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Tuesday
June 17, 1980

Highlights

41088 **Grants—Social Programs** Labor/ETA amends grant solicitation for research on social and institutional processes affecting Hispanic American employment outcomes; closing date is now 7–22–80

40974 **Household Appliances** FTC issues enforcement policy statement requiring disclosure of energy cost or efficiency; effective 5–19–80

40975 **Fines, Penalties, and Forfeitures** Treasury/Customs issues guidelines used for mitigation of claims for monetary penalties assessed; effective 6–17–80

41080 **Oil, Gas, and Sulphur** Interior/GS announces receipt of proposed development and production plans (2 documents)

40967 **Brokers** FRS issues rule governing credit extended to Exchange Specialists; effective 8–11–80

41024 **Tariff Filing** FMC proposes regulations applicable to carriers of used household goods in the foreign and domestic offshore commerce of U.S.; comments by 8–18–80

40979 **Income Tax** Treasury/IRS issues final regulation regarding elapsed time method of crediting service of employees under qualified plans

CONTINUED INSIDE

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

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

40963 **Energy Conservation** USDA/REA sets forth policies, procedures, and guidelines for borrowers concerning new program to permit extension of principal repayment of distribution systems to promote conservation loans; effective 6–11–80

41012, 41015 **Occupational Safety** Labor/OSHA proposes employee safety regulations regarding machines, equipment systems and processes; comments by 9–15–80 (2 documents)

40990 **Civil Service System** OPM proposes to implement grade and pay retention provisions for Civil Service workers who suffer a change in grade and pay status; comments by 8–18–80

41098 **Hospitals** OMB proposes memorandum concerning Federal financing of hospital construction in overbedded areas

40994 **Discrimination** NASA proposes specific regulations regarding nondiscrimination on the basis of age in programs receiving Federal funds; comments by 7–17–80

41001 **Discrimination** Justice proposes regulation on nondiscrimination on basis of sex in programs receiving Federal financial aid; comments by 8–18–80

41115 **Consumer Interest** DOE/FERC issues for comment a Draft Consumer Program; comments by 8–20–80 (Part II of this issue)

41028 **Environmental Protection** Commerce/EDA issues revised procedures to implement National Environmental Policy Act; comments by 7–17–80

41070 **Human Drugs** HHS/FDA announces conditions under which chlorpromazine hydrochloride may be marketed; request for hearing by 7–17–80; supplements to approved new drug applications due on or before 8–18–80

40976 **X-rays** HHS/FDA recommends insurance carriers and remote parties refrain from requiring administrative dental X-ray examinations; effective 6–17–80

41049 **Privacy Act Documents** DOD/AF

41112 **Sunshine Act Documents**

Separate Parts in This Issue

41116 **Part II, DOE/FERC**

Contents

Federal Register
Vol. 45, No. 118
Tuesday, June 17, 1980

Agency for International Development
NOTICES
Authority delegations:
41086 Assistant Administrator for Latin America and Caribbean, et al.; registration of foreign private and voluntary organizations

Agricultural Marketing Service
NOTICES
Meetings:
41027 Flue-Cured Tobacco Advisory Committee
41027 Warehouse examination policy; model programs; inquiry; termination of activity on policy development

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Rural Electrification Administration.

Air Force Department
NOTICES
41049 Privacy Act; systems of records

Animal and Plant Health Inspection Service
RULES
Livestock and poultry disease control:
40965 Brucellosis; indemnity payment for cattle destroyed

Civil Aeronautics Board
RULES
40969 Domestic passenger fares; expanded flexibility; interim policy statement
PROPOSED RULES
40994 Domestic passenger fares; expanded flexibility; interim policy statement
NOTICES
Hearings, etc.:
41027 Lone Star Airways, Inc., fitness investigation
41028 United States-Ireland show cause proceeding

Commerce Department
See Economic Development Administration; International Trade Administration; National Oceanic and Atmospheric Administration; National Technical Information Service.

