only to insulation for use in residences. As proposed, the regulation would not apply to insulation that is installed in commercial buildings, recreational facilities, schools, and other public buildings where consumers may be exposed to formaldehyde gas released from the product. The Commission has limited the proposal in this manner since most of the complaints the Commission has received to date concern homes or residences. At the present time the Commission believes that the information in the written notification would be of greatest benefit to consumers who may purchase the product for installation in homes or residences. During the public hearings, the Commission received testimony from consumers indicating a need for this information.

The Commission has also not extended the application of the proposed regulation to U.F. foam insulation that is sold to builders or contractors for installation in homes that are then sold to consumers. In addition, the Commission has not extended the application of the proposed regulation to provide for notification of subsequent purchasers of homes in which U.F. foam insulation has already been installed. The Commission has not extended the application of the proposed regulation in these areas since the Commission does not believe that section 27(e) of the Act provides an effective means of requiring notification to consumers in these situations.

The proposed regulation, at § 1405.4(a) provides that the written notice must appear on the contract of sale. If the manufacturer does not present a written contract of sale to the prospective purchaser or purchaser, then the notice must appear on a receipt of the transaction, or on a document relating to a credit transaction that gives the seller a security interest in the consumer's real property. If the manufacturer does not present a written contract, receipt, or document related to a credit transaction, then the notice must appear on a separate piece of paper. Regardless of where the written notice appears, it must be presented to the consumer before the U.F. foam insulation is installed.

By requiring the notice to be part of the contract of sale or part of the receipt of the transaction, where there is no contract of sale, the Commission would be ensuring that many prospective purchasers receive the disclosure notice at the beginning of the three day period for cancellation of sales under the Federal Trade Commission's (FTC) trade regulation rule on door-to-door sales (16 CFR Part 429). In a door-to-door sale, the FTC rule gives the consumer the right to cancel the sale at any time within three business days after the date of the transaction indicated on the contract or receipt. Based on informal consultation with the FTC staff, the Commission staff believes that many sales of U.F. foam insulation would be considered door-to-door sales under the FTC's trade regulation rule.

If the notice is part of a document related to a credit transaction giving the seller a security interest in the consumer's real property, then the Consumer Credit Protection Act (15 U.S.C. 1635) and the regulations established by the Federal Reserve Board under that act at 12 CFR § 2269 require a cancellation period similar to that provided by the FTC.

Section 1405.4(c) provides that the notice must appear prominently and conspicuously, and must appear on the same page as the signature of the purchaser and before the signature of the purchaser, if one is provided. Section 1405.4(d) further describes the size and appearance of the notice.

Section 1405.4(e) provides that manufacturers may use any type of a written notice, including one which is pressure sensitive or glued-on, provided the notice is made in such a manner that it will remain attached to the contract of sale, receipt, document related to a credit transaction, or separate piece of paper.

As provided by § 1405.4(f), manufacturers who provide a prospective purchaser or purchaser with any oral or written statement that negates or disclaims the notification will not be considered to have complied with the regulation.

C. Physical Characteristics of U.F. Foam Insulation

(1) *Description of the product and the release of formaldehyde.*

U.F. foam insulation is a cellular plastic product used as a thermal insulation material. The product is manufactured at the job-site by feeding, generally, pressurized air along with two liquid chemicals—a urea-formaldelhyde based (or urea-based) resin and a foaming agent—through a foaming equipment system. The product that results from this reactive mixture has a shaving cream-like consistency and is usually pumped through relatively small holes into the walls of standing structures. After the U.F. foam insulation is inside the wall, the insulation becomes firm or self-supporting. Formaldehyde that has not reacted with other chemicals after installation can eventually be relased as formaldehyde gas. The likelihood of release of formaldehyde depends on factors such as temperature, humidity, foam formulation, architectural considerations, and installation techniques.[1]

Under a contract for the U.S. Department of Energy, the University of Iowa has conducted quantitative research concerning the release of formaldehyde from U.F. foam insulation.[2]

In this study, three commercial U.F. foam insulation materials were foamed and exposed to different temperature and humidity conditions within controlled environmental chambers. This research indicates that formaldehyde emission from U.F. foam insulation can occur over long periods of time after the product is installed.

Evaluation of this research together with general information and technical data presented by Dr. C. B. Meyer of the

[1] NBS Technical Note 946, "Urea-Formaldehyde Based Foam Insulations: An Assessment of their Properties and Performances", Rossiter, Mathey, Burch, and Pierce, July, 1977.

[2] "Problems Associated with the Use of Urea-Formaldehyde Foam for Residential Insulation Part I: The Effects of Temperature and Humidity on Formaldehyde Release from Urea-Formaldehyde Foam Insulation", Long, Pierson, Brennan, Frank, and Hahne, ORNL/SUB-7559/1, U.S. Department of Energy Contract W-7405-eng-26, September, 1979.

University of Washington,[3] shows that: (1) U.F. foam insulation will release a measurable amount of formaldehyde after it is manufactured; and (2) U.F. foam insulation may release formaldehyde gas into the home for an indefinite period of time after installation.

(2) *Possible remedies for problems associated with formaldehyde release.*

Information presented in the public hearings and other information the Commission staff has obtained directly from manufacturers, private consultants, and consumers, indicates that several remedial measures have been used in attempts to correct problems associated with formaldehyde release for U.F. foam insulation. The measures include the following:

- Ventilation (opening doors and windows).
- The use of impregnated charcoal in furnace or air conditioning filters.
- The evaporation of household ammonia in closed and overheated rooms, to neutralize formaldehyde, followed by ventilation.
- Injecting ammonia into the insulation through holes in walls to neutralize formaldehyde.
- Spraying air filters or floors with a specified odor absorbent provided by the manufacturer.
- Using a "masking agent" available from the manufacturer.
- Applying vinyl wall paper or a low permeability paint to interior walls.
- Removal of all or a portion of the insulation from the home.

Although many manufacturers claimed that they had successfully used these remedial measures in many instances, no studies have been done which show that the measures will reliably control the release of formaldehyde gas. The Commission has information obtained from in-depth injury investigations and testimony presented at the public hearings [3a] showing that in some instances, the more simple remedial measures, short of removing the insulation from the walls of the home, do not adequately control the release of formaldehyde gas. The Commission has received reports that in some instances complaints of formaldehyde gas have continued even after the U.F. foam insulation has been removed from the home.

(3) *Recommendations concerning the proper application of U.F. foam insulation.*

Most manufacturers of U.F. foam insulation recommend that the product be installed only in exterior walls and not be installed in attics, ceilings, or interior walls (walls that do not have one side exposed to the outside environment), since application in these areas increases the potential for the release of formaldehyde gas into the home. In meetings with the Commission staff and in testimony at the Commission's public hearings, representatives of NAUFIM (National Association of Urea Foam Insulation Manufacturers) have recommended that the product not be installed in these applications.[3b] Manufacturers and the Commission staff recommend against applying the product in interior walls, since one side of the wall should be exposed to the exterior environment to provide sufficient ventilation to allow the water and formaldehyde vapor present in the foam to escape.

The Department of Energy (DOE) recently proposed installation standards for U.F. foam insulation (44 FR 75956, December 21, 1979). Although the DOE installation standards are not the basis for the regulation proposed here, the DOE proposed standards would not permit the application of U.F. foam insulation in ceilings since: (1) U.F. foam has been shown to deteriorate under high temperature and high humidity conditions frequently found in attics, (2) formaldehyde gas is denser than air, so that gas liberated by the foam may invade the living space below and pose a health hazard to the occupants; and (3) the moisture in the product may damage the ceiling. For similar reasons, the Department of Housing and Urban Development (HUD), in its Use of Materials Bulletin No. 74, also recommends against applying the product in attics and ceilings. In Technical Note 946, the National Bureau of Standards (NBS) recommends against applying the product in attics and ceilings for reasons similar to those explained by DOE, as well as the possibility of excessive shrinkage of the U.F. foam insulation.

D. Potential Adverse Safety and Health Effects

(1) *Information from investigations of consumer complaints.*

As of March 15, 1980 the Commission has received over one thousand complaints of adverse health effects from the release of formaldehyde gas from U.F. foam insulation. Approximately 585 complaints came directly to the Commission. The remainder are consumer complaints that several states have sent to the Commission. The Commission staff estimates that about 2600 persons suffered adverse health effects for the one thousand complaints received so far.

The Commission staff has conducted in-depth investigations for 218 of the complaints reported directly to the Commission. The in-depth investigations of these complaints show a range of severity of reported reactions varying from short term discomfort to chronic impairment, such as the loss of visual acuity, reduction in lung function, and sensitization to other sources of formaldehyde. Eleven persons in five households reported being sensitized to formaldehyde, meaning that persons suffer increasingly severe allergic reactions to continued exposure to formaldehyde. Twenty-eight persons were hospitalized following installation of the insulation. Most of the hospitalizations were for respiratory distress. The most common reactions reported by consumers are eye, nose, and throat irritation, coughing, shortness of breath, skin irritation, nausea, headaches and dizziness.

According to the in-depth investigations, reactions to formaldehyde developed at times ranging from the day the insulation was installed to more than two years after installation. One out of five health problems reported to the Commission began two months or more after the insulation was installed.

Thirty-seven of the in-depth investigations show that there were medical diagnoses linking the reported symptoms to formaldehyde. In many other cases, consumers sought medical treatment but did not receive a specific medical diagnosis implicating formaldehyde. The medical diagnosis of illness resulting from exposure to formaldehyde is difficult, since many of the reactions resemble symptoms associated with flu, colds, and asthma. Unless the consumer specifically mentions U.F. foam insulation the physican may often be uncertain as to the cause of the medical symptoms. In some cases the examining physician advised the patients to vacate their homes even though the medical diagnosis did not specifically mention formaldehyde.

According to the in-depth investigations, the consumer's symptoms often disappear when the consumer leaves the home and reappear after the consumer returns to the home. Measurements of free formaldehyde in air samples are available for 58 of the homes in the in-depth investigations. Twenty-two of the tests reportedly used

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[3] *Urea-Formaldehyde Resins*, Meyer, Addison-Wesley Publishing, Inc., 1979.

[3a] Portland Tr. pp. 79, 93, 115–116, 137, 252–254, 263–264, 283; Atlanta Tr. pp. 39, 107–108, 110, 184–187; Hartford Tr. pp. 68–69, 105–106, 147–148, 249–254, 410, 477, 509.

[3b] Portland Tr. p. 52.

in the National Institute for Occupational Safety and Health (NIOSH) procedure for air collection and laboratory analysis. Ten of those measurements (45.4 percent) were over 1 ppm. (Levels of formaldehyde exceeding 1 ppm are within the range that the scientific studies described below have shown that people suffer adverse physical effects.)

The in-depth investigations also help to establish that U.F. foam may continue to release formaldehyde gas long after installation. In twelve of the homes where air measurements were made using the NIOSH test procedures, the insulation was at least 6 months old at the time the measurements were made. In five of these twelve homes, the level of formaldehyde gas was over 1 ppm.

In 68 of the in-depth investigations the families reported that they had to vacate either all or part of their homes or were unable to move into a new home because of the effects of the U.F. foam insulation. Forty of these families reported that they had left their homes for 60 days or more, or were still out of their homes when interviewed.

(2) *Human health effects resulting from exposure to formaldehyde based on medical and scientific literature.* The National Academy of Sciences (NAS) recently completed work on a contract with the Commission to determine whether there is a tolerable level of formaldehyde in air of homes. After gathering and critically evaluating all pertinent scientific literature, the Committee on Toxicology, a panel of expert toxicologists established by NAS, concluded that on the basis of available data there is no population threshold for the irritant effects of formaldehyde in humans. The Committee found that information from controlled human studies and complaint related investigations suggest that, even at extremely low airborne concentrations, a proportion of the population will respond with some irritation. The Committee recommended that formaldehyde be kept at the lowest practical concentration in indoor residential air.[4]

Studies of human exposure to formaldehyde have generally been either controlled exposure studies, home exposure studies or occupational exposure studies. In the controlled exposure studies, healthy young volunteers were subjected to formaldehyde concentrations of 0.03–4.0 ppm. These volunteers experienced, in general, discomfort and irritation of the eye, nose, and throat, ranging from mild to severe as well as an increase in eye blinking rate and a decrease in nasal mucus flow rate.[5] The severity of these responses and the numbers of subjects affected were dependent on the concentration and duration of exposure.

Under less controlled conditions, case studies of formaldehyde exposure in mobile homes and U.F. foam insulated homes at concentrations ranging from 0.03–10 ppm produced an even greater variety of adverse health affects.[6] In those mobile homes where consumers had complaints, 90 percent of the formaldehyde concentrations measured were below 1 ppm. The reactions included drowsiness, nausea, headaches; as well as irritation of the eye, nose, and respiratory track.[7] In a group of homes with U.F. foam insulation with levels less than 0.5 ppm formaldehyde, consumers reported eye irritation, upper respiratory symptoms, headaches and skin problems. Disturbances of the gastro-intenstinal tract were also reported when exposure concentrations were higher than 0.5 ppm.[8]

Persons exposed to formaldehyde in occupational situations have experienced eye, nose, and throat irritation (tearing, sneezing, coughing, dry and sore throat) as well as decreased sense of smell and skin irritation caused by the formaldehyde.[9]

The scientific literature also contains reports of headaches, dizziness, increased thirst, lethargy, irritability, disturbed sleep, inability to concentrate, moodiness, paranoia, crying without cause, and a crawling sensation of the skin.[10] In addition, asthmatic reactions have been observed from exposure to formaldehyde.[11] Continued exposure for long periods can also lead to chronic changes of the respiratory tract, such as hypertrophic, subrophic, or atrophic rhinitis and bronchitis.[12]

The scientific literature indicates that repeated exposure to formaldehyde liquid can cause sensitization in certain individuals. When exposed to formaldehyde these sensitized persons may exhibit allergic dermatitis [13] or mild to severe asthmatic reactions.[14] There

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[4] Committee on Toxicology, National Academy of Sciences, "formaldehyde—An Assessment of Its Health Effects", (March, 1980).

[5] Anderson, I. (1979.) Formaldehyde in the indoor environment-health implications and the setting of standards. In Fanger, P.O. and Valbjorn, O: *eds.* Indoor climate: Effects on human comfort, performance and health in residential, commercial and light-industry buildings. Proc. of the First International Indoor climate symposium, Copenhagen, August 30–September 1, 1978. pp. 65–87.

Weber-Tschopp, A., Fischer, T., and Grandjean, E. (1977.) Reizwickungen des Formaldehyde (HCHO) auf Menschen. Irritating effects of formaldehyde on men. Int. Arch. Occup. Environ. Health 39: 207–218.

[6] Breysse, P.A. 1977. Formaldehyde in mobile and conventional homes. Environmental Health Saf. News. 26 (1–6) 20 p

Sardinas, A.V., Most, R.S., Guillietti, M.A., and Honchar, P. 1979. Health effects associated with Ureaformaldehyde foam insulation in Connecticut. J. Environ. Health. 41: 270–272.

Gary, V.F., Oatman, I., Pleuss, R. and Gray, D. 1980. Formaldehyde in the home. Some environmental disease perspectives. Minnesota Med. 63: 107–111.

[7] Breyss. (1977) *Ibid.*

[8] Sardinas. (1979) *Ibid.*

[9] Weger, A. (1927). Thalamic sympton complex with formalin intoxication. Z. Ges. Neur. Psych. 111:370–82. (Discussed in NIOSH Report on recommended standard for exposure to formaldehyde, December, 1976.)

Yefremov. G.G., The state of the upper respiratory tract in formaldehyde production employees. Zh. Ushn. Nos. Gorl. Bolazn 30:11–15, 1970.

Gamble, J.F.; McMichael, A.J.; Williams, T.; and Battigelli, M. (1976) Respiratory function and Symptoms: An environmental-Epidemiological study of rubber workers exposed to phenol-formaldehyde type resin. Am. Ind. Hyg. Assoc., J., 37:499–513.

[10] Weger, (1927) *Ibid.*

Kamchatnov, V.P. and Gayazova, S.S. (1971). Temperature and asymmetry in workers exposed to formaldehyde vapor. Hyg. and San. 36:286–87

Morrill, E.E. (1961). Formaldehyde exposure from paper process solved by air sampling and current studies. Air. Cond. Heat. Vent. 58:94–95. (Discussed in NIOSH report on recommended standard for exposure to formaldehyde, December, 1976.)

Ahmed, I. and Whitson, T.C. (1973). Formaldehyde: How much of a hazard? Ind. Med. and Surg. 42:26–27. (Discussed in NIOSH report on recommended standard for exposure to formaldehyde, December, 1976.)

[11] Ludwig, (1935). Acute formaldehyde bronchiolitis in workmen handling artificial resin. Samml. Vergiftunsfallen. 6:227–30. (Discussed in NIOSH report on recommended standard for exposure to formaldehyde, December, 1976.)

Helwig, N. (1977). Occupational formalin asthma. Dtsch. Med Woch 102:1612–13.

Paliard, F., Roche, L. Exbrayat, C., and Sprunck, E. (1949). Chronic asthma due to formaldehyde. Arch. Mal. Prof. 10:528.

Turiar, C. (1952). Asthma through sensitivity to formaldehyde. Soc. Franc. d'Allergic. Seance du 18. Nov. (Discussed in NIOSH report on recommended standard for exposure to formaldehyde, December, 1976.)

Nova, Turaine (1957) Asthma from formaldehyde. Arch. Mal. Prof. 18:293. (Discussed in NIOSH report on recommended standard for exposure to formaldehyde, December, 1976.)

Sakula, A. (1975). Formalin asthma in hospital laboratory staff. Lancet: 2:816.

Hendrick, D.J. and Lane, D.J. (1977). Occupational formalin asthma. Br., J. Ind. Med 34:11–18.

[12] Yefremov. (1970) *Ibid.*

Kratochvil. I. (1971). The effect of formaldehyde on the health of workers employed in the production of crease resistance ready made dresses. Pr. Lck. 23:374–75. (Abstract)

[13] Horsfall, F. D. (1934). Formaldehyde hypersensitiveness—An experimental study. J. Imunol. 27:569–81.

Pirila, V.; and Kilpio, O. (1949). On dermatitis caused by formaldehyde and its compounds. Am. Med. Intern. Fenn. 38:38–51. (Discussed in NIOSH Report on recommended standard for exposure to formaldehyde, December, 1976.)

Hovding, G. (1969). Occupational dermatitis from pyrolysis products of polythene. Acta Derm. Venereol. 49:147–49.

[14] Sakula, (1975) *Ibid.*

Hendrick and Lane, (1977) *Ibid.*

are indications that some of the sensitized individuals may develop increasingly severe reactions upon continued exposure to formaldehyde.[15] It is estimated that 4.5 to 7.8 percent of the population may be sensitized to formaldehyde.[16]

Persons who have a history of allergic [17] or inflammatory diseases are generally considered to be more prone to the development of new chemical allergies, including an allergy to formaldehyde.[18] Although the causes for this increased sensitivity have not been determined, these factors could be related to (1) genetic factors controlling the allergic process, (2) the allergic process itself, or (3) the likelihood that one of the allergenic products to which the individual was exposed either contained of produced formaldehyde. Persons who have asthma or other respiratory problems are likely to experience more serious reactions when exposed to formaldehyde.[19] Based on this information, the Commission believes that persons who have respiratory problems or allergies, especially persons who are allergic to formaldehyde, are likely to experience more serious physical reactions when exposed to formaldehyde gas released from U.F. foam insulation.

The in-depth investigations and the scientific and medical literature discussed above indicate that exposure to formaldehyde can produce various illnesses in humans.[20] The extent and duration of the illnesses depend on the degree of the exposure and the physical condition of the victim. In the case of brief contact, formaldehyde gas initially and commonly causes symptoms such as nasal irritation and congestion, stuffiness, watering and burning of the eyes, sneezing, sinus pain, coughing, irritation, dryness, and burning of the throat. In addition, exposures of short duration have produced headaches, dizziness, nosebleeds, and nausea. Although the symptoms of exposure to formaldehyde are similar to those associated with colds, flu, and allergies, the symptoms are generally transient, meaning that the symptoms continue during exposure but are partially or completely alleviated when the person is removed from the site of exposure.

Repetitive exposure to formaldehyde primarily affects the respiratory system. The illnesses associated with repetitive exposure to formaldehyde that have been reported are caused by chronic irritation. These illnesses include: difficulty in breathing (asthma-like symptoms), chronic rhinitis and pharyngitis, chest pains, persistent cough and "chest congestion". Exposures of sufficiently prolonged duration may markedly aggravate existing pulmonary pathology and could initiate severe pulmonary illnesses.[21]

(3) *Long term health effects resulting from formaldehyde exposure.* In a two-year long-term inhalation study sponsored by the Chemical Industry Institute for Toxicology (CIIT) that is scheduled for completion in June, 1980, rats and mice have been exposed to 2, 6, and 15 ppm of formaldehyde gas. On October 16, 1979, representatives of the formaldehyde Institute, and industry trade association, informed the Commission that preliminary test results from this study indicated that rats exposed to 15 ppm of formaldehyde gas developed squamous cell carcinomas.

By January 1, 1980 a total of 20 female and 17 male rats had developed squamous cell carcinomas at the 15 ppm exposure level. Carcinomas first appeared after 12 months of exposure. In a random sample of rats selected for sacrifice and pathological examination after 18 months of exposure at the dose level of 15 ppm, 20 percent of the rats had developed squamous cell carcinomas. So far, the laboratory mice tested have not developed cancer. On January 17–18, 1980, an IRLG (Interagency Regulatory Liaison Group) task force on formaldehyde visited CIIT to obtain additional information concerning the long term study and to verify the findings of CIIT. The task force included pathologists from the Commission, the National Institute of Environmental Health Sciences (NIEHS), the Department of Energy, the Evironmental Protection Agency, and the National Cancer Institute. In a report prepared in February, 1980, the group of pathologists concurred, in general, with the CIIT observations, diagnoses, and interpretations.

The results of several other long term animal studies to determine the teratogenic and carcinogenic potential of formaldehyde have been negative.[22] However, one study has suggested that formaldehyde may have a co-carcinogenic potential, meaning that formaldehyde may increase the incidence of tumors when combined with a different substance that is known to be a carcinogen.[23] At the present time there is a lack of epidemiological data concerning cancer in humans that may be caused by formaldehyde.

The human health implications of these studies are not yet known. Recently, the Commission, in conjunction with the National Toxicology Program (NTP) formed a panel of federal scientists to help evaluate the existing data on carcinogenicity and assess their implications for humans. The panel is now considering available information and hopes to conclude its activities on July, 1980.

The Commission has also requested that NTP initiate additional studies to further define formaldehyde toxicity. These studies include assays for carcinogenicity, nutagenicity, and teratogenicity. Nutagenicity work currently being conducted at NCI includes AMES-type testing, malignant transformation, and unscheduled DNA

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[15] Shellow, N., and Altman, A. T. (1966). Dermatitis from formaldehyde resin textiles. Arch. Dermatol. 94:799–801.

Skogh, M. 1959. Axillary exzema in women, a syndrome, Acta Derm. Venereol. 39:369–371. (Discussed in NIOSH Report on recommended standard for exposure to formaldehyde. December, 1976.)

Breysse, (1977) *Ibid.*

[16] Marzulli, F. N. and Maibach, H. I. (1974). The use of graded concentrations in studying skin sensitizers: Experimental contact sensitization in Man. Food and Cosmetics Toxicology. 12:210–227.

[17] As used here and in the notice proposed at section 1405.4(b), persons with allergies are those persons who have a current history of allergic responses to a number of allergens.

[18] Loomis, T. A. (1979) Formaldehyde Toxicity Pathol. Arch. Lab. Med. 103:321–24.

[19] March 26, 1980 memorandum from Albert F. Esch., M.D., Medical Director, CPSC to A. G. Ulsamer, Ph.D., CPSC.

April 18, 1980 memorandum from K. C. Gupta, Ph.D., ESHE, CPSC, to Harry Cohen, OPM, CPSC. Studies in factory workers have shown chronic upper respiratory tract changes. In addition, animal studies have shown increased airway resistance in guinea pigs exposed to formaldehyde.

Yefremov (1970). *Ibid.* and Kratochvil, (1971) *Ibid.*

Amdur, M.O. (1959) the physiological response of guinea pigs to atomospheric pollutants. Int. J. Air Poll. 1:170–83. (Discussed in NIOSH Report on recommended standard for exposure to formaldehyde, December, 1976.)

[20] March 26, 1980 memorandum from Albert F. Esch., M.D., Medical Director, CPSC to A. G. Ulsamer, Ph.D., CPSC.

[21] March 26, 1980 memorandum, Esch, *Ibid.*

[22] Klenitzky, J. S. (1940). On experimental Cancer of Uterine Cervix, Bull, Bio. Expt. Med. 9:3–6. (Discussed in NIOSH Report on recommended standard for exposure to formaldehyde, December, 1976.)

Brendel, R. (1964). Studies on Compatability of hexamethylenetetramine in rats. Arzneimittle-Forsch. 14:51.

Della Porta, G., Colnaghi, M. I. and Parmiane, G. (1968) Non-carcinogenicity of Hexamethylenetetramine in Mice and Rats. Fd. Cosmet. Toxicol. 6: 707–15.

Della Porta, G., Cabral, J. R. and Parmiani, G. (1970). Transplacental Toxicity and Carcinogenesis Studies in Rats with Hexamethylenetetramine (Italian). Tumori *56*, 325–334.

Hurni, H. and Ohder, H. (1973). Reproduction Study with Formaldehyde and Hexamethylenetetramine in Beagle Dogs. Fd. Cosmet. Toxicol. *11*, 459–462.

[23] Dalbey W., and Nettescheim, P. (1980). Personal Communication.

synthesis. These additional tests will help the Commission in assessing the preliminary results obtained in the CIIT study.

The proposed notification at section 1405.4(b) does not include a reference to these studies or the possible long-term health effects associated with exposure to formaldehyde. However, in commenting on this proposal, interested persons should take into account the possibility that, based on the assessment of existing information by the panel of federal scientists as well as additional information that is obtained during this rulemaking, the Commission may decide to include information concerning the possible long-term health effects in the notification if the Commission issues a final rule. In this regard the Commission could:

(1) Issue a final regulation without any notification concerning the possible long-term health effects of exposure to formaldehyde.

(2) Issue a requirement for a notification that describes the existing scientific data concerning animal tests.

(3) Issue a requirement for a notification that includes a statement concerning the carcinogenic potential to humans of exposure to formaldehyde.

The Commission requests interested persons commenting on this proposed regulation to address these possibilities. This regulation, if it is issued as a final regulation, could be replaced or supplemented by other Commission regulations if the tests described above concerning the possible long-term effects warrant such action.

E. The Need for the Written Notification

The notification requirement proposed here is needed to help the Commission in carrying out the purposes of the act of protecting the public against unreasonable risks of injury and in assisting consumers in evaluating the comparative safety of consumer products. The notification requirement would accomplish these purposes by ensuring that prospective purchasers and purchasers have accurate information concerning the release of formaldehyde from U.F. foam insulation, so that consumers may make an informed decision in purchasing the product.

The notification is necessary since it would provide all prospective purchasers and purchasers with general information describing the technical and performance aspects of the product and the health reactions that can occur where there are problems associated with the release of formaldehyde from the product. Since some of the physical symptoms that are caused by exposure to formaldehyde gas may be flu-like symptoms, some consumers may not be aware of the relationship between the physical symptoms and the product. This information may help those consumers who purchase the product with the disclosure and later experience reactions to associate the product with the health problems.

The notice should also provide protection for purchasers since the notice provides information concerning persons to contact for assistance, including the consumer's physician. The disclosure also includes technical and performance data describing the safety and health effects of exposure to formaldehyde gas on persons with respiratory problems and allergies, and informs these persons that they may experience more serious reactions than the rest of the populations.

The notification requirement is necessary since many people may be unaware of these facts at the time of the purchase.[24] To the extent that these prospective purchasers read this information and base their purchasing decision on this information, the notification would protect these consumers against the adverse safety and health effects that can result from the release of formaldehyde gas by the product.

The information in the proposed notification requirement would also assist consumers in evaluating the comparative safety of U.F. foam insulation. The proposed notification would ensure that prospective purchasers received accurate safety-related information concerning the product that could be used by consumers in comparing U.F. foam insulation with other types of insulation and in evaluating safety aspects of the types of insulation materials that are available for purchase.

In the process of gathering information concerning problems associated with U.F. foam insulation through public hearings and discussions with manufacturers and consumers, the Commission staff has learned that consumers may not receive information concerning the safety related aspects of the product.[25] At the present time, the Commission believes that safety related information given to prospective purchasers varies from manufacturer to manufacturer, and may vary according to different requirements imposed by various state and local governments.[26] The notification requirement proposed here would help ensure that prospective purchasers and purchasers receive at least a minimum amount of important performance and technical data related to safety and would ensure that consumers receive this information in a uniform manner.

In the Commission's public hearings and in discussions with the Commission staff, manufacturers and installers of U.F. foam insulation, state and local government officials, consumers and others have expressed support for a written notification of safety-related information.[27]

F. Economic Impact

(1) Background

Although U.F. foam insulation has been used in Europe for many years,

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[24] At the Commission's public hearings, the Commission received testimony from several consumers indicating that they received no information or received misinformation from the installer concerning the possible adverse safety and health effects associated with the release of formaldehyde gas from the product: Portland Tr. p. 97; Atlanta Tr. pp. 54, 114–115, 178; Hartford Tr. pp. 73, 108, 154–155, 508, 522.

[25] Nine consumers with complaints concerning their U.F. foam insulation testified that they received no information or received misinformation from the installer concerning the possible adverse safety and health effects associated with the release of formaldehyde gas from the product: (Portland Tr. pp. 73, 108, 154–155, 508, 522).

[26] At the Commission's public hearings the testimony from manufacturers indicated a wide divergence in the extent of the information presented to consumers and the manner of presentation. Some manufacturers stated that they provided an oral statement (Atlanta Tr. pp. 46–48, 216; Minneapolis Tr. p. 249; Hartford Tr. p. 434), other manufacturers indicated that they presented a written notification (Portland Tr. pp. 250–251, Minneapolis Tr. p. 104). One manufacturer indicated that he presented both an oral and written statement (Atlanta Tr. p. 378). One manufacturer stated that his notification varied depending on state requirements (Atlanta Tr. pp. 333–334). Another manufacturer expressed concern that the lack of a uniform requirement would lead some competitors to make unrealistic claims about the performance of their product (Atlanta Tr. p. 293).

[27] At the Commission's public hearings fifteen manufacturers and installers of U.F. foam insulation expressed support for a written notification of safety-related information to consumers. (Portland Tr. pp. 39, 50–51, 250–251; Atlanta Tr. pp. 43, 47–48, 93, 217, 287–288, 293, 324, 333, 341, 378, 383; Minneapolis Tr. pp. 104, 249, 348, 349; Hartford Tr. pp. 92, 434, 465–467, 532–533.

Six state and local officials expressed support for a disclosure to consumers. (Portland Tr. pp. 137, 380; Hartford Tr. pp. 14, 116, 126, 140–141, 404).

Three consumers also expressed support for a disclosure statement. (Portland Tr. pp. 97–98; Atlanta Tr. pp. 114–115; 190).

In addition, a trade association of formaldehyde producers (Portland Tr. pp. 145–146), a consulting and engineering firm (Atlanta Tr. pp. 28–29), a doctor at a children's health center (Minneapolis Tr. pp. 48–49); a national consumer organization (Hartford Tr. p. 336); and a medical doctor at a university (Hartford Tr. p. 502) also expressed support for a disclosure of safety-related information to consumers.

The Commission has also received written comments from consumers, a consumer group, and a state government supporting a disclosure of safety-related information to consumers (cc 14–78–8; cc 14–79–18; cc 14–79–37; cc 14–79–43; cc 14–79–45; cc 14–79–52(L)).

U.S. interest in U.F. foam insulation began when the increased costs of energy in the mid-1970's stimulated consumer demand for residential insulation. Installations of U.F. foam increased rapidly to an industry high in 1977, when increased demand for insulation created shortages for alternative insulating materials.

The primary market for U.F. foam insulation is for sidewall insulation in existing homes. A study conducted for the Commission estimated that 60,000 homes were insulated with U.F. foam in 1975; 170,000 in 1977, and 125,000 in 1978 (later information suggests that the 1978 estimate may have been overstated). Based on information provided by industry sources, the Commission staff estimates that in 1979 there were 60,000 to 70,000 installations of U.F. foam in homes. There has been a definite decline in the number of installations in U.F. foam since 1977. This decline may be due to decreased overall demand for insulation products and resulting increased availability of alternative insulating materials, in addition to adverse publicity related to U.F. foam insulation in some areas of the country.

Installation of U.F. foam in 1980 may increase slightly over 1979 totals, according to industry sources. Perhaps somewhat less than a half million homes have been insulated with U.F. foam since its introduction in this country.

In the United States, there may be 30 or more suppliers of U.F. resins for U.F. foam insulation, although perhaps 85 to 90 percent of the installations use products supplied by the ten largest firms. At the present time, there are probably fewer than 3,000 installers of U.F. foam in the United States. The Commission staff believes that the number of installers is much less than the number of installers in 1977, the peak year for installation of U.F. foam.

The Commission staff estimates that the installed cost of U.F. foam ranges from 70¢ to $1.25 per square foot. For the average home, the cost to consumers may range from $1,050 to $1,875. If it is assumed that the average installed cost is $1 per square foot and 60,000 to 80,000 homes will be insulated with U.F. foam in 1980, consumer expenditures may total $90 to $120 million. The wholesale value of the U.F. resin and foaming agents used in these installations may be about ⅓ of the installed retail value, or $30 to $40 million.

(2) Possible Decrease in Demand

The Commission believes that the major economic impact of the disclosure requirement would be a possible reduction in the total number of installations.[28] Although it is difficult to estimate the decrease in the number of installations that may result from the regulations, the magnitude of the decrease is likely to depend on several factors:

(a) *State and local actions.* In states, such as Connecticut, that have adopted a disclosure requirement similar to that proposed here by the Commission, the Commission's disclosure requirement may not further reduce sales of the product. In states and local governments that have already banned the product, such as Massachusetts, or ban the product in the future, the Commission's disclosure requirement would not further reduce sales where these bans remain in effect.

(b) *Previous public awareness of the possible effects of formaldehyde release.* In some areas of the country, especially where there has been state and local concern about the product, the pubic's awareness of potential problems has been increased. To the extent that potential purchasers are already aware of possible hazards with the product, this may lessen the decrease in demand that could be expected.

(c) *Other factors.* Additional factors that could affect the purchasing decisions of persons presented with the written notification are consumer perceptions of the severity of possible adverse health effects, considerations of the health of existing members of the household (whether any members have respiratory problems or allergies), and the likelihood that adverse health effects may result. The purchasing decision may also be influenced by consumer perceptions of the reputation of the installer, the extent to which previous installations have been successful, and the likelihood of success of remedial measures that may be taken to correct problems, along with the willingness of the manufacturers to undertake such remedial measures. The decision to purchase U.F. foam insulation may also be influenced by consumer expectations of savings in costs to heat or cool their homes as a result of the U.F. foam insulation.

Although the effect of the rule on demand for the product has not been determined at this time, a significant decrease in demand could lead installers to decrease their prices in order to compete with alternative insulation materials. A significant decrease in demand could also affect the availability of U.F. foam insulation, since some installers may decide not to offer U.F. foam insulation.

In the event that consumers decide not to purchase U.F. foam insulation, or if the availability of U.F. foam insulation is reduced, the Commission believes that substitute insulation products, such as cellulose and mineral wool (fibrous glass) insulation, would be available for use in many of the homes that are candidates for insulation with U.F. foam insulation.

(3) Direct Costs of the Written Notification.

The Commission believes that the direct costs of providing the written notification that would be required by this rule would be insignificant. The direct costs will vary from manufacturer to manufacturer, since some manufacturers may revise their contracts of sale and have copies made, while other manufacturers may have the notice printed on a separate sheet of paper and have copies made. In all cases the direct costs of printing the written notification would be insignificant in relation to the purchase price of the product. A report prepared for the Commission staff estimates that the average purchase price of installed foam is 70¢ per square foot. The report estimates that the average outside wall area of a home that is insulated with U.F. foam is about 1,500 square feet, so that the average retail value of a U.F. foam installation was $1,050 in 1979.[29] (In a September 1978 article in the *The Family Handyman*, the estimated installed cost of U.F. foam ranged from 75¢ to $1.25 per square foot. If this estimate is used, then the installed foam would have a retail value ranging from $1,125 to $1,875 if 1500 square feet are insulated.)

(4) Additional Economic Impacts.

One of the purposes of the proposal is to inform consumers with certain existing physical conditions (respiratory

[28] In Connecticut, nine U.F. foam insulation manufacturers have entered an agreement with the state. The agreement requires, among other things, the manufacturers to include in the contract of sale a warning of possible adverse physical effects resulting from the release of formaldehyde. Since the agreement became effective in April, 1979, the manufacturers who entered the agreement reported 430 installations of U.F. foam insulation from April 20, 1979 to November 1979. The number of installations is much lower than the Commission staff's estimate of an average number of installations in Connecticut of 2,500 per year from 1976 through 1978. However, the reduction in the number of installations of the product may have been the result of adverse publicity associated with the Massachusetts ban of U.F. foam insulation. Because of this factor, it is difficult to estimate the effect of the required notification under the Connecticut agreement.

[29] Battelle Columbus Laboratories, "Product/Industry Profile and Related Analysis of Formaldehyde and Formaldehyde-Containing Consumer Products; Part II-Products/Industry Profile on Urea Formaldehyde," December 15, 1978 (Revised February 5, 1979).

problems or allergies) that they may experience more serious reactions if there is a problem associated with the release of formaldehyde gas from the product. This information could reduce the sale of U.F. foam insulation to consumers with respiratory problems or allergies. However, the Commission believes that the proposed rule would result in a greater average utility of the product, since persons more likely to suffer adverse physical effects may not buy the product. If these consumers do in fact refrain from buying the product, this should reduce the total medical and non-medical costs caused by the release of formaldehyde gas from U.F. foam insulation.

G. Effective Date

The Commission proposes that manufacturers of U.F. foam insulation who make sales to consumers or who present contracts of sale to consumers beginning on the date that is six weeks after publication of a final regulation must comply with the requirements of the regulation.

Based on previous experience with notification rules and the flexible means by which manufacturers may present this notification, provided by § 1405.4(e), the Commission staff believes that the proposed effective date would provide sufficient time for manufacturers to design, order, and distribute the written notification that would be required by this regulation. In an informal conversation with the Commission staff, a large manufacturer of U.F. foam insulation agreed that the proposed effective date would provide sufficient time to comply with the regulation. The Commission anticipates that a final rule could be issued by the middle of October, 1980. The six week interval between publication of the final rule and its effective date should be sufficient time in which to comply with the requirements of the regulation.

H. Environmental Considerations

The most important environmental impact of the regulation proposed here, aside from its potential for limiting the number of homes which would otherwise have increased levels of formaldehyde gas, would be in the form of foregone savings in energy consumption for any homes that might not be insulated as a result of the rule. The Commission staff estimates that for every 1,000 homes that are not insulated by U.F. foam or alternative materials, such as mineral wool (including fibrous glass) and cellulose home insulation, the foregone savings in energy consumption may be about 35.3 billion Btu's of gas, with a value of about $101,000 at 1979 gas prices, and about 138,000 gallons of heating oil, with a value of about $138,000. Since relatively few electrically heated houses are thought to have uninsulated walls, there should be little foregone savings in electricity.

At the present time, the Commission staff is not able to estimate the number of residences, if any, that may not be insulated as a result of the notification requirement. However, the Commission staff believes that the foregone annual energy savings will be very small in relation to total residential energy consumption. For 1979, the reported residential gas use was a total of 5,149 trillion Btu's, and total residential revenues of gas utilities were about $14.7 billion. Total residential fuel oil consumption is reportedly 10.5 billion gallons annually for single family residences.

Based on its consideration of the potential environmental impact of the proposal, the Commission concludes that the environment will not be significantly affected and that an environmental impact statement is not necessary. The Commission's regulations for environmental review (16 CFR Part 1021, § 1021.5) provide that labeling rules are normally non-major actions with little or no potential for affecting the environment, so that an environmental review is not normally required. The Commission does not foresee that this notification requirement will become a major action anticipated to affect the environment.

I. Actions by State and Local Governments and Other Federal Agencies Concerning U.F. Foam Insulation

The Commission is aware of the following actions taken by state and local governments and other federal agencies concerning U.F. foam insulation:

(1) The State of Massachusetts has declared U.F. foam insulation to be a banned hazardous substance and has required the removal of U.F. foam insulation from commerce in that state (105 CMR: Department of Public Health 650.020). The Massachusetts ban became effective November 14, 1979. The Massachusetts regulations are currently in litigation, although the ban itself is in effect during this litigation.

(2) The Attorney General's office of the State of Connecticut has entered an agreement with nine members of the U.F. foam insulation industry to resolve complaints concerning adverse physical effects associated with U.F. foam insulation. The Connecticut agreement also requires manufacturers to provide prospective purchasers with a notice concerning possible adverse health effects associated with U.F. foam insulation. On January 1, 1980, the Connecticut Department of Consumer Protection proposed a regulation to require a health warning in all U.F. foam insulation contracts from all manufacturers.

(3) The Office of the Attorney General of the State of Colorado has issued a warning about potential health hazards to consumers who have purchased U.F. foam insulation. Denver County has adopted a prohibition against the use of U.F. foam in new or existing construction.

(4) On December 18, 1979, the Virginia Department of Health issued a Health Hazard Alert on formaldehyde and U.F. foam insulation.

(5) In several state legislatures, bills have been introduced to require a safety related disclosure (New York, Minnesota), to ban or impose a moratorium on the sale of the product (New Jersey, California, Arizona, West Virginia, New Hampshire, Maryland), or to set performance requirements limiting formaldehyde emission (Minnesota, California).

(6) The Department of Housing and Urban Development (HUD) has issued a Use of Materials Bulletin (UMB #74 for U.F. foam insulation. UMB #74 explains the conditions under which HUD will accept U.F. foam insulation and stipulates certain limitations for its use.

(7) On December 21, 1979, DOE reproposed material and installation standards for U.F. foam insulation under the Residential Conservation Service (RCS) Program established by Title II, Part 1 of the National Energy Conservation Policy Act (NECPA), Pub. L. No. 95–619 (44 FR 75956). The DOE standard, at § 456.810(d)(11)(ii) contains the following proposed warning that would be printed for manufacturers to present to residents prior to the installation of U.F. foam insulation:

> **Caution.**—Under some conditions Urea Formaldehyde insulation may cause the release of formaldehyde gas into living areas, and the development of adverse health effects. Continued exposure to formaldehyde can cause nausea and vomiting, respiratory difficulties, headaches, eye irritation, and allergic reactions. Such symptoms may develop anywhere from a few days to more than six months after the gas is released.

The Commission has submitted oral and written comments to DOE concerning the proposed standards. At the present time, DOE has not decided whether to issue final standards for the product. However, DOE staff have informally advised the Commission staff that in the event the Commission decides to issue a final disclosure

requirement, DOE would suspend any warning requirement issued by DOE.

J. Possible Effect of This Regulation on State and Local Government Actions

Section 26(a) of the act (15 U.S.C. 2075(a)) provides that where a federal consumer product safety standard is in effect, state and local governments do not have the authority to establish or to continue in effect a different safety standard or regulation designed to deal with the same risk of injury as the federal standard. This statutory effect on state and local government regulations, known as preemption, applies where there is a consumer product safety standard in effect. The statutory preemption provision would not take effect if the Commission issued a final disclosure requirement under section 27(e), since the disclosure requirement would not be a consumer product safety standard issued under sections 7 and 9 of the act (15 U.S.C. 2056, 2058). Interested persons should be aware, however, that even though the statutory preemption provision would not apply, there may be some instances where certain state or local government actions could be preempted under other legal principles.

K. Specific Questions for Commentors

The Commission is interested in receiving written comments from interested persons on all issues related to this proceeding. The Commission is especially interested in receiving comments addressing the following issues:

(1) Whether there is scientific and medical substantiation for additional reactions to U.F. foam insulation that have been reported in consumer complaints. These reactions include chest pain, cardiac arrythmia, loss of voice, swollen glands, high blood pressure, loss of memory, nosebleeds, and gastrointestinal disturbances. In considering this issue, commentors should also address the issue whether there is sufficient substantiation to support the inclusion of these reactions in the disclosure requirement.

(2) Whether the disclosure requirement would be effective in helping the Commission to carry out the purposes of the act of protecting the public against unreasonable risks of injury associated with consumer products and assisting consumers in evaluating the comparative safety of home insulation materials.

(3) Whether the application of the regulation should be extended to include notification to prospective purchasers of the product for installation in commercial buildings, recreational facilities, schools, and other public buildings where consumers may be exposed to formaldehyde gas released from the product.

Whether the application of the regulation should be extended to include notification to prosective purchasers and purchasers of the products for installation in new homes; and, if so, whether there is an effective means of accomplishing this under the notification provisions of section 27(e) of the act.

(5) Whether the written notification should also be presented in the fact sheet which would be required by the FTC's trade regulation rule for the labeling and advertising of home insulation (16 CFR Part 460, 44 FR 50218, August 27, 1979). This fact sheet must be shown to consumers before they purchase the insulation.

(6) What the economic effect of the proposed rule will be, including the effect of the proposed rule on the price, utility, and availability of the product.

Whether the proposed effective date of six weeks after publication of a final regulation would allow manufacturers sufficient time to design, order, and distribute written notifications complying with the requirements of the proposal.

L. Penalites

If the Commission issues a final regulation requiring the written notification proposed here, manufacturers of U.F. foam insulation must comply with the requirements of the regulation on the effective date. Failure to comply with the regulation is a prohibited act, as specified in section 19(a)(9) of the CPSA, and could lead to civil and criminal penalties under sections 20 and 21 of the CPSA. Section 21 provides criminal penalties consisting of fines of not more than $50,000 and imprisonment for not more than one year. Section 20 provides a maximum civil penalty of $500,000 for any related series of violations. In addition, section 22 of the act authorizes the Commission to obtain an injunction from a United States district court to restrain a violation of the notification requirement.

M. Statutory Findings

Section 27(e) of the Consumer Product Safety Act authorizes the Commission to require manufacturers of consumer products to give notification of performance and technical data related to performance and safety at the time of original purchase to prospective purchasers and to the first purchaser of such product for purposes other than resale, as necessary to carry out the purposes of the act. As provided in section 2(b) of the CPSA (15 U.S.C. 2051(b)) one purpose of the act is to protect the public against unreasonable risks of injury associated with consumer products. Another purpose of the act is to assist consumers in evaluating the comparative safety of consumer products.

(a) *Protecting the Public.* The Commission has considered the available technical information concerning the physical characteristics of U.F. foam insulation. The information, as discussed in section C of this preamble, shows that U.F. foam insulation can release a measurable amount of formaldehyde after it is manufactured and that U.F. foam insulation may release formaldehyde gas into the home for an indefinite period of time after installation. This information, along with information available from the Commission's investigation of consumer complaints, also shows that in some instances, inexpensive remedial measures, short of removing the insulation product from the home, are not effective in adequately controlling the release into the home of formaldehyde gas from the product.

As discussed in section D(1) of this preamble the Commission has also examined available information concerning consumer complaints. This information shows that there have been over 1000 consumer complaints of adverse health effects from the release of formaldehyde gas from U.F. foam insulation. Based on in-depth investigations of some of these complaints, the Commission believes that consumers have suffered illnesses as a result of the product, and have been hospitalized, and in some cases forced to vacate their homes. Based on this information and other available medical and scientific information described in section D(2) of this preamble, the Commission believes that exposure to formaldehyde gas can produce serious illnesses in humans. The symptoms of these illnesses include eye, nose, and throat irritation, coughing, shortness of breath, skin irritation, nausea, headaches, and dizziness. Since some of the symptoms are flu-like, many consumers may not associate these symptoms with the insulation product. In addition, persons who have a history of respiratory problems or allergies, especially persons who are allergic to formaldehyde, may suffer more serious reactions.

In section E of this preamble, the Commission has explained why it believes the proposed regulation is necessary and how the proposed regulation would assist the Commission in protecting the public.

As discussed in section F of the preamble, the Commission has also examined the potential economic impact of requiring a written notification to reduce the risk of injury associated with the potential release of formaldehyde gas from U.F. foam insulation. The Commission believes that the proposed regulation may have a minor impact on the price and availability of the product and would result in a greater average utility of the product.

As a result of the risk injury associated with U.F. foam insulation because of the potential release of formaldehyde gas from the product, the minor impact that the proposed regulation may have on the price, and availability of the product, along with the likely increase in average utility of the product, the Commission preliminarily determines that there is an unreasonable risk of injury associated with U.F. foam insulation that is sold by manufacturers without the written notification that would be required by Part 1405.

The Commission preliminarily determines that, in order to carry out the purpose of the CPSA of protecting the public against unreasonable risks of injury, it is necessary to require manufacturers of U.F. foam insulation to provide the written notification required by proposed Part 1405 as set forth below.

(b) *Assisting purchasers in evaluating the comparative safety of home insulation products.* As discussed in section E of this preamble, the data before the Commission indicate that many consumers may be unaware of the information in the proposed written notification at the time they purchase the product. Many manufacturers have not provided consumers with all of the information in the proposed written notification, or may not have provided the information in a uniform manner.

Other types of common home insulation materials, such as mineral wool (including fibrous glass) and cellulose insulation, have not been shown to present the same risk of injury from the potential release of formaldehyde gas as does U.F. foam insulation. These other types of insulation, however, do have safety-related information on their containers. Members of the mineral wool insulation industry have voluntarily agreed to label their product to address, among other things, clearance around heat sources and proper installation of insulation with flammable vapor barriers. The Commission has issued a disclosure requirement for cellulose insulation at 16 CFR Part 1404 that requires cellulose insulation to be properly labeled to avoid the unreasonable risk of injury from fire presented by improperly installed cellulose insulation (July 6, 1979, 44 FR 39993).

At the present time, the Commission believes that if there is no mandatory written notification for U.F. foam insulation, it is unlikely that consumers will be given sufficient accurate safety-related information concerning the potential for injury from the release of formaldehyde gas from the product. Without this information, the Commission believes that it would be difficult for consumers to evaluate the safety of U.F. foam insulation in comparison to the safety of other types of home insulation materials. The written notification requirement proposed here would ensure that prospective purchasers and purchasers receive accurate safety-related information that could be used by consumers in comparing U.F. foam insulation with other types of home insulation and in evaluating safety aspects of the types of insulation materials that are available for purchase. Based on presently available information, the Commission has preliminarily determined that the information in the written notification proposed here is necessary to assist consumers in evaluating the comparative safety of U.F. foam insulation in relation to other home insulation products.

N. Conclusion and Proposal

On the basis of the information discussed above, the Commission concludes that a regulation, applicable to manufacturers of U.F. foam insulation, that would require manufacturers to provide a written notification to prospective purchasers and to the first purchaser for purposes other than resale concerning safety related aspects associated with the release of formaldehyde from the product is required to carry out the purposes of the act of: (1) protecting the public against unreasonable risks of injury associated with consumer products and (2) assisting consumers in evaluating the comparative safety of consumer products.

Therefore, under provisions of the Consumer Product Safety Act (secs. 2, 27(e), Pub. L. 92–573, 86 Stat. 1207, 1228; 15 U.S.C. 2051, 2076(e)), the Commission proposes that Title 16, Chapter II of the Code of Federal Regulations be amended by adding to Subchapter B a new Part 1405 as follows:

PART 1405—UREA-FORMALDEHYDE FOAM INSULATION—NOTIFICATION OF PERFORMANCE AND TECHNICAL DATA

Sec.

1405.1 Scope, application, and effective date.
1405.2 Background.
1405.3 Definitions.
1405.4 Requirements to provide performance and technical data by written notice to prospective purchasers and purchasers.

Authority: Section 2, 27, Pub. L. 92–573, 86 Stat. 1207, 1228 (15 U.S.C. 2051, 2076).

§ 1405.1 Scope, application, and effective date.

(a) *Scope and application.* This Part 1405 requires manufacturers of urea-formaldehyde (U.F.) foam insulation to provide a specified notification to consumers who are prospective purchasers and first purchasers of the product for installation in residences. The notification statement in § 1405.4(b) is intended to provide consumers with specified technical and performance information related to the safety of the product before the insulation is installed. The notification informs consumers about the possible adverse effects of release of formaldeyhyde gas from the insulation after it is installed in residences.

(b) *Effective date.* Manufacturers of U.F. foam insulation who present contracts of sale or who make sales to consumers six weeks after publication of a final regulation, for installation of the product in residences, must provide the written notification specified in this regulation.

§ 1405.2 Background.

(a) Based on laboratory research and measurements taken in some homes, the Consumer Product Safety Commission has determined that U.F. foam insulation may release formaldehyde gas into residences in which it is installed. The release of formaldehyde may continue long after the product is installed.

(b) Complaints of incidents received by the Commission and other medical and scientific information indicate that exposure to formaldehyde gas from U.F. foam insulation can produce serious illness in humans, with reactions such as eye, nose, and throat irritation, coughing, shortness or breath, skin irritation, nausea, headaches and dizziness. The symptoms may not appear immediately after the product is installed. Persons with respiratory problems or allergies, especially persons who are allergic to formaldehyde, may suffer more serious reactions.

(c) In those cases where the product has released formaldehyde into the residence, the Commission has information showing that in some instances the formaldehyde gas cannot be controlled by ventilation or other inexpensive means. The Commission also has information showing that use of the insulation in attics, ceilings, or interior walls increases the likelihood of releasing formaldehyde gas into the residence.

(d) After having considered the risk of injury associated with U.F. foam insulation because of the potential release of formaldehyde gas and the impact of the regulation on the price, utility, and availability of the product, the Commission has determined that there is an unreasonable risk of injury associated with U.F. foam insulation that is sold by manufacturers without the written notification at § 1405.4(b). The Commission has determined that disclosure of the information at § 1405.4(b) is necessary to help the Commission in carrying out the purposes of the Consumer Product Safety Act of helping to protect the public against unreasonable risks of injury associated with consumer products and assisting consumers in evaluating the comparative safety of consumer products.

§ 1405.3 Definitions.

(a) The definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) apply to this Part 1405.

(b) "Urea-formaldehyde (U.F.) foam insultation", also referred to as urea-based foam insulation, or foamed-in-place insulation, is a cellular plastic product that is manufactured at the job-site by mixing two liquid chemicals—urea-formaldehyde based (or urea-based) resin and a foaming agent—and, generally, pressurized air, through a foaming equipment system. The resultant mix has a shaving cream-like consistency and is usually pumped through relatively small holes into the walls of standing structures. After it is in the wall, the product cures and becomes firm or self-supporting.

(c) The "manufacturer of U.F. foam insulation" is the installer who combines the component materials and foams the insulation into its permanent location.

§ 1405.4 Requirements to provide performance and technical data by written notice to prospective purchasers and purchasers.

(a) Before the U.F. foam insulation is installed, manufacturers of U.F. foam insulation shall give notification of performance and technical data related to performance and safety: (1) to prospective purchasers of such products at the time of original purchase, and (2) to the first purchaser of such products, for purposes other than resale. Manufacturers of U.F. foam insulation shall include the statement in § 1405.4(b) on all contracts of sale for U.F. foam insulation. If the manufacturer does not present a written contract of sale to the prospective purchaser or purchaser, then the notice shall appear on a receipt of the transaction or on a document relating to a credit transaction involving the sale of U.F. foam insulation that gives the seller a security interest in the consumer's real property. If the manufacturer does not present any of these documents, then the notice shall appear on a separate piece of paper.

(b) The notice shall read as follows:

SAFETY INFORMATION

- THIS PRODUCT MAY RELEASE FORMALDEHYDE GAS INTO YOUR HOME OVER A LONG PERIOD OF TIME.
- FORMALDEHYDE GAS MAY CAUSE EYE, NOSE, AND THROAT IRRITATION, COUGHING, SHORTNESS OF BREATH, SKIN IRRITATION, NAUSEA, HEADACHES AND DIZZINESS. PEOPLE WITH RESPIRATORY PROBLEMS OR ALLERGIES MAY SUFFER MORE SERIOUS REACTIONS, ESPECIALLY PERSONS ALLERGIC TO FORMALDEHYDE.
- The symptoms may appear immediately, or not until months after installation.
- Use of the insulation in attics, ceilings, and interior walls increases the likelihood of releasing formaldehyde gas into your home. In some instances the formaldehyde gas cannot be controlled by ventilation or other inexpensive means.
- If you have health concerns, call your doctor. Also, contact (installer-phone) or (material supplier-phone) immediately.

The U.S. Consumer Product Safety Commission requires the above notice of performance and technical information related to safety.

(c) The notice shall appear prominently and conspicuously. If the contract of sale, receipt, document related to a credit transaction, or separate piece of paper provides for a signature of the purchase, then the notice shall appear on the same page as the signature of the purchaser and before the signature of the purchaser.

(d) The phrase "Safety Information" shall appear in bold face capital letters in a type size of at least 18 points, and shall have a height of at least 0.18 inches. The following three sentences shall appear in bold face capital letters in a type size of at least 10 points, and shall have a height of at least 0.10 inches. The remainder of the statement shall be set in capital and lower case letters in a type size of at least 8 points, having capital letters at least 0.08 inches in height. The notice shall be printed with legible type in a color which contrasts with the background on which the statement is printed. The entire statement, with the exception of the last sentence, shall be enclosed within a ruled rectangle.

To meet the requirement of this section, manufacturers may use any type of written notice, including one which is pressure-sensitive or glued on, provided the notice is made in such a manner that it will remain attached to the contract of sale, receipt, document related to a credit transaction, or separate piece of paper.

(f) The manufacturer shall not be deemed to have met the requirements of this section if the manufacturer provides the prospective purchaser or purchaser with any oral or written statement that in any manner negates or disclaims the notification required by this section.

Interested persons are invited to submit written data, views, or arguments regarding any aspect of proposed Part 1405 on or before August 11, 1980. Comments submitted after this date will be considered to the extent practicable.

Comments must be accompanied, to the extent possible, by supporting data or documentation. Requests for confidentiality of documentation will be handled in accordance with the Freedom of Information Act as amended (5 U.S.C. 552), the Commission's regulations under that act (16 CFR Part 1015), and the provisions of section 6(a)(2) of the CPSA (15 U.S.C. 2055(a)(2)).

Written submissions and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

All written comments that are received, and all other material which the Commission has that is relevant to this proceeding may be seen in, or copies obtained from, the Office of the Secretary, Third floor, 1111 18th Street N.W., Washington, D.C. 20207.

Dated: June 4, 1980.

Sadye E. Dunn,

Consumer Product Safety Commission.

[FR Doc. 17450 Filed 6-9-80; 8:45 am]

BILLING CODE 6355-01-M

federal register

Tuesday
June 10, 1980

Part VI

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Interpretive Rules Relating to Topsoil Substitutes and Supplements; Prime Farmlands Grandfather Provisions

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 715, 816, and 817

Interpretive Rules Relating to Topsoil Substitutes and Supplements

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Final interpretive rule.

SUMMARY: This Notice announces interpretive rules that advise the public of OSM's interpretation of 30 CFR 715.16(a)(4), 816.22(e) and 817.22(e) relating to topsoil substitutes and supplements. The interpretive rule describes the different sources from which required physical and chemical analyses of the topsoil or materials to be used in place of or mixed with the topsoil may be obtained. This interpretive rule clarifies that these analyses need not be performed again if they have previously been performed adequately. The subject regulations were among a number of final regulations published in the **Federal Register** on December 13, 1977, 42 FR 62639–62716, and on March 13, 1979, 44 FR 15311–15463.

DATES: This interpretive rule will become effective July 10, 1980.

FOR FURTHER INFORMATION CONTACT: Raymond E. Aufmuth, Physical Scientist (202–343–4022) or Edward Johnson, Agronomist (202–343–5261), Technical Services Division, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

SUPPLEMENTAL INFORMATION: Section 501 of the Surface Mining Control and Reclamation Act ("Act") requires the Secretary to promulgate regulations establishing interim and permanent regulatory programs for surface coal mining operations. Final regulations, including regulations concerning topsoil substitutes and supplements, were promulgated on December 13, 1977, 42 FR 62639 (interim program), and on March 13, 1979, 44 FR 15311 (permanent program). 30 CFR 715.16 (interim program) and 30 CFR 816.22 and 817.22 (permanent program) deal generally with topsoil handling in surface coal mining operations. Sections 715.16(a)(4), 816.22(e) and 817.22(e) provide that selected overburden materials may be substituted for, or used as a supplement to, topsoil if analyses of the topsoil and overburden materials demonstrate that the resulting soil medium is equal to, or more suitable for, sustaining revegetation than the available topsoil and the substitute materials are the best available to support revegetation.

Surface coal mine operators in the steep slope mining areas of the Appalachia coal province are raising questions regarding the number and frequency of required analyses of topsoil and substitute/supplement materials. These steep forested slope areas have thin to very thin mantles of topsoil, which in some instances are immediately on top of the C horizon or even broken bedrock. In these situations, it is virtually impossible to remove what little topsoil is available and very difficult to segregate even the top 6 inches of unconsolidated material (*See*, 30 CFR 715.16(a)(2), 816.22(c) and 817.22(c)) because of the condition of the C horizon and large masses of rock in varying stages of decomposition.

However, in several coal producing areas geologic material exists in the overburden which when weathered will provide a plant growth medium as good as or better than the topsoil, C horizon, or broken rock. McCormack, in "Soil Reconstruction: Selecting Materials for Placement in Mine Reclamation," *Mining Congress Journal* (1976), stated, "In most areas, the A horizon of the natural soil is vastly superior to any underlying soil horizon or geologic strata." He also found, however, that "Most A horizons are less than 10 inches thick—too thin for a favorable root zone for most plants. Other favorable material must be placed below the A horizon in order to create a favorable root zone several feet in thickness." In most areas, the B soil horizon is more satisfactory in the root zone than is material from geologic strata, but McCormack says these materials need evaluation and the resulting soil medium most suited to restoring productivity should be chosen. "Instances where the geologic strata is better suited for the productive growth of plants, although uncommon, do exist in a few areas and should be recognized before final plans for excavating and regrading are made." *See also*, U.S. Department of Agriculture, Soil Conservation Service, *Agriculture Handbook #18.*

The mixing of topsoil and selected overburden materials is an acceptable practice when the mixture produces a soil medium as good as or better than the original topsoil for postmining land use and productivity. Alternative strata may be used as a growth medium when the original topsoil is either of inadequate quality or quantity for sustaining revegetation.

All determinations of suitability of various horizons and their appropriate handling ought to be based on results of previously performed crop yield data, chemical and physical analyses or adequate field trials. (44 FR 15140, March 13, 1979). The interim regulations concerning topsoil substitutes or supplements require the operator to:

(1) Demonstrate through physical and chemical analyses that the substitute/supplement material is equal to or more suitable than the topsoil for revegetation;

(2) Furnish certification of test(s) by a qualified soil scientist or agronomist; and

(3) Remove, segregate and replace the alternative material in accordance with the topsoil handling requirements.

The permanent program regulations impose essentially the same topsoil substitutes and supplements requirements as do the interim program regulations. As with the interim program regulations the permanent program regulations do not specify where the analyses, trials and tests supporting substitution for, and supplementation of, the orginal topsoil must come from. Sections 816.22(e)(1)(ii) and 817.22(e)(1)(ii) require only that the results of trials and tests be certified by an approved laboratory as having been, among other things, conducted using standard testing procedures.

The operator, therefore, has several options in handling topsoil and topsoil substitutes and supplements:

(a) If sufficient topsoil is available for revegetation, it must be removed, segregated and replaced in accordance with 30 CFR 715.16, 816.22–24 or 817.22–24.

(b) If the topsoil is less than 6 inches thick, a 6 inch layer that includes the A horizon and the unconsolidated material immediately below the A horizon or the A horizon and all unconsolidated material if the total available is less then six inches, must be removed, segregated and replaced in accordance with 30 CFR 715.16, 816.22–24 or 817.22–24.

(c) If the operator desires to use selected overburden materials as substitutes for or supplements to the topsoil, then both the topsoil and the substitute/supplement materials must be evaluated in accordance with 30 CFR 715.16(a)(4), 816.22(e) or 817.22(e).

The purpose of this interpretive rule is to:

(1) Make clear that the physical and chemical analyses, trials or tests, required by 30 CFR 715.16(a)(4)(i), provided they are certified by a qualified soil scientist or agronomist, and by 30 CFR 816.22(e)(1)(i) and 817.22(e)(1)(i), provided they are certified by an approved laboratory in accordance with 30 CFR 816.22(e)(1)(ii) or 817.22(e)(1)(ii), may be obtained from

any one or a combination of the following sources:

(a) U.S. Department of Agriculture Soil Conservation Service published data based on established soil series;

(b) U.S. Department of Agriculture Soil Conservation Service Technical Guides;

(c) State agricultural agency, university, Tennessee Valley Authority, Bureau of Land Management or U.S. Department of Agriculture Forest Service published data based on soil series properties and behavior; or

(d) Results of physical and chemical analyses, field site trials, or greenhouse tests of the topsoil and overburden materials (soil series) from the permit area.

(2) Explain that where the operator demonstrates through soil survey or other data that the topsoil and unconsolidated material are insufficient and substitute material will be used, only the substitute materials must be analyzed in accordance with 30 CFR 715.16(a)(4)(i), 816.22(e)(1)(i) or 817.22(e)(1)(i).

For this purpose, an operator may request the Soil Conservation Service to conduct a soil investigation of areas whose surface soils have not already been mapped. The regulatory authority may accept or require other published soil data collected according to National Cooperative Soil Survey Standards.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. The Department of the Interior has also determined that the adoption of this interpretive rule does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Dated: June 2, 1980.

Walter N. Heine,

Director, Office of Surface Mining.

PART 715—GENERAL PERFORMANCE STANDARDS

1. Section 715.200 is amended by reserving paragraph (b) and adding paragraph (c) to read as follows:

§ 715.200 Interpretive rules related to general performance standards.

* * * * *

(b) [Reserved]

(c) *Interpretation of § 715.16(a)(4)—Topsoil Removal.*

(1) Results of physical and chemical analyses of topsoil and selected overburden materials to demonstrate that the selected overburden materials or overburden materials/topsoil mixture is more suitable for restoring land capability and productivity than the available topsoil, provided the analyses, trials, or tests are certified by a qualified soil scientist or agronomist, may be obtained from any one or a combination of the following sources:

(i) U.S. Department of Agriculture Soil Conservation Service published data based on established soil series;

(ii) U.S. Department of Agriculture Soil Conservation Service Technical Guides;

(iii) State agricultural agency, university, Tennessee Valley Authority, Bureau of Land Management or U.S. Department of Agriculture Forest Service published data based on soil series properties and behavior; or

(iv) Results of physical and chemical analyses, field site trials, or greenhouse tests of the topsoil and overburden materials (soil series) from the permit area.

(2) If the operator demonstrates through soil survey or other data that the topsoil and unconsolidated material are insufficient and substitute materials will be used, only the substitute materials must be analyzed in accordance with 30 CFR 715.16(a)(4)(i).

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

2. Section 816.200 is amended by reserving paragraph (b) and by adding paragraph (c) to read as follows:

§ 816.200 Interpretive rules related to general performance standards.

* * * * *

(b) [Reserved]

(c) *Interpretation of § 816.22(e)—Topsoil Removal.*

(1) Results of physical and chemical analyses of overburden and topsoil to demonstrate that the resulting soil medium is equal to or more suitable for sustaining revegetation than the available topsoil, provided that trials, and tests are certified by an approved laboratory in accordance with 30 CFR 816.22(e)(1)(ii), may be obtained from any one or a combination of the following sources:

(i) U.S. Department of Agriculture Soil Conservation Service published data based on established soil series;

(ii) U.S. Department of Agriculture Soil Conservation Service Technical Guides;

(iii) State agricultural agency, university, Tennessee Valley Authority, Bureau of Land Management or U.S. Department of Agriculture Forest Service published data based on soil series properties and behavior; or

(iv) Results of physical and chemical analyses, field site trials, or greenhouse tests of the topsoil and overburden materials (soil series) from the permit area.

(2) If the operator demonstrates through soil survey or other data that the topsoil and unconsolidated material are insufficient and substitute materials will be used, only the substitute materials must be analyzed in accordance with 30 CFR 816.22(e)(i).

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

3. Section 817.200 is amended by reserving paragraph (b) and adding paragraph (c) to read as follows:

§ 817.200 Interpretive rules related to general performance standards.

* * * * *

(b) [Reserved]

(c) *Interpretation of § 817.22(e)—Topsoil Removal.*

(1) Results of physical and chemical analyses of overburden and topsoil to demonstrate that the resulting soil medium is equal to or more suitable for sustaining revegetation than the available topsoil, provided that trials and tests are certified by an approved laboratory in accordance with 30 CFR 817.22(e)(1)(ii), may be obtained from any one or a combination of the following sources:

(a) U.S. Department of Agriculture Soil Conservation Service published data based on established soil series;

(b) U.S. Department of Agriculture Soil Conservation Service Technical Guides;

(c) State agricultural agency, university, Tennessee Valley Authority, Bureau of Land Management or U.S. Department of Agriculture Forest Service published data based on soil series properties and behavior; or

(d) Results of physical and chemical analyses, field site trials, or greenhouse tests of the topsoil and overburden materials (soil series) from the permit area.

(2) If the operator demonstrates through soil survey or other data that the topsoil and unconsolidated material are insufficient and substitute materials will be used, only the substitute materials must be analyzed in accordance with 30 CFR 817.22(e)(i).

(Sec. 501, 502, 504, 508, 515, 516 Pub. L. 95-87, 91 Stat. 467, 468, 471, 478, 487, 497 (30 U.S.C. 1251, 1252, 1254, 1258, 1265, 1266))

[FR Doc. 80-17520 Filed 6-9-80; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 716 and 785

Prime Farmlands Grandfather Provisions; Extension of Comment Period

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, Washington, D.C. 20240.

ACTION: Extension of public comment period on proposed rules for the interim and permanent regulatory programs.

SUMMARY: The public comment period on the proposed regulations to revise the prime farmlands grandfather provisions (*See* 45 FR 25992, April 16, 1980) is extended for an additional 15 days from June 10, 1980.

DATES: Comments are due on or before June 25, 1980 at 5:00 p.m.

ADDRESS: Written comments must be mailed or hand delivered to the Office of Surface Mining, U.S. Department of the Interior, Room 153, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Edward Johnson, Staff Member, Technical Services Division, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240; (202) 343–5261.

SUPPLEMENTARY INFORMATION: On April 16, 1980, the Office of Surface Mining published proposed regulations to revise the grandfather exemption to the prime farmlands provisions of Section 510(d)(1) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) for both the interim and permanent regulatory programs. The comment period on those proposed regulations, which ended May 30, 1980, is being reopened and extended to June 25, 1980 to solicit additional public comment in light of the May 2, 1980 decision of the U.S. Court of Appeals for the District of Columbia Circuit, *In re Surface Mining Regulation Litigation*,—F. 2d—. The Court of Appeals invalidated the prime farmland grandfather clause of the interim regulations (30 CFR Section 716.7(a)(2)) to the extend that it improperly reduced the prime farmland grandfather rights established by Section 510(d)(2) of the Act. A further judicial action is currently pending as a result of National Wildlife Federation's request that the Court of Appeals reconsider its decision. The public is invited to submit additional comments related to the Court of Appeal's decision. A copy of the decision is in the administrative record.

The public is also specifically advised that the Department has received a broad range of comments on the proposed regulations and may adopt final regulations that differ from the proposal. The full range of alternatives being considered includes:

1. Limiting the grandfathering authority to pre-August 3, 1977 permit areas (this is the position suggested by the petition for reconsideration).

2. Allowing grandfathering outside of the pre-August 3, 1977 permit area so long as the mining occurs continuously at a related site.

3. Allowing grandfathering outside of the pre-August 3, 1977 permit area but limiting the length of the exemption based upon consideration of a variety of factors including time, amount of investment, type of equipment, contracts, mine plans, and judgment of the State Regulatory Authority.

Comments are specifically requested on this full-range of alternatives. Any combination of these and similar alternatives may be adopted. The Department's final decision will be based on full consideration of all comments received and after careful analysis of the decision of the Court of Appeals for the District of Columbia.

Dated: June 3, 1980.