Customs Service
RULES
40975 Claims for monetary penalties, mitigation; availability of guidelines

Defense Department
See Air Force Department

Economic Development Administration
NOTICES
41028 National Environmental Policy Act; implementation; inquiry

Economic Regulatory Administration
RULES
Powerplant and industrial fuel use:
40966 Existing facilities; cost calculations; interim
NOTICES
Consent orders:
41054 Northeast Industries, Inc.
Environmental statements; availability, etc.:
41050 Northeastern U.S.; regional impact associated with proposed prohibition of petroleum and natural gas burning under Powerplant and Industrial Use Act; intent to prepare and scoping meetings

Employment and Training Administration
NOTICES
Grants; availability, etc.:
41088 Hispanic American employment outcomes; research on social and institutional processes; change in application closing date and correction

Energy Department
See Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
40987 Massachusetts
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
41016 Michigan
41018 Wisconsin
Pesticide programs:
41024 Books and records of pesticide production and distribution; notification to Secretary of Agriculture
NOTICES
Air quality implementation plans; approval and promulgation:
41056 Prevention of significant air quality deterioration (PSD); permit approvals
Pesticides; emergency exemption applications:
41062 Oxamyl
41065 Picloram
Toxic and hazardous substances control:
41056 Premanufacture exemption applications
41058, 41060, 41063, 41064 Premanufacture notices receipts (4 documents)
41061 Premanufacture notification requirements; data transfer to contractors

Equal Employment Opportunity Commission
NOTICES
41112 Meetings; Sunshine Act

Fair Housing and Equal Opportunity, Office of Assistant Secretary
PROPOSED RULES
40999 Laws, State and local fair housing; recognition of substantially equivalent laws; list

Federal Communications Commission
NOTICES
41112 Meetings; Sunshine Act

Federal Energy Regulatory Commission
NOTICES
41115 Consumer program; draft

Federal Maritime Commission
PROPOSED RULES
Tariffs by common carriers in the foreign and domestic offshore commerce of the U.S.:
41024 Household goods, used
NOTICES
41112 Meetings; Sunshine Act

Federal Reserve System
RULES
Credit by brokers and dealers (Regulation T):
40967 Exchange specialists; extension of credit
40968 Options specialists; uniform margin requirements; termination of suspension order
NOTICES
Applications, etc.:
41066 American Bancorporation
41066 Bank of New York Co., Inc., et al.
41066 Barnett Banks of Florida, Inc., et al.
41067 Chemical Bank International of San Francisco
41067 Everman Bank Shares, Inc.
41067 Florence Bancorporation, Inc.
41068 Jasper Bancshares, Inc.
41068 Midland Financial Corp.
41068 South Ridge Bancshares, Inc.

Federal Trade Commission
RULES
Appliances, consumer; energy cost and consumption information in labeling and advertising:
40974 Labeling requirement; enforcement policy statement
NOTICES
41112 Meetings; Sunshine Act

Food and Drug Administration
RULES
40976 CFR Chapter nomenclature changes to reflect Health, Education, and Welfare Department redesignation as Health and Human Services Department
Radiological health:
40976 Dental X-ray examinations, administrative; final recommendation
PROPOSED RULES
Animal drugs, feeds, and related products:
40999 Deodorizer distillate substances; use prohibition; tentative final rule; correction
Biological products:
40999 Cryoprecipitated antihemophilic factor (human); source plasma processing requirements; correction
40999 Cocoa butters; standard; termination of consideration; correction
Radiological health
40999 Microwave ovens; radiation leakage compliance measurement instrument requirements and test conditions; correction
NOTICES
Food for human consumption:
41068 Diethylstilbestrol (DES), food use of cattle illegally implanted; position paper; correction
Human drugs:
41070 Chlorpromazine hydrochloride; drug efficacy study implementation and hearing opportunity
Meetings:
41068 Advisory committees, panels, etc.

Geological Survey
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
41080 Mobil Oil Exploration & Producing Southeast Inc.
41080 Texaco Inc.

Health, Education, and Welfare Department
See Health and Human Services Department.

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration.

Health Care Financing Administration
NOTICES
Meetings:
41074 National Professional Standards Review Council

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
41054 Cased filed
41055 Decisions and orders

Heritage Conservation and Recreation Service
NOTICES
Historic Places National Register; additions, deletions, etc.:
41080 Arkansas et al.

Housing and Urban Development Department
See Fair Housing and Equal Opportunity; Office of Assistant Secretary.

Immigration and Naturalization Service
RULES
Transportation line contracts:
40965 Air Florida, Inc.; list addition
40964 Thai Airways International, Ltd.; list addition

Indian Affairs Bureau
NOTICES
Irrigation projects; operation and maintenance charges:
41074 Flathead Irrigation Project, Mont.

Interior Department
See Geological Survey; Heritage Conservation and Recreation Service; Indian Affairs Bureau; Land Management Bureau; National Park Service.

Internal Revenue Service
RULES
Income Taxes:
40979 Employee retirement plans; elapsed time method of crediting employee service

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Scientific articles; duty free entry:
41045 Harvard University
41045 National Institutes of Health
41045 University of California
41046 University of Nebraska-Lincoln
41046 University of North Carolina-CH
41046 University of Wisconsin-Madison

International Trade Commission
NOTICES
Import investigations:
41087 Food slicers and components
41112, 41113 Meetings; Sunshine Act (3 documents)

Interstate Commerce Commission
NOTICES
Motor carriers:
41082 Permanent authority applications
41082 Temporary authority applications; correction

Justice Department
See also Immigration and Naturalization Service.
PROPOSED RULES
41001 Nondiscrimination on basis of sex in federally assisted education programs and activities
NOTICES
Pollution control; consent judgments:
41087 Chrysler Corp.

Labor Department
See also Employment and Training Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office; Wage and Hour Division.
RULES
40985 Farm Labor contractor registration; bona fide inquiry of employability status; documents acceptable as evidence; correction

Land Management Bureau
PROPOSED RULES
U.S. mining laws:
41024 Public lands; surface resources management; adverse environmental impacts; minimization; extension of time
NOTICES
Coal leases, exploration licenses, etc.:
41079 Utah
Management framework plans; review and supplement:
41079 Wyoming
Meetings:
41079 Multiple Use Advisory Council
U.S. mining laws:
41079 Public lands; surface resources management; adverse environmental impacts; minimization; availability of draft regulatory analysis
41075 Wilderness review of public land status
41074 Wilderness study areas; interim management policy and guidelines; extension of time for final inventory decisions

Legal Services Corporation
NOTICES
41095 Grants and contracts; applications (2 documents)

Management and Budget Office
NOTICES
41098 Hospital construction in overbedded areas, Federal financial support; reduction

National Aeronautics and Space Administration
PROPOSED RULES
40994 Nondiscrimination on the basis of age in federally assisted programs

National Oceanic and Atmospheric Administration
NOTICES
Environmental statements; availability; etc.:
41047 Gray's Reef Marine Sanctuary, Ga., proposed

National Park Service
NOTICES
Management and development plans:
41082 Big Cypress National Preserve et al., Fla.; environmental assessment availability and meetings

National Science Foundation
NOTICES
Meetings:
41096 Advisory Council; postponement

National Technical Information Service
NOTICES
41047, 41048 Inventions, Government-owned; availability for licensing (2 documents)

National Transportation Safety Board
NOTICES
41113 Meetings; Sunshine Act

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
41096 Georgia Power Co. et al. (2 documents)
41096 Nissho-Iwai America et al.
41097 Toledo Edison Co. et al.
Environmental statements; availability, etc.:
41097 Ogle Petroleum, Inc., Bison Basin Project, Wyo.
Meetings:
41097 Reactor Safeguards Advisory Committee
41113 Meetings; Sunshine Act