Walter N. Heine,

Director, Office of Surface Mining.

[FR Doc. 80–17502 Filed 6–9–80; 8:45 am]

BILLING CODE 4310–05–M

federal register

Tuesday
June 10, 1980

Part VII

Environmental Protection Agency

Premanufacture Notification and Review; Economic Impact

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-50010; FRL-1510-5]

Premanufacture Notification and Review; Economic Impact

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has awarded a contract to ICF, Inc., to perform the economic impact analysis on the section 5 Premanufacture Notification Rules of the Toxic Substances Control Act (TSCA). This notice describes the methodology that ICF will use in assessing the economic impact of the section 5 notice requirements.

DATE: Written comments should be submitted on or before July 10, 1980.

MEETINGS: During the 30-day comment period EPA personnel will be available to meet with interested persons who wish to discuss and comment on this methodology. Beginning on the date of publication persons who wish to meet with EPA representatives should contact the Industry Assistance Office at 800–424–9065; in Washington, D.C. please call 554–1404. This office will arrange times and places for the meeting, and provide such information to the public.

ADDRESS: All written comments should bear the identifying notation (*OPTS–50010*) and be addressed to: Document Control Officer (OPTS–793), Office of Pesticides and Toxic Substances, Room E–447, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

All comments will be available for public inspection in Rm. 410, East Tower, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office (OPTS–799), Environmental Protection Agency, 401 M Street SW., WAshington, D.C., Toll Free: 800–424–9065, In Washington: 202–554–1404.

SUPPLEMENTAL INFORMATION:

Background and Purpose

EPA proposed initial premanufacture notification rules, published in the **Federal Register** of January 10, 1979 (44 FR 2242), under section 5 of the Toxic Substances Control Act (TSCA). As a result of public comments on the proposed section 5 regulations, EPA reproposed a portion of these regulations in a document published in the **Federal Register** of October 16, 1979 (44 FR 59764).

A preliminary economic impact analysis, prepared by Arthur D. Little, Inc., for EPA, was published concurrently with the January proposed rules. This analysis estimated the costs of preparing section 5 notices and briefly examined their potential impact on new chemical development. In addition, a unit cost analysis for the October 16, 1979 reproposal form was completed by Arthur D. Little, Inc. These documents, "Impact of TSCA Proposed Premanufacture Notification Requirements", December 1978, and "Estimated Costs of Preparation and Submission of Reproposed Premanufacture Notice Form", October 1979 are available from the EPA Industry Assistance Office.

The Agency is soliciting comments on this notice and the contractor's proposed methodology entitled "A Methodology for Analyzing the Economic Impacts of Regulations Implementing section 5 of TSCA". This document, prepared by ICF, is available from the EPA Industry Assistance Office. Persons will also be allowed time to comment on the drafts of the Economic Analysis and the Regulatory Analysis when they are proposed later this year. The Agency is particularly interested in specific suggestions or alternatives to (1) the chemical industry segmentation scheme developed by the contractor; (2) the contractor's data-gathering approach; (3) the ways the contractor has suggested obtaining historical chemical specific financial data not available in the public file; and (4) the methodology proposed for the economic impact analysis.

ICF, Inc., was contracted by EPA to conduct an economic analysis of the regulatory alternatives available to EPA in implementing section 5 and the impacts of this program on the chemical industry. Specifically, ICF is to extend the Arthur D. Little, Inc., preliminary analysis to address impacts on industry performance and structure and impacts on the economy. The impacts of the section 5 requirements in their entirety are being analyzed.

ICF, Inc., has performed or is performing the following five tasks using the methods stated to augment this initial effort:

1. Develop project workplan.
2. Gather data.
3. Assess feasibility of formal approaches to economic impact analysis.
4. Perform economic impact analysis (based on previous tasks).
5. Analyze regulatory provisions.

The first three tasks were necessary to provide the framework for the economic analysis under Task 4. The output of these tasks to a considerable extent determines the apporpriate approach to Task 4.

Task 1.—Develop Project Workplan

The contractor has developed a general workplan for the project in its entirety, covering all subtasks needed to gather data, analyze data, perform impact analyses, and prepare reports in accordance with the agreed upon schedule.

Included in the workplan for each task identified are the objective of the tasks, a brief discussion of the technical approaches to be utilized, a proposed staffing plan for the task, a discussion of anticipated constraints or potential problems of which the EPA Project Officer should be aware.

Task 2.—Gather Data

The contractor intends to collect information to complete an analysis of the impacts of section 5 requirements on the chemical industry. The general concept of the data gathering task is to develop profiles of chemical industry segments, including, but not limited to, financial characteristics, product introductions, and R&D practices. These profiles shall be used to conduct the economic impact analysis on a segment-specific basis under Task 4.

(a) *Segmentation scheme.* The contractor has developed a segmentation scheme based on chemical and economic characteristics to perform this task. This segmentation scheme includes seven groups of chemicals as follows: (1) inorganic chemicals; (2) high polymers; (3) soaps, detergents, and fatty acids; (4) elementary organic chemicals; (5) organic chemicals N.E.C.; (6) catalysts; and (7) other chemical products. Table 1 shows the component products of each segment and the roughly corresponding Standard Industrial Classification Codes.

Table 1—*Tentative Segmentation Scheme*

Segment	Component products	Approximate corresponding SIC codes
(1) Inorganic Chemicals.	Alkalies and chlorine	2812
	Industrial gases	2813
	Inorganic pigments	2816
	Inorganic acids	28193, 28194
	Potassium and sodium compounds.	28197
	Fertilizers	2873, 2874
	Other inorganic chemicals.	28195, 28196, 28199
(2) High Polymers	Thermoplastic resins	28213
	Thermosetting resins	28214
	Synthetic rubber	2822
	Organic Fibers	2824

Table 1—*Tentative Segmentation Scheme*—Continued

Segment	Component products	Approximate corresponding SIC codes
(3) Soaps/ Detergents/Fatty Acids.	Soaps and detergents.	2841
	Surfactants	2843
	Fatty acids	28992
(4) Elementary Organic Chemicals.	Gum and wood chemicals.	2861
	Cyclic crudes	28655
	Primary petrochemicals.	2911
(5) Organic Chemicals, NEC.	Cyclic intermediates.	28651
	Organic dyes and pigments.	28652, 28653
	Miscellaneous cyclic chemical products.	28691
	Miscellaneous acyclic chemical products.	28692
	Rubber-processing chemicals.	286933
	Plasticizers	286935
	Synthetic organic chemicals, NEC.	28695
	Organic explosives	2892
(6) Catalysts	Catalytic preparations	28198
(7) Other Chemical Products.	Cellulosic man-made fibers.	2823
	Polishes and sanitary Goods.	2842
	Paints and allied products.	2851
	Adhesives and sealants.	2891
	Explosives	2892
	Printing ink	2893
	Carbon black	2895
	Gelatin, except ready-to-eat desserts.	28994
	Salts, essential oils, and chemical preparations, NEC.	28991, 28995

In concept, the segmentation scheme does not differ much from one proposed earlier by Arthur D. Little, Inc. ICF has grouped the 41 Arthur D. Little, Inc., segments according to chemical characteristics. In the case of elementary organic chemicals, the contractor has aggregated the Arthur D. Little, Inc., six segments into three. To the extent that different sizes of business enterprises create similar types of chemicals, the contractor will further subdivide the chemical segment for purposes of economic projections to the extent possible. In this way, the impact on small business will be explored.

The advantage of this scheme is that the segments should provide an effective approach to analyze new product development. Some classes of chemicals are not going to be the source of large numbers of new products, e.g., inorganic chemicals, and elementary organic chemicals. Others will result in many new products, e.g., high polymers, and organic chemicals. The disadvantage may be that the economic structures do not match neatly with these segments.

As mentioned above, EPA requests comments on this segmentation scheme. If this scheme is not acceptable, EPA expects commentors to suggest alternatives. Commentors should provide data to support the alternatives and to demonstrate their advantages.

(b) *Specific approach.* The contractor intends to perform the following activities in order to obtain the data needed to assess the impact of section 5 notice provisions on each chemical industry segment:

(1) Consult previous economic studies, industry experts, and government reports in order to identify potential chemical industry/product market segments for analysis.

(2) Identify potential sources of data to develop profiles of those segments. Potential sources include:

(i) Contact with CMA, SOCMA, CSMA, NAM, Chamber of Commerce, and other industry associations.

(ii) Company interviews, if needed, for specific data.

(iii) Independent industry experts and consultants.

(iv) Chemical industry literature, including government statistics from National Science Foundation, Department of Commerce, International Trade Commission, etc., trade publications and chemical marketing literature, and previous studies bearing on chemical innovation.

(3) Assess the feasibility, in particular, of using industry interviews. This will include assessing how the interviews could be most effectively used and in developing a sampling plan.

(4) Prepare a briefing and summary memo which outlines the data gathering plan to be implemented. The plan should discuss which segments have been chosen and why, which sources of data will be used to provide which aspects of the segment profiles, and the conclusions regarding the use of industry interviews.

(5) Develop chemical industry segment profiles. The contractor intends to use previous economic studies, industry experts, and government reports as initial sources of data to develop preliminary chemical market segment profiles. Having completed this analysis, the contractor will identify data not available from public sources and yet necessary to measure the impact of section 5 notice provisions. The gaps will probably by primarily related to historical data on new product introductions and sales, required returns on investment for new products, investments required on new products, and product line specific profit margins. EPA is very interested in obtaining recommendations and data from commentors on how to fill in those data gaps.

Task 3.—Assess Feasibility of Formal Approaches to Economic Impact Analysis

ICF, Inc. has completed a small-scale study to assess the technical feasibility of developing a formal economic approach to analyze the impacts of section 5 notice requirements on the chemical industry. The purpose of the study was twofold:

(1) To determine whether the relationships of new product development to company/industry performance, growth, and structure could be captured and used to develop a model capable of predicting changes in industry variables due to imposition of regulation.

(2) To determine if and how formal approaches, e.g., single and multiple equation behavioral models, constrained optimization techniques, and modified input-output analysis, could be used in conducting the economic impact analysis under Task 4.

Specifically, the contractor performed the following subtasks:

(1) Reviewed a preliminary Arthur D. Little, Inc., paper on formal analytical approaches.

(2) Reviewed other relevant economic studies, e.g., those of 1962 FDA Amendments and FIFRA laws.

(3) Assessed the feasibility of using the approaches in these literature sources for the purpose of studying the impacts of section 5 requirements.

(4) Developed the most promising approaches to incorporate into the economic impact analysis task under Task 4.

(5) Prepared a short paper for EPA which discussed the long-range feasibility of formal technical approaches and any conclusions that coulds be made at this time from the work. This paper discussed several alternative approaches from the standpoints of:

(i) Data requirements.

(ii) Analytical benefits and shortcomings.

(iii) Resources to implement.

The most significant finding of this task was that even if a comprehensive quantitative, i.e., computer and economic modelling, analytical approach could be developed, which is highly unlikely, the approach could not be implemented in time to analyze section 5 notice impacts. This analysis may be feasible if a contractor were provided with the data needed and nine months to a year per industry segment, and substantial resources with which to explore one segment. If this proved successful, then it might be possible to

expand the work over several years to encompass the entire industry.

Task 4.—Analyze Regulatory Provisions

This section discusses the main focus of this project, which is the economic impact analysis. A methodology for performing this analysis is briefly discussed here. A more in-depth paper about the methodology can be obtained from the EPA Industry Assistance Office. EPA suggests that commentors carefully review the following paragraphs.

The contractor will conduct limited financial and economic analyses of the impacts of section 5 requirements on the chemical industry on the basis of the data collected and analyses performed in Task 1, Task 2, and Task 3. To the extent possible, these analyses will be segment specific and quantitative.

The contractor believes the best approach to measuring the impact of section 5 derives from analysis of the costs imposed by section 5 notice information requirements on new product return on investment. Thus, the contractor intends to employ a discounted cash flow approach using historical chemical-specific data to simulate product development decisions without the imposition of section 5. The costs of section 5 notices will then be imposed upon the base case cash flows to determine the impact of section 5 notices on these sample historical chemicals' returns. This will allow a tentative assessment of the number of new chemicals that would not have been introduced in commerce had section 5 existed. The contractor intends to collect a multitude of case histories of new chemicals introduced after 1960. The sample will not simply be limited to chemicals that succeeded, but will also include those that failed. In this way, the contractor should be able to obtain a distribution of chemicals reflecting success rates.

Section 5 notice costs occur before the chemical is introduced into commerce; however, the key factor in assessing section 5 impacts is the relationship between expectations about profitability and section 5 costs. Thus we will be analyzing expected returns as well as actual returns. We will compare these to try to understand (1) how the decision to introduce the chemical would have been affected; and (2) the actual impact section 5 would have had on profitability.

Having performed an initial analysis of the base case and the section 5 impact historically, the contractor will then perform sensitivity analysis of crucial impact variables to place section 5 notice costs into a broader perspective on new product introduction including (a) assumed elasticities of demand and supply, (b) growth patterns for new chemicals, (c) success rates for new chemicals, and (d) investment decision rules, etc. Additionally, the contractor will qualitatively discuss the impacts of section 5 notice requirements, using similarities and dissimilarities between FDA/FIFRA laws and TSCA, citing type of impact and anticipated direction of change.

Finally, the contractor intends to have a panel of independent industry experts especially knowledgeable in new chemical development review its findings. The industry experts are independent consultants highly experienced in the chemical industry. These consultants will be used to independently evaluate the analysis. Using the delphic approach, we intend to have these experts exchange their comments in a meeting. Their analysis and comments may be incorporated into the final report. On the basis of these findings, the contractor will assess potential impacts on an industry segment basis. These will include:

(1) Changes in the number and types of chemicals introduced after implementation of section 5 requirements.

(2) Changes in the size and focus of R&D expenditures.

(3) Changes in segment profitability and growth.

(4) Changes in production and growth.

(5) Changes in prices in chemical market segments.

(6) Changes in imports and exports of chemical substances.

(7) Changes in market structure in chemical market segments.

Task 5.—Analysis of Regulatory Provisions

The contractor is conducting the following two major subtasks:

(1) The contractor is analyzing several major provisions of the proposed section 5 rules to determine to what extent each represents an economic burden due to additional costs, delays in bringing a product to the market, business risk, or uncertainty. The provisions being analyzed include:

(i) Confidentiality.

(ii) Customer contact.

(iii) Supplemental reporting.

(iv) Importer/exporter reporting.

(v) Processor reporting.

(vi) Incomplete submissions.

(vii) The scope of the definition of possession and control.

The purpose of these analyses is to put each provision "into perspective" by providing information about industry practices and by attempting to isolate the effect of the regulation from other concurrent trends in industry practices. The output for each analysis shall be quantitative to the extent possible, e.g., all direct costs shall be quantified, and there shall be at least a qualitative assessment of the degree of burden imposed using "high, medium, low, negligible" criteria. The contractor will assess the consequences of alternative regulatory approaches for these provisions. The alternatives for analysis were identified by the EPA Project Officer and program office personnel. They included the January and October proposals and alternatives which had been developed as a result of analysis of the comments received.

(2) The contractor is analyzing several comprehensive program options for their corresponding level of impact, i.e., to determine to what extent each represents an economic burden due to additional costs, delays, business risk, and/or uncertainty. These comprehensive program options are combinations of individual rule provisions and notice information options and they have been identified for analysis by the EPA Project Office.

For subtask 1, the contractor has provided draft documents and working papers for EPA review and is working with the program office to ensure agreement on analytical assumptions and understanding of the provisions for subtask 1. For most information the contractor has relied on public sources used in the analysis. However, the contractor does intend to augment this information using industry interviews and/or trade association-provided data. The completed economic analysis will be made available later this year. An announcement will be made in the **Federal Register** of its availability.

Interested persons may on or before July 10, 1980 submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice and the contractor's paper. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number *(OPTS–50010)* in the heading of this document. Received comments may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Dated: May 30, 1980.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80–17495 Filed 6–9–80; 8:45 am]

BILLING CODE 6560–01–M

federal register

Tuesday
June 10, 1980

Part VIII

Department of Labor

Employment and Training Administration

Services to Migrant and Seasonal Farmworkers; Job Service Complaint System; Monitoring and Enforcement

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 651, 653, and 658

Services to Migrant and Seasonal Farmworkers; Job Service Complaint System; Monitoring and Enforcement; Final Regulations

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document contains final regulations for the Job Service complaint system, the monitoring of Job Service (JS) activities, and the provision of employment services to migrant and seasonal farmworkers. In some areas, these regulations establish entirely new responsibilities and procedures; in other areas, the regulations clarify and update requirements already established. Many of the changes focus directly on special requirements governing employment services provided to migrant and seasonal farmworkers. The regulations make important changes to the following components of the JS system: The delivery of outreach services, the meeting of affirmative action obligations, the use of agricultural job clearance orders, and the Federal enforcement of State agency compliance with all Job Service regulations.

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph Paslawski, Regulations Coordinator, Office of Policies and Program Design, Room 8018, 601 D Street NW., Washington, D.C. 20213, 202–376–7601.

SUPPLEMENTARY INFORMATION: The Wagner-Peyser Act of 1933, as amended, 29 U.S.C. 49, established the Job Service system. The Act authorized a national system of public employment offices to assist men, women and youth in obtaining employment.

The Job Service performs essentially a labor exchange function. That is, the system provides no-fee employment services to applicants seeking employment and to employers seeking applicants. Among the services provided applicants are job information, referral to job openings listed with the Job Service, employment counseling, employment testing, job development and referral to training. Among the services provided employers are referral of qualified applicants to job openings listed with the Job Service system; labor market information; and assistance in meeting affirmative action obligations under legislation, court order, consent decree, government contract, or other fair employment practice authority rulings.

On January 25, 1977, at 42 FR 4722, the Employment and Training Administration (ETA) of the Department of Labor published final regulations (20 CFR Parts 651, 653, and 658) under the Wagner-Peyser Act ("the 1977 regulations"), governing employment services provided to migrant and seasonal farmworkers by the federal-state public Job Service System. The regulations established procedures for the administrative handling of complaints alleging violations of Job Service regulations, the monitoring of all Job Service activities, and the ensuring of State agency compliance with Employment Service regulations. The 1977 regulations paralleled the court order in the case of *NAACP* v. *Marshall*, Civil Action No. 2010–72, 8 Empl. Prac. Dec. 9634 (D.D.C. Aug. 13, 1974), pursuant to 5 Empl. Prac. Dec. 8637 (D.D.C. May 31, 1973). See 360 F. Supp. 1006 (D.D.C. 1973).

Since the 1977 regulations were implemented, the Department through monitoring reports, field checks and public comment has become aware of the need for clarification or supplementation in many areas in order to ensure the adequate provision of services to migrant and seasonal farmworkers and the proper operation of the various administrative programs and procedures established by the regulations for migrant and seasonal farmworkers and other applicants. Many of the clarifications have been suggested by State Job Service agencies and the State and federal migrant and seasonal farmworker Monitor Advocates during training sessions and conferences conducted by the Department of Labor. Most of the supplementary provisions have been requested by advocate groups on behalf of migrant and seasonal farmworkers. These provisions represent significant improvements in the various JS systems and include new responsibilities for both ETA and State JS officials. At the same time, an attempt has been made to focus all new requirements on the areas where comprehensive services to MSFWs are most needed and to give States some flexibility to adjust their programs to varying circumstances.

The Department has given these regulations careful consideration based upon its many years of experience in serving the needs of workers and employers engaged in agricultural activities. While the publication of this final rule represents part of a settlement agreement concluding litigation in *NAACP* v. *Marshall*, Civil Action No. 2010–72, U.S.D.C., it also represents the determination of the Department as to how best to meet the needs of agricultural workers and agricultural employers. Additional regulations concerning farm labor coordinated enforcement activities of the Department of Labor are published today under the lead of the Assistant Secretary for the Employment Standards Administration, and should be read in conjunction with these regulations.

Discussion of Major Changes and Comments

The development of the regulations has included significant input from different segments of the Job Service community. Meetings were held in January and February with representatives of public interest groups, migrant and seasonal farmworkers, agricultural growers, and State agencies. These meetings were held to involve these groups in the regulation development process, and to review the proposed regulations published on January 11, 1980.

By including these groups in the process from the beginning, the Department sought to ensure a final product which would improve the Job Service system and be responsive to the needs of migrant and seasonal farmworkers.

The proposed regulations were published for a 60 day review and comment period. The Department received approximately 170 written comments on the proposed regulations. This provided the Department an opportunity to receive and reconcile comments from a nationwide audience prior to publishing these final regulations.

The most significant issues raised by the commenters were as follows:

Definitions (§ 651.7)

Comment: Many commenters were concerned about the omission of a definition for agricultural worker and farmworker.

Response: The previous regulations at § 651.7 included a definition of agricultural worker. The proposed regulations inadvertently included only those definitions from the January 1977 regulations for which changes were proposed. The final regulations include all definitions related to these regulations.

Subpart B—Services to MSFWs

Agricultural day-hauls (§ 653.106)

Comment: Many commenters including State Job Service agencies and migrant farmworker organizations expressed concern regarding the restrictions on the involvement of the Job Service in referring workers to day-hauls. Their concern was that these restrictions prevented both employers and workers from receiving the benefit of available employment and available labor through the Job Service.

Response: The Department considered these comments very carefully in order to ensure that its regulations would provide maximum protection and opportunity for employment to workers. The final regulations allow the Regional Administrator, rather than the USES Administrator to approve the operation of day-hauls by Job Service where exceptional circumstances warrant such activity. In addition, the final regulations allow the Job Service to refer applicants to non-Job Service operated day-haul facilities when the following two conditions are met: (1) The applicant is referred on a specific job order, and (2) the Job Service provides the applicant a checklist summarizing the wages and working conditions cited on the job order.

Outreach (§ 653.107)

Comment: Many commenters expressed concern about this section of the regulations. The commenters questioned: (1) The reliability of estimates of the MSFW population and the need for Job Service to establish numerical goals in contacting MSFWs; (2) the need to maintain daily logs of outreach contacts; (3) the benefit of providing the outreach plan for review and comment to MSFW organizations and employer groups, and the need for Job Service agencies to respond in writing to commentators; (4) the right of outreach workers to enter an employer's property without permission; (5) whether outreach workers would be enticing workers from their current employment; (6) whether outreach workers would be participating in unionization and political activities; (7) whether the hiring requirements cited for outreach workers were in conflict with existing civil service laws.

Response: (1) While the Department acknowledges that there are limited reliable statistics on the number of MSFWs in any state at any particular time, useful estimates of MSFWs can be obtained from various sources. Utilizing these estimates in light of the resources available for the State Job service, numerical goals become tools appropriate to the planning process in order to guide service delivery and assess performance. Therefore, the Department has rejected the suggestion to eliminate the requirement to set goals.

(2) Since outreach workers spend considerable working time away from the office, the Department considers that daily outreach logs rather than weekly logs are necessary to accurately reflect the outreach workers' activities. It would be too difficult to accurately recall after a week of activity the number of contacts, services provided, and names of MSFWs, where required. The requirement for a daily log of outreach activities is retained.

(3) The Department agrees that the provision of the Outreach Plan section of the Program Budget Plan to interested parties for review and comment is a major change in the planning process. However, the Department believes that this provision is beneficial to all interested parties, especially the Job Service agency and the MSFWs in the service area by providing improved information for planning purposes and facilitating cooperative outreach efforts between the Job Service and other agencies. The Department agrees that employer organizations as well as MSFW organizations which express interest in the plan should be provided the opportunity for review and comment. The final regulations reflect this addition of employer groups.

The Department believes that, in conjunction with the review and comment process afforded interested parties, the State Job Service agencies have the responsibility to be responsive to those individuals who submitted comments. Therefore, the Department rejected those comments suggesting that written responses be eliminated.

(4) The Department agrees with the numerous commenters who stated outreach workers must obey State trespass laws and must obtain permission from the employer prior to entering the employer's property, unless otherwise authorized by law, and from workers prior to entering the workers' living areas. The final regulations reflect this agreement as well as the concomitant obligation of the employer utilizing the services of the JS to assure reasonable access of the outreach worker to the employees. At the same time, the Job Service has a responsibility for conducting unannounced field checks on agricultural orders filled through the clearance system. To ensure that Job Service staff can adequately fulfill this responsibility, an assurance of reasonable access to the employees has been added to § 653.501(d). Accordingly, an employer's refusal to cooperate in the conduct of field checks on clearance orders or to permit outreach workers reasonable access to the employees is an additional basis for discontinuation of services at § 658.501(a)(7).

(5) The description in the proposed regulations of outreach workers' activities was never intended to suggest that they attempt to discourage workers from completing their current jobs. The intent was that outreach workers would supply job information to unemployed workers about available jobs, and supply job information about subsequent employment opportunities to those workers currently employed on a short term basis. Because this was not clearly stated in the regulations, the final regulations provide such clarification.

(6) The provision in the January 25, 1977 regulations, prohibiting outreach workers from participating in political and unionization or antiunionization activities was inadvertently left out of the proposed regulations and has been returned to the final regulations.

(7) The Department has concluded that the hiring requirements for outreach workers are not in conflict with existing civil service laws properly applied. They are retained.

Subpart F—§ 653.500—Agricultural Clearance Order Activity

Comment: Most of the comments received by the Department related to this section of the regulations. The comments centered in four major areas. These are: (1) Limitation of this subpart to seasonal agricultural or food processing employment; (2) provision of housing; (3) provision for guaranteeing the first week's wages and required notification process for employers and workers; and (4) unannounced field checks on agricultural clearance order.

Response: (1) After weighing the comments, the Department accepts the comments that this subpart should cover only those agricultural or food processing clearance orders which request workers for less than year round employment. This is based on the Department's longstanding policy for requiring specific assurances by agricultural employers and specificity on the agricultural clearance orders which is to provide protection to workers who are not seeking permanent relocation but rather temporary agricultural employment. The final regulations reflect this change.

(2) Numerous comments were received questioning the Department's authority to require free or nominal cost housing on agricultural or food processing clearance orders. The

Department has required housing as a term and condition of employment on interstate clearance orders for many years. The final regulations require the provision of housing on both intrastate and interstate orders because the Department's position is that housing should be provided to those workers who cannot return daily to their permanent residence, whether or not the person has to cross a State boundary. Many commenters objected to the term nominal cost housing. The Department agrees that the term nominal cost housing was confusing and would allow wide ranging interpretations. The intent is to permit the use of public housing which, in some States, requires migrants to pay small charges. Therefore, in the final regulations, the Department has replaced the term "nominal" with "public" which is defined in the final regulations at § 651.7.

(3) In response to the many comments on the requirement that employers guarantee workers the first week's wages in the event that the employer fails to notify the Job Service ten days prior to the date of employment, the Department has made several changes in the final regulations. The Department has rejected outright those suggestions to eliminate the first week guarantee. This is for the reason that asking employers to share the burden of uncertainty posed by nature with migrant workers who dutifully travel great distances for employment as requested by the employer is a reasonable and even-handed approach. The Department has clarified the notification process so that while employers must amend the date of need at least 10 working days prior to the date entered on the order, the referred workers must contact the order-holding Job Service office 5 to 9 days prior to the original date of need to bind the guarantee. Since the timing of this process is crucial, the final regulations specify that the term "working days" for this subsection means those days on which the order-holding Job Service office is open.

For the guarantee to be binding, the workers must contact the proper Job Service office. To assist workers to contact the proper office, the final regulations require any Job Service office to provide this assistance by telephone or other timely means. This requirement for the worker to contact the Job Service will be stated on the checklist summary of the clearance order which will be provided to all workers referred.

Because the Department recognizes that the accurate scheduling of agricultural work may vary by several days from year to year, the Department included in the final regulations a provision whereby employers may require workers to perform alternative work if the first week wage guarantee is used and if the alternative work is so stated on the job order.

(4) The Department made few changes in response to the comments received regarding the requirement for Job Service staff to conduct and document unannounced field checks on agricultural clearance orders because this requirement was promulgated in the January, 1977 regulations. The final regulations do include a provision wherein State Job Service agencies have five days to attempt to resolve informally any problems discovered during the conduct of the field checks.

Subpart E—20 CFR 658—Job Service Complaint System

Comment: Numerous comments were received about the Job Service Complaint System. They focused on: (1) Requirement for taking non-Job Service complaints in writing, (2) involvement of Job Service in handling complaints dealing with alleged violations of employment related laws, (3) Job Service responsibility for follow-up with enforcement agencies, (4) role of State Job Service staff as complainants, and (5) role of the local veterans employment representative (LVER) as a complaint handler.

Response: (1) The Department reviewed carefully the comments concerning this subpart in an attempt to set forth in the final regulations a complaint system that provides assistance to complainants within the limited staff resources available to provide all labor exchange services. Within this framework, the Department accepted comments which requested limiting the requirement for taking complaints in writing to only those complaints that are Job Service related or those non-JS related complaints that are filed by MSFWs alleging violations of laws enforced by ESA or OSHA. It is intended that this limitation will enable Job Service agencies to focus their resources in those areas over which they have greatest control; in the cases of complaints filed by MSFWs alleging violations of laws enforced by ESA or OSHA, it enables the Department to focus its energies on coordinating the enforcement activities of its sub-agencies.

(2) The Department recognizes the limited enforcement power of the Job Service and the primary need for the Job Service to function as a basic labor exchange service. The Department believes that the Job Service can satisfy both responsibilities and further the Department's employment goals by referral of enforcement related problems to those agencies which have the expertise and statutory enforcement power. Therefore, the Department rejected the suggestion to eliminate taking complaints alleging violations of law by employers from workers referred to those employers by the Job Service. In those cases, the Department agrees that the most effective service to both the complainant and the employer is for the Job Service to accept the complaint and refer it to the proper enforcement agency for action.

(3) In conjunction with the requirement to refer complaints to appropriate enforcement agencies, the Department rejected those comments suggesting that follow-up requirements were too burdensome. The final regulations continue to require monthly follow-up with enforcement agencies on complaints filed by MSFWs and require quarterly follow-up for those filed by non-MSFWs. The required follow-up is limited to Job Service related complaints only.

In response to comments on the coverage of the Job Service complaint system, final regulations provide clarification that the Job Service complaint system procedures are not applicable to UI, WIN, or CETA complaints. Complaints alleging violations of UI, WIN, or CETA regulations should be handled within the procedures set forth in the applicable regulations.

(4) Based on numerous comments received on the role of the Job Service staff themselves filing complaints, the Department deleted that section of the regulation. However, in recognition of the responsibility of public servants to report apparent violations of law of which they are aware, the final regulations include a section at 20 CFR 653.113 which establishes the responsibility for Job Service staff to report apparent violations of employment related laws. This is not part of the complaint system, however, and continues the requirements for referral of apparent violations contained in the January, 1977 regulations.

(5) The Department accepted comments suggesting that categories of possible discrimination include "age" and do not include "citizenship" or "veteran status." The final regulations reflect these changes. In addition, the Department accepted the comment that State agencies should have the flexibility to designate available Job Service staff to handle complaints. The

only specific exceptions retained are for discrimination complaints which must be handled by the State MSFW Monitor Advocate at the State level. The final regulations also clarify the procedures for handling EEO complaints and for following up on them. The Department accepted comments which requested this clarification.

In response to comments on the need for the Job Service to obtain adequate information to attempt resolution of a complaint, the final regulations include a requirement that the Job Service attempt to obtain all necessary information during the initial contact with the complainant; should additional information be necessary, the final regulations allow the agency the opportunity to request such information of the complainant. Required time frames for handling complaints are suspended until the necessary information is received.

Subpart F—Discontinuation of Services to Employers

Comment: There were numerous comments that the proposed regulations did not provide employers with due process prior to discontinuing services to them.

Response: The Department accepted these comments. The final regulations provide that services to an employer will not be discontinued prior to the offer and, if accepted, the conduct of a hearing unless in the judgment of the State Administrator exhaustion of the hearing procedures would cause substantial harm to a significant number of workers.

Accordingly, Title 20 of the CFR, Parts 651, 653, and 658, is amended by:

PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

1. Revising portions of § 651.6 of Part 651 to read as follows:

§ 651.6 Consolidated Table of Contents for Parts 651–658.

The table of contents for Parts 651–658 is as follows:

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PART 653–SERVICES OF THE JOB SERVICE SYSTEM

Subpart A—Basic Services of the Job Service System [Reserved]

Subpart B—Services for Migrant and Seasonal Farmworkers (MSFWs)

Sec.
653.100 Purpose and scope of subpart.
653.101 Provision of services to migrant and seasonal farmworkers (MSFWs).
653.102 Job information.
653.103 MSFW job applications.
653.104 Services to MSFW family members, farm labor contractors, and crew members.
653.105 Job applications at day-haul facilities.
653.106 JS day-haul responsibilities.
653.107 Outreach.
653.108 State agency self-monitoring.
653.109 Data collection.
653.110 Disclosure of data.
653.111 State agency staffing requirements.
653.112 State agency program budget plans.
653.113 Processing apparent violations.

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Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Agricultural Clearance Order Activity

653.500 Purpose and scope of subpart.
653.501 Requirements for accepting and processing clearance orders.
653.502 Changes in crop and recruitment situations.
653.503 Field checks.

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PART 658—ADMINISTRATIVE PROVISIONS GOVERNING THE JOB SERVICE SYSTEM

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—Job Service Complaint system

658.400 Purpose and scope of subpart.
658.401 Types of complaints handled by JS complaint system.

State Agency JS Complaint System

658.410 Establishment of State agency JS complaint system.
658.411 Filing and assignment of JS-related complaints.
658.412 Complaint resolution.
658.413 Initial handling of complaints by the State or local office.
658.414 Referral of non-JS-related complaints.
658.415 Transferring complaints to proper JS office.
658.416 Action on JS-related complaints.
658.417 Hearings.
658.418 Decision of the State hearing official.

Federal JS Complaint System

658.420 Establishment of the JS complaint system at the ETA regional office.
658.421 Handling of JS-related complaints.
658.422 Handling of non-JS-related complaints by the Regional Administrator.
658.423 Handling of other complaints by the Regional Administrator.
658.424 Federal hearings.
658.425 Decision of the DOL Administrative Law Judge.
658.426 Complaints against USES.

Subpart F—Discontinuation of Services to Employers by the Job Service System

658.500 Scope and Purpose of subpart.
658.501 Basis for discontinuation of services.
658.502 Notification to employers.
658.503 Discontinuation of services.
658.504 Reinstatement of services.

Subpart G—Review and Assessment of State Agency Compliance with Job Service Regulations

658.600 Scope and Purpose of subpart.
658.601 State agency responsibility.
658.602 ETA national office responsibility.
658.603 ETA regional office responsibility.
658.604 Assessment and evaluation of program performance data.
658.605 Communication of findings to State agencies.

Subpart H—Federal Application of Remedial Action to State Agencies

658.700 Scope and Purpose of subpart.
658.701 Statements of policy.
658.702 Initial action by the Regional Administrator.
658.703 Emergency corrective action.
658.704 Remedial actions.
658.705 Decision to decertify.
658.706 Notice of decertification.
658.707 Requests for hearings.
658.708 Hearings.
658.709 Conduct of hearings.
658.710 Decision of the Administrative Law Judge.
658.711 Decision of the Secretary.

2. Revising § 651.7 of Part 651 to read as follows:

§ 651.7 Definitions of terms used in Parts 651–658.

"Administrator, United States Employment Service (Administrator)" shall mean the chief official of the United States Employment Service (USES) or the Administrator's designee.

"Agricultural worker" shall mean a worker, whose primary work experience has been in farmwork in industries with a Standard Industrial Classification (SIC) of 01–07, except 027, 074, 0752, and 078, whether alien or citizen, who is legally allowed to work in the United States.

"Applicant" shall mean a person who files an application for services with a local office of a State agency, with outstationed staff or with an outreach worker.

"Application Card" shall mean the basic local office record for an applicant.

"Complaint" shall mean a representation made or referred to a State or local JS office of a violation of the JS regulations and/or other federal, State or local employment related law.

"Complainant" shall mean the individual, employer, organization, association, or other entity filing a complaint.

"Day-haul" shall mean the assembly of workers at a pick-up point waiting to be employed, transportation of them to farm employment, and the return of the workers to the pick-up point on the same day. For the purposes of this definition "day-haul" shall exclude transportation and return of workers employed under regularly scheduled job orders such as corn detasseling jobs for youth.

"DOL" shall mean the Department of Labor.