Occupational Safety and Health Administration
PROPOSED RULES
Construction industry; health and safety standards:
41015 Machines and equipment; lockout/tagout standards and procedures; advance notice
Health and safety standards:
41012 Machines, equipment, systems and processes; lockout and tagging requirements; advance notice

Pennsylvania Avenue Development Corporation
NOTICES
Meetings:
41099 Board of Directors

Pension and Welfare Benefit Programs Office
RULES
40987 Employee benefit plans; elapsed time method of crediting service of employees; deletion of regulations transferred to IRS
NOTICES
Employee benefit plans:
41088–41090, 41092, 41093 Prohibition on transactions; exemption proceedings, applications, hearings, etc. (5 documents)

Personnel Management Office
RULES
Training programs:
40963 Constraints on non-Government training; exceptions
PROPOSED RULES
40990 Grade and pay retention

Rural Electrification Administration
RULES
Electric borrowers:
40963 Energy resources conservation loans; extension of principal repayments (Bulletin 20–23)
NOTICES
Loan guarantees, proposed:
41027 N. W. Electric Power Cooperative, Inc.

Securities and Exchange Commission
RULES
40975 Conduct standards; comprehensive revision; correction
NOTICES
Hearings, etc.:
41100 American General Life Insurance Co. of New York et al.
41102 Colonial Tax Exempt Income Fund, Inc.
41103 Connecticut Yankee Atomic Power Co.
41104 General Public Utilities Corp. et al.
41105 Northeast Utilities et al.
41107 Pirvest, Inc.
41107 Plessey Inc.
41108 Transok Pipe Line Co. et al.
Self-regulatory organizations; proposed rule changes:
41100, 41102 American Stock Exchange, Inc. (2 documents)
41101 National Securities Clearing Corp.
Self-regulatory organizations; unlisted trading privileges:
41106 Philadelphia Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
41109 Bow Lane Capital Corp.
41110 Capital Resource Corp.
41108 EAB Venture Corp.
41108 Federal Street Capital Corp.
41109 Independence Mortgage Inc.
41110 Rio Investment Corp.
41109 Round Table Capital Corp.
41110 YFY Capital Corp.
Disaster areas:
41110 Idaho
41110 Wisconsin

Social Security National Commission
NOTICES
41095 Meetings; location change

Tennessee Valley Authority
NOTICES
41113 Meetings; Sunshine Act

Treasury Department
See Customs Service; Internal Revenue Service.

Wage and Hour Division
RULES
40985 American Samoa, industries in; minimum wage rates establishment; republication

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Agricultural Marketing Service—
41027 Flue-cured Tobacco Advisory Committee, 6–27–80

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration—
41068 Various advisory committees, July and August
Health Care Financing Administration—
41074 National Professional Standards Review Council, 7–14 and 7–15–80

INTERIOR DEPARTMENT
Land Management Bureau—
41079 Multiple Use Advisory Council, 7–17–80

NUCLEAR REGULATORY COMMISSION
41097 Reactor Safeguards Advisory Committee, Class 9 Accidents Subcommittee 7–2–80

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION
41099 Board of Directors, 6–18–80

CHANGED MEETINGS

NATIONAL COMMISSION ON SOCIAL SECURITY
41095 Meeting 7–11 and 7–12–80, location change

NATIONAL SCIENCE FOUNDATION
41096 Advisory Council Steering Committee, 6–17–80 changed to 7–24–80

CFR PARTS AFFECTED IN THIS ISSUE

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

5 CFR
410 40963
Proposed Rules:
536 40990

7 CFR
1701 40963

8 CFR
238 (2 documents) 40964, 40965

9 CFR
51 40965

10 CFR
504 40966
506 40966

12 CFR
220 (2 documents) 40967, 40968

14 CFR
399 40969
Proposed Rules:
399 40994
1252 40994

16 CFR
305 40974

17 CFR
200 40975

19 CFR
103 40975
171 40975

21 CFR
Ch. I 40976
1000 40976
Proposed Rules:
163 40999
589 40999
640 40999
1030 40999

24 CFR
Proposed Rules:
115 40999

26 CFR
1 40979

28 CFR
Proposed Rules:
42 41001

29 CFR
40 40985
697 40985
2530 40987
Proposed Rules:
1910 41012
1926 41015

40 CFR
52 40987
Proposed Rules:
52 (2 documents) 41016, 41018
81 41018
169 41024

43 CFR
Proposed Rules:
3809 41024

46 CFR
Proposed Rules:
531 41024
536 41024

Rules and Regulations

Federal Register
Vol. 45, No. 118
Tuesday, June 17, 1980

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 410

Training; Recordkeeping Requirements

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY This change in the regulations implementing the Government Employees Training Act simplifies the record keeping tasks by providing exceptions to four constraints relating to non-Government training when a training program has both Government and non-Government elements.

EFFECTIVE DATE: July 17, 1980.

FOR FURTHER INFORMATION CONTACT:
Ms. Constance Guitian
[202] 653–6171.

SUPPLEMENTARY INFORMATION: On January 25, 1980, the Office of Personnel Management published proposed regulations (45 FR 6114) to simplify record keeping tasks when a training program has both Government and non-Government elements, and invited comments from the public. There was a written comment from the Department of Justice expressing approval of the change. In addition there were some verbal comments from agencies which were favorable to the change. There were two written comments from unions. One organization approved of the changes and the other addressed provisions of the regulations which these changes would not affect.

The Office of Personnel Management has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Kathryn Anderson Fetzer,
Assistant Issuance System Manager.

Accordingly, the Office of Personnel Management adds 5 CFR 410.510 which reads as follows:

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

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

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

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

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

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

[FR Doc. 80–18134 Filed 6–16–80; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1701

Extension of Principal Repayment to Achieve Conservation Objectives

AGENCY: Rural Electrification Administration.

ACTION: Final rule.

SUMMARY: REA hereby issues a Final Rule, REA Bulletin 20–23, to set forth policies, procedures and guidelines for borrowers concerning a new program under which the REA Administrator will use existing authority to permit the extension of certain scheduled principal payments of distribution systems to provide funding for energy resources conservation (ERC) loans to consumers. Appendix A to CFR Part 1701 is hereby modified to reflect the issuance of this REA Bulletin 20–23.

EFFECTIVE DATE: June 11, 1980.

FOR FURTHER INFORMATION CONTACT:
Joseph Vellone, Acting Assistant Administrator-Administration, Rural Electrification Administration, Room 4063, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Impact Statement describing the options considered in developing this final rule and the impact of each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, "Improving Government Regulations," and has been classified "not significant."

REA, in its effort to further the national goals of energy conservation and the conservation of natural and capital resources, as set forth in the National Energy Conservation Policy Act (NECPA) of 1978, Executive Order No. 12185 issued December 17, 1979, and other laws and regulations, hereby issues REA Bulletin 20–23, Section 12 Extensions for Energy Conservation Loans, making use of existing authorities under Section 12 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*), to extend certain principal payments at the request of distribution systems to make available funds for ERC Loans. This will provide borrowers an opportunity to augment their present energy conservation programs by making funds available for loans to consumers to finance: (a) caulking, (b) weatherstripping, (c) ceiling insulation, (d) wall insulation, (e) floor insulation, (f) duct insulation, (g) pipe insulation, (h) water heater insulation, (i) storm windows, (j) thermal windows, (k) storm or thermal doors, (l) clock thermostats, and (m) attic ventilation fans.