"D.O.T." shall mean the Dictionary of Occupational Titles, the reference work published by the USES which contains brief, non-technical definitions of U.S. job titles, distinguishing number codes, and worker trait data.

"Employment and Training Administration (ETA)" shall mean the component of the Department of Labor containing the United States Employment Service (USES).

"Employer" shall mean a person, firm, corporation or other association or organization (1) which currently has a location within the United States to which U.S. workers may be referred for employment, and which proposes to employ a worker at a place within the United States and (2) which has an employer relationship with respect to employees under this subpart as indicated by the fact that it hires, pays, fires, supervises and otherwise controls the work of such employee. An association of employers shall be considered an employer if it has all of the indicia of an employer set forth in this definition. Such an association, however, shall be considered as a joint employer with the employer member if either shares in exercising one or more of the definitional indicia.

"Farmwork" shall mean work performed for wages in agricultural production or agricultural services in establishments included in industries 01—Agricultural Production-Crops; 02—Agricultural Production-Livestock excluding 027—Animal Specialties; 07—Agricultural Services excluding 074—Veterinary Services, 0752—Animal Speciality Services, and 078—Landscape and Horticultural Services, as defined in the most recent edition of the Standard Industrial Classification (SIC) Code definitions.

"Farmworker", see "Agricultural worker."

"Hearing Officer" shall mean a Department of Labor Administrative Law Judge, designated to preside at DOL administrative hearings.

"Intrastate job order" shall mean a job order describing one or more hard-to-fill job openings, which a local office uses to request recruitment assistance from other local offices within the State.

"JS regulations" shall mean the Federal regulations at 20 CFR Parts 601–604, 620, 621, and 651–658, and at 29 CFR Parts 8, 26, and 75.

"Job Bank" shall mean a computer assisted system which provides listings of current job openings in the area, on a regular basis, for distribution to JS and WIN offices and to cooperating agencies.

"Job Information Service (JIS)" shall mean a unit or an area within a JS local office where applicants primarily, on a self-service basis or with minimum professional help, can obtain specific and general information on where and how to get a job.

"Job Service (JS)" shall mean the nationwide system of public employment offices, funded through the United States Employment Service (USES) as grantee State agencies, and the various offices of the State agencies.

"Local office" shall mean a full-time office of a State agency maintained for the purpose of providing placement and other services of the public service system.

"Local office manager" shall mean the JS official in charge of all JS activities in a local office of a State agency.

"LMI" shall mean labor market information.

"Migrant Farmworker" is a Seasonal Farmworker who had to travel to do the farmwork so that he/she was unable to return to his/her permanent residence within the same day. Full-time students traveling in organized groups rather than with their families are excluded.

"Migrant Food Processing Worker" shall mean a person who during the preceding 12 months has worked at least an aggregate of 25 or more days or parts of days in which some work was performed in food processing (as classified in the 1972 Standard Industrial Classification (SIC) definitions 201, 2033, 2035, and 2037 for food processing establishments), earned at least half of his/her earned income from processing work and was not employed in food processing year round by the same employer, provided that the food processing required travel such that the worker was unable to return to his/her permanent residence in the same day. Migrant food processing workers who are full-time students but who travel in organized groups rather than with their families are excluded.

"MSFW" shall mean a migrant farmworker, a migrant food processing worker, or a seasonal farmworker.

"Program Budget Plan (PBP)" shall mean the annual planning document for the SESA required by Sec. 8 of the Wagner-Peyser Act containing the SESA's detailed planning, programming and budget for carrying out employment security activities. For the purpose of JS regulations, this definition shall be restricted to the employment service portion of the PBP.

"Public Housing" shall mean housing operated by or on behalf of any public agency.

"RA"; see "Regional Administrator".

"Regional Administrator, Employment and Training Administration (RA)" shall mean the chief DOL Employment and Training Administration (ETA) official in each DOL regional office.

"Respondent" shall mean the employer or State agency (including a State agency official) who is alleged to have committed the violation described in a complaint.

"Seasonal Farmworker" shall mean a person who during the preceding 12 months worked at least an aggregate of 25 or more days or parts of days in which some work was performed in farmwork, earned at least half of his/her earned income from farmwork, and was not employed in farmwork year round by the same employer. For the purposes of this definition only, a farm labor contractor is not considered an employer. Non-migrant individuals who are full-time students are excluded.

"Secretary" shall mean the Secretary of Labor or the Secretary's designee.

"SESA"; see "State Employment Service Agency".

"Significant MSFW States" shall be those States designated annually by ETA and shall include the twenty (20) States with the highest number of MSFW applicants.

"Significant MSFW Local Offices" shall be those designated annually by ETA and include those local offices where MSFWs account for 10% or more of annual applicants and those local offices which the Administrator determines should be included due to special circumstances such as an estimated large number of MSFWs in the local office service area. In no event shall the number of significant MSFW local offices be less than 100 offices on a nationwide basis.

"Significant Bilingual MSFW Local Offices" shall be those designated annually by ETA and include those significant MSFW offices where 10% or more of MSFW applicants are estimated to require service provisions in Spanish unless the Administrator determines other local offices also should be included due to special circumstances.

"Solicitor" shall mean the chief legal officer of the U.S. Department of Labor or the Solicitor's designee.

"State" shall include the fifty States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

"State Administrator" shall mean the chief official of the State Employment Security Agency (SESA).

"State agency" shall mean the State job service agency designated under section 4 of the Wagner-Peyser Act to cooperate with the USES in the operation of the job service system.

"State Employment Security Agency (SESA)" shall mean the State agency which, under the State Administrator, contains both the State Employment service agency (State agency) and the State unemployment compensation agency.

"State hearing official" shall mean a State official designated to preside at State administrative hearings convened to resolve JS-related complaints pursuant to Subpart E of Part 658 of this chapter.

"United States Employment Service (USES)" shall mean the component of the Employment and Training Administration of DOL which was established under the Wagner-Peyser Act of 1933 to promote and develop a national system of public job service offices.

PART 653 SERVICES OF THE JOB SERVICE SYSTEM

3. Part 653 is amended by revising sections 653.100–653.113, by adding and reserving subparts D and E, and by adding subpart F to read as follows:

* * * * *

Subpart B—Services for Migrant and Seasonal Farmworkers (MSFWs)

Sec.

653.100 Purpose and scope of subpart.
653.101 Provision of services to migrant and seasonal farmworkers (MSFWs).
653.102 Job information.
653.103 MSFW job applications.
653.104 Services to MSFW family members, farm labor contractors, and crew members.
653.105 Job applications at day-haul facilities.
653.106 JS day-haul responsibilites.
653.107 Outreach.
653.108 State agency self-monitoring.
653.109 Data collection.
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653.111 State agency staffing requirements.
653.112 State agency program budget plans.
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Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Agricultural Clearance Order Activity

653.500 Purpose and scope of subpart.
653.501 Requirements for accepting and processing clearance orders.
653.502 Changes in crop and recruitment situations.
653.503 Field checks.

Subpart B—Services for Migrant and Seasonal Farmworkers (MSFWs)

Authority: Wagner-Peyser Act of 1933, as amended, 29 U.S.C. 49 et seq., unless otherwise noted.

§ 653.100 Purpose and scope of subpart.

This subpart sets forth the principal regulations of the United States Employment Service (USES) for counseling, testing, and job and training referral services for migrant and seasonal farmworkers (MSFWs) on a basis which is qualitatively equivalent and quantitatively proportionate to services provided to non-MSFWs. It also contains requirements that State agencies establish a system to monitor their own compliance with USES regulations governing services to MSFWs, including the regulations under this subpart. Special services to ensure that MSFWs receive the full range of employment related services are established under this subpart.

§653.101 Provision of services to migrant and seasonal farmworkers (MSFWs).

(a) Each State agency and each local office shall offer to migrant and seasonal farmworkers (MSFWs) the full range of employment services, benefits and protections, including the full range of counseling, testing, and job and training referral services as are provided to non-MSFWs. In providing such services, the State agency shall consider and be sensitive to the preferences, needs, and skills of individual MSFWs and the availability of job and training opportunities.

(b) Each State agency shall assure that, in a local area, the same local offices, including itinerant and satellite offices, but exclusive of day-haul operations, offer services to both non-MSFWs and MSFWs. Separate farm labor service local offices, which offer only farmwork to agricultural workers while another local office serving the same geographical area offers other JS services to other applicants, are prohibited so that all applicants receive employment services on the same basis.

§ 653.102 Job information.

All State agencies shall make job order information conspicuous and available to MSFWs in all local offices. This information shall include Job Bank information in local offices where it is available. Such information shall be made available either by computer terminal, microfiche, hard copy, or other equally effective means. Each significant MSFW local office shall provide adequate staff assistance to each MSFW to use the job order information effectively. In those offices designated as significant MSFW bilingual offices, such assistance shall be provided to MSFWs in Spanish and English, wherever requested or necessary, during any period of substantial MSFW activity.

§ 653.103 MSFW job applications.

(a) Every local office shall determine whether or not applicants are MSFWs as defined at § 651.7 of this chapter.

(b) Except as provided in § 653.105, when an MSFW applies for JS services at a local office or is contacted by an Outreach worker, the services available through the JS shall be explained to the MSFW. In local offices which have been designated as significant MSFW bilingual offices by ETA, this explanation shall be made in Spanish, if necessary or requested during any period of substantial MSFW activity. Other local offices shall provide bilingual explanations wherever feasible.

(c) The local office staff member shall provide the MSFW a list of those services. The list shall be written in English and Spanish and shall specify those services which are available after completion of a full application and those services which are available after completion of a partial application. The JS staff member shall explain to each MSFW the advantages of completing a full application.

Applications shall be reviewed periodically by the local office manager or a member of his/her staff to ensure their accuracy and quality. Applications and the application-taking process shall also be reviewed during State and Federal onsite reviews by the State and Regional MSFW Monitor Advocates and/or review staff, who shall check overall accuracy and quality, and offer technical advice on corrections or improvements.

(d) If the MSFW wishes to complete a full application, the staff shall provide all assistance necessary to complete the application and shall ensure that the form includes complete information. It shall include, to the extent possible, the significant history of the MSFW's prior employment, training and educational background and a statement of any desired employment and any training needs in order to permit a thorough assessment of the applicant's skills, abilities and preferences. All applicable items shall be completed according to the ETA instructions for preparation of the application card (ES–511).

Additional Dictionary of Occupational Titles codes or keywords shall be assigned, where appropriate, based on the MSFW's work history, training, and skills, knowledges, and abilities. Secondary cards shall be completed and separately filed when keywords are not used. In extremely small local offices where the limited applicant load and file size does not require completion of secondary cards, additional D.O.T. codes shall be noted on the primary application card.

(e) If an MSFW wishes any JS service, and does not wish or is unable to file a full application, the interviewer shall try to obtain as much information as possible for a partial application. The interviewer shall enter the information on the partial application. The interviewer shall offer to refer the applicant to any available jobs for which the MSFW may be qualified, and any JS services permitted by the limited information available. He/she shall advise the MSFW that he/she may file a full application at any time.

(f) Partial applications shall be completed according to ETA instructions.

(g) Partial applications for MSFWs shall be filed in accordance with local office procedures for filing other partial applications.

(h) To minimize the need for additional applications in other offices, States shall issue JS cards to MSFWs at the initial visit under the following conditions:

(1) When automated data retrieval systems are available in the State. In this instance, JS staff shall advise the MSFW that the JS card may be presented at any other JS office in the State and that services will be provided without completion of an additional application unless the services requested require additional information for adequate service delivery.

(2) When an MSFW is referred on an interstate or intrastate order. In this instance, when it is known to the order-holding local office (through the presentation of an JS card or otherwise) that the MSFW has completed a full application or partial application in the applicant holding office or elsewhere, an additional application shall not be taken by the order-holding office unless the MSFW requests JS services in addition to referral on the clearance order.

§ 653.104 Services to MSFW family members, farm labor contractors, and crew members.

(a) In addition to other requirements in this subpart, the following special requirements are established for services to MSFW family members, farm labor contractors and crew members. Except as provided at §§ 653.103(e) and 653.105, no local office shall refer an MSFW family or crew unless each working member of the family or crew being referred, has filed either a full or partial application pursuant to § 653.103(b) at a local office or has been issued a JS card in instances set forth in § 653.103(h). Local offices may, upon request, provide general information, e.g., the types of crops in other areas, to farm labor contractors and family heads prior to the registration of all working members.

(b) No local office shall accept an application from an individual for employment as a farm labor contractor or fill an agricultural job order submitted by a farm labor contractor ("FLC") or farm labor contractor employee ("FLCE") unless the FLC or FLCE shows or obtains a valid FLC certificate, or FLCE identification card where required by Federal law, and a valid State certification where required by State law. If a FLC or FLCE is temporarily without his or her valid FLC certificate or FLCE identification card the local office shall try to verify the existence of the valid certificate or identification card by telephoning the State central office and/or the Department of Labor's Employment Standards Administration regional office. The local office, however, shall not serve the FLC or FLCE until the existence of the valid certificate or identification card is verified.

(c) Local offices may refer workers to registered farm labor contractors who are employers provided that a valid job order has been placed with the local office which clearly specifies all the terms and conditions of employment with the farm labor contractor shown as employer of record. Before a local office may refer workers to a farm labor contractor offering employment in another area of the State or in another State, one of two requirements must be met: Either a valid interstate clearance order from another State agency is on file in the office, or an intrastate order has been received from an office in another area of the State which is not within commuting distance of the office where the farm labor contractor is recruiting workers. Unless one of these conditions exists, the local office may only refer workers to a registered farm labor contractor who is an employer placing a local job order. Whenever the job order includes the provision of transportation, a FLC certificate authorizing transportation must be shown before workers are referred on the order.

§ 653.105 Job applications at day-haul facilities.

If the State agency is operating a day-haul facility under the exceptional circumstances provisions described in § 653.106(a), a list of JS services shall be distributed and a full application shall be completed whenever an MSFW requests the opportunity to file a full application unless this is impractical at that time. In such cases, a full application shall be taken at the earliest practical time. In all other cases, a list of JS services shall be distributed.

§ 653.106 JS day-haul responsibilities.

(a) State agencies shall not establish, operate, or supervise any agricultural day-haul facilities unless exceptional circumstances warrant such action and prior approval of the Regional Administrator is obtained

(b) No JS applicants shall be referred to non-JS operated day-haul facilities, unless the applicant is referred on a specific job order and is provided with a checklist summarizing wages, working conditions, and other material specifications on the job order. Such checklists, where necessary, shall be in English and Spanish. State agencies shall use a standard checklist format provided by ETA unless a variance has been approved by the Regional Administrator. However, general labor market information on the availability of jobs, the level of activity of agricultural and nonagricultural employment, and crop conditions shall be provided, upon request, to applicants where specific referrals to employment cannot be made.

(c) JS outreach workers shall visit all JS and non-JS operated day-haul facilities with substantial activity during their operation for purposes of providing MSFWs with information and assistance pursuant to § 653.107(j). Monitoring of such activity shall be conducted pursuant to § 653.108(p).

§ 653.107 Outreach.

(a) Each State agency shall operate an outreach program in order to locate and to contact MSFWs who are not being reached by the normal intake activities conducted by the local offices. Upon receipt of planning instructions and resource guidance from ETA, each State agency shall develop an annual outreach plan, setting forth numerical goals, policies and objectives. This plan shall be subject to the approval of the Regional Administrator as part of the program budget plan (PBP) process. Wherever feasible, State agencies shall coordinate their outreach efforts with those of public and private community service agencies and MSFW groups.

(b) In determining the extent of their outreach program, States shall be guided by the following statement of ETA policy:

(1) State agencies should make sufficient penetration in the farmworker community so that a large number of MSFWs are aware of the full range of JS services.

(2) Signficant MSFW Local offices should conduct especially vigorous outreach in their service areas.

(3) State agencies in supply States should conduct particularly thorough outreach efforts with extensive follow-up activities which capitalize on the relatively long duration of MSFW residence in the State.

(c) The plan shall be based on the actual conditions which exist in the particular State, taking into account the State agency's history of providing outreach services, the estimated number of MSFWs in the State, and the need for outreach services in that State. The approval of the Regional Administrator shall be based upon his/her consideration of the following features of the outreach plan:

(1) *Assessment of need.* This assessment of need shall include:

(i) A review of the previous year's agricultural activity in the State.

(ii) A review of the previous year's MSFW activity in the State.

(iii) A projected level of agricultural activity in the State for the coming year.

(iv) A projected number of MSFWs in the State for the coming year, which shall take into account data supplied by CETA 303 grantees, other MSFW organizations, employer organizations and federal and/or State agency data sources such as the Department of Agriculture and the United States Employment Service.

(v) A statement of the consideration given to the State Monitor Advocate's recommendation as set forth in the annual summary developed under § 653.108(t).

(2) *Assessment of available resources.* This assessment of the resources available for outreach shall include:

(i) The level of funds available from all sources, including the funds specifically made available to the State agency for outreach.

(ii) Resources made available through existing cooperative agreements with public and private community service agencies and MSFW groups.

(iii) Where fewer resources are available for outreach than in a prior year, a statement of why fewer resources are available.

(3) *Proposed outreach activities.* The proposed outreach activities shall be designed to meet the needs determined under paragraph (c)(1) of this section with the available resources determined under paragraph (c)(2) of this section. The plan for the proposed outreach activities shall include:

(i) Numerical goals for the number of MSFWs to contacted during the fiscal year by JS staff. The number of MSFWs planned to be contacted by other agencies under cooperative arrangements during the fiscal year also should be included in the plan. These numerical goals shall be based on the number of MSFWs estimated to be in the State in the coming year, taking into account the varying concentration of MSFWs during the seasons in each geographic area, the range of services needed in each area and the number of JS and/or cooperating agency staff who will conduct outreach.

(ii) Numerical goals for the staff years to be utilized for outreach during the fiscal year.

(iii) The level of funding to be utilized for outreach during the fiscal year.

(iv) The tools which will be used to conduct outreach contacts, including personal contact, printed matter, videotapes, slides, and/or cassette recordings.

(v) The records to be maintained by the JS outreach staff—logs of daily contacts to include the number of MSFWs contacted and assistance provided. The name of the individual contacted should be recorded when:

(A) An application for work is taken by an outreach worker, (B) a referral to a job is made by an outreach worker, and/or (C) a complaint is taken by an outreach worker.

(d) In developing the outreach plan, the State agency shall solicit information and suggestions from CETA 303 grantees, other appropriate MSFW groups, public agencies, agricultural employer organizations, and other interested organizations. In addition, at least 45 days before submitting its final outreach plan to the Regional Administrator, the State agency shall provide a proposed plan to CETA 303 grantees, public agencies, agricultural employer organizations, and other organizations expressing an interest and allow at least 30 days for review and comment. The State agency shall:

(1) Consider any comments received in formulating its final proposed plan.

(2) Inform all commenting parties in writing whether their comments have been incorporated and, if not, the reasons therefore.

(3) Transmit the comments and recommendations received and its responses to the Regional Administrator with the submission of the plan. (If the comments are received after the submission of the plan, they may be sent separately to the Regional Administrator.)

(e) The outreach plan shall be submitted as an essential part of the State's annual PBP. The resource requirement of the plan shall be reflected in the PBP budget request. The plan, including the resource requirement, shall be reviewed by the Regional Administrator during the annual PBP approval process. The State agency shall be required to implement the approved outreach plan as part of its compliance with the PBP.

(f) The Regional Administrator shall review and evaluate the outreach plan, including the assessments of needs and resources, in light of the history of the State's outreach efforts and the statements of policy set forth in § 653.107(b). He/she shall approve the plan only if it demonstrates that adequate outreach will be conducted. The approved outreach plan shall be available for review by interested parties.

(g) As part of the annual PBP process, funding of State agencies shall be contingent upon the substantial and timely compliance of the State agency with its prior year outreach plan. However, if the Regional Administrator makes a finding of good faith efforts, he/she may fund a State agency even though it did not achieve substantial and timely compliance.

(h) For purposes of hiring and assigning staff to outreach duties, State agencies shall seek, through merit system procedures, qualified candidates:

(1) Who are from MSFW backgrounds, and/or

(2) Who speak Spanish, and/or

(3) Who are racially or ethnically representative of the MSFWs in the service area.

(i) The five States with the highest estimated year round MSFW activity shall assign, in accordance with State merit staff requirements, full-time, year round staff to outreach duties. The remainder of the significant MSFW states shall make maximum efforts to hire outreach staff with MSFW experience for year round positions and shall assign outreach staff to work full-time during the period of the highest MSFW activity. Such outreach staff shall be bilingual if warranted by the characteristics of the MSFW population in the State, and shall spend a majority of their time in the field. The Regional Administrator may grant approval for a deviation from the requirements of this section if the State agency provides adequate evidence that outreach activities and service delivery to

MSFWs would be improved through other staffing arrangements.

(j) For purposes of this subpart, an outreach "contact" shall include either the presentation of information and offer of assistance specified in paragraphs (j)(1) and (j)(2) of this section, or the followup activity specified in paragraph (j)(3) of this section.

(1) Outreach workers shall explain to MSFWs at their working, living or gathering areas, including day-haul sites, by means of written and oral presentations either spontaneous or recorded, in a language readily understood by them, the following:

(i) The services available from the local office, including the availability of referrals to agricultural and nonagricultural employment, to training, to supportive services, as well as the availability of testing, counseling and other job development services;

(ii) Types of specific employment opportunities which are currently available in the JS system;

(iii) Information on the JS complaint system and other organizations serving MSFWs;

(iv) A basic summary of farmworker rights with respect to the terms and conditions of employment;

(v) *Provided, however,* That outreach workers shall not enter work areas to perform outreach duties described in this section on an employer's property without permission of the employer, unless otherwise authorized to enter by law, shall not enter workers' living areas without the permission of the workers, and shall comply with appropriate State laws regarding access.

(2) After making the presentation, outreach workers shall urge the MSFWs to go to the local office to obtain the full range of JS services. If an MSFW cannot or does not wish to visit the local JS office, the outreach workers shall offer to provide on-site the following:

(i) Assistance in the preparation of applications;

(ii) If an unemployed MSFW, assistance in obtaining referral to specific employment opportunities currently available; if an employed MSFW, information regarding the types of employment opportunities which will become available upon the date on which the MSFW indicates that he/she will be available following his/her current employment.

(iii) Assistance in the preparation of either JS or non-JS related complaints;

(iv) Receipt and subsequent referral of complaints to the local office complaint specialist or local officer manager;

(v) Referral to supportive services for which the individual or a family member may be eligible;

(vi) As needed, assistance in making appointments and arranging transportation for individual MSFWs or members of their family to and from local offices or other appropriate agencies.

(3) Outreach workers shall make follow-up contacts as are necessary and appropriate to provide to the maximum extent possible the assistance specified in paragraphs (j)(1) and (j)(2) of this section.

(4) In addition to the foregoing outreach contacts, the State agency shall publicize the availability of JS services through such means as newspaper and electronic media publicity. Contacts with public and priviate community agencies, employers and/or employer organizations, and MSFW groups also shall be utilized to facilitate the widest possible distribution of information concerning JS services.

(k) Outreach workers shall be alert to observe the working and living conditions of MSFWs and, upon observation, or upon receipt of information regarding a suspected violation of federal or State employment-related law, document and refer information to the local office manager for processing in accordance with § 653.113.

(l) Outreach workers shall be trained in local office procedures and in the services, benefits, and protections afforded MSFWs by the JS. They shall also be trained in the procedure for informal resolution of complaints. The program for such training shall be formulated by the State Administrator, pursuant to uniform guidelines developed by ETA, and each State's program shall be reviewed and commented upon in advance by the State MSFW Monitor Advocate.

(m) During months when outreach activities are conducted, outreach workers shall maintain complete records of their contacts with MSFWs and the services they perform in accordance with a format developed by ETA. These records shall include a daily log, a copy of which shall be sent monthly to the local office manager and maintained on file for at least two years. These records shall include the number of contacts and names of contacts (where applicable), the services provided (e.g., whether a complaint was received, whether an application was taken, and whether a referral was made). Outreach workers also shall maintain records of each possible violation or complaint of which they have knowledge, and their actions in ascertaining the facts and referring the matters as provided herein. These records shall include a description of the circumstances and names of any employers who have refused outreach workers access to MSFWs pursuant to § 653.107(l).

(n) During months when outreach activities are conducted, each local office manager shall file with the State MSFW Monitor Advocate a monthly summary report of outreach efforts. These reports shall summarize information collected, pursuant to paragraph (m) of this section. The local office manager and/or other appropriate State office staff members shall assess the performance of outreach workers by examining the overall quality and productivity of their work, including the services provided and the methods and tools used to offer services. Performance shall not be judged solely by the number of contacts made by the worker. The monthly reports and daily outreach logs shall be made available to the State MSFW Monitor Advocate and federal On-Site Review Teams. In addition, the distribution of any special funds for outreach, should funds become available, shall be based on the effectiveness and need of the State's outreach program as monitored by ETA.

(o) Outreach workers shall not engage in political, unionization or antiunionization activities during the performance of their duties.

(p) Outreach workers shall be provided with, carry and display, upon request, identification cards or other material identifying them as employees of the State agency.

§ 653.108 State agency self-monitoring.

(a) State Administrators shall assure that their State agencies monitor their own compliance with JS regulations in serving MSFWs on an ongoing basis. The State Administrator shall have overall responsibility for State agency self-monitoring.

(b) The State Administrator shall appoint a State MSFW Monitor Advocate. The State Administrator shall inform farmworker organizations and other organizations with expertise concerning MSFWs of the opening and encourage them to refer qualified applicants to apply through the State merit system prior to appointing a State MSFW Monitor Advocate. Among qualified candidates determined through State merit system procedures, the State agencies shall seek persons (1) who are from MSFW backgrounds, or (2) who speak Spanish or other languages of a significant proportion of the State MSFW population, or (3) who are racially or ethnically similar to the MSFWs in the State, or (4) who have substantial work experience in farmworker activities.

(c) The State MSFW Monitor Advocate shall have direct, personal access, whenever he/she finds it necessary, to the State Administrator and shall work in the State central office. The State MSFW Monitor Advocate shall have status and compensation as approved by the civil service classification system and be comparable to other State positions assigned similar levels of tasks, complexity and responsibility.

(d) The State MSFW Monitor Advocates shall be assigned staff necessary to fulfill effectively all of his/her duties as set forth in this subpart. The number of staff positions shall be determined by reference to (1) the number of MSFWs in the State, as measured at the time of the peak MSFW population (MSFW activity), and (2) the need for monitoring activity in the State. The MSFW Monitor Advocates shall devote full time to Monitor Advocate functions, except that the USES Administrator may reallocate positions from States of low MSFW activity to States of higher MSFW activity and may approve a plan for less than full-time work in States of low MSFW activity. Any such plan must demonstrate that the State MSFW Monitor Advocate function can be effectively performed with part-time staffing.

(e) All State MSFW Monitor Advocates and Assistant MSFW Monitor Advocates shall attend within the first three months of their tenure a training session conducted by the Regional MSFW Monitor Advocate. They shall also attend whatever additional training sessions are required by the Regional or National MSFW Monitor Advocate.

(f) The State MSFW Monitor Advocate shall provide any relevant documentation requested from the State agency by the Regional MSFW Monitor Advocate.

(g) The State MSFW Monitor Advocate shall:

(1) Conduct an ongoing review of the delivery of services and protections afforded by JS regulations to MSFWs by the State agency and local offices. The State MSFW Monitor Advocate, without delay, shall advise the State agency and local offices of (i) problems, deficiencies, or improper practices in the delivery of services and protections afforded by these regulations (including progress made in achieving affirmative action goals and timetables), and (ii) means to improve such delivery.

(2) Participate in onsite local office MSFW formal monitoring reviews on a regular basis.

(3) Assure that all significant MSFW local offices not reviewed onsite by Federal staff, are reviewed at least once a year by State staff, and that, if necessary, those local offices in which significant problems are revealed by required reports, management information, the JS complaint system or otherwise are reviewed as soon as possible.

(4) Assure that the monitoring review format, developed by ETA, is used as a guideline in the conduct of local office MSFW onsite formal monitoring reviews. This format will ensure that applications and the application-taking process are reviewed during State onsite reviews by State MSFW Monitor Advocates and/or review staff, who shall check overall accuracy and quality, and offer technical advice on corrections or improvements.

(5) Review the State agency's outreach plan, and on a random basis, the outreach workers' daily logs and other reports including those showing or reflecting the workers' activities, to ensure that they comply with the outreach plan.

(h) Formal onsite MSFW monitoring reviews of local offices shall be conducted using the following procedures:

(1) Before beginning such a review, the State MSFW Monitor Advocate and/or review staff shall study:

(i) Program performance data,

(ii) Reports of previous reviews,

(iii) Corrective action plans developed as a result of previous reviews,

(iv) Complaint logs, and

(v) Complaints elevated from the office or concerning the office.

(2) Upon completion of a local office onsite formal monitoring review, the State MSFW Monitor Advocate shall hold one or more wrap-up sessions with the local office manager and staff to discuss any obvious findings and offer initial recommendations and appropriate technical assistance.

(3) After each review the State MSFW Monitor Advocate shall conduct an indepth analysis of the review data. The conclusions and recommendations of the State MSFW Monitor Advocate shall be put in writing, shall be sent to the State Administrator, to the offical of the State agency with line authority over the local office, and other appropriate State agency officials.

(4) The state MSFW Monitor Advocate may recommend that the review responsibility set forth in this subsection be delegated to a responsible professional member of the administrative staff of the State agency, if and when the State Administrator finds such delegation necessary. In such event, the State MSFW Monitor Advocate shall be responsible for and shall approve the written report of the review.

(5) The local office manager shall develop and propose a written corrective action plan. The plan shall be approved, or appropriately revised, by appropriate superior officials and the State MSFW Monitor Advocate. The plan shall include actions required to correct or to take major steps to correct any problems within 30 days or if the plan allows for more than 30 days for full compliance, the length of, and the reasons for, the extended period shall be specifically stated.

(6) State agencies, through line supervisory staff, shall be responsible for assuring and documenting that the local office is in compliance within the time period designated in the plan. State agencies shall submit to the appropriate ETA regional offices copies of the onsite local office formal monitoring review reports and corrective action plans for significant local offices.

(i) The State MSFW Monitor Advocate shall participate in federal reviews conducted pursuant to Subpart G.

(j) At the discretion of the State Administrator, the State MSFW Monitor Advocate may be assigned the responsibility as the complaint specialist. The State MSFW Monitor Advocate shall participate in and monitor the performance of the complaint system, as set forth at 20 CFR 658.400 *et seq.* The State MSFW Monitor Advocate shall review the local office managers' informal resolution of complaints relating to MSFWs and shall ensure that the State agency transmits copies of the logs of MSFW complaints to the regional office quarterly.

(k) The State MSFW Monitor Advocate also shall serve as an advocate to improve services for MSFWs within JS. The State MSFW Monitor Advocate shall establish ongoing liaison with CETA 303 and other organizations serving farmworkers, and employers and/or employer organizations, in the State. The State MSFW Monitor Advocate shall meet frequently with representatives of these organizations to receive complaints, assist in referrals of alleged violations to enforcement agencies, receive input on improving coordination with JS or improving JS services to MSFWs.

(l) The State MSFW Monitor Advocate shall conduct frequent field visits to the working and living areas of MSFWs, and shall discuss JS services and other employment-related programs with MSFWs, crew leaders, and employers. Records shall be kept of each such visit.

(m) The State MSFW Monitor Advocate shall participate in the appropriate regional public meeting(s) held by the Department of Labor Regional Farm Labor Coordinated Enforcement Committee.

(n) The State MSFW Monitor Advocate shall ensure that outreach efforts in all significant MSFW local offices are reviewed at least yearly to ensure that there is continuing compliance with 20 CFR 653.107. This review will include accompanying at least one outreach worker from each significant MSFW local office on his/her visits to MSFWs' working and living areas. The State MSFW Monitor Advocate shall review findings from these reviews.

(o) The State MSFW Monitor Advocate shall review and assess the adequacy of the annual State affirmative action plan for MSFWs, and shall report such findings to the State Administrator.

(p) The State MSFW Monitor Advocate shall ensure that JS outreach activities are reviewed periodically at day-haul sites at which these activities are conducted. Complete records of such visits shall be kept. The State MSFW Monitor Advocate shall ensure that local offices and the State Administrator are advised of any deficiencies.

(q) The State MSFW Monitor Advocate shall review on at least a quarterly basis all statistical and other MSFW-related data reported by significant MSFW local offices in order (1) to determine the extent to which the State agency has complied with regulations at §§ 653.100 *et seq.*, and (2) to identify the areas of inadequate compliance.

(r) The State MSFW Monitor Advocate shall have full access to all statistical and other MSFW-related information gathered by State agencies and local offices and may interview State and local office staffs with respect to reporting methods. Subsequent to each review, the State MSFW Monitor Advocate shall consult, as necessary, with State and local offices and provide technical assistance to ensure accurate reporting.

(s) The State MSFW Monitor Advocate shall review and comment on proposed State JS directives, manuals, and operating instructions relating to MSFWs and shall ensure (1) that they accurately reflect the requirements of the regulations, and (2) that they are clear and workable. The State MSFW Monitor Advocate also shall explain and make available at the requestor's cost, pertinent directives and procedures to employers, employer organizations, farmworkers, farmworker organizations and other parties expressing an interest in a readily identifiable directive or procedure issued and receive suggestions on how these documents can be improved.

(t) The State MSFW Monitor Advocate shall prepare for the State Administrator an annual summary of JS services to MSFWs within his/her State based on statistical data and his/her reviews and activities set forth in these regulations. The summary shall include an assessment of the State agency's activities related to MSFWs such as those covered in the State agency's PBP, outreach plan, and affirmative action plan, and the other matters with respect to which the State MSFW Monitor Advocate has responsibilities under these regulations. A copy of this summary shall be forwarded to the Regional Administrator by the State Administrator.

§ 653.109 Data collection.

State agencies shall: (a) Collect data on MSFWs, including data on the number (1) contacted through outreach activities, (2) registering for service, (3) referred to agricultural jobs, (4) referred to non-agricultural jobs, (5) placed in agricultural jobs, (6) placed in non-agricultural jobs, (7) referred to training, (8) receiving counseling, (9) receiving job development, (10) receiving testing, (11) referred to supportive service, (12) receiving some service, (13) placed according to wage rates, and (14) placed according to duration. The State agencies also shall collect data on agricultural clearance orders (including field checks), MSFW complaints, and monitoring activities, as directed by ETA. These data shall be collected in accordance with the ESARS Handbook and applicable ETA Reports and Anlaysis Letters.

(b) Collect data on the number of MSFWs who were served as to whether they were male, female, black, Hispanic, American Indian, Asian, or Pacific Islander.

(c) Provide necessary training to State agency, including local office personnel, to assure accurate reporting of data;

(d) Collect and submit to ETA as directed by ETA, data on MSFWs required by the PBP, and

(e) Periodically collect and verify data required under this subsection, take necessary steps to ensure its validity, and collect and submit data for verification to ETA, as directed by ETA; and

(f) Submit additional reports to the ETA at such times and containing such items as ETA directs.

§ 653.110 Disclosure of data.

(a) State agencies shall disclose to the public, on written request, in conformance with applicable State and Federal law, the data collected by State and local offices pursuant to § 653.109, if possible within 10 working days after receipt of the request.

(b) If a request for data held by a State agency is made to the ETA national or regional office, the ETA shall forward the request to the State agency for response.

(c) If the requested data cannot be supplied within 10 working days of receipt by the State agency of the request, the State agency shall respond to the requestor in writing, giving the reason for the delay and specifying the date by which it expects to be able to comply.

(d) State agency intra-agency memoranda and reports (or parts thereof) and memoranda and reports (or parts thereof) between the State agency and the ETA, however, to the extent that they contain statements of opinion rather than facts, may be withheld from public disclosure provided this reason for withholding is given to the requestor in writing. Similarly, documents or parts thereof, which, if disclosed, would constitute an unwarranted invasion of personal or employer privacy, may also be withheld provided the reason is given to the requestor in writing.

§ 653.111 State agency staffing requirements.

(a) On a statewide basis, staff representative of the racial and ethnic characteristics in the work force shall be distributed in substantially the same proportion among (1) all "job groups" (as that term is defined by the Office of Federal Contract Compliance Programs), and (2) all offices in the plan(s).