REA considered other options than issuing this Bulletin: (a) continuing to encourage REA electric borrowers to promote conservation, without providing them with this assistance to implement a consumer loan program, and (b) continuing to rely on other agencies to provide consumer financing for energy conservation measures. Neither of these options were selected because (a) this action will make possible loan programs that provide consumers with important incentives to conserve energy; and (b) other Government programs financing energy conservation measures are limited in scope, either by geographic region or by income or other criteria.

PUBLIC COMMENTS AND REA'S RESPONSE: REA published an advance notice of proposed rulemaking on March 14, 1980, and a notice of the proposed rule on April 18, 1980. Thirty-two written comments were received from REA electric borrowers, national and State associations of electric borrowers, State Government agencies and others. In developing the proposed rule and in responding to comments, REA provided for administrative flexibility to allow for circumstances peculiar to particular parts of the country.

With only a few exceptions, the commenters strongly and often enthusiastically supported the ERC Loan Program, stating that (a) national objectives will be furthered, (b) other programs are not working, (c) co-op members need such assistance because of rising costs, (d) it is an innovative method using existing authorities, and (e) the ERC program provides cooperatives with a needed tool to promote conservation.

The principal objections included statements that (a) legality and likelihood of success are questionable, (b) most consumers can find financing elsewhere, (c) co-ops are not lending institutions, (d) 5 percent interest on ERC Loans will not cover administrative costs, and (e) uncollectables would be too great a burden.

The proposed program utilizes existing authority in Section 12 of the Rural Electrification Act which has been used in the past for a number of purposes.

REA believes that electric co-ops and other utilities have a responsibility to promote conservation. This ERC program will provide an important incentive for rural electric consumers to invest in energy conservation measures.

Borrowers are being permitted to charge up to 5 percent interest on ERC Loans while they continue to pay interest on the REA notes which are being extended. With few exceptions, these notes bear interest at the 2 percent rate. The difference between interest rates should cover administrative costs and collection losses. Even when the borrower must absorb administrative costs, this action generally benefits the system as a whole and its consumers by deferring the need for additional generating, transmission and distribution facilities and the need for rate increases to amortize construction costs which continue to escalate. It should also be noted that borrowers already have a responsibility to develop energy conservation programs under REA Bulletin 20–2, as supplemented on January 30, 1979, to continue receiving REA financing.

Thirteen letters proposed adding various energy conservation and renewable resource measures to the list of measures eligible for ERC loans.

Attic ventilation fans, clock thermostats, floor and wall insulation have been added to the list of measures eligible for financing. The term "floor insulation" includes skirting to enclose space between a building and the ground. In the interest of expediting the implementation of the ERC program consideration of expanding the program to include other measures suggested is being deferred for further study. Borrowers may supplement the ERC program by financing additional cost effective items if they have sufficient general funds available for this purpose, including general funds derived from the application of advance payments (cushion of credit). They may adopt more restrictive ERC Loan Programs than outlined in the sample agreement included in REA Bulletin 20–23, provided that such programs do not discriminate.

In response to other letters, the definition of eligible structures has been broadened to make it clear that public facilities used by the public will be eligible. New structures are not being included, however, because improved weatherization standards for new construction should preclude construction not meeting such standards.

Three of five letters discussing interest rates advocated a mandatory interest-free program. REA will not mandate an interest-free ERC Loan Program; however, borrowers may charge any interest rate not in excess of 5 percent and may make interest-free loans if their financial position permits.

The requirement that loan billings be done at the same time as billings for electric service has been modified, in response to two requests for flexibility on this point, except in those cases where the consumer requests simultaneous billing.

The ERC rule regarding repayment periods has been amended so that ERC Loans may be made for any period not in excess of seven years.

One commenter recommended that "REA and its rec's should have an aggressive program of promoting its conservation/weatherization services." REA is instructing its field staff to promote the ERC loan program which benefits both the borrower and its consumers as well as furthering national goals.

Three letters stated the following matters were not discussed adequately in the proposed rule: (1) accounting for uncollectibles, (2) accounting for the usage of interest on ERC Loans, (3) loan servicing costs, (4) truth-in-lending requirements, and (5) guidelines for evaluating cost effectiveness of conservation measures.