(b)(1) As part of the PBP, each State agency shall develop and submit to the Regional Administrator affirmative action plans for all significant local offices within its jurisdiction (which, for the purposes of this provision, means those local offices representing the top 20% of MSFW activity nationally). These affirmative action plans shall include goals and timetables and shall ensure that sufficient numbers of qualified, permanent minority staff are hired. Where qualified minority applicants are not available to be hired as permanent staff, qualified minority part-time, provisional, or temporary staff shall be hired in accordance with State merit system procedures, where applicable. These affirmative action plans shall be prepared on an individual office basis.

(2) The affirmative action plans shall include an analysis of the racial and

ethnic characteristics of the work force in the local office service area. To determine the "work force" for the purpose of this paragraph, the State agency shall include the racial and ethnic characteristics of any MSFW population which is not a part of the permanent work force by computing an estimate of the total work years MSFWs collectively spend in the area and including a number of workers equivalent to this estimate as part of the permanent work force. This computation shall be made by calculating the average length of time, as a fractional part of a year, MSFWs stay in the area and then multiplying this figure by the total estimated MSFW population in the area during the previous year.

(3) The affirmative action plan also shall include an analysis of the local office staffing characteristics. The plan shall provide a comparison between the characteristics of the staff and the work force and determine if the composition of the local office staff(s) is representative of the racial and ethnic characteristics of the work force in the local office service area(s).

(4) If the staff under-represents any of these characteristics, the State agency shall establish a staffing goal at a level equivalent to the percentage of the characteristics in the work force in the local office service areas. The State agency also shall establish a reasonable timetable for achieving the staffing goal by hiring or promoting available, qualified staff in the under-represented categories. In establishing timetables, the State agency shall consider the vacancies anticipated through expansion, contraction, and turnover in the office(s) and available funds, and all affirmative action plans shall establish timetables that are designed to achieve the staffing goal no later than December 31, 1983.

(c) In addition, each State agency which has significant local offices, shall undertake special efforts to recruit MSFWs and persons from MSFW backgrounds for its staff, shall document achievements, and shall include in the affirmative action plan(s) a complete description of specific actions which the agency will take and time frames within which these actions will be taken.

(d) In developing the affirmative action plan for significant local offices, the State agency shall solicit from CETA 303 and other appropriate MSFW groups, employer organizations and other interested organizations, estimates of the total MSFW population in each local office service area, and the average length of time the MSFWs stay in the area. In addition, State agencies shall solicit, consider, incorporate as appropriate, respond to and include copies of comments from CETA 303, other appropriate MSFW groups, employer organizations, and other interested organizations, following procedures set forth for the annual outreach plan at § 653.107(d).

(e) As part of the annual Program and Budget Plan (PBP) process, the funding of State agencies which are required to develop and implement affirmative action plans for significant local offices shall be contingent upon the timely submittal of adequate affirmative action plans and the substantial and timely attainment of the goals and timetables contained in those plans. However, if the Regional Administrator makes a finding of good faith efforts, he/she may fund a State agency even though it did not achieve substantial and timely compliance.

(f) All State Employment Security Agencies (SESAs) required to develop affirmative action plans for significant local offices shall keep accurate records of their employment practices for those offices, including information on all applications. These records shall be maintained in accordance with the recordkeeping requirements concerning affirmative action which are established by ETA and distributed to the SESAs. All records shall be made available to the State MSFW Monitor Advocate, EEO staff and Federal On-Site Review Teams.

(g) Affirmative action plans shall contain a description of specific steps to be taken for the adequate recruitment of MSFWs for all vacant positions in significant local offices and the central office. These steps shall include advertisements in newspapers, radio or other media, in a manner calculated to best reach the MSFW population, and contacts by outreach workers and the State MSFW Monitor Advocate with groups serving the MSFW population.

(h) State EEO staff shall have the responsibility for developing affirmative action plans. The State MSFW Monitor Advocate(s) shall comment on the plan to the State Administrator. Upon submission of the affirmative action plan as part of the State agency's PBP submittal, the Regional MSFW Monitor Advocate shall review the affirmative action plan(s) as it pertains to MSFWs and comment to the Regional Administrator. As part of his/her regular reviews of State agency compliance, the Regional MSFW Monitor Advocate shall monitor the extent to which the State has complied with its affirmative action plan(s) as it pertains to MSFWs. The Regional MSFW Monitor Advocate's finding as to the adequacy of the plan(s) and as to the State's compliance with the plan(s) shall be considered in PBP decisions involving future funding of the State agency.

§653.112 State agency program budget plans.

(a) Each State agency, in its annual program budget plan, shall describe its plan to carry out the requirements of this subpart in the following year. The plan shall include, where applicable, the outreach and affirmative action plans required by §§653.107 and 653.111, respectively. For significant MSFW States, ETA shall establish program performance indicators reflecting equity indicators and indicators measuring minimum levels of service to MSFWs which the significant MSFW State agencies will be required to meet. These program performance indicator requirements shall be contained in the PBP Guidelines which ETA promulgates on an annual basis.

(b) Equity indicators shall address JS controllable services and shall include, at a minimum, individuals referred to a job; receiving counselling; receiving job development; receiving some service; and referred to supportive service.

(c) Minimum level of service indicators shall address other services to MSFWs and shall include, at a minimum, individuals placed in a job; placed in a job with a wage exceeding the Federal minimum wage by at least 50 cents/hour; placed long-term (150 days or more) in a non-agricultural job; review of significant MSFW local offices; field checks on agricultural clearance orders; outreach contacts per staff day; and processing of complaints. The determination of the minimum service levels required of significant MSFW States for each year shall be based on the following:

(1) Past State agency performance in serving MSFWs, as reflected in on-site reviews and data collected under §653.109;

(2) The need for services to MSFWs in the following year, comparing prior and projected levels of MSFW activity;

(3) The ETA program priorities for the following year; and

(4) Special circumstances and external factors existing in the particular State.

(d) The Regional Administrator shall review this portion of the PBP, and approve it upon making a written determination that it is acceptable in light of the requirements of this subpart. The Regional Administrator's written determination shall be available to the public upon request.

§ 653.113 Processing apparent violations.

(a) If a State agency employee observes, has reason to believe, or is in receipt of information regarding a suspected violation of employment related laws or JS regulations by an employer, except as provided at § 653.503 (field checks) or § 658.400 of this chapter (complaints), the employee shall document the suspected violation and refer this information to the local office manager.

(b) If the employer has filed a job order with the JS office within the past 12 months, the local office shall attempt informal resolution. If the employer does not remedy the suspected violation within 5 working days, procedures at Part 658, Subpart F of this chapter shall be initiated and, if a violation of an employment related law is involved, the violation shall be referred to the appropriate enforcement agency in writing.

(c) If the employer has not filed a job order with the local office during the past 12 months, the suspected violation of an employment related law shall be referred to the appropriate enforcement agency in writing.

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—Agricultural Clearance Order Activity

§ 653.500 Purpose and scope of subpart.

This section contains the requirements for acceptance and handling of intrastate and interstate job clearance orders seeking workers to perform agricultural or food processing work on a less than year round basis. Orders seeking workers to perform agricultural or food processing work on a year round basis which involves permanent relocation are not subject to the requirements of this subpart. This section, therefore, contains requirements which affect not only applicants who are categorized as MSFWs based on their past employment, but all workers who are recruited through the JS intrastate and interstate clearance systems for less than year round agricultural or food processing work.

§ 653.501 Requirements for accepting and processing clearance orders.

(a) In view of the statutorily established basic function of the job service as a no-fee labor exchange, that is, as a forum for bringing together employers and job seekers, neither the ETA nor the State agencies are guarantors of the accuracy or truthfulness of information contained on job orders submitted by employers. Nor does any job order accepted or recruited upon by the JS constitute a contractual job offer to which the ETA or a State agency is in any way a party. Nevertheless, if the ETA or a State agency discovers that an employer's job order contains a material misrepresentation, the procedures of Subpart F of Part 658 of this chapter shall be followed.

(b) Intrastate and interstate job orders shall include the language of the first two sentences of paragraph (a) of this section.

(c) No local office or State agency shall place into intrastate or interstate clearance any job order seeking workers to perform agricultural or food processing work before reviewing it pursuant to paragraphs (d) or (e) of this section, as applicable.

(d) No local office shall place a job order seeking workers to perform agricultural or food processing work into intrastate clearance unless:

(1) The job order does not contain an unlawful discriminatory specification by race, color, religion, national origin, age, sex, or mental or physical status unrelated to job performance (handicap);

(2) The employer has signed the job order and the job order states all the material terms and conditions of the employment, including:

(i) The crop;

(ii) The nature of the work;

(iii) The anticipated period and hours of employment;

(iv) The anticipated starting and ending date of employment and the anticipated number of days and hours per week for which work will be available;

(v) An assurance that:

(A) The employer will provide to workers referred through the clearance system the number of hours of work cited in paragraph (d)(2)(iv) of this section for the week beginning with the anticipated date of need, unless the employer has amended the date of need at least 10 working days prior to the original date of need (pursuant to paragraph (d)(2)(xiii) of this section) by so notifying the order-holding office. The State agency shall make a record of this notification and shall attempt to inform referred migrant workers of the change in accordance with the following procedure:

(B) All workers referred through the clearance system, farm labor contractors on behalf of migrant workers or family heads on behalf of migrant family members referred through the clearance system shall be notified to contact a local job service office, preferably the order-holding office, to verify the date of need cited no sooner than 9 working days and no later than 5 working days prior to the original date of need cited on the job order; and that failure to do so will disqualify the referred migrant worker from the assurance provided in paragraphs (a) and (d) of this section.

(C) If the worker referred through the clearance system contacts a local office (in any State) other than the order holding office, that local office shall assist the referred worker in contacting the order holding office on a timely basis. Such assistance shall include, if necessary, contacting the order holding office by telephone or other timely means on behalf of the worker referred through the clearance system.

(D) If the employer fails to notify the order-holding office at least 10 working days prior to the original date of need the employer shall pay eligible (pursuant to paragraph (b) of this section) workers referred through the clearance system the specified hourly rate of pay, or in the absence of a specified hourly rate of pay, the higher of the Federal or State minimum wage for the first week starting with the originally anticipated date of need.

(E) Employers may require workers to perform alternative work if the guarantee in this section is invoked and if such alternative work is stated on the job order.

(F) For the purposes of this assurance, "working days" shall mean those days that the order-holding local office is open for public business.

(vi) The hourly wage rate or the piece rate estimated in hourly wage rate equivalents for each activity and unit size;

(vii) Any deductions to be made from wages;

(viii) A specification of any non-monetary benefits to be provided by the employer;

(ix) Any hours, days or weeks for which work is guaranteed, and, for each guaranteed week of work except as provided in paragraph (d)(2)(v) of this section, the exclusive manner in which the grarantee may be abated due to weather conditions or other acts of God beyond the employer's control;

(x) Any bonus or work incentive payments or other expenses which will be paid by the employer in addition to the basic wage rate, including the anticipated time period(s) within which such payments will be made. No such payments, however, shall be made contingent upon the worker continuing employment beyond the period of employment specified in the job order or, in the case of any worker with

children, beyond the time needed to return home for the beginning of the school year;

(xi) An assurance that no extension of employment beyond the period of employment specified in the job order shall relieve the employer from paying the wages already earned, or if specified in the job order as a term of employment, providing transportation or paying transportation expenses to the worker's home;

(xii) Assurances that the working conditions comply with applicable Federal and State minimum wage, child labor, social security, health and safety, farm labor contractor registration and other employment-related laws;

(xiii) An assurance that the employer will expeditiously notify the order-holding local office or State agency by telephone immediately upon learning that a crop is maturing earlier or later, or that weather conditions, over-recruitment or other factors have changed the terms and conditions of employment. For orders submitted in conjunction with requests for foreign workers, an assurance that the employer will follow-up the telephone notification in writing.

(xiv) An assurance that the employer, if acting as a farm labor contractor ("FLC") or farm labor contractor employee ("FLCE") on the order, has a valid FLC certificate or FLCE identification card; and

(xv) An assurance of the availability of no cost or public housing which meets the Federal standards and which is sufficient to house the specified number of workers requested through the clearance system. This assurance shall cover the availability of housing for only those workers, and, when applicable, family members who are unable to return to their residence in the same day.

(xvi) An assurance that outreach workers shall have reasonable access to the workers in the conduct of outreach activities pursuant to § 653.107.

(3) The job order contains all the material terms and conditions of the job, and the employer assures that all items therein are actual conditions of the job by signing the following statement: "This job order describes the actual terms and conditions of the employment being offered by me and contains all the material terms and conditions of the job";

(4) The wages and working conditions offered are not less than the prevailing wages and working conditions among similarly employed agricultural workers in the area of intended employment or the applicable Federal or State minimum wage, whichever is higher. If the wages offered are expressed as piece rates or as base rates and bonuses, the employer shall make the method of calculating the wage and supporting materials available to JS staff who shall check if the employer's calculation of the estimated hourly wage rate is reasonably accurate and is not less than the prevailing wage rate or applicable Federal or State minimum wage, whichever is higher;

(5) The employer has agreed to provide or pay for the transportation of the workers and their families on at least the same terms as transportation is commonly provided by employers in the area of intended employment to agricultural workers and their families recruited from the same area of supply;

(6) JS staff have determined, through a preoccupancy housing inspection performed by JS staff or other appropriate public agencies, that the housing assured by the employer is in fact available, and meets the full set of standards set forth at 20 CFR Part 654, Subpart E which details applicable housing standards and contains provisions for conditional access to the clearance system; except that mobile range housing for sheepherders shall meet existing Departmental guidelines; and

(7) The local office and employer have attempted and have not been able to obtain sufficient workers within the local labor market area, or the local office anticipates a shortage of local workers.

(e) No state agency shall place a job order seeking workers to perform agricultural or food processing work with interstate clearance unless:

(1) The job order meets the requirements set forth at paragraphs (d)(1) through (d)(6) of this section;

(2) The State agency and the employer have attempted and have not been able to locate sufficient workers within the state, or the State agency anticipates a shortage of workers within the State; and

(3) The order has been reviewed and approved by the ETA regional office within 10 working days after receipt from the State agency, and the Regional Administrator has approved the areas of supply to which the order shall be extended. Any denial by the Regional Administrator shall be in writing and set forth the reasons for the denial.

(f)(1) The local office shall use the agricultural clearance form prescribed by ETA, and shall see that all necessary items on the form are completed, including items on attachments to the form prescribed by ETA.

(2)(i) The original of an interstate agricultural clearance form shall be retained for the order-holding local office files. If the clearance order is submitted in conjunction with a request for certification of temporary alien agricultural workers, the procedures at 20 CFR 655.204(a) shall be followed. For other clearance orders, the order-holding local office shall transmit a complete copy to the State office. The State office shall distribute additional copies of the form with all attachments except that the State agency may, at its discretion, delegate this distribution to the local office, as follows:

(A) At least one clear copy to each of the State agencies selected for recruitment (areas of supply);

(B) One copy to each applicant-holding ETA regional office;

(C) One copy to the order-holding ETA regional office; and

(D) One copy to the Regional Farm Labor Coordinated Enforcement Committee in the area of employment, Attn: ESA Regional Administrator.

(ii) Applicant-holding offices shall provide workers referred on clearance orders with a checklist summarizing wages, working conditions and other material specifications on the job order. Such checklists, where necessary, shall be in English and Spanish. The checklist shall include language notifying the worker that a copy of the complete order is available for inspection. One copy of the form with all attachments shall be available for inspection in the applicant-holding office and the order-holding office. State agencies shall use a standard checklist format provided by ETA unless a variance has been approved by the Regional Administrator.

(iii) The applicant-holding office shall give each referred worker a copy of a description of worker's rights developed by the National Farm Labor Coordinated Enforcement Committee.

(g) The local office may place an intrastate or interstate order seeking workers to perform agricultural or food processing work for a specific farm labor contractor or worker preferred by the employer provided the order meets JS nondiscrimination criteria. The order would not meet such criteria, for example, if it requested a "white male crew leader" or "any white male crew leader."

(h) In local offices which have been designated significant MSFW bilingual offices by ETA, and in any other local office with bilingual staff, bilingual (English-Spanish) staff shall assist all agricultural workers, upon request, to understand the terms and conditions of employment set forth in intrastate and interstate job orders and shall provide such workers with checklists in Spanish showing wage payment schedules,

working conditions and other material specifications of the job order.

(i) No agricultural or food processing order shall be included in job bank listings available outside the local office commuting area unless the order has been processed according to requirements for intrastate or interstate clearance contained in this subpart. If the job bank for the local office area incorporates offices beyond the local office commuting area, the order may be included in the listing but must be clearly designated as prohibiting referral from outside the community area, unless the requirements of this subpart are met.

(j) If the labor supply State agency accepts a clearance order, the State agency shall actively recruit workers for referral. In the event a potential labor supply State agency rejects a clearance order, the reasons for rejection shall be documented and submitted to the Regional Administrator having jurisdiction over the State agency. The Regional Administrator will examine the reasons for rejection, and, if the Regional Administrator agrees, will inform the Regional Administrator with jurisdiction over the order-holding State agency of the rejection and the justifiable reasons. If the Regional Administrator who receives the notification of rejection does not concur with the reasons for rejection, that Regional Administrator will so inform the USES Administrator, who will make a final determination on the acceptance or rejection of the order.

§ 653.502 Changes in crop and recruitment situations.

(a) If a labor demand State agency learns that a crop is maturing earlier than expected or that other material factors, including weather conditions and recruitment levels, have changed, the agency shall immediately contact the labor supply State agency, who shall in turn immediately inform crews and families scheduled through the JS clearance system of the changed circumstances and adjust arrangements on behalf of such crews of families.

(b) When there is a delay in the date of need, procedures required of employers and workers at § 653.501(d)(2)(v) shall be followed. State agencies shall document notifications by employers and contacts by individual migrant workers or crew leaders on behalf of migrant workers or family heads on behalf of migrant family members to verify the date of need.

(c) In addition, if weather conditions, overrecruitment or other conditions have eliminated the scheduled job opportunities, the State agencies involved shall make every effort to place the workers in alternate job opportunities as soon as possible, especially if the worker(s) is already enroute or at the job site. JS staff shall keep records of actions under this section.

§ 653.503 Field checks.

(a) The State agency, through its local offices or otherwise, shall conduct random, unannounced field checks at a significant number of agricultural worksites to which JS placements have been made through the intrastate or interstate clearance system. These field checks shall include visit(s) to the worksite at a time when workers are there. Both the employees and the employer shall be consulted, and JS shall determine and document whether wages, hours, working and housing conditions are as specified in job orders. JS staff shall keep records of all field checks. If State agency personnel observe or receive information, or otherwise have reason to believe that conditions are not as stated on the job order or that an employer is violating an employment related law, the State agency shall document the finding and attempt informal resolution. If the matter has not been resolved within 5 working days, the State agency shall follow the procedures set forth at Subpart F of Part 658 of this chapter. Violations of employment related laws shall be referred to appropriate enforcement agencies in writing.

(b) State agencies, to the maximum extent possible, shall make formal or informal arrangements with appropriate State and Federal enforcement agencies pursuant to which such agencies will agree to conduct compliance reviews in their areas of enforcement responsibility at agricultural worksites where the State agency has placed workers through the agricultural clearance system and to inform the State agency if violations are found. An enforcement agency compliance review shall satisfy the requirement for State agency field checks where all aspects of wages, hours, working and housing conditions have been reviewed by the enforcement agency reviews. The State agency shall supplement enforcement agency efforts with field checks focusing on areas not addressed by enforcement agencies. State agencies shall report difficulties in making such formal or informal arrangements with State enforcement agencies as well as deficiencies in State enforcement agency activities to the Regional Farm Labor Coordinated Enforcement Committee.

PART 658—ADMINISTRATIVE PROVISIONS GOVERNING THE JOB SERVICE SYSTEM

4. Revising Part 658 to read as follows:

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—Job Service Complaint System

Sec.

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658.711 Decision of the Secretary.

Authority: Wagner-Peyser Act of 1933, as amended, 29 U.S.C. 49 et seq.; 38 U.S.C. Chapters 41 and 42; unless otherwise noted.

Subparts A–D—[Reserved]

Subpart E—Job Service Complaint System

§ 658.400 Purpose and scope of subpart.

This subpart sets forth the regulations governing the Job Service complaint system at both the State and Federal levels.

§ 658.401 Types of complaints handled by the JS complaint system.

(a)(1) The types of complaints (JS related complaints) which shall be handled to resolution by the JS complaint system are as follows: (i) Complaints against an employer about the specific job to which the applicant was referred by the JS involving violations of the terms and conditions of the job order or employment-related law (employer-related complaint) and (ii) complaints about Job Service actions or omissions under JS regulations (agency-related complaints). These complaint procedures are not applicable to UI, WIN or CETA complaints. Complaints alleging violations of UI, WIN or CETA regulations should be handled within the procedures set forth in the respective regulations.

(2) A complaint shall be handled to resolution by these regulations only if it is made within one year of the alleged occurrence.

(b) Complaints by veterans alleging employer violations of the mandatory listing requirements under 38 U.S.C. 2012 shall not be handled under this subpart. The State agency shall handle such complaints under the Department's regulations at 41 CFR Part 60–250.

(c) Complaints from MSFWs alleging violations of employment-related laws enforced by ESA or OSHA shall be taken in writing by the State agency and the ETA regional office and referred to ESA or OSHA pursuant to the procedures set forth in §§ 658.414 and 658.422. All other complaints alleging violations of employment-related Federal, State or local laws other than JS regulations by employers, their agents, or DOL subagencies other than JS (non-JS related complaints) shall be logged by the State agency and the ETA regional office and the complainant shall be referred to the appropriate agency pursuant to procedures set forth in §§ 658.414 and 658.422.

(d) Certain types of complaints, such as, but not limited to, complaints by MSFWs, and complaints alleging unlawful discrimination, shall, as set forth in this subpart, be handled by specified officials of the State agency or of ETA.

State Agency JS Complaint System

§ 658.410 Establishment of State agency JS complaint system.

(a) Each State agency shall establish and maintain a Job Service complaint system pursuant to this subpart.

(b) The State Administrator shall have overall responsibility for the operation of the State agency JS complaint system. At the local office level, the local office manager shall be responsible for the management of the JS complaint system.

(c)(1) State agencies shall ensure that centralized control procedures are established for the handling of complaints and files relating to the handling of complaints. The Manager or Administrator of the local or State office taking the complaint shall ensure that a central complaint log is maintained, listing all complaints received, and specifying for each complaint: (i) The name of the complainant, (ii) the name of the respondent (employer or State agency), (iii) the date the complaint is filed, (iv) whether the complaint is by or on behalf of an MSFW, (v) whether the complaint is JS-related, (vi) if the complaint is JS-related, whether it is employer-related or agency-related, (vii) if the complaint is non-JS-related, the information required by § 658.414(c), and (viii) the action taken, including for JS-related complaints, whether the complaint has been resolved.

(2) Within one month after the end of the calendar quarter during which a local office receives an MSFW complaint (JS or non-JS related), the local office manager shall transmit a copy of that portion of the log containing the information on the MSFW complaint(s) or a separate listing of the relevant information from the log for each MSFW complaint to the State Administrator. Within two months after the end of each calendar quarter the State Administrator shall transmit copies of all local and State office complaint logs received for that quarter to the Regional Administrator.

(3) State agencies shall ensure that any action taken by the responsible official, including referral, on a JS-related or non-JS related complaint from an MSFW alleging a violation of employment related laws enforced by ESA or OSHA is fully documented in a file containing all relevant information, including a copy of the original complaint form, a copy of any JS reports, any related correspondence, a list of actions taken, and a record of related telephone calls.

(4) At the State office level, the State Administrator shall ensure that all JS-related complaints referred from local offices, and all correspondence relating thereto are logged with a notation of the nature of each item.

(d) State agencies shall ensure that information pertaining to the use of the JS complaint system is publicized. This shall include the prominent display of an ETA-approved JS complaint system poster in each local office, satellite or district office, and at each State agency operated day-haul facility.

§ 658.411 Filing and assignment of JS-related complaints.

(a) JS-related complaints may be filed in any office of the State job service agency.

(b) Assignment of complaints to local office personnel shall be as follows:

(1) All JS-related complaints filed with a local office, and alleging unlawful discrimination by race, color, religion, national origin, sex, age, or physical or mental status unrelated to job performance (handicap) shall be assigned to a local office Equal Opportunity (EO) representative if the local office has a trained and designated EO representative, or, if the local office does not have such a representative, shall be sent immediately to the State agency for logging and assignment to the EO representative or, where appropriate, handled in accordance with the procedures set forth at 29 CFR Part 31. The EO representative shall refer complaints alleging discrimination by employers to the Equal Employment Opportunity Commission or other appropriate enforcement agency. Complaints retained by an EO representative shall be subject to the hearing and appeal rights as are normally provided in accordance with this subpart. The State agency complaint specialist shall follow-up with the EO representative or with other responsible enforcement agency monthly regarding MSFW complaints and quarterly regarding non-MSFW complaints, and shall inform the complainants of the status of the complaint periodically.

(2) All JS-related and non-JS related complaints other than those described in paragraph (b)(1) of this section shall be handled by the local office manager or assigned by the local office manager to

a local office employee trained in JS complaint procedures.

(c) Assignment of complaints to State office personnel shall be as follows:

(1) The handling of all JS-related complaints received by the State office alleging unlawful discrimination by race, color, religion, national origin, sex, age, physical or mental status unrelated to job performance (handicap) status shall be assigned to a State EO representative and, where appropriate, handled in accordance with procedures set forth at 29 CFR Part 31.

(2) The handling of all other JS-related complaints and all non-JS-related complaints received by the State office shall be assigned to a State agency official designated by the State Administrator, provided that the State agency official designated to handle MSFW complaints shall be the State MSFW Monitor Advocate.

§ 658.412 Complaint resolution.

(a) A JS-related complaint is resolved when:

(1) The complainant indicates satisfaction with the outcome, or

(2) The complainant chooses not to elevate the complaint to the next level of review, or

(3) The complainant or the complainant's authorized representative fails to respond within 20 working days or in cases where the complainant is an MSFW, 40 working days of a written request by the appropriate local or State office, or

(4) The complainant exhausts the final level of review, or

(5) A final determination has been made by the enforcement agency to which the complaint was referred.

§ 658.413 Initial handling of complaints by the State or local office.

(a) There shall be an appropriate official available during regular office hours to take complaints in each local office.

(b) Whenever an individual indicates an interest in making any complaint to a State agency office, the appropriate JS official shall offer to explain the operation of the JS complaint system. The appropriate JS official shall offer to take the complaint in writing if it is JS related, or if non-JS related, it alleges violations of employment related laws enforced by ESA or OSHA and is filed by or on behalf of an MSFW. The official shall require that the complainant put the complaint on the JS Complaint/Referral Form prescribed or approved by the ETA. The JS Complaint/Referral Form shall be used for all complaints taken by a State agency, including complaints about unlawful discrimination, except as provided in § 658.413(c). The State agency official shall offer to assist the complainant in filling out the form and shall do so if the complainant desires such assistance. If the complainant also represents several other complainants, all such complainants shall be named on the JS Complaint/Referral Form. The complainant shall sign the completed form. The identity of the complainant(s) and any persons who furnish information relating to, or assisting in, an investigation of a complaint shall be kept confidential to the maximum extent possible, consistent with applicable law and a fair determination of the complaint. A copy of the completed JS Complaint/Referral Form shall be given to the complainant(s), and the complaint form shall be given to the appropriate JS official.

(c) If a JS official receives a complaint in any form (e.g., a letter) which is signed by the complainant and includes sufficient information for the JS official to initiate an investigation, the document shall be treated as if it were a properly completed JS Complaint/Referral Form filed in person by the complainant. The JS official shall send a confirming letter to this effect to the complainant and shall give the document to the appropriate JS official. If the complainant has not provided sufficient information to investigate the matter expeditiously, the JS official shall request additional information from the complainant.

(d) If the appropriate JS official determines that the complaint is not JS-related; the official shall follow the procedures set forth in § 658.414.

(e) If the appropriate JS official determines that the complaint is JS-related, the official shall ensure that the complaint is handled in accordance with this Subpart E.

(f) During the initial discussion with the complainant, the JS official receiving the complaint shall: (1) Make every effort to obtain all the information he/she perceives to be necessary to investigate the complaint; (2) request that the complainant indicate all of the addresses through which he or she might be contacted during the investigation of the complaint; (3) request that the complainant contact the JS before leaving the area if possible, and explain the need to maintain contact during the complaint investigation.

§ 658.414 Referral of non-JS-related complaints.

(a) To facilitate the operation of the coordinated enforcement procedures established at 29 CFR Part 42, the State agency shall take from MSFWs in writing non-JS related complaints which allege violations of employment related laws enforced by ESA or OSHA. The official shall immediately refer the complaint to ESA or OSHA for prompt action. The JS official shall inform the MSFW of the enforcement agency (and the individual if known) to which the complaint will be referred and refer the complainant to other agencies, attorney, consumer advocate and/or other assistance where appropriate.

(b) Upon receipt of all other non-JS related complaints, the JS official shall refer the complainant to the appropriate enforcement agency, another public agency, an attorney, a consumer advocate and/or other appropriate assistance.

(c) For all non-JS-related complaints received pursuant to paragraphs (a) and (b) of this section, the appropriate JS official shall record the referral of the complainant and the complaint where § 658.414(a) is applicable, and the agency or agencies (and individual(s), if known) to which the complainant and the complaint where § 658.414(a) is applicable, were referred on the complaint log specified in § 658.410(c)(1). The JS official shall also prepare and keep the file specified in § 658.410(c)(3) for the complaints filed pursuant to § 658.414(a).

§ 658.415 Transferring complaints to proper JS office.

(a) Where a JS-related complaint deals with an employer, the proper office to handle the complaint initially is ordinarily the local office serving the area in which the employer is located. Where a JS-related complaint deals with an office of a State agency, the proper office to handle the complaint initially is the local office serving the area in which the alleged violation of the JS regulations occurred. Where an agency-related complaint deals with more than one office of a State agency, with an alleged agency-wide violation, or with the State office, the appropriate State agency official may direct that the State office of that agency handle the complaint initially.

(b) The State Administrator shall establish a system whereby the office in which an JS-related complaint is filed, alleging a violation in that same State, ensures that the JS Complaint/Referral Form is adequately completed and then sent to the proper State or local office of that agency. A copy of the referral letter shall be sent to the complainant.

(c) Whenever a JS-related complaint deals with an employer in another State or another State agency, the State JS agency shall send, after ensuring that the JS Complaint/Referral Form is

adequately completed, a copy of the JS Complaint/Referral Form and copies of any relevant documents to the State agency in the other State. Copies of the referral letter shall be sent to the complainant, and copies of the complaint and referral letter shall be sent to the ETA Regional Office(s) with jurisdiction over the transferring and receiving State agencies.

(d) The State agency receiving the complaint after an interstate transferral under paragraph (c) of this section shall handle the complaint as if it had been initially filed with that office.

(e) The ETA regional office with jurisdiction over the receiving State shall follow-up with the receiving State agency to ensure the complaint is handled in accordance with these regulations.

(f) If the JS complaint is against more than one State JS agency, the complaint shall so clearly state. The complaint shall be handled as separate complaints and shall be handled according to procedures at §§ 658.416(c) and 658.415(c).

§ 658.416 Action on JS-related complaints.

(a) The appropriate State agency official handling an JS-related complaint shall offer to assist the complainant through the provision of appropriate JS services. For complaints against employers, this may include such services as referring a worker-complainant to another job.

(b)(1) If the JS-related complaint concerns violations of an employment-related law, the local or State office official shall refer the complaint to the appropriate enforcement agency and notify the complainant in writing of the referral. The agency shall follow-up with the enforcement agency monthly regarding MSFW complaints and quarterly regarding non-MSFW complaints, and shall inform the complainant of the status of the complaint periodically.

(2) If the enforcement agency makes a final determination that the employer violated an employment related law, the State JS agency shall initiate procedures for discontinuation of services immediately in accordance with Subpart F. The State agency shall notify the complainant and the employer of this action.

(c) If the complaint is filed initially in a local office, and is not referred under § 658.416(b), the appropriate local office official shall investigate and attempt to resolve the complaint immediately upon receipt. If resolution has not been achieved to the satisfaction of the complainant within 15 working days after receipt of the complaint, or 5 working days with respect to complaints filed by or on behalf of MSFWs, the local office official shall send the complaint to the State office for resolution or further action except that if the local office has made a written request for information pursuant to § 658.412(a)(3), these time periods shall not apply until the complainant's response is received in accordance with § 658.412(a)(3). The local office shall notify the complainant and the respondent, in writing, of the results of its investigation pursuant to this paragraph, and of the referral to the State office.

(d) If the complaint is filed initially with the State office, and is not transferred to a local office under § 658.415(a), or not referred to an enforcement agency under § 658.416(b), the appropriate State office official shall investigate and attempt to resolve the complaint immediately upon receipt. If the State office receives the complaint on referral from a local office, the State official shall attempt to resolve the complaint immediately and may, if necessary, conduct a further investigation. If resolution at the State office level has not been accomplished within 30 working days (20 working days with respect to complaints by MSFWs) after the complaint was received by the State office (whether the complaint was received directly or from a local office pursuant to paragraph (c) of this section), the State office shall make a written determination regarding the complaint and shall send copies to the complainant and the respondent except that if the State office has made a written request for information pursuant to § 658.412(a)(3) these time periods shall not apply until the complainant's response is received in accordance with § 658.412(a)(3). The determination must be sent by certified mail. The determination shall include all of the following:

(1) The results of any State office investigation pursuant to this paragraph.

(2) Conclusions reached on the allegations of the complaint.

(3) An explanation of why the complaint was not resolved.

(4) If the complaint is against an employer, and the State office has found that the employer has violated JS regulations, the determination shall state that the State will initiate procedures for discontinuation of services to the employer in accordance with Subpart F.

(5) If the complaint is against an employer and has not been referred to an enforcement agency pursuant to paragraph (b)(1) of this section, and the State office has found that the employer has not violated JS regulations, an offer to the complainant of the opportunity to request a hearing within 20 working days after the certified date of receipt of the notification.

(6) If the complaint is against the State agency, an offer to the complainant of the opportunity to request in writing a hearing within 20 working days after the certified date of receipt of the notification.

(e) If the State office, within 20 working days from the certified date of receipt of the notification provided for in paragraph (d) of this section, receives a written request for a hearing in response thereto, the State office shall refer the complaint to a State hearing official for hearing. The parties to whom the determination was sent (the State agency may also be a party) shall then be notified in writing by the State office that:

(1) The parties will be notified of the date, time and place of the hearing;

(2) The parties may be represented at the hearing by an attorney or other representative;

(3) The parties may bring witnesses and/or documentary evidence to the hearing;

(4) The parties may cross-examine opposing witnesses at the hearing;

(5) The decision on the complaint will be based on the evidence presented at the hearing;

(6) The State hearing official may reschedule the hearing at the request of a party or its representative; and

(7) With the consent of the State agency's representative and of the State hearing official, the party who requested the hearing may withdraw the request for hearing in writing before the hearing.

§ 658.417 Hearings.

(a) Hearings shall be held by State hearing officials. A State hearing official may be any State official authorized to hold hearings under State law. They may be, for example, the same referees who hold hearings under the State unemployment compensation law and/or the Work Incentive Program or any official of the State agency, authorized by State law to preside at State administrative hearings.

(b) The State hearing official may decide to conduct hearings on more than one complaint concurrently if he/she determines that the issues are related or that the complaints will be handled more expeditiously in this fashion.

(c) The State hearing official, upon the referral of a case for a hearing, shall:

(1) Notify all involved parties of the date, time and place of the hearing; and

(2) Re-schedule the hearing, as appropriate.

(d) In conducting a hearing the State hearing official shall:

(1) Regulate the course of the hearing;

(2) Issue subpoenas, if empowered to do so under State law, if necessary;

(3) Assure that all relevant issues are considered;

(4) Rule on the introduction of evidence and testimony; and

(5) Take any other action which is necessary to insure an orderly hearing.

(e) The testimony at the hearing shall be recorded and may be transcribed when appropriate.

(f) The parties shall be afforded the opportunity to present, examine, and cross-examine witnesses.

(g) The State hearing official may elicit testimony from witnesses, but shall not act as advocate for any party.

(h) The State hearing official shall receive and include in the record, documentary evidence offered by any party and accepted at the hearing. Copies thereof shall be made available by the party submitting the document to other parties to the hearing upon request.

(i) Technical rules of evidence shall not apply to hearings conducted pursuant to this section, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination, shall be applied where reasonably necessary by the State hearing official. The State hearing official may exclude irrelevant, immaterial, or unduly repetitious evidence.

(j) The case record, or any portion thereof, shall be available for inspection and copying by any party at, prior to, or subsequent to the hearing upon request. Special procedures may be used for disclosure of medical and psychological records such as disclosure to a physician designated by the individual.

(k) The State hearing official shall, if feasible, resolve the dispute by conciliation at any time prior to the conclusion of the hearing.

(l) At the State hearing official's discretion, other appropriate individuals, organizations, or associations may be permitted to participate in the hearing as *amicus curiae* (friends of the court) with respect to specific legal or factual issues relevant to the complaint. Any documents submitted by the *amicus curiae* shall be included in the record.

(m) The following standards shall apply to the location of hearings involving parties in more than one State or in locations within a State but which are separated geographically so that access to the hearing location is extremely inconvenient for one or more parties as determined by the State hearing official.

(1) Whenever possible, the State hearing official shall hold a single hearing, at a location convenient to all parties or their representatives wishing to appear and present evidence, and with all such parties and/or their representatives present.

(2) If a hearing location cannot be established by the State hearing official pursuant to paragraph (m)(1) of this section, the State hearing official may conduct, with the consent of the parties, the hearing by a telephone conference call from a State agency office with all parties and their representatives not choosing to be present at that location permitted to participate in the hearing from their distant locations.

(3) Where the State agency does not have the facilities to conduct hearings by telephone pursuant to paragraphs (m)(1) or (m)(2) of this section, the State agencies in the States where the parties are located shall take evidence and hold the hearing in the same manner as used for appealed interstate unemployment claims in those States, to the extent that such procedures are consistent with § 658.416.

§ 658.418 Decision of the State hearing official.

(a) The State hearing official may:

(1) Rule that the case is improperly before it, that is, that there is a lack of jurisdiction over the case;

(2) Rule that the complaint has been withdrawn properly and in writing;

(3) Rule that reasonable cause exists to believe that the request has been abandoned or that repeated requests for re-scheduling are arbitrary and for the purpose of unduly delaying or avoiding a hearing;

(4) Render such other rulings as are appropriate to the issues in question. However, the State hearing official shall not have jurisdiction to consider the validity or constitutionality of JS regulations or of the Federal statutes under which they are promulgated.

(b) Based on the entire record, including the investigations and determinations of the local and State offices and any evidence provided at the hearing, the Sate hearing official shall prepare a written decision. The State hearing official shall send a copy of the decision stating the findings and conclusions of law and fact and the reasons therefor to the complainant, the respondent, entities serving as *amicus* capacity (if any), the State office, the Regional Administrator, and the Solicitor of Labor, Attn: Associate Solicitor for Employment and Training Legal Services, Department of Labor, Room N2101, 200 Constitution Avenue, N.W., Washington, D.C., 20210. The notification to the complainant and respondent must be sent certified mail.

(c) All decisions of a State hearing official shall be accompanied by a written notice informing the parties (not including the Regional Administrator, the Solicitor of Labor, or entities serving in an *amicus* capacity) that, if they are not satisfied, they may, within 20 working days of the certified date of receipt of the decision, file an appeal in writing with the Regional Administrator. The notice shall give the address of the Regional Administrator.

Federal JS Complaint System

§ 658.420 Establishment of JS complaint system at the ETA regional office.

(a) Each Regional Administrator shall establish and maintain a JS complaint system at the DOL regional office level.

(b) The Regional Administrator shall designate DOL officials to handle JS-related complaints as follows:

(1) The handling of all JS-related complaints alleging discrimination by race, color, religion, national origin, sex, age, or physical or mental status unrelated to job performance (handicap), shall be assigned to a Regional Director for Equal Opportunity and Special Review (RDEOSR) and, where appropriate, handled in accordance with procedures at 29 CFR Part 31.

(2) The handling of all JS-related complaints other than those described in paragraphs (b)(1) of this section, shall be assigned to a regional office official designated by the Regional Administrator, provided that the regional office official designated to handle MSFW complaints shall be the Regional MSFW Monitor Advocate.

(c) The Regional Administrator shall designate DOL officials to handle non-JS-related complaints in accordance with § 658.422: *Provided,* That the regional official designated to handle MSFW non-JS-related complaints shall be the Regional MSFW Monitor Advocate.

(d) The Regional Administrator shall assure that all JS-related complaints and all correspondence relating thereto are logged, with a notation of the nature of each item.

§ 658.421 Handling of JS-related complaints.

(a) No JS-related complaint shall be handled at the ETA regional office level until the complainant has exhausted the State agency administrative remedies set forth at §§ 658.410–418. Therefore, if

the Regional Administrator determines that any complainant, who has filed a JS-related complaint with the regional office, has not yet exhausted the administrative remedies at the State agency level, the Regional Administrator shall inform the complainant within 10 working days in writing that the complainant must first exhaust those remedies before the complaint may be filed in the regional office. A copy of this letter shall be sent to the State Administrator. However, nothing in this provision shall prevent an ETA regional office from accepting and handling to resolution a JS-related complaint pursuant to §§ 658.423 or 658.702(c).

(b) The ETA regional office shall be responsible for handling appeals of determinations made on complaints at the State level. An "appeal" shall include any letter or other writing requesting review if it is received by the regional office and signed by a party to the complaint. Upon receipt of an appeal by the Regional Administrator after the exhaustion of State agency administrative remedies, the Regional Administrator immediately shall send for the complete State agency file, including the original JS Complaint/Referral Form.

(c) The Regional Administrator shall review the file in the case and shall determine within ten (10) days whether any further investigation or action is appropriate, provided however that the Regional Administrator shall have twenty (20) working days to make this determination if legal advice is necessary.

(d) If the Regional Administrator determines that no further action is warranted, the Regional Administrator shall send this determination in writing by certified mail to the appellant within five (5) days of his/her determination and may, in the Regional Administrator's discretion, offer the appellant a hearing before a DOL Administrative Law Judge, provided the appellant requests such a hearing in writing from the Regional Administrator within 20 working days of the certified date of receipt of the Regional Administrator's offer of hearing.

(e) If the Regional Administrator determines that further investigation or other action is warranted, the Regional Administrator immediately shall undertake such an investigation, informal resolution or other action.

(f) If the Regional Administrator determines to reverse or modify the decision of the State hearing official or the State Administrator, the Regional Administrator shall offer in writing by certified mail each party to the State hearing official's hearing or to whom the State office determination was sent, the opportunity for a hearing before a DOL Administrative Law Judge, provided the party requests such a hearing in writing within 20 working days of the certified date of the Regional Administrator's offer of hearing.

(g) If the Regional Administrator finds reason to believe that a State agency or one of its local offices has violated JS regulations, the Regional Administrator shall follow the procedures set forth at Subpart H of this part.

(h) If the appeal is not resolved, pursuant to paragraph (e) of this section, to the appellant's satisfaction, the Regional Administrator may, in the Regional Administrator's discretion, offer the appellant in writing by certified mail a hearing before a DOL Administrative Law Judge provided the appellant requests such a hearing in writing from the Regional Administrator within 20 working days of the certified date of receipt of the Regional Administrator's offer of hearing.

§ 658.422 Handling of non-JS-related complaints by the Regional Administrator.

(a) Each non-JS-related complaint filed by an MSFW alleging violations of employment related laws enforced by ESA or OSHA shall be taken in writing, and referrred to ESA or OSHA for prompt action pursuant to 29 CFR Part 42.

(b) Upon referring the complaint in accordance with paragraph (a) of this section, the regional official shall inform the complainant of the enforcement agency (and individual, if known) to which the complaint was referred and shall also refer the complainant to the enforcement agency, another public agency, an attorney, a consumer advocate and/or other appropriate assistance.

(c) All other non–JS related complaints alleging violations of employment related laws shall be logged. The complainant shall be referred to the appropriate agency for assistance.

(d) For all non-JS-related complaints received and/or referred, the appropriate regional official shall record the referral of the complainant (or complaint filed on behalf of an MSFW), and the agency or agencies (and individual(s) if known) to which the complainant (or complaint) was referred on a complaint log, similar to the one described in § 658.410(c)(1). The appropriate regional official shall also prepare and keep the file specified in § 658.410(c)(3).

§ 658.423 Handling of other complaints by the Regional Administrator.

Whenever the regional office receives a JS-related complaint and the appropriate official determines that the nature and scope of the complaint are such that the time required to exhaust the administrative procedures at the State level would adversely affect a significant number of applicants, he/she shall take the complaint and follow up on the complaint as follows: for a complaint against an employer, the regional office shall handle the complaint in a manner consistent with the requirements imposed upon State agencies by §§ 658.413 and 658.416 herein. A hearing shall be offered to the parties once the Regional Administrator makes a determination on the complaint. For a complaint against a State agency, the regional office shall follow procedures established at § 658.702(c).

§ 658.424 Federal hearings.

(a) If a party requests a hearing pursuant to §§ 658.421 (d), (f), or (h) or § 658.423, the Regional Administrator shall:

(1) Send the party requesting the hearing and all other parties to the prior State agency hearing, a written notice containing the statements set forth at § 658.416(e);

(2) Compile four hearing files containing copies of all documents relevant to the case, indexed and compiled chronologically;

(3) Send simultaneously one hearing file to the DOL Chief Administrative Law Judge, 1111 20th Street, N.W., Washington, D.C., 20036, one hearing file to the Administrator, and one hearing file to the Solicitor of Labor, Attn: Associate Solicitor for Employment and Training Legal Services, and retain one hearing file.

(b) Upon the receipt of a hearing file, the DOL Administrative Law Judge designated by the Chief Administrative Law Judge shall notify the party requesting the hearing, all parties to the prior State hearing official hearing (if any), the State agency, the Regional Administrator, the Administrator, and the Solicitor of the receipt of the case. The DOL Administrative Law Judge shall afford the non-Federal parties 20 working days to submit legal arguments and supporting documentation, if any, in the case. The DOL Administrative Law Judge shall afford the Solicitor 20 working days to submit legal arguments and supporting documentation, if any, in the case on behalf of the Federal parties. After the 20 working days elapse, the Hearing Officer shall decide whether to schedule a hearing, or make a determination on the record.

(c) The DOL Administrative Law Judge may decide to conduct hearings on more than one complaint concurrently if he/she determines that the issues are related or that the complaints will be handled more expeditiously in this fashion.

(d) At the DOL Administrative Law Judge's discretion, other appropriate individuals, organizations, or associations may be permitted to participate in the hearing as *amicus curiae* with respect to specific legal or factual issues relevant to the complaint. Any documents submitted by the *amicus curiae* shall be included in the record.

(e) The following standards shall apply to the location of hearings involving parties in more than one State or in locations which are within a State but which are separated geographically so that access to the hearing location is extremely inconvenient for one or more parties as determined by the Administrative Law Judge.

(1) Whenever possible, the Administrative Law Judge shall hold a single hearing, at a location convenient to all parties or their representatives wishing to appear and present evidence, and with all such parties and/or their representatives present.

(2) If a hearing location cannot be established by the Administrative Law Judge at a location pursuant to paragraph (e)(1) of this section, the Administrative Law Judge may conduct, with the consent of the parties, the hearing by a telephone conference call from an office with all parties and their representatives not choosing to be present at that location permitted to participate in the hearing from their distant locations.

(3) Where the Administrative Law Judge is unable to locate facilities to conduct hearings by telephone pursuant to paragraphs (e)(1) or (e)(2) of this section, the Administrative Law Judge shall take evidence in the States where the parties are located and hold the hearing in the same manner as used for appealed interstate unemployment claims in those States, to the extent that such procedures are consistent with § 658.416.

(f) The DOL Administrative Law Judge shall:

(1) Notify all involved parties of the date, time and place of the hearing; and

(2) Re-schedule the hearing, as appropriate.

(g) In conducting a hearing the DOL Administrative Law Judge shall:

(1) Regulate the course of the hearing;

(2) Issue subpoenas if necessary;

(3) Consider all relevant issues which are raised;

(4) Rule on the introduction of evidence and testimony;

(5) Take any other action which is necessary to insure an orderly hearing.

(h) The testimony at the hearing shall be recorded, and shall be transcribed if appropriate.

(i) The parties to the hearing shall be afforded the opportunity to present, examine, and cross-examine witnesses. The DOL Administrative Law Judge may elicit testimony from witnesses, but shall not act as advocate for any party.

(j) The DOL Administrative Law Judge shall receive, and make part of the record, documentary evidence offered by any party and accepted at the hearing. Copies thereof shall be made available by the party submitting the documentary evidence, to any part to the hearing upon request.

(k) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial, or unduly repetitious evidence.

(l) The case record, or any portion thereof, shall be available for inspection and copying by any party to the hearing at, prior to, or subsequent to the hearing upon request. Special procedures may be used for disclosure of medical and psychological records such as disclosure to a physician designated by the individual concerned.

(m) The DOL Administrative Law Judge shall, if feasible, encourage resolution of the dispute by conciliation at any time prior to the conclusion of the hearing.

§ 658.425 Decision of DOL Administrative Law Judge.

(a) The DOL Administrative Law Judge may:

(1) Rule that there is a lack of jurisdiction over the case;

(2) Rule that the appeal has been withdrawn properly and in writing, with the written consent of all the parties;

(3) Rule that reasonable cause exists to believe that the appeal has been abandoned or that repeated requests for re-scheduling are arbitrary and for the purpose of unduly delaying or avoiding a hearing; or

(4) Render such other rulings as are appropriate to the issues in question. However, the DOL Administrative Law Judge shall not have jursidiction to consider the validity or constitutionality of JS regulations or of the Federal statutes under which they are promulgated.

(b) Based on the entire record, including any legal briefs, the record before the State agency, the investigation (if any) and determination of the Regional Administrator, and evidence provided at the hearing, the DOL Administrative Law Judge shall prepare a written decision. The DOL Administrative Law Judge shall send a copy of the decision stating the findings and conclusions of law and fact and the reasons therefor to the parties to the hearing, including the State agency, the Regional Administrator, the Administrator, and the Solicitor, and to entities filing amicus briefs (if any).

(c) The decision of the DOL Administrative Law Judge shall be the final decision of the Secretary.

§ 658.426 Complaints against USES.

Complaints alleging that an ETA regional office or the national office of USES has violated JS regulations should be mailed to the Assistant Secretary for Employment and Training, U.S. Department of Labor, Washington, D.C. 20210. Such complaints should include: (a) The allegations of wrong-doing, (b) the date of the incident, (c) location of the incident, (d) who the complaint is against, and (e) any other relevant information available to the complainant. The Assistant Secretary or the Regional Administrator as designated shall make a determination and respond to the complainant after investigation of the complaint.

Subpart F—Discontinuation of Services to Employers by the Job Service System

Authority: Wagner-Peyser Act of 1933, as amended, 29 U.S.C. 49 et seq., unless otherwise noted.

§ 658.500 Scope and purpose of subpart.

This subpart contains the regulations governing the discontinuation of services provided pursuant to 20 CFR Part 653 to employers by the USES, including State agencies.

§ 658.501 Basis for discontinuation of services.

(a) The State agency shall initiate procedures for discontinuation of services to employers who:

(1) Submit and refuse to alter or withdraw job orders containing specifications which are contrary to employment-related laws;

(2) Submit job orders and refuse to provide assurances, in accordance with § 653.501(d) above, that the jobs offered are in compliance with employment-

related laws, or to withdraw such job orders;

(3) Are found through field checks or otherwise to have either misrepresented the terms or conditions of employment specified on job orders or failed to comply fully with assurances made on job orders;

(4) Are found by a final determination by an appropriate enforcement agency to have violated any employment-related laws and notification of this final determination has been provided to the JS by that enforcement agency;

(5) Are found to have violated JS regulations pursuant to § 658.416(d)(4);

(6) Refuse to accept qualified workers referred through the clearance system;

(7) Refuse to cooperate in the conduct of field checks conducted pursuant to § 653.503; or

(8) Repeatedly cause the initiation of the procedures for discontinuation of services pursuant to paragraphs (a)(1) through (6) of this section.

(b) The State agency may discontinue services immediately if, in the judgment of the State Administrator, exhaustion of the administrative procedures set forth in this subpart at §§ 658.501 through 658.502 would cause substantial harm to a significant number of workers. In such instances, procedures at §§ 658.503 (b) *et seq.* shall be followed.

(c) For employers who are alleged to have not complied with the terms of the temporary labor certification, State agencies shall notify the Regional Adminstrator of the alleged non-compliance for investigation and pursuant to § 655.210 consideration of ineligibility for subsequent temporary labor certification.

§ 658.502 Notification to employers.

(a) The State agency shall notify the employer in writing that it intends to discontinue the provision of JS services pursuant to 20 CFR Part 653 and the reason therefore:

(1) Where the decision is based on submittal and refusal to alter or to withdraw job orders containing specifications contrary to employment-related laws, the State agency shall specify the date the order was submitted, the job order involved, the specifications contrary to employment-related laws and the laws involved. The employer shall be notified in writing that all JS services will be terminated in 20 working days unless the employer within that time:

(i) Provides adequate evidence that the specifications are not contrary to employment-related laws, or

(ii) Withdraws the specifications and resubmits the job order in compliance with all employment-related laws, or

(iii) If the job is no longer available makes assurances that all future job orders submitted will be in compliance with all employment-related laws, or

(iv) Requests a hearing from the State agency pursuant to § 658.417

(2) Where the decision is based on the employer's submittal of an order and refusal to provide assurances that the job is in compliance with employment-related laws or to withdraw the order, the State agency shall specify the date the order was submitted, the job order involved and the assurances involved. The employer shall be notified that all JS services will be terminated within 20 working days unless the employer within that time:

(i) Resubmits the order with the appropriate assurances,

(ii) If the job is no longer available, make assurances that all future job orders submitted will contain all necessary assurances that the job offered is in compliance with employment-related laws, or

(iii) Requests a hearing from the State agency pursuant to § 658.417.

(3) Where the decision is based on a finding that the employer has misrepresented the terms or conditions of employment specified on job orders or failed to comply fully with assurances made on job orders, the State agency shall specify the basis for that determination. The employer shall be notified that all JS services will be terminated in 20 working days unless the employer within that time:

(i) Provides adequate evidence that terms and conditions of employment were not misrepresented, or

(ii) Provides adequate evidence that there was full compliance with the assurances made on the job orders, or

(iii) Provides resolution of a complaint which is satisfactory to a complainant referred by the JS, and

(iv) Provides adequate assurance that specifications on future orders will accurately represent the terms and conditions of employment and that there will be full compliance with all job order assurances, or

(v) Requests a hearing from the State agency pursuant to § 658.417.

(4) Where the decision is based on a final determination by an enforcement agency that the employer-related laws, the State agency shall specify the determination. The employer shall be notified that all JS services will be terminated in 20 working days unless the employer within that time:

(i) Provides adequate evidence that the enforcement agency has reversed its ruling and that the employer did not violate employment-related laws, or

(ii) Provides adequate evidence that the appropriate fines have been paid and/or appropriate restitution has been made, and

(iii) Provides assurances that any policies, procedures, or conditions responsible for the violation have been corrected and the same or similar violations are not likely to occur in the future.

(5) Where the decision is based on a finding of a violation of JS regulations under § 658.416(d)(4), the State agency shall specify the finding. The employer shall be notified that all JS services will be terminated in 20 working days unless the employer within that time:

(i) Provides adequate evidence that the employer did not violate JS regulations, or

(ii) Provides adequate evidence that appropriate restitution has been made or remedial action taken, and

(iii) Provides assurances that any policies, procedures, or conditions responsible for the violation have been corrected and the same or similar violations are not likely to occur in the future, or

(iv) Requests a hearing from the State agency pursuant to § 658.417.

(6) Where the decision is based on an employer's failure to accept qualified workers referred through the clearance system, the State agency shall specify the workers referred and not accepted. The employer shall be notified that all JS services will be terminated in 20 working days unless the employer within that time:

(i) Provides adequate evidence that the workers were accepted, or

(ii) Provides adequate evidence that the workers were not available to accept the job, or

(iii) Provides adequate evidence that the workers were not qualified, and

(iv) Provides adequate assurances that qualified workers referred in the future will be accepted; or

(v) Requests a hearing from the State agency pursuant to § 658.417.

(7) Where the decision is based on lack of cooperation in the conduct of field checks, the State agency shall specify the lack of cooperation, the employer shall be notified that all JS services will be terminated in 20 working days unless the employer within that time:

(i) Provides adequate evidence that he did cooperate, or

(ii) Cooperates immediately in the conduct of field checks, and

(iii) Provides assurances that he/she will cooperate in future field checks in further activity, or

(iv) Requests a hearing from the State agency pursuant to § 658.417.

(b) If the employer chooses to respond pursuant to § 658.502 by providing

documentary evidence or assurances, he/she must at the same time request a hearing if such hearing is desired in the event that the State agency does not accept the documentary evidence or assurances as adequate.

(c) Where the decision is based on repeated initiation of procedures for discontinuation of services, the employer shall be notified that services have been terminated.

(d) If the employer makes a timely request for a hearing, in accordance with § 658.502, the State agency shall follow procedures set forth at § 658.417 and notify the complainant whenever the discontinuation of services is based on a complaint pursuant to § 658.501(a)(5).

§ 658.503 Discontinuation of services.

(a) If the employer does not provide a satisfactory response in accordance with § 658.502, within 20 working days, or has not requested a hearing, the State agency shall immediately terminate services to the employer.

(b) If services are discontinued to an employer subject to Federal Contractor Job Listing Requirements, the State agency shall notify the ETA regional office immediately.

§ 658.504 Reinstatement of services.

(a) Services may be reinstated to an employer after discontinuation under § 658.503, if:

(1) The State is ordered to do so by a Federal Administrative Law Judge or Regional Administrator, or

(2)(i) The employer provides adequate evidence that any policies, procedures or conditions responsible for the previous discontinuation of services have been corrected and that the same or similar difficulties are not likely to occur in the future, and

(ii) The employer provides adequate evidence that the employer has responded adequately to any findings of an enforcement agency, State JS agency, or USES, including restitution to the complainant and the payment of any fines, which were the basis of the discontinuation of services.

(b) The State agency shall notify, within 20 working days, the employer requesting reinstatement whether his request has been granted. If the State denies the request for reinstatement, the basis for the denial shall be specified and the employer shall be notified that he/she may request a hearing within 20 working days.

(c) If the employer makes a timely request for a hearing, the State agency shall follow the procedures set forth at § 658.417.

(d) The State agency shall reinstate services to an employer if ordered to do so by a State hearing officer, Regional Administrator, or Federal Administrative Law Judge as a result of a hearing offered pursuant to § 658.504(c).

Subpart G—Review and Assessment of State Agency Compliance With Job Service Regulations

Authority: Wagner-Peyser Act of 1933, as amended, 29 U.S.C. 49 *et seq.*; 5 U.S.C. 301 *et seq.*

§ 658.600 Scope and purpose of subpart.

This subpart sets forth the regulations governing review and assessment of State agency compliance with the Job Service regulations at 20 CFR Parts 601, 602, 603, 604, 620, 621, 651–658 and 29 CFR Part 8. All recordkeeping and reporting requirements contained in Parts 653 and 658 have been approved by the Office of Management and Budget as required by the Federal Reports Act of 1942.

§ 658.601 State agency responsibility.

(a) Each State agency shall establish and maintain a self-appraisal system for job service operations to determine success in reaching goals and to correct deficiencies in performance. The self-appraisal system shall include numerical (quantitative) appraisal and non-numerical (qualitative) appraisal.

(1) Numerical appraisal at the local office level shall be conducted as follows:

(i) Performance shall be measured on a quarterly-basis against planned service levels as stated in the State Program and Budget Plan (PBP). The State plan shall be consistent with numerical goals contained in local office plans.

(ii) To appraise numerical activities/indicators, actual results as shown on the Employment Security Automated Reporting System (ESARS) tables and Cost Accounting Reports shall be compared to planned levels. Variances between achievement and plan shall be identified.

(iii) When the numerical appraisal of required activities/indicators identifies significant variances from planned levels, additional analysis shall be conducted to isolate possible contributing factors. This data analysis shall include, as appropriate, comparisons to past performance, attainment of PBP goals and consideration of pertinent non-numerical factors.

(iv) Results of local office numerical reviews shall be documented and significant deficiencies identified. A corrective action plan as described at § 658.601 (a)(6) shall be developed to address these deficiencies.

(v) The result of local office appraisal, including corrective action plans, shall be communicated in writing to the next higher level of authority for review. This review shall cover adequacy of analysis, appropriateness of corrective actions, and need for higher level involvement. When this review is conducted at an area or district office, a report describing local office performance within the area or district jurisdiction shall be communicated to the central office on a quarterly basis.

(2) Numerical appraisal at the central office level shall be conducted as follows:

(i) Performance shall be measured on a quarterly basis against planned service levels as stated in the State Program and Budget Plan (PBP). The State plan shall be consistent with numerical goals contained in local office plans.

(ii) To appraise these key numerical activities/indicators, actual results as shown on the Employment Security Automated Reporting System (ESARS) tables and Cost Accounting Reports shall be compared to planned levels. Variances between achievement and plan shall be identified.

(iii) The central office shall review Statewide data, and performance against planned service levels as stated in the State Program and Budget Plan (PBP) on at least a quarterly basis to identify significant Statewide deficiencies and to determine the need for additional analysis, including identification of trends, comparisons to past performance, and attainment of PBP goals.

(iv) Results of numerical reviews shall be documented and significant deficiencies identified. A corrective action plan as described at § 658.601 (a)(5) shall be developed to address these deficiencies. These plans shall be submitted to the ETA Regional Office as part of the periodic performance process described at 20 CFR 658.603(d)(2).

(3) Nonnumerical (qualitative) appraisal of local office job service Title III activities shall be conducted at least annually as follows:

(i) Each local office shall assess the quality of its services to applicants, employers, and the community and its compliance with Federal regulations.

(ii) At a minimum, nonnumerical review shall include an assessment of the following factors:

(A) Appropriateness of services provided to applicants and employers;

(B) Timely delivery of services to applicants and employers;

(C) Staff responsiveness to individual applicant and employer needs;

(D) Thoroughness and accuracy of documents prepared in the course of service delivery; and

(E) Effectiveness of JS interface with external organizations, i.e., other ETA funded programs, community groups, etc.

(iii) Nonnumerical review methods shall include:

(A) Observation of processes;

(B) Review of documents used in service provisions; and

(C) Solicitation of input from applicants, employers, and the community.

(iv) The result of nonnumerical reviews shall be documented and deficiencies identified. A corrective action plan that addresses these deficiencies as described at § 658.601(a)(6) shall be developed.

(v) The result of local office nonnumerical appraisal, including corrective actions, shall be communicated in writing to the next higher level of authority for review. This review shall cover thoroughness and adequacy of local office appraisal, appropriateness of corrective actions, and need for higher level involvement. When this review is conducted at an area or district level, a report summarizing local office performance within that jurisdiction shall be communicated to the central office on an annual basis.

(4) As part of its oversight responsibilities, the central office shall conduct onsite reviews in those local offices which show continuing internal problems or deficiencies in performance as indicated by such sources as data analysis, nonnumerical appraisal, or other sources of information.

(5) Nonnumerical (qualitative) review of central office job service activities shall be conducted as follows:

(i) Central office operations shall be assessed annually to determine compliance with Federal regulations and to assess progress made on annually established work plans established for central office staff.

(ii) Results of nonnumerical reviews shall be documented and deficiencies identified. A corrective action plan that addresses these deficiencies shall be developed.

(6) Corrective action plans developed to address deficiencies uncovered at any administrative level within the State as a result of the self-appraisal process shall include:

(i) Specific descriptions of the type of action to be taken, the time frame involved and the assignment of responsibility.

(ii) Provision for the delivery of technical assistance as needed.

(iii) A plan to conduct follow-up on a timely basis to determine if action taken to correct the deficiencies has been effective.

(7)(a) The provisions of the JS regulations which require numerical and nonnumerical assessment of service to special applicant groups, e.g., services to veterans at 20 CFR 653.221–230 and services to MSFWs at 20 CFR 653.108, are supplementary to the provisions of this section.

(b) Each State Administrator and local office manager shall assure that their staffs know and carry out JS regulations, including regulations on performance standards and program emphases, and any corrective action plans imposed by the State agency or by the ETA.

(c) Each State Administrator shall assure that the State agency complies with its approved program budget plan.

(d) Each State Administrator shall assure to the maximum extent feasible the accuracy of data entered by the State agency into ETA required management information systems. Each State agency shall establish and maintain a data validation system pursuant to ETA instructions. The system shall review every local office at least once every four years. The system shall include the validation of time distribution reports and the review of data gathering procedures.

§ 658.602 ETA national office responsibility.

The ETA national office shall:

(a) Monitor ETA regional offices' carrying out of JS regulations;

(b) From time to time, conduct such special reviews and audits as necessary to monitor ETA regional office and State agency compliance with JS regulations;

(c) Offer technical assistance to the ETA regional offices and State agencies in carrying out JS regulations and programs;

(d) Have report validation surveys conducted in support of resource allocations;

(e) Develop tools and techniques for reviewing and assessing State agency performance and compliance with JS regulations.

(f) ETA shall appoint a National MSFW Monitor Advocate, who shall devote full time to the duties set forth in this subpart. The National MSFW Monitor Advocate shall (i) review the effective functioning of the Regional and State MSFW Monitor Advocates; (ii) review the performance of State agencies in providing the full range of JS services to MSFWs; (iii) take steps to resolve or refer JS-related problems of MSFWs which come to his/her attention; (iv) take steps to refer non JS-related problems of MSFWs which come to his/her attention; (v) recommend to the Administrator changes in policy toward MSFWs; and (vi) serve as an advocate to improve services for MSFWs within JS. The National MSFW Monitor Advocate shall be a member of the National Farm Labor Coordinated Enforcement Staff Level Working Committee.

(1) The National MSFW Monitor Advocate shall be appointed by the Administrator after informing farmworker organizations and other organizations with expertise concerning MSFWs of the openings and encouraging them to refer qualified applicants to apply through the federal merit system. Among qualified candidates, determined through merit systems procedures, individuals shall be sought who meet the criteria used in the selection of the State MSFW Monitor Advocates, as provided in § 653.108(b).

(2) The National MSFW Monitor Advocate shall be assigned staff necessary to fulfill effectively all the responsibilities set forth in this subpart.

(3) The National MSFW Monitor Advocate shall submit an annual report ("Annual Report") to the Administrator, the ETA Assistant Secretary, and the National Farm Labor Coordinating Committee covering the matters set forth in this subpart.

(4) The National MSFW Monitor Advocate shall monitor and assess State agency compliance with JS regulations affecting MSFWs on a continuing basis. His/her assessment shall consider (i) information from Regional and State MSFW Monitor Advocates; (ii) program performance data, including the service indicators; (iii) periodic reports from regional offices; (iv) all federal on-site reviews; (v) selected State on-site reviews; (vi) other relevant reports prepared by USES; (vii) information received from farmworker organizations and employers; and (viii) his/her personal observations from visits to State JS offices, agricultural work sites and migrant camps. In the Annual Report, the National MSFW Monitor Advocate shall include both a quantitative and qualitative analysis of his/her findings and the implementation of his/her recommendations by State and federal officials, and shall address the information obtained from all of the foregoing sources.

(5) The National MSFW Monitor Advocate shall review the activities of the State/federal monitoring system as it applies to services to MSFWs and the JS complaint system including the effectiveness of the regional monitoring

function in each region and shall recommend any appropriate changes in the operation of the system. The National MSFW Monitor Advocate's findings and recommendations shall be fully set forth in the Annual Report.

(6) If the National MSFW Monitor Advocate finds that the effectiveness of any Regional MSFW Monitor Advocate has been substantially impeded by the Regional Administrator or other Regional Office official, he/she shall, if unable to resolve such problems informally, report and recommend appropriate actions directly to the Administrator. If the National MSFW Monitor Advocate receives information that the effectiveness of any State Monitor Advocate has been substantially impeded by the State Administrator or other State or federal JS official, he/she shall, in the absence of a satisfactory informal resolution at the regional level, report and recommend appropriate actions directly to the Administrator.

(7) The National MSFW Monitor Advocate shall be informed of all proposed changes in policy and practice within USES, including JS regulations, which may affect the delivery of services to MSFWs. The National MSFW Monitor Advocate shall advise the Administrator concerning all such proposed changes which may adversely affect MSFWs. The National MSFW Monitor Advocate shall propose directly to the Administrator changes in JS policy and administration which may substantially improve the delivery of services *to* MSFWs. He/she shall also recommend changes in the funding of state agencies and/or adjustment or reallocation of the discretionary portions of funding formulae.

(8) The National MSFW Monitor Advocate shall participate in the review and assessment activities required at §§ 658.602 and 658.700 *et seq.* As part of such participation, the National MSFW Monitor Advocate, or if he/she is unable to participate a Regional MSFW Monitor Advocate, shall accompany the National Office review team on National Office on-site reviews. The National MSFW Monitor Advocate shall engage in the following activities in the course of each State on-site review:

(i) He/she shall accompany selected outreach workers on their field visits.

(ii) He/she shall participate in a random field check[s] of migrant camps or work site[s] where MSFWs have been placed on inter or intra state clearance orders.

(iii) He/she shall contact local CETA 303 groups or other farmworker organizations as part of the on-site review, and, conduct an interview with representatives of the organizations.

(iv) He/she shall meet with the State MSFW Monitor Advocate and discuss the full range of the JS services to MSFWs, including the monitoring and complaint systems.

(9) In addition to the duties specified in § 658.602(f)(8), the National MSFW Monitor Advocate each year during the harvest season shall visit the four states with the highest level of MSFW activity during the prior fiscal year, if they are not scheduled for a National Office on-site review during the current fiscal year, and shall: (i) Meet with the State MSFW Monitor Advocate and other central office staff to discuss MSFW service delivery, and (ii) contact representatives of MSFW organizations and interested employer organizations to obtain information concerning JS service delivery and coordination with other agencies.

(10) The National MSFE Monitor Advocate shall perform the duties specified in § 658.700. As part of this function, he/she shall monitor the performance of regional offices in imposing corrective action. The National MSFW Monitor Advocate shall report any deficiencies in performance to the Administrator.

(11) The National MSFW Monitor Advocate shall establish routine and regular contacts with CETA 303 groups, other farmworker organizations and agricultural employers and/or employer organizations. He/she shall attend conferences or meetings of these groups wherever possible and shall report to the Administrator and the National Farm Labor Coordinated Enforcement Committee on these contacts when appropriate. The National MSFW Monitor Advocate shall include in the Annual Report recommendations as to how DOL might better coordinate JS and CETA 303 services as they pertain to MSFWs.

(12) In the event that any State or Regional MSFW Monitor Advocate, enforcement agency or MSFW group refers a matter to the National MSFW Monitor Advocate which requires emergency action, he/she shall assist them in obtaining action by appropriate agencies and staff, inform the originating party of the action taken, and, upon request, provide written conformation.

(13) Through all the mechanisms provided in this subpart, the National MSFW Monitor Advocate shall aggressively seek to ascertain and remedy, if possible, systemic deficiencies in the provisions of JS services and protections afforded by these regulations to MSFWs. The National MSFW Monitor Advocate shall:

(i) Use the regular reports on complaints submitted by State agencies and ETA regional offices to assess the adequacy of these systems and to determine the existence of systemic deficiencies.

(ii) Provide technical assistance to ETA regional office and State agency staffs for administering the JS complaint system.

(iii) Recommend to the Administrator specific instructions for action by regional office staff to correct any JS-related systemic deficiencies. Prior to any ETA review of regional office operations concerning JS services to MSFWs, the National MSFW Monitor Advocate shall provide to the Administrator a brief summary of JS-related services to MSFWs in that region and his/her recommendations for incorporation in the regional review materials as the Administrator and ETA reviewing organization deem appropriate.

(iv) Recommend to the National Farm Labor Coordinated Enforcement Committee specific instructions for action by ESA and OSHA regional office staff to correct any non-JS-related systemic deficiencies of which he/she is aware.

§ 658.603 ETA regional office responsibility.

(a) The Regional Administrator shall have responsibility for the regular review and assessent of State agency performance and compliance with JS regulations.