REA is furnishing borrowers with sample forms which comply with truth-in-lending requirements. It will be providing accounting assistance to borrowers in the implementation of this program. Field personnel will be assisting borrowers in the evaluation of the cost effectiveness of conservation measures.

One letter recommended that REA obtain for all electric borrowers a blanket waiver of the NECPA prohibition on utility financing of energy conservation measures.

At present only 10 REA borrowers are subject to the NECPA prohibitions on providing such financing. REA is working with the Department of Energy to facilitate the obtaining of the required waiver for these borrowers.

Copies of the new bulletin are being sent directly to all REA electric borrowers, and to commenters on the proposed rule. Others may request copies from the address indicated above.

Dated: June 11, 1980.

Susan T. Shepherd,

Acting Administration.

[FR Doc. 80-18184 Filed 6-16-80; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Thai Airways International, Ltd.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment to the regulations of the Immigration and Naturalization Service to add carriers to the list of transportation lines which have entered into agreement with the Commissioner of Immigration and Naturalization to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. This amendment is necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: April 28, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization

Service, 425 Eye Street, N.W., Washington, D.C. 20536. Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93–502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment contained in this order adds transportation lines to the listing and is editorial in nature.

The Commissioner of the Immigration and Naturalization Service entered into separate agreements with the following named carriers on the dates indicated to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries under section 238(d) of the Immigration and Nationality Act and 8 CFR Part 238:

Thai Airways International, Ltd. Effective date: April 28, 1980.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

In § 238.3 *Aliens in immediate and continuous transit,* the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence, "Thai Airways International, Ltd."

(Secs. 103 and 238(d), 8 U.S.C. 1103 and 1228(d))

This amendment is effective April 28, 1980 as to Thai Airways International, Ltd.

Dated: June 12, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-18201 Filed 6-16-80; 8:45 am]

BILLING CODE 4410-10-M

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8 CFR Part 238

Contracts With Transportation Lines; Addition of Air Florida, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment to the regulations of the Immigration and Naturalization Service to add carriers to the list of transportation lines which have entered into agreement with the Commissioner or Immigration and Naturalization for the preinspection of their passengers and crews at places outside the United States. This amendment is necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: April 29, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C. 20536. Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.4 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93–502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment contained in this order adds transportation lines to the listing and is editorial in nature.

The Commissioner of the Immigration and Naturalization Service entered into separate agreements with the following named carriers on the dates indicated for preinspection of their passengers and crews at places outside the United States under section 238(d) of the Immigration and Nationality Act and 8 CFR Part 238:

Air Florida, Inc. Effective date: April 29, 1980.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

In § 238.4 *Preinspection outside the United States,* the listing of transportation lines under "At Freeport" is amended by adding "Air Florida, Inc." as item number one.

(Secs. 103 and 238(b), 8 U.S.C. 1103 and 1228(b))

This amendment is effective April 29, 1980 as to Air Florida, Inc.

Dated: June 12, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-18200 Filed 6-16-80; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 51

Brucellosis Indemnity

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations governing the payment of indemnity for cattle destroyed because of brucellosis by providing for additional extensions of time for destruction of animals when such delay is required by another Federal Agency.

This action is needed to encourage and maintain continued cooperation by the industry in the elimination of brucellosis, specifically, from those in the industry having herds affected by withdrawal periods, as required by other governmental regulations, for drugs previously administered to the affected animals.

The intended effect of this action is to prevent loss of indemnity to owners whose cattle have already been treated with drugs having a long withdrawal period and consequently cannot be slaughtered for the duration of the withdrawal period due to requirements of another Federal Agency.

DATES: Effective date: June 17, 1980. Comment Date: Comments must be received on or before August 18, 1980.

ADDRESS: Comments to Deputy Administrator, USDA, APHIS, VS, Federal