(b) The Regional Administrator shall review and approve annual program budget plans for the State agencies within the region. In reviewing the program budget plans the Regional Administrator shall consider relevant factors including the following:

(1) State agency compliance with JS regulations;

(2) State agency performance against the goals and objectives established in the previous year's program budget plan;

(3) The effect which economic conditions and other external factors considered by the ETA in the resource allocation process may have had or are expected to have on State agency performance;

(4) State agency adherence to national program emphasis; and

(5) The adequacy and appropriateness of the program budget plan for carrying out JS programs.

(c) The Regional Administrator shall assess the overall performance of State agencies on an ongoing basis through desk reviews and the use of required

reporting systems and other available information.

(d) As appropriate, Regional Administrators shall conduct or have conducted:

(1) Comprehensive on-site reviews of State agencies and their offices to review State agency organization, management, and program operations;

(2) Periodic performance reviews of State agency operation of JS programs to measure actual performance against the program budget plan, past performance, the performance of other State agencies, etc.;

(3) Audits of State agency programs to review State agency program activity and to assess whether the expenditure of grant funds has been in accordance with the approved budget. Regional Administrators may also conduct audits through other agencies or organizations or may require the State agency to have audits conducted;

(4) Validations of data entered into management information systems to assess:

(i) The accuracy of data entered by the State agencies into management information system;

(ii) Whether the State agencies' data validating and reviewing procedures conform to ETA instructions; and

(iii) Whether State agencies have implemented any corrective action plans required by the ETA to remedy deficiencies in their validation programs;

(5) Technical assistance programs to assist State agencies in carrying out JS regulations and programs;

(6) Reviews to assess whether the State agency has complied with corrective action plans imposed by the ETA or by the State agency itself; and

(7) Random, unannounced field checks of a sample of agricultural work sites to which JS placements have been made through the clearance system to determine and document whether wages, hours, working and housing conditions are as specified on the job order. If regional office staff find reason to believe that conditions vary from job order specifications, findings should be documented on the JS Complaint Referral Form and provided to the State agency to be handled as a complaint under § 658.411(b).

(e) The Regional Administrator shall provide technical assistance to State agencies to assist them in carrying out JS regulations and programs.

(f) The Regional Administrator shall appoint a Regional MSFW Monitor Advocate who shall devote full time to the duties set forth in this subpart. The Regional MSFW Monitor Advocate shall (i) review the effective functioning of the State MSFW Monitor Advocates in his/her region; (ii) review the performance of State agencies in providing the full range of JS services to MSFWs; (iii) take steps to resolve JS-related problems of MSFWs which come to his/her attention; (iv) recommend to the Regional Administrator changes in policy towards MSFWs; (v) review the operation of the JS complaint system; and (vi) serve as an advocate to improve service for MSFWs within JS. The Regional MSFW Monitor Advocate shall be a member of the Regional Farm Labor Coordinated Enforcement Committee.

(1) The Regional MSFW Monitor Advocate shall be appointed by the Regional Administrator after informing farmworker organizations and other organizations in the region with expertise concerning MSFWs of the opening and encouraging them to refer qualified applicants to apply through the federal merit system. The Regional MSFW Monitor Advocate shall have direct personal access to the Regional Administrator wherever he/she finds it necessary. Among qualified candidates, individuals shall be sought who meet the criteria used in the selection of the State MSFW Monitor Advocates, as provided in § 653.108(b).

(2) The Regional Administrator shall ensure that staff necessary to fulfill effectively all the regional office responsibilities set forth in this subsection are assigned. The Regional MSFW Monitor Advocate shall notify the Regional Administrator of any staffing deficiencies and the Regional Administrator shall take appropriate action.

(3) The Regional MSFW Monitor Advocate within the first three months of their tenure shall participate in a training session(s) approved by the National office.

(4) At the regional level, the Regional MSFW Monitor Advocate shall have primary responsibility for (i) monitoring the effectiveness of the JS complaint system set forth at Subpart E of this Part; (ii) apprising appropriate State and ETA officials of deficiencies in the complaint system; and (iii) providing technical assistance to State MSFW Monitor Advocates in the region.

(5) At the ETA regional level, the Regional MSFW Monitor Advocate shall have primary responsibility for ensuring that State agency compliance with JS regulations as they pertain to services to MSFWs is monitored by the regional office. He/she shall independently assess on a continuing basis the provision of JS services to MSFWs, seeking out and using: (i) Information from State MSWF Monitor Advocates, including all reports and other documents; (ii) program performance data; (iii) the periodic and other required reports from State JS offices; (iv) federal on-site reviews; (v) other reports prepared by the National office; (vi) information received from farmworker organizations and employers; and (vii) any other pertinent information which comes to his/her attention from any possible source. In addition, the Regional MSFW Monitor Advocate shall consider his/her personal observations from visits to JS offices, agricultural work sites and migrant camps. The Regional MSFW Monitor Advocate shall assist the Regional Administrator and other appropriate line officials in applying appropriate corrective and remedial actions to State agencies.

(6) The Regional Administrator's quarterly report to the National office shall include the Regional MSFW Monitor Advocate's summary of his/her independent assessment as required in § 658.603(f)(5). The fourth quarter summary shall include an annual summary from the region. The summary also shall include both a quantitative and a qualitative analysis of his/her reviews and shall address all the matters with respect to which he/she has responsibilities under these regulations.

(7) The Regional MSFW Monitor Advocate shall review the activities and performance of the State MSFW Monitor Advocates and the State monitoring system in the region, and shall recommend any appropriate changes in the operation of the system to the Regional Administrator. The Regional MSFW Monitor Advocate's review shall include a determination whether the State MSFW Monitor Advocate (1) does not have adequate access to information, (2) is being impeded in fulfilling his/her duties, or (3) is making recommendations which are being consistently ignored by State agency officials. If the Regional MSFW Monitor Advocate believes that the effectiveness of any State MSFW Monitor Advocate has been substantially impeded by the State Administrator, other State office officials, or any federal officials, he/she shall report and recommend appropriate actions to the Regional Administrator. Information copies of the recommendations shall be provided the National MSFW Monitor Advocate.

(8) The Regional MSFW Monitor Advocate shall be informed of all proposed changes in policy and practice within USES, including JS regulations, which may affect the delivery of services to MSFWs. He/she shall advise the Regional Administrator on all such

proposed changes which, in his/her opinion, may adversely affect MSFWs or which may substantially improve the delivery of services to MSFWs. The Regional MSFW Monitor Advocate may also recommend changes in JS policy or regulations, as well as changes in the funding of State agencies and/or adjustments of reallocation of the discretionary portions of funding formulae as they pertain to MSFWs.

(9) The Regional MSFW Monitor Advocate shall participate in the review and assessment activities required at §§ 658.603 and 658.700 *et seq.* He/she, an Assistant, or another Regional MSFW Monitor Advocate, shall participate in national office and regional office on-site statewide reviews of JS services to MSFWs in States in the region. The Regional MSFW Monitor Advocate shall engage in the following activities in the course of participating in an on-site State agency review: (i) He/she shall accompany selected outreach workers on their field visits; (ii) he/she shall participate in a random field check of migrant camps or work sites where MSFWs have been placed on inter or intrastate clearance orders; (iii) he/she shall contact local CETA 303 groups or other farmworker organizations as part of the on-site review, and shall conduct interviews with representatives of the organizations; and (iv) he/she shall meet with the State MSFW Monitor Advocate and discuss the full range of the JS services to MSFWs, including the monitoring and complaint system.

(10) During the calendar quarter preceding the time of peak MSFW activity in each State, the Regional MSFW Monitor Advocate shall meet with the State MSFW Monitor Advocate and shall review in detail the State agency's capability for providing full services to MSFWs as required by JS regulations, during the upcoming harvest season. The Regional MSFW Monitor Advocate shall offer technical assistance and recommend to the State agency and/or the Regional Administrator any changes in State policy or practice that he/she finds necessary.

(11) The Regional MSFW Monitor Advocate each year during the peak harvest season shall visit each state in the region not scheduled for an on-site review during that fiscal year and shall: (1) Meet with the State MSFW Monitor Advocate and other central office staff to discuss MSFW service delivery, and (ii) contact representatives of MSFW organizations to obtain information concerning JS service delivery and coordination with other agencies and interested employer organizations.

(12) The Regional MSFW Monitor Advocate shall initiate and maintain regular and personal contacts, including informal contacts in addition to those specifically required by these regulations, with State MSFW Monitor Advocates in the region. In addition, the Regional MSFW Monitor Advocate shall have personal and regular contact with the National MSFW Monitor Advocate. The Regional MSFW Monitor Advocate shall also establish routine and regular contacts with CETA 303 groups, other farmworker organizations and agricultural employers and/or employer organizations in his/her region. He/she shall attend conferences or meetings of these groups wherever possible and shall report to the Regional Administrator and the Regional Farm Labor Coordinated Enforcement Committee on these contacts when appropriate. He/she shall also make recommendations as to how DOL might better coordinate JS and CETA 303 services to MSFWs.

(13) The Regional MSFW Monitor Advocate shall attend MSFW-related public meeting(s) conducted in the region, pursuant to 29 CFR 42.20. Following such meetings or hearings, the Regional MSFW Monitor Advocate shall take such steps or make such recommendations to the Regional Administrator, as he/she deems necessary to remedy problem(s) or condition(s) identified or described therein.

(14) The Regional MSFW Monitor Advocate shall attempt to achieve regional solutions to any problems, deficiencies or improper practices concerning services to MSFWs which are regional in scope. Further, he/she shall recommend policies, offer technical assistance or take any other necessary steps as he/she deems desirable or appropriate on a regional, rather than state-by-state basis, to promote region-wide improvement in JS services to MSFWs. He/she shall facilitate region-wide coordination and communication regarding provision of JS services to MSFWs among State MSFW Monitor Advocates, State Administrators and federal ETA officials to the greatest extent possible. In the event that any State or other Regional MSFW Monitor Advocate, enforcement agency, or MSFW group refers a matter to the Regional MSFW Monitor Advocate which requires emergency action, he/she shall assist them in obtaining action by appropriate agencies and staff, inform the originating party of the action taken, and, upon request, provide written confirmation.

(15) The Regional MSFW Monitor Advocate shall initiate and maintain such contacts as he/she deems necessary with Regional MSFW Monitor Advocates in other regions to seek to resolve problems concerning MSFWs who work, live or travel through the region. He/she shall recommend to the Regional Administrator and/or the National office inter-regional cooperation on any particular matter, problem, or policy with respect to which inter-regional action is desirable.

(16) The Regional MSFW Monitor Advocate shall establish regular contacts with the ESA and OSHA farmworker specialists in the region and, to the extent necessary, shall establish contacts with the staff of other DOL agencies represented on the Regional Farm Labor Coordinated Enforcement Committee. The Regional MSFW Monitor Advocate shall coordinate his/her efforts with specialists in the region to ensure that the policy specified in 29 CFR 42.20(c)(3) is followed.

(17) The Regional MSFW Monitor Advocate shall participate in the regional reviews of State agency Program Budget Plans, and shall comment to the Regional Administrator as to the adequacy of the affirmative action plans, the outreach plans, and other specific plans included therein.

§ 658.604 Assessment and evaluation of program performance data.

(a) State agencies shall compile program performance data required by ETA, including statistical information on program operations.

(b) The ETA shall use the program performance data in assessing and evaluating whether the State agencies have complied with JS regulations and their State agency program budget plans.

(c) In assessing and evaluating program performance data, the ETA shall act in accordance with the following general principles:

(1) The fact that the program performance data from a State agency, whether overall or relative to a particular program activity, indicate poor program performance does not by itself constitute a violation of JS regulations or of the State agency's responsibilities under its State agency program budget plan;

(2) Program performance data, however, may so strongly indicate that a State agency's performance is poor that the data may raise a presumption (*prima facie* case) that a State agency is violating JS regulations or the State

agency program budget plan. A State agency's failure to meet the operational objectives set forth in the PBP shall raise a presumption that the agency is violating JS regulations and/or its PBP. In such cases the ETA shall afford the State agency an opportunity to rebut the presumption of a violation pursuant to the procedures at Subpart H of this part.

(3) The ETA shall take into account that certain program performance data may measure items over which State agencies have direct or substantial control while other data may measure items over which the State agency has indirect or minimal control.

(i) Generally, for example, a State agency has direct and substantial control over the delivery of job services such as referrals to jobs, job development contacts, applicant counseling, referrals to supportive services and the conduct of field checks.

(ii) State agencies, however, have only indirect control over the outcome of services. State agencies, for example, cannot guarantee that an employer will hire a referred applicant, nor can they guarantee that the terms and conditions of employment will be as stated on a job order.

(iii) Outside forces, moreover, such as a sudden heavy increase in unemployment rates, a strike by State agency employees, or a severe drought or flood may skew the results measured by program performance data;

(4) The ETA shall consider a State agency's failure to keep accurate and complete program performance data required by JS regulations as a violation of the JS regulations.

§ 656.605 Communication of findings to State agencies.

(a) The Regional Administrator shall inform State agencies in writing of the results of review and assessment activities and, as appropriate, shall discuss with the State Administrator the impact or action required by ETA as a result of review and assessment activities.

(b) The ETA national office shall transmit the results of any review and assessment activities conducted by it to the Regional Administrator who shall send the information to the State agency.

(c) Whenever the review and assessment indicates a State agency violation of JS regulations or its State agency program budget plan, the Regional Administrator shall follow the procedures set forth at Subpart H of this part.

(d) Regional Administrators shall follow-up any corrective action plan imposed on a State agency under Subpart H of this part by further review and assessment of the State agency pursuant to this subpart.

Subpart H—Federal Application of Remedial Action to State Agencies

Authority: Wagner-Peyser Act of 1933, as amended, 29 U.S.C. 49 *et seq.;* 5 U.S.C. 301 *et seq.*

§ 658.700 Scope and purpose of subpart.

This subpart sets forth the procedures which ETA shall follow upon either discovering independently or receiving from other(s) information indicating that State agencies may not be adhering to JS regulations.

§ 658.701 Statements of policy.

(a) It is the policy of the Employment and Training Administration (ETA) to take all necessary action, including the imposition of the full range of sanctions set forth in this subpart, to ensure that State agencies comply with all requirements established by JS regulations.

(b) It is the policy of ETA to initiate decertification procedures against State agencies in instances of serious or continual violations of JS regulations if less stringent remedial actions taken in accordance with this subpart fail to resolve noncompliance.

(c) It is the policy of the ETA to act on information concerning alleged violations by State agencies of the JS regulations received from any person or organization.

§ 658.702 Initial action by the Regional Administrator.

(a) The ETA Regional Administrator shall be responsible for ensuring that all State agencies in his/her region are in compliance with JS regulations.

(b) Wherever a Regional Administrator discovers or is apprised of possible State agency violations of JS regulations by the review and assessment activities under Subpart G of this part, or through required reports or written complaints from individuals, organizations or employers which are elevated to ETA after the exhaustion of State agency administrative remedies, the Regional Administrator shall conduct an investigation. Within 10 days after receipt of the report or other information, the Regional Administrator shall make a determination whether there is probable cause to believe that a State agency has violated JS regulations.

(c) The Regional Administrator shall accept complaints regarding possible State agency violations of JS regulations from employee organizations, employers or other groups, without exhaustion of the complaint process described at Subpart E, if the Regional Administrator determines that the nature and scope of the complaint are such that the time required to exhaust the administrative procedures at the State level would adversely affect a significant number of applicants. In such cases, the Regional Administrator shall investigate the matter within 10 working days, may provide the State agency 10 working days for comment, and shall make a determination within an additional 10 working days whether there is probable cause to believe that the State agency has violated JS regulations.

(d) If the Regional Administrator determines that there is no probable cause to believe that a State agency has violated JS regulations, he/she shall retain all reports and supporting information in ETA files. In all cases where the Regional Administrator has insufficient information to make a probable cause determination, he/she shall so notify the Administrator in writing and the time for the investigation shall be extended 20 additional working days.

(e) If the Regional Administrator determines that there is probable cause to believe that a State agency has violated JS regulations, he/she shall issue a Notice of Initial Findings of Non-compliance by registered mail to the offending State agency. The Notice will specify the nature of the violation, cite the regulations involved, and indicate corrective action which may be imposed in accordance with paragraphs (g) and (h) of this section. If the non-compliance involves services to MSFWs or the JS complaint system, a copy of said notice shall be sent to the National MSFW Monitor Advocate.

(f)(1) The State agency shall have 20 working days to comment on the findings, or a longer period, up to 20 additional days, if the Regional Administrator determines that such a longer period is appropriate. The State agency's comments shall include agreement or disagreement with the findings and suggested corrective actions, where appropriate.

(2) After the period elapses, the Regional Administrator shall prepare within 20 working days, written final findings which specify whether or not the State agency has violated JS regulations. If in the final findings the Regional Administrator determines that the State agency has not violated JS regulations, the Regional Administrator shall notify the State Administrator of this finding and retain supporting documents in his/her files. If the final finding involves services to MSFWs or

the JS complaint system, the Regional Administrator shall also notify the National Monitor Advocate. If the Regional Administrator determines that a State agency has violated JS regulations, the Regional Administrator shall prepare a Final Notice of Noncompliance which shall specify the violation(s) and cite the regulations involved. The Final Notice of Noncompliance shall be sent to the State agency by registered mail. If the noncompliance involves services to MSFWs or the JS complaint system, a copy of the Final Notice shall be sent to the National MSFW Monitor Advocate.

(g) If the violation involves the misspending of grant funds, the Regional Administrator may order in the Final Notice of Noncompliance a disallowance of the expenditure and may either demand repayment or withhold future funds in the amount in question. If the Regional Administrator disallows costs, the Regional Administrator shall give the reasons for the disallowance, inform the State agency that the disallowance is effective immediately and that no more funds may be spent in the unallowed manner, and offer the State agency the opportunity to request a hearing pursuant to § 658.707. The offer, or the acceptance of an offer of a hearing, however, shall not stay the effectiveness of the disallowance. The Regional Administrator shall keep complete records of the disallowance.

(h) If the violation does not involve misspending of grant funds or the Regional Administrator determines that the circumstances warrant other action:

(1) The Final Notice of Noncompliance shall direct the State agency to implement a specific corrective action plan to correct all violations. If the State agency's comment demonstrates with supporting evidence (except where inappropriate) that all violations have already been corrected, the Regional Administrator need not impose a corrective action plan and instead may cite the violations and accept their resolution, subject to follow-up review, if necessary. If the Regional Administrator determines that the violation(s) cited had been found previously and that the corrective action(s) taken had not corrected the violation(s) contrary to the findings of previous follow-up reviews, the Regional Administrator shall apply remedial actions to the State agency pursuant to § 658.704.

(2) The Final Notice of Noncompliance shall specify the time by which each corrective action must be taken. This period shall not exceed 40 working days unless the Regional Administrator determines that exceptional circumstances necessitate corrective actions requiring a longer time period. In such cases, and if the violations involve services to MSFWs or the JS complaint system, the Regional Administrator shall notify the Administrator in writing of the exceptional circumstances which necessitate a longer time period, and shall specify that time period. The specified time period shall commence with the date of signature on the registered mail receipt.

(3) When the time period provided for in paragraph (h)(2) of this section elapses, ETA staff shall review the State agency's efforts as documented by the State agency to determine if the corrective action(s) has been taken and if the State agency has achieved compliance with JS regulations. If necessary, ETA staff shall conduct a follow-up visit as part of this review.

(4) If, as a result of this review, the Regional Administrator determines that the State agency has corrected the violation(s), the Regional Administrator shall record the basis for this determination, notify the State agency, send a copy to the Administrator, and retain a copy in ETA files.

(5) If, as a result of this review, the Regional Administrator determines that the State has taken corrective action but is unable to determine if the violation has been corrected due to seasonality or other factors, the Regional Administrator shall notify in writing the State agency and the Administrator of his/her findings. The Regional Administrator shall conduct further follow-up at an appropriate time to make a final determination if the violation has been corrected. If the Regional Administrator's further follow-up reveals that violations have not been corrected, the Regional Administrator shall apply remedial actions to the State agency pursuant to § 658.704.

(6) If, as a result of the review the Regional Administrator determines that the State agency has not corrected the violations and has not made good faith efforts and adequate progress toward the correction of the violations, the Regional Administrator shall apply remedial actions to the State agency pursuant to § 658.704.

(7) If, as a result of the review, the Regional Administrator determines that the State agency has made good faith efforts and adequate progress toward the correction of the violation and it appears that the violation will be fully corrected within a reasonable time period, the State agency shall be advised by registered mail (with a copy sent to the Administrator) of this conclusion, of remaining differences, of further needed corrective action, and that all deficiencies must be corrected within a specified time period. This period shall not exceed 40 working days unless the Regional Administrator determines that exceptional circumstances necessitate corrective action requiring a longer time period. In such cases, the Regional Administrator shall notify the Administrator in writing of the exceptional circumstances which necessitate a longer time period, and shall specify that time period. The specified time period shall commence with the date of signature on the registered mail receipt.

(8)(i) If the State agency has been given an additional time period pursuant to paragraph (b)(7) of this section, ETA staff shall review the State agency's efforts as documented by the State agency at the end of the time period. If necessary, ETA shall conduct a follow-up visit as part of this review.

(ii) If the State agency has corrected the violation(s), the Regional Administrator shall document that finding, notify in writing the State agency and the Administrator, and retain supporting documents in ETA files. If the State agency has not corrected the violation(s), the Regional Administrator shall apply remedial actions pursuant to § 658.704.

§ 658.703 Emergency corrective action.

In critical situations as determined by the Regional Administrator, where it is necessary to protect the integrity of the funds, or insure the proper operation of the program, the Regional Administrator may impose immediate corrective action. Where immediate corrective action is imposed, the Regional Administrator shall notify the State agency of the reason for imposing the corrective action prior to providing the state agency an opportunity to comment.

§ 658.704 Remedial actions.

(a) If a State agency fails to correct violations as determined pursuant to § 658.702, the Regional Administrator shall apply one or more of the following remedial actions to the State agency:

(1) Imposition of special reporting requirements for a specified period of time;

(2) Restrictions of obligational authority within one or more expense classifications;

(3) Implementation of specific operating systems or procedures for a specified time;

(4) Requirement of special training for State agency personnel;

(5) With the approval of the Assistant Secretary and after affording the State Administrator the opportunity to request

a conference with the Assistant Secretary, the elevation of specific decision-making functions from the State Administrator to the Regional Administrator;

(6) With the approval of the Assistant Secretary and after affording the State Administrator the opportunity to request a conference with the Assistant Secretary, the imposition of Federal staff in key State agency positions;

(7) With the approval of the Assistant Secretary and after affording the State Administrator the opportunity to request a conference with the Assistant Secretary, funding of the State agency on a short-term basis or partial withholding of funds for a specific function or for a specific geographical area;

(8) Holding of public hearings in the State on the State agency's deficiencies;

(9) Disallowance of funds pursuant to § 658.702(g); or

(10) If the matter involves a serious or continual violation, the initiation of decertification procedures against the State agency, as set forth in paragraph (e) of this section.

(b) The Regional Administrator shall send, by registered mail, a Notice of Remedial Action to the State agency. The Notice of Remedial Action shall set forth the reasons for the remedial action. When such a notice is the result of violations of regulations governing services to MSFWs (20 CFR 653.100 *et seq.*) or the JS complaint system (20 CFR 658.400 *et seq.*), a copy of said notice shall be sent to the USES Administrator, who shall publish the notice promptly in the **Federal Register.**

(c) If the remedial action is other than decertification, the notice shall state that the remedial action shall take effect immediately. The notice shall also state that the State agency may request a hearing pursuant to § 658.707 by filing a request in writing with the Regional Administrator pursuant to § 658.707 within 20 working days of the State agency's receipt of the notice. The offer of hearing, or the acceptance thereof, however, shall not stay the implementation of remedial action.

(d) Within 60 working days after the initial application of remedial action, the Regional Administrator shall conduct a review of the State agency's compliance with JS regulations unless the Regional Administrator determines that a longer time period is necessary. In such cases, the Regional Administrator shall notify the USES Administrator in writing of the circumstances which necessitate a longer time period, and specify that time period. If necessary, ETA staff shall conduct a follow-up visit as part of this review. If the State agency is in compliance with the JS regulations, the Regional Administrator shall fully document these facts and shall terminate the remedial actions. The Regional Administrator shall notify the State agency of his/her findings. When the case involves violations of regulations governing services to MSFWs or the JS complaint system, a copy of said notice shall be sent to the USES Administrator, who shall promptly publish the notice in the **Federal Register.** The Regional Administrator shall conduct, within a reasonable time after terminating the remedial actions, a review of the State agency's compliance to determine whether any remedial actions should be reapplied.

(e) If, upon conducting the on-site review referred to in paragraph (c) of this section, the Regional Administrator finds that the State agency remains in noncompliance, the Regional Administrator shall continue the remedial action and/or impose different additional remedial actions. The Regional Administrator shall fully document all such decisions and, when the case involves violations of regulations governing services to MSFWs or the JS complaint system, shall send copies to the USES Administrator, who shall promptly publish the notice in the **Federal Register.**

(f)(1) If the State agency has not brought itself into compliance with JS regulations within 120 working days of the initial application of remedial action, the Regional Administrator shall initiate decertification unless the Regional Administrator determines that circumstances necessitate continuing remedial action for a longer period of time. In such cases, the Regional Administrator shall notify the USES Administrator in writing of the circumstances which necessitate the longer time period, and specify the time period.

(2) The Regional Administrator shall notify the State agency by registered mail of the decertification proceedings, and shall state the reasons therefor. Whenever such a notice is sent to a State agency, the Regional Administrator shall prepare five indexed copies containing, in chronological order, all the documents pertinent to the case along with a request for decertification stating the grounds therefor. One copy shall be retained. Two shall be sent to the ETA national office, one shall be sent to the Solicitor of Labor, Attention: Associate Solicitor for Employment and Training, and, if the case involves violations of regulations governing services to MSFWs or the complaint system, one copy shall be sent to the National MSFW Monitor Advocate. The notice sent by the Regional Administrator shall be published prompty in the **Federal Register.**

§ 658.705 Decision to decertify.

(a) Within 30 working days of receiving a request for decertification, the Assistant Secretary for ETA shall review the case and shall decide whether to proceed with decertification.

(b) The Assistant Secretary shall grant the request for decertification unless he/she makes a finding that (1) the violations of JS regulations are neither serious nor continual; (2) the State agency is in compliance; or (3) the Assistant Secretary has reason to believe that the State agency will achieve compliance within 80 working days unless exceptional circumstances necessitate a longer time period, pursuant to the remedial action already applied or to be applied. (In the event the Assistant Secretary does not have sufficient information to act upon the request, he/she may postpone the determination for up to an additional 20 working days in order to obtain any available additional information.) In making a determination of whether violations are "serious" or "continual," as required by this subsection, the Assistant Secretary shall consider:

(i) Statewide or multiple deficiencies as shown by performnance data and/or on-site reviews;

(ii) Recurrent violations, even if they do not persist over consecutive reporting periods, and

(iii) The good faith efforts of the State to achieve full compliance with JS regulations as shown by the record.

(c) If the Assistant Secretary denies a request for decertification, he/she shall write a complete report documenting his/her findings and, if appropriate, instructing that an alternate remedial action or actions be applied. Copies of the report shall be sent to the Regional Administrator. Notice of the Assistant Secretary's decision shall be published promptly in the **Federal Register,** and the report of the Assistant Secretary shall be made available for public inspection and copying.

(d) If the Assistant Secretary decides that decertification is appropriate, he/she shall submit the case to the Secretary providing written explanation for his/her recommendation of decertification.

(e) Within 30 working days after receiving the report of the Assistant Secretary, the Secretary shall determine whether to decertify the State agency. The Secretary shall grant the request for decertification unless he/she makes one of the three findings set forth in § 658.705(b). If the Secretary decides not to decertify, he/she shall then instruct that remedial action be continued or

that alternate actions be applied. The Secretary shall write a report explaining his/her reasons for not decertifying the State agency and copies will be sent to the State agency. Notice of the Secretary's decision shall be published promptly in the **Federal Register**, and the report of the Secretary shall be made available for public inspection and copy.

(f) Where either the Assistant Secretary or the Secretary denies a request for decertification and order further remedial action, the Regional Administrator shall continue to monitor the State agency's compliance. If the agency achieves compliance within the time period established pursuant to § 658.705(b), the Regional Administrator shall terminate the remedial actions. If the State agency fails to achieve full compliance within that time period after the Secretary's decision not to decertify, the Regional Administrator shall submit a report of his/her findings to the Assistant Secretary who shall reconsider the request for decertification pursuant to the requirements of § 658.705(b).

§ 658.706 Notice of decertification.

If the Secretary decides to decertify a State agency, he/she shall send a Notice of Decertification to the State agency stating the reasons for this action and providing a 10 working day period during which the State agency may request an administrative hearing in writing to the Secretary. The notice shall be published promptly in the **Federal Register.**

§ 658.707 Requests for hearings.

(a) Any State agency which received a Notice of Decertification under § 658.706 or a notice of disallowance under § 658.702 may request a hearing on the issue by filing a written request for hearing with the Secretary within 10 working days of receipt of the notice. This request shall state the reasons the State agency believes the basis of the decision to be wrong, and it must be signed by the State Administrator.

(b) When the Secretary receives a request for a hearing from a State agency, he/she shall send copies of a file containing all materials and correspondence relevant to the case to the Assistant Secretary, the Regional Administrator, the Solicitor of Labor, and the Chief Administrative Law Judge of the DOL. When the case involves violations of regulations governing services to MSFWs or the ES complaint system, a copy shall be sent to the National MSFW Monitor Advocate.

(c) The Secretary shall publish notice of hearing in the **Federal Register.** This notice shall invite all interested parties to attend and to present evidence at the hearing. All interested parties who make written request to participate shall thereafter receive copies of all documents filed in said proceedings.

§ 658.708 Hearings.

(a) Upon receipt of a hearing file by the Chief Administrative Law Judge, the case shall be docketed and notice sent by registered mail, return receipt requested, to the Solicitor of Labor, Attention: Associate Solicitor for Employment and Training, the Administrator, the Regional Administrator and the State Administrator. The notice shall set a time, place, and date for a hearing on the matter and shall advise the parties that:

(1) They may be represented at the hearing;

(2) They may present oral and documentary evidence at the hearing;

(3) They may cross-examine opposing witnesses at the hearing; and

(4) They may request rescheduling of the hearing if the time, place, or date set are inconvenient.

(b) The Solicitor of Labor or the Solicitor's designee shall represent the Department at the hearing.

§ 658.709 Conduct of hearings.

(a) Hearings shall be conducted in accordance with Sections 5–8 of the Administrative Procedure Act, 5 U.S.C. 553 *et seq.*

(b) Technical rules of evidence shall not apply, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination, shall be applied if necessary by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties. Opportunity shall be given to refute facts and arguments advanced on either side of the issue. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record.

(c) The general provisions governing discovery as provided in the Rules of Civil Procedure for the United States District Court, Title V, 28 U.S.C., Rules 26 through 37, may be made applicable to the extent that the Administrative Law Judge concludes that their use would promote the proper advancement of the hearing.

(d) When a public officer is a respondent in a hearing in an official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the proceeding does not abate and the officer's successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantive rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

§ 658.710 Decision of the Administrative Law Judge.

(a) The Administrative Law Judge shall have jurisdiction to decide all issues of fact and related issues of law and to grant or deny appropriate motions, but shall not have jurisdiction to decide upon the validity of Federal statutes or regulations.

(b) The decision of the Administrative Law Judge shall be based on the hearing record, shall be in writing and shall state the factual and legal basis of the decision. Notice of the decision shall be published in the **Federal Register** and the Administrative Law Judge's decision shall be available for public inspection and copying.

(c) Except when the case involves the decertification of a State agency, the decision of the Administrative Law Judge shall be the final decision of the Secretary.

(d) If the case involves the decertification of the State agency, the decision of the Administrative Law Judge shall contain a notice stating that, within 30 calendar days of the decision, the State agency or the Administrator may appeal to the Secretary by sending by registered mail, return receipt requested, a written appeal to the Secretary, in care of the Administrative Law Judge who made the decision.

§ 658.711 Decision of the Secretary.

(a) Upon the receipt of an appeal to the Secretary, the Administrative Law Judge shall certify the record in the case to the Secretary who shall make a decision to decertify or not on the basis of the hearing record.

(b) The decision of the Secretary shall be final, shall be in writing, and shall set forth the factual and legal basis for the decision. Notice of the Secretary's decision shall be published in the **Federal Register**, and copies shall be made available for public inspection and copying.

Signed at Washington, D.C., on this 4th day of June, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-17500 Filed 6-9-80; 8:45 am]

BILLING CODE 4510-30-M

federal register

Tuesday
June 10, 1980

Part IX

Department of Labor

Employment Standards Administration

Farm Labor Coordinated Enforcement; Procedures

DEPARTMENT OF LABOR

Employment Standards Administration

29 CFR Part 42

Farm Labor Coordinated Enforcement

AGENCY: Employment Standards Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: These Department of Labor (DOL) regulations set forth procedures within the Department for the coordination of enforcement activities relating to migrant farmworkers. The regulations apply to all agencies within the Department of Labor which are directly responsible for activities relating to migrant farmworkers: the Employment Standards Administration (ESA), the Occupational Safety and Health Administration (OSHA), and the Employment and Training Administration (ETA). The Office of the Under Secretary and the Office of the Solicitor (SOL) also will participate in the Department's coordinated enforcement efforts. These regulations also provide for the designation of ESA Farmworker Specialists and OSHA Farm Labor Contact Persons in area offices.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Herbert J. Cohen, Assistant Administrator for Fair Labor Standards, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, N.W., Washington, D.C., 20210, 202–523–8353.

SUPPLEMENTARY INFORMATION:

Background

The Fair Labor Standards Act, as amended, (29 U.S.C. 201, *et seq.*) (FLSA); the Farm Labor Contractor Registration Act of 1963, as amended (7 U.S.C. 2041, *et seq.*) (FLCRA); and the Occupational Safety and Health Act 929 U.S.C. 651, *et seq.*) (OSHA), provide employment protections, *inter alia,* to migrant farmworkers. These protective statutes are administered by the U.S. Department of Labor, which also is responsible for providing services to migrant farmworkers through the Employment and Training Administration, under both the Wagner-Peyser Act (29 U.S.C. 49, *et seq.*), and the Comprehensive Employment and Training Act, as amended (29 U.S.C. 801, *et seq.*). These regulations provide a structural mechanism for coordinating and strengthening the activities of the agencies responsible for administering these statutes.

In recent years, the Department has become increasingly concerned about the employment-related problems of migrant farmworkers, who typically live and work outside the mainstream of American life and often out of public sight. Although important to the nation's agricultural economy, farmwork is by its very nature physically difficult, lacking in job security, low-paying, and often transient. While in the "migrant stream," farmworkers are particularly vulnerable to abuse by farm labor contractors who operate in violation of the protective statutes administered by the Department. Recent history has shown that migrant farmworkers too often and too easily are denied the minimum wage protections of the FLSA, the housing safety protections of the OSHA, and the special protections of the FLCRA against abuse by farm labor contractors, notwithstanding the efforts of the Department and State enforcement agencies.

The Department faces special problems in its efforts to enforce the protective statutes on behalf of migrant farmworkers. Complaints are rarely filed by the migrants, and, even when complaints are filed, the workers frequently move on to other jobs in other places—sometimes thousands of miles away—before investigative action can be completed. Language barriers, fears of reprisal by employers and farm labor contractors, and the workers' reluctance to contact the Government combine to make the Department's task in this area particularly difficult.

All of these factors suggest concentrated efforts by the Department are needed to assure that migrant farmworkers' employment-related problems receive close attention and careful scrutiny, and that high priority is given to the effort to eradicate unlawful employment practices. The Department believes that these regulations are a very important step in that direction.

The effective date for this new part is less than the standard 30 days; however, the regulations largely cover internal coordination of Departmental activities and it has been determined that the shortening of the implementation period to 25 days will not adversely affect interested parties. Moreover, the Department finds that by establishing an effective date of July 1, 1980, it assures that only the revised version of this rule will appear in the forthcoming July 1, 1980 bound volume of Title 29 of the *Code of Federal Regulations,* thereby eliminating any unnecessary and confusing duplication of the regulations. These findings constitute exceptions under section 553(d)(3) of Title 5, *United States Code* that publication of a substantive rule shall be made not less than 30 days before its effective date.

The Department has carefully considered these regulations based upon its years of experience in dealing with problems associated with the unemployment of farmworkers, the amendments to the protective statutes, and extensive negotiations between the Department and the plaintiff organizations in *NAACP* v. *Marshall,* Civil Action No. 2010–72, D.C.D.C. They represent part of a settlement agreement concluding the litigation in that case. As part of that settlement, certain court orders have been dissolved. *See, e.g.,* 8 Empl. Prac. Dec. Para. 9634 (D.D.C. Aug. 13, 1974), pursuant to 5 Empl. Prac. Dec. Para. 8637 (D.D.C. May 31, 1973). Additional regulations concerning the services provided to migrant and seasonal farmworkers by the United States Employment Service (USES), a branch of the Employment and Training Administration (ETA), also are published in today's **Federal Register** and should be read in conjunction with, and as complementary to, these regulations.

The Department herein promulgates a new Part 42 which consists of procedures to be followed by OSHA, ETA and ESA. Existing substantive regulations of these agencies are not changed by this proposal.

On January 11, 1980, a document was published in the **Federal Register** (45 FR 2528) proposing to establish a program of coordinated farm labor law enforcement within the Department of Labor. The proposed rule set forth for the first time the procedures within the Department of Labor for the coordination of enforcement activities relating to migrant farmworkers. The new regulation provides for a National Farm Labor Coordinated Enforcement Committee, Regional Farm Labor Coordinated Enforcement Committees, Farm Labor Specialists, Occupational Safety and Health Contact Persons, policy review, development of enforcement strategies, and collection of data which reflects enforcement. All comments with respect to the proposed rule were given due consideration.

Changes Made to Proposed Rule

As a result of comments received, the following changes in the proposed rule are made in addition to language changes for clarification:

1. *Comment:* The information exchange should afford employers the same opportunities and information as is afforded the U.S. Department of Labor and farmworker groups.

Response: Additional language has been added to § 42.2(e) to include "other concerned parties outside the Department of Labor."

2. *Comment:* Add to § 42.6 subsections specifying:

(a) The ability of agencies to respond quickly and effectively to resolve complaints;

(b) The extent to which agencies follow through with appropriate remedies and sanctions; and

(c) The degree to which agencies coordinate and cooperate on a local and regional level.

Response: These have been added to § 42.6 as subsections (f), (g), and (h). The proposed subsection (f) has been redesignated subsection (i).

3. *Comments:* A new subsection should be added to § 42.6 to require that the plan include a concise statement of ESA and OSHA procedures for resolving complaints filed directly by agricultural workers or referred by State Employment Security Agencies pursuant to 20 CFR, Part 658, Subpart E (Job Service Complaint System), including the steps for accepting and acting on complaints at the local level and elevating unresolved cases to the regional and national offices, and establishing a time limit for action at each level.

Response: The changes made pursuant to comment No. 3 above will have a result similar to that desired by this comment.

4. *Comment:* The meaning of the expression "serving as focal points for coordination" in § 42.9(a)(7) is unclear.

Response: The language has been simplified.

5. *Comment:* Many employment abuses have escaped examination because Government agencies have not been able to investigate employment practices without "probable cause." The scope of what constitutes probable cause should be expanded, as is suggested in § 42.9(a)(1). If, for example, there is a child labor violation, such violation would subject the grower and crew leader to a complete FLCRA/FLSA "inspection." What is meant in the rule by "inspection" should be clarified.

Response: ESA/Wage-Hour policy prescribes concurrent FLSA/FLCRA investigations. This includes investigating possible violations of any statutes under the jurisdiction of the Wage and Hour Division, including child labor. To make this clear, the word *inspections* in § 42.9(a)(1) has been changed to *investigations.*

6. *Comment:* In addition to the eight farm labor specialist responsibilities listed in § 42.9, the specialist should provide specialized training to other Wage-Hour Compliance Officers.

Response: Appropriate language has been added as § 42.9(a)(9).

7. *Comment:* The second sentence in § 42.9(a) should be amended to read, "The Specialist shall be assigned to area offices of field stations in closest proximity to areas of significant agricultural employment, as determined by the most current and objective data available to ESA."

Response: Farm Labor Specialists will be assigned to both area offices and field stations as determined by ESA. Approximately two-thirds of the specialists are currently slated for field stations. This represents ESA's determination of areas where specialists will be most effective. Appropriate wording has been added to § 42.9(a).

8. *Comments:* Clarify that data collected pursuant to § 42.21 will play a key role in the coordinated enforcement program.

Response: Appropriate language has been added to § 42.21(a). Section 42.21(d) has also been amended by changing "assessed" to "proposed" to conform to OSHA terminology and "number collected" to "amount collected" to correct a technical error in proposed regulations.

Recommendations Not Accepted

Certain other recommendations have been carefully considered but not adopted. The following suggestions were not adopted for the reasons stated:

1. *Comments:* Make clear that "farm labor" and similar designation used in this Part 42 refer to all farmworkers who are subject to the protections of OSHA, FLCRA, or FLSA.

Response: Several comments were received from diverse persons and groups who believe that the activities of the Coordinated Enforcement Committee should be confined to a specific group of farmworkers. Under these final regulations, the Farm Labor Coordinated Enforcement Committee will review the activities of the three agencies in accordance with the statutory authority each of the agencies has. This regulation does not alter the coverage or jurisdiction of any of the agencies.

2. *Comment:* Part 42 represents an important step in more effectively and efficiently carrying out the Department's responsibilities in protecting farmworkers.

Response: No response is necessary.

3. *Comment:* These rules will provide hordes of investigators descending on American agriculture, another unnecessary enforcement mechanism, and a new arm of the bureaucracy. It will only add to the hassle of farmworkers and employers. It will wastefully duplicate existing efforts.

Response: This regulation will create no new bureaucracy; it provides coordination for existing programs and a more efficient use of resources.

4. *Comment:* SESA staff should not be required to conduct housing inspections nor be a part of housing enforcement procedures against employers. It is inconsistent for SESAs to offer services to employers and then be party to enforcement activities against those same employers.

Response: 20 CFR Part 654, recently published as a final rule, requires preoccupancy housing inspections to be conducted by SESAs when job orders are processed which indicate that housing is to be provided.

5. *Comment:* Include section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (the H–2 program) in the list of protective statutes in § 42.2.

Response: That statute does not place enforcement responsibility upon the Department of Labor as do OSHA, FLSA, and FLCRA. It would therefore be inappropriate to include it within this regulation.

6. *Comment:* Include agricultural employers in the groups with whom coordination is to be maintained as prescribed in § 42.2(d).

Response: Agricultural employers are among the "other concerned parties outside the Department of Labor" already included in that section.

7. *Comments:* The subsection defining the membership of the National Committee's staff level working groups should explicitly include participation by the Division of Labor Certification (ETA/USES) and the Office of Farmworker Program (ETA/ONP).

Response: The membership of the National Committee staff level working groups has been limited in order to assure that, while each agency will be represented, the group will remain small enough to allow the maximum utilization of time and effort. It is the responsibility of each agency's representative to take the group's decisions and needs for data and input back to the respective programs.

8. *Comment:* 20 CFR 658.414(a) requires non-JS-related complaints to be sent immediately to the appropriate enforcement agency or agencies with a written statement that the complaint was received by the Job Service and that it is being referred for prompt action pursuant to 29 CFR, Part 42. Section 42.7, however, does not specify that non-JS-related complaints filed with SESAs be sent to the appropriate enforcement agencies. It also appears

that this requirement pertains only to non-JS-related complaints involving migrant or seasonal farmworkers.

Response: 29 CFR Part 42 deals with farm labor coordinated enforcement; it is not intended to cover all complaints which might be received by SESAs. It would not be appropriate to deal in this rule with non-farmworker-related complaints.

9. *Comment:* The defendant in any complaint should have the right to be informed of the status of the complaint and any action pending.

Response: Numerous court decisions have upheld the confidential nature of complaints, and the Department will continue to assert the "informer's privilege" to maintain this confidentiality.

10. *Comment:* Delete from § 42.7(b)(2) the expressions "wherever possible" and "upon request."

Response: If requested by the complainant, the Department will advise the complainant of the status of actions pending, unless specific reasons preclude such notification. The Department does not feel it necessary to broaden the scope of this notification.

11. *Comments:* It is highly recommended that preoccupancy housing inspections be conducted by OSHA as a mandatory requirement and written into OSHA regulations on housing. OSHA preoccupancy inspection is recommended as that agency has greater direct enforcement powers than does USES. Such procedure forces employer compliance up front and carries out the intent of the regulations. If USES staff conducts preoccupancy inspections as part of the order acceptance requirement, the workers and employers with inadequate housing by-pass USES and employers hire the workers directly. Workers will accept housing, regardless of its condition or standards, in order to obtain employment. Inadequate housing for workers becomes acceptable when the other option consists of sleeping in a truck or automobile. The National Committee should review the OSHA Housing Regulations for Temporary Labor Camps at 29 CFR 1910.142 and DOL Housing for Agricultural Workers Regulations at 29 CFR Part 620 for the purpose of establishing one standard set of Federal Housing Regulations.

Response: 20 CFR Part 654 sets forth the rule which permits the continued application of ETA standards to housing which relies on those standards. Such housing will continue to be accepted by ETA and will also be accepted by OSHA as being in compliance with their temporary labor camp standards. This rule was adopted after considerable study and comments on a proposal to eliminate the ETA housing regulations. The Tri-Agency (ETA, OSHA, ESA) agreement on housing specified each agency's role to avoid duplication and to provide the greatest degree of communication and coordination.

12. *Comment:* Many farmworkers are monolingual Spanish speaking. The Specialist or Contact Person should be bilingual English/Spanish in order to be fully effective.

Response: Bilingual ability is not equally valuable nationwide. Although some of the Specialists and Contact Persons will not be bilingual, many will be, and there are bilingual personnel to serve as interpreters in almost every Wage-Hour (ESA) and OSHA area office. In those geographic locations where it was found appropriate, bilingual capability was prescribed for the Specialist.

13. *Comment:* The specificity of language in § 42.10, which requires that OSHA inspections be scheduled promptly and which mandates training for OSHA Contact Persons' contrasts with the lack of such language in § 42.9 concerning ESA Farm Labor Specialists. Will ESA have the same standards of promptness and thoroughness?

Response: The settlement agreement requires the Specialists to be trained; specific directions will be provided to the field staff. Internal operating procedures specify prompt handling of all such matters.

14. *Comment:* The word *significant* in §§ 42.9(a) and 42.9(a)(5) should be clarified.

Response: ESA has had considerable experience in agriculture and FLCRA over the years. Based on program knowledge, ESA has observed what areas of the Nation have significant FLCRA activity and the seasons of such activity. ESA also uses indicators from other sources in defining program needs and areas which can best utilize farm labor specialists. Significant contractors are those who have larger and more active farm labor contracting activities.

15. *Comment:* Clarify that the Farm Labor Specialist positions will be in addition to and not a substitute for existing enforcement efforts.

Response: These positions will add a new dimension to existing enforcement efforts, as they re-emphasize the Department's commitment to active, effective enforcement of the labor statutes which protect migrant farmworkers. These positions will enable existing resources to be used more effectively.

16. *Comment:* The farm labor specialists should be from ETA, not ESA.

Response: ETA is not an enforcement agency as is ESA. ESA has enforcement responsibility for such protective statutes as FLSA and FLCRA. The specialists are designated compliance officers with extensive backgrounds in enforcement of FLCRA and FLSA/agriculture. They will coordinate the enforcement program.

17. *Comment:* A new subsection should be added to § 42.9 to require each Regional Administrator for ESA to designate a Farm Labor Regional Coordinator to coordinate all farmworker-related activity within the region's jurisdiction, including enforcement, training, and public information; to serve as the representative of the ESA Regional Administrator on the Regional Farm Labor Coordinated Enforcement Committee's staff level working group; and to perform other ESA farmworker-related duties.

Response: The Assistant Regional Administrator for Wage and Hour and his special assistant perform the described functions; there is no need to add additional designations to the new structure.

18. *Comment:* The most serious problem with the proposal is that there is no requirement that there be any outreach.

Response: While outreach is not specified in § 42.9, there will be substantial worker contact by the Farm Labor Specialist, and a wide-range of services will be available to the farmworkers. The regulations concerning the United States Employment Service System being published today discuss the ETA outreach program.

19. *Comment:* It appears that the Farm Labor Contact Person need only inspect camps once a season. This is not strong enough to assure effective enforcement efforts under the protective statutes.

Response: The Tri-Agency Agreement sets forth the areas of responsibility of ETA, ESA, and OSHA. It is possible that some camps may be repeatedly inspected in a single season while others may be visited only once. This determination would be made according to the circumstances.

20. *Comment:* Section 42.10(c)(4) should be deleted and OSHA Farm Labor Contact Persons required to devote full-time to improving agricultural employer compliance with standards under the Occupational Safety and Health Act.

Response: OSHA's resources are too limited to permit this.

21. *Comment:* OSHA Farm Labor Contact Persons should be designated in selected OSHA area offices, district

offices, or field stations, not only area offices.

Response: The Contact Persons will inspect in all areas as necessary, but assignment will be best effected at the area office level.

22. *Comment:* OSHA agencies administered by States (as distinguished from Federally administered) should be included in § 42.10.

Response: They are so included under § 42.10(e).

23. *Comment:* Because expedited investigations are of such great importance, there should be a time limit on when investigations must be made. The present definition, that investigations be made "promptly," is vague and ambiguous, thereby inviting abuses.

Response: Because circumstances vary, it is not possible to formulate rigid rules of promptness in conducting investigations. The present regulation makes it clear that promptness is of the essence.

24. *Comment:* The Regional Committee is supposed to have annual public meetings to check on enforcement efforts. Although an annual meeting is appropriate in northern agricultural communities, in other places, where the growing season is almost year-long, more frequent meetings would be in order.

Response: Although § 40.20(f) requires an annual public meeting, this is a minimum requirement, and regions with substantial year-round agricultural activity are not precluded from holding more than one such meeting.

25. *Comment:* The annual public meeting in each region could be constructive if conducted in an unbiased environment. As a practical matter, however, it would most likely provide little more than a forum for advocacy groups to grab headlines.

Response: It is the intention of the Department to provide a public forum on farm labor matters. Efforts will be made to structure the meeting so that it will be conducted in an orderly manner and will afford all groups an opportunity to present their views and information.

26. *Comment:* The statistical data collection system could be a source of disseminating misleading information to the public. A major concern in this regard relates to the complaint mechanism, the logs that would have to be maintained, and the complicated procedure involved in resolving complaints.

Response: The directed action complaint logs will be maintained in accordance with directives from the agencies. Collection of statistical data from the logs will also be directed by the agencies maintaining the logs. All data will be appropriately verified. Complaints will continue to be resolved in accordance with the policies and procedures of the responsible agencies.

Accordingly, Title 29 of the Code of Federal Regulations is amended by adding a new Part 42 to read as set forth below.

PART 42—COORDINATED ENFORCEMENT

Sec.

42.1 General statement.
42.2 Purpose.
42.3 National Committee.
42.4 Structure of the National Committee.
42.5 Policy review.
42.6 Enforcement strategy.
42.7 Complaint/Directed Action Logs.
42.8 Coordination plan.
42.9 Farm Labor Specialist (ESA).
42.10 Farm Labor Contact Persons and Regional Coordinators (OSHA).
42.20 Regional Farm Labor Coordinated Enforcement Committee.
42.21 Data collection.

Authority: 29 U.S.C. 49, et seq.; 29 U.S.C. 201 et seq.; 29 U.S.C. 651, et seq; 29 U.S.C. 801, et seq.; 5 U.S.C. 301.

§ 42.1 General statement.

These regulations are promulgated by the Secretary of Labor to describe the coordination of the activities of the Employment Standards Administration, the Occupational Safety and Health Administration, and the Employment and Training Administration relating to migrant farmworkers.

§ 42.2 Purpose.

(a) These regulations coordinate the activities of ESA, OSHA and ETA, and are intended to:

(1) Ensure effective enforcement efforts under the protective statutes—i.e., the Farm Labor Contractor Registration Act (FLCRA), the Occupational Safety and Health Act (OSHA), and the Fair Labor Standards Act (FLSA) ("protective statutes").

(2) Ensure that the enforcement efforts of DOL agencies are coordinated to maximize their effectiveness, yet minimize unnecessary duplication.

(3) Focus the attention of DOL agencies upon the special employment-related problems faced by migrant farmworkers.

(4) Coordinate DOL enforcement efforts with related activities of farmworker groups, federal and State agencies, and other concerned parties outside the Department of Labor whose operations are related to the employment, housing, and working conditions of migrant farmworkers.

(5) Establish an information exchange which will afford the Department, farmworker groups, and other concerned parties outside the Department of Labor the opportunity to exchange information concerning wages, hours and working conditions.

(b) [Reserved]

§ 42.3 National Committee.

A National Farm Labor Coordinated Enforcement Committee ("National Committee") is hereby established which shall be responsible for: Reviewing policies, guidelines and enforcement goals and strategies for the Department of Labor with respect to migrant farm labor-related enforcement efforts under the protective statutes; resolving policies which are in conflict between DOL agencies; advising the Secretary on legislative initiatives which would strengthen farm labor-related enforcement efforts; and providing guidance and recommendations to DOL agencies on related enforcement activities.

§ 42.4 Structure of the National Committee.

(a) The National Committee shall consist of the Under Secretary of Labor, the Solicitor of Labor, and the Assistant Secretaries for the Employment Standards Administration (ESA), the Occupational Safety and Health Administration (OSHA), and the Employment and Training Administration (ETA).

(b) The Committee shall be headed by the Under Secretary, who shall assign to one of his/her Special Assistants the responsibility of directing the necessary staff work required by the Committee.

(c) The National Committee shall meet on a quarterly basis to review the Department's responsibilities affecting migrant farmworkers, and at any other time as determined by the Under Secretary to be necessary to carry out the National Committee's responsibilities.

(d) There shall be a National Committee staff level working group consisting of senior staff representatives from the Branch of Farm Labor Law Enforcement, the Wage and Hour Division, the U.S. Employment Service (the National MSFW Monitor Advocate), the Employment and Training Administration, the Office of Field Coordination and the Directorate of Federal Compliance and State Programs in the Occupational Safety and Health Administration, and the Office of the Solicitor.

(e) The Special Assistant to the Under Secretary shall be the director of the staff level working group.

(f) The staff level working group shall meet monthly or more frequently as requested by the director.

(g) The director, or another member of the National Committee, shall attend the annual public meeting of each of the Regional Farm Labor Coordinating Committees.

§ 42.5 Policy review.

(a) The National Committee shall review the policies of OSHA, ESA and the United States Employment Service (USES), and the Office of the Solicitor and shall guide the respective agencies in improving the effectiveness of and coordination among all DOL agencies assigned responsibilities related to migrant farmworkers. These policies and guidance shall include such issues as the following:

(1) The coordination of inspections, including housing inspections, reports and procedures of DOL agencies and State agencies designated by the Department to follow-up on complaints under, and to detect promptly violations of, any of the protective statutes.

(2) The expedited enforcement and legal procedures to accommodate the transient and seasonal nature of migrant farmworker's problems.

(3) The development of systems for prompt and efficient referral to the appropriate federal or State agency of violations or complaints discovered by or reported to DOL agencies or appropriate State agencies, along with prompt and efficient follow-up action by the appropriate agency from the initiation of the investigation through final enforcement action.

(4) The training of all appropriate DOL personnel in order to ensure coordinated and effective enforcement.

(5) The level of enforcement achieved by the remedies or sanctions used by DOL agencies to enforce the protective statutes.

(6) The effectiveness of the Specialists Program and the Regional Farm Labor Coordinated Enforcement Committees.

(b) [Reserved]

§ 42.6 Enforcement strategy.

(a) Each Regional Farm Labor Coordinated Enforcement Committee shall annually prepare, on a regional basis, a migrant farm labor enforcement strategy for each protective statute pursuant to § 42.20(c)(3). The National Committee shall review these regional strategies and make recommendations to the appropriate DOL agencies. In reviewing the enforcement strategies, the Committee shall pay particular attention to:

(1) The priorities set for the investigation and enforcement activities of compliance officers.

(2) Available data on the past and current levels of enforcement of the protective statutes in the region, including the data collected pursuant to § 42.21, infra.

(3) The level of attention given to directed activity as distinguished from complaint-initiated compliance activities.

(4) The capability of the agency to respond quickly and thoroughly under the strategy to emergencies involving violations of any of the protective statutes.

(5) The level of priority given by the Office of the Solicitor to farm labor-related enforcement activities under the respective protective statutes.

(6) The ability of agencies to respond quickly and effectively to resolve complaints.

(7) The extent to which agencies follow through with appropriate remedies and sanctions.

(8) The degree to which agencies coordinate and cooperate on a local and regional level.

(9) Other activities of DOL agencies related to migrant farmworker enforcement.

§ 42.7 Complaint/directed action logs.

(a) To facilitate the Committee's review of all migrant farmworker complaints, including pre and post occupancy housing inspections and the enforcement strategies of DOL agencies, the Committee shall oversee the operation of a system of coordinated Complaint/Directed Action Logs ("logs"). The logs shall be maintained by each DOL agency and appropriate SESA and OSHA State agencies.

(b) The logs shall record both the numbers of compliance actions initiated as a result of complaints and those initiated on the basis of directed activity. They shall also include a statistical record of all original referrals both from and to other DOL agencies or federal or State authorities.

(1) Whenever a complaint is received and/or an investigation is completed by an agency, the appropriate official of that agency shall enter the matter on the log.

(2) Wherever possible, the responsible agency, upon request, shall inform the complainant of the status of the actions pending, and shall inform, when applicable, the referring agency.

(3) ESA, OSHA, USES, and the Office of the Solicitor shall be responsible for preparing the quarterly statistical summary by regions of the respective agency's compliance activity. This summary shall include all complaints and compliance actions which (i) were pursued to completion by the subagency during the reporting period or (ii) were received during the reporting period or earlier, and are pending. Each agency also shall report a summary of aging and resource allocation data. The summary shall be submitted to the National Committee and the appropriate Regional Committee.

(c) The National Committee staff shall analyze the statistical summaries and shall recommend National or Regional Committee action where problems or short-comings are identified. Pursuant to this review, the National Committee shall take steps to ensure that the responsible agencies make timely responses to complaints and conduct vigorous enforcement action.

§ 42.8 Coordination plan.

(a) Based upon, among other things, the regional enforcement strategies submitted under § 42.6, the National Committee shall develop an annual coordination plan concerning farm labor-related responsibilities of the Department, including migrant housing inspections, the referral of complaints, enforcement action on violations of federal or State employment-related laws subject to the jurisdiction of DOL, or regulations administered by DOL or appropriate State agencies, and assistance to stranded migrant farmworkers.

(b) The coordination plan shall describe the present program responsibilities of ESA for enforcement in the farm labor area of the Fair Labor Standards Act, and the Farm Labor Contractor Registration Act. The plan shall include a statistical summary of the prior-year complaints under, and alleged violations of, FLSA and FLCRA as recorded in the logs of the ESA Wage and Hour Regional and Area Offices, and shall set forth general goals and objectives for FLSA and FLCRA enforcement activities for the following year as established by ESA.

(c) The coordination plan shall describe the present program responsibilities of OSHA for protecting the safety and health of migrant farmworkers. The plan shall include a statistical summary of prior-year complaints under, and alleged violations of, OSHA recorded in the logs of the OSHA State and area offices, and shall provide general goals for OSHA enforcement activities for the following year as established by OSHA.

(d) The plan shall include a review of the procedures developed by ETA to handle emergency situations, such as the stranding or displacement of

migrants, and shall provide general goals for USES activities for the following year.

§ 42.9 Farm labor specialist (ESA).

(a) The Assistant Secretary for ESA shall designate ESA Compliance Officers as Farm Labor Specialists ("Specialists"). The Specialists shall be assigned to area offices, or field stations under area offices, with significant numbers of agricultural worker activity as designated by ESA. These Specialists shall coordinate FLCRA and FLSA activities in agricultural employment and shall be responsible for:

(1) Conducting FLCRA/FLSA farm labor investigations;

(2) Serving as staff advisors and consultants to regional and area officials on FLCRA and FLSA;

(3) Coordinating FLCRA and FLSA activities with appropriate OSHA and USES activities;

(4) Directing special migrant farmworker enforcement activities;

(5) Monitoring the farm labor-related activities of significant crew leaders and growers in the area to ascertain that those against whom ESA has taken enforcement action are operating in compliance with FLCRA and FLSA;

(6) Conducting technical assistance and public information programs regarding FLCRA and FLSA;

(7) Coordinating of referrals to and from other federal and State agencies with farm labor responsibilities, such as OSHA and USES;

(8) Advising regularly the Regional Committee on actual farm labor working conditions in their areas and otherwise participating in regional coordination activities as directed by the Regional Committee; and

(9) Providing specialized training on FLCRA and FLSA as may be requried.

(b) [Reserved]

§ 42.10 Farm labor contact persons and regional coordinators (OSHA).

(a) OSHA Area Directors shall be responsible for ensuring that: (1) Migrant farmworker complaints and referrals are evaluated, and appropriate action is taken; and (2) migrant farmworker camp inspections are scheduled promptly.

(b) OSHA Area Directors shall designate OSHA compliance officers to serve in the capacity of Farm Labor Contact Persons. These Farm Labor Contact Persons shall be trained in enforcement of the Occupational Safety and Health Act of 1970 (84 Stat. 1590, 29 U.S.C. 651 et seq.) and all OSHA standards affecting migrant farmworkers. These Farm Labor Contact Persons shall be designated in OSHA area offices with responsibility for conducting a significant number of migrant farmworker camp inspections.

(c) The OSHA Area Directors shall assign the Farm Labor Contact Person to:

(1) Conduct migrant farmworker camp inspections during periods when migrant housing facilities are occupied, or when it is reasonably predictable the facilities will imminently be occupied;

(2) Serve as a technical advisor on migrant farmworker-related matters;

(3) Train other compliance officers to conduct migrant farmworker camp inspections; and

(4) Perform other OSHA duties, including duties not related to migrant farmworker OSHA enforcement.

(d) Regional Administrators for OSHA shall designate a Farm Labor Regional Coordinator to coordinate migrant farmworker activities. The Farm Labor Regional Coordinators shall:

(1) Coordinate all migrant farmworker related activity within the Region's jurisdiction, i.e., enforcement, training, and public information;

(2) Serve as representatives of the OSHA Regional Administrators on the Regional Farm Labor Coordinated Enforcement Committee's staff level work group; and

(3) Perform other OSHA duties.

(e) OSHA shall request State designees of States having approved occupational safety and health plans and responsibility for conducting a significant number of migrant farmworker camp inspections to appoint a State Farm Labor Coordinator. The State Farm Labor Coordinator shall:

(1) Coordinate State OSHA migrant farmworker camp inspections and other migrant farmworker enforcement activities consistent with the objectives of this section; and

(2) Represent the State on the Regional Farm Labor Coordinating Committee's staff level working group.

§ 42.20 Regional Farm Labor Coordinated Enforcement Committee.

(a) Under the leadership of the ESA Regional Administrator, each region shall establish a Regional Farm Labor Coordinated Enforcement Committee ("Regional Committee"), including representatives of ESA, OSHA, ETA (the Regional MSFW Monitor Advocate), and the Office of the Regional Solicitor.

(b) The Regional Committee shall be headed by the Regional Administrator of ESA.

(c) The Regional Committee shall:

(1) Meet regularly on at least a quarterly basis;

(2) Exchange information on enforcement activities, including complaint/directed action logs developed by the DOL subagencies;

(3) Develop a written coordinated enforcement strategy specifying for the region all information which the Regional Committee believes will be helpful to the National Committee in formulating the annual coordination plan. This strategy shall include at a minimum all information called for by § 42.8 for the region, taking into account particular conditions in the region (e.g., the seasonality of the farm labor population). Once it is reviewed by the National Committee and appropriately revised, the regional offices of ESA, ETA, and OSHA shall follow the enforcement strategy for the year, with revisions as needed by changing circumstances during the year. The National Committee shall be advised of any such revisions;

(4) Maintain contacts with State agencies, farm labor groups, growers, and other interested parties; and

(5) Coordinate cross-training of enforcement personnel within the region.

(d) There shall be a regional committee staff level working group in each region consisting of regional staff representatives from ESA, ETA, OSHA, the Office of the Regional Solicitor, and OSHA State Farm Labor Coordinators within that region. This working group shall meet at least monthly.

(e) The designated Farm Labor Specialist (ESA), Farm Labor Regional Coordinators (OSHA), and MSFW Monitor Advocates (USES) in each region shall be available to provide staff support to the Regional Committees.

(f) To facilitate coordination with farm labor groups and growers in each region, the respective Regional Committee shall hold an annual public meeting, transcribe or recorded at the option of the Regional Committee, which shall be:

(1) Publicized to all appropriate migrant farmworker and grower associations in the region;

(2) Conducted by the director of the Regional Committee with other DOL agency representatives participating as necessary; and

(3) Opened to all members of the public.

(g) The Regional Committee shall conduct and cooperate with the National Committee in order to develop, implement and ensure the uniform and effective application of coordinated enforcement efforts.

§ 42.21 Data collection.

(a) For each protective statute, ESA, OSHA, and the Office of the Solicitor ("SOL") shall regularly collect statistical data reflecting their enforcement efforts

on a regional and national basis and shall submit such data quarterly to the National and Regional Committees. Fourth quarter data shall be accompanied by annual summaries. These submissions shall include at least the data items specified in this section. The data collected will provide a basis for coordination of enforcement of the protection statutes.

(b) The statistical data submitted by ESA on FLCRA enforcement shall include: (1) Total compliance actions covered by the Act, showing total farm labor contractor (FLC) actions, total farm labor contractor employee (FLCE) actions, total User actions, total concurrent FLSA actions, and total actions with noncompliance; (2) total types of assignments (JS complaint, other complaint, employers of undocumented workers); (3) total types of compliance actions (conciliation, full investigation, follow-up investigation, other); (4) total compliance hours expended; (5) total crew workers affected; (6) total violations by categories and type of violation (FLC, FLCE, User); (7) total compliance actions in which civil money penalties (CMPs) are assessed and total amount assessed; (8) total compliance actions in which CMPs are collected and total amount collected.

(c) The Wage-Hour Division shall submit the following statistical data on FLSA enforcement with respect to employees working within the categories of Agriculture, Agricultural Products, and Agricultural Services, etc., and various subcategories of each of these three major categories: (1) Total number of completed investigations; (2) total hours spent in conducting investigations; (3) number of employees found underpaid (total, under minimum wage provisions, under overtime provisions); (4) amount of underpayment found (total, under minimum wage provisions, under overtime provisions); (5) total number of employees to whom income was restored; and (6) total amount of money restored.

(d) OSHA's migrant farmworker enforcement statistical data shall be submitted for each region on a state-by-state basis, including OSHA State Plan States, and shall include: (1) Number of complaints received and number of inspections conducted in response; (2) number of referrals received and number of inspections conducted in response; (3) number of programmed or directed inspections, (4) number of violations found by type of violation (serious, willful, repeat and other than serious); (5) total number of employees affected by inspections; (6) approximate total hours spent on migrant camp inspections; (7) number of inspections for which penalties were proposed and amount proposed; (8) number of inspections for which penalties were collected and amount collected.

(e) The SOL shall submit statistical data on farm labor-related enforcement efforts under each protective statute which shall include: (1) Total cases received by SOL; (2) actions taken on cases (settled, referred to ALJ, civil actions filed, referrals to U.S. Attorney); and (3) results of cases (including injunctions and license revocations and denials).

(f) Complaint Response Data—ESA and OSHA shall submit annually a summary of aging data for their respective migrant farmworker-related activities under FLCRA, FLSA and OSHA respectively, showing aging from receipt of a complaint or completion of an investigation until referral to SOL or other final action by the enforcement agency. The Office of the Solicitor shall submit similar data showing aging of matters between receipt by SOL of a case and the completion of some responsive action on the case. Where available, OSHA shall submit data showing the average length of time between receipt of a complaint and the completion of the action taken in response to the complaint. Where available, ESA shall submit data showing complaints received, complaints on hand, and number of actions completed based on complaints.

(g) The National Committee shall review the data collection systems of ESA, OSHA and SOL, as they pertain to farm labor enforcement, and recommend any necessary changes to the subagencies.

Signed at Washington, D.C., on this 4th day of June, 1980.

Donald Elisburg,

Assistant Secretary for Employment Standards.

Ernest G. Green,

Assistant Secretary for Employment and Training.

Eula Bingham,

Assistant Secretary for Occupational Safety and Health.

[FR Doc. 80-17551 Filed 6-9-80; 8:45 am]

BILLING CODE 4510-27-M

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Federal Register

Vol. 45, No. 113

Tuesday, June 10, 1980

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COMMERCE DEPARTMENT

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25814 4–16–80 / Atlantic bluefin tuna; Purse Seine Season opening

FEDERAL COMMUNICATONS COMMISSION

31723 5–14–80 / Carriage of subscription television broadcast programs

List of Public Laws

Last Listing June 6, 1980

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H.R. 4890 / Pub. L. 96–262 To authorize appropriations for the Commercial Fisheries Research and Development Act of 1964 for fiscal years 1981, 1982, and 1983. (June 5, 1980; 94 Stat. 437) Price: $1.00.

H.R. 3789 / Pub. L. 96–263 To amend section 16(b) of the Soil Conservation and Domestic Allotment Act, as amended, providing for a Great Plains conservation program. (June 6, 1980; 94 Stat. 438) Price: $1.00.

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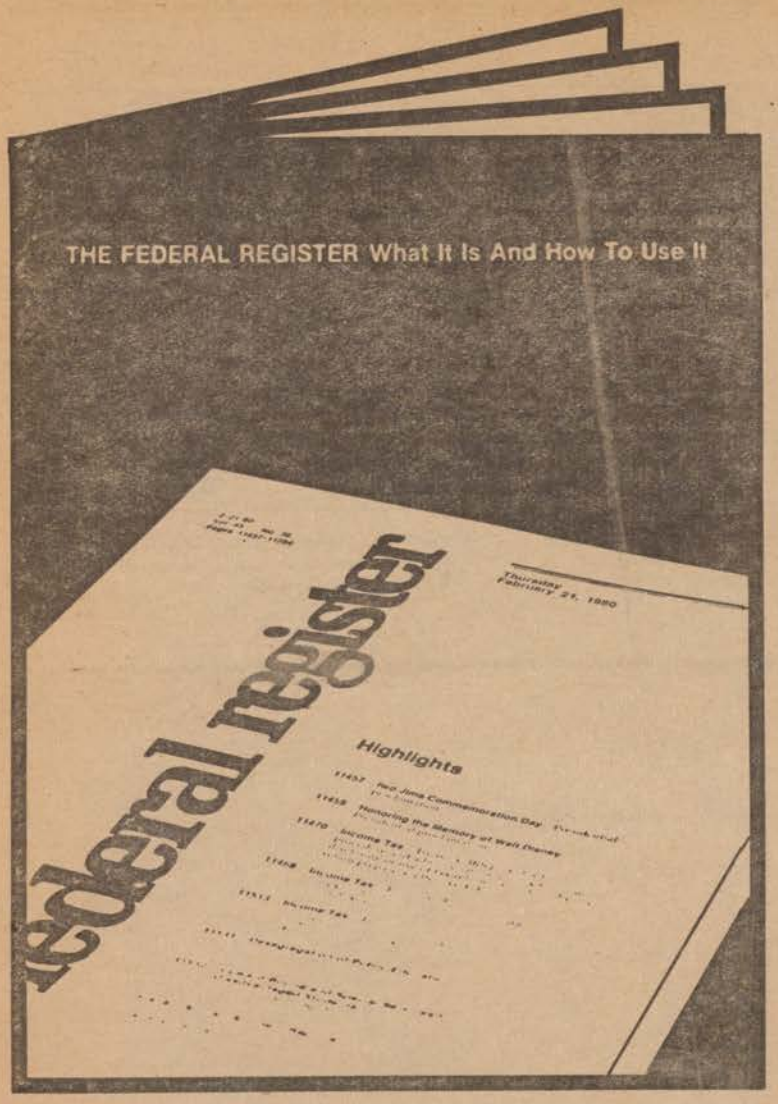

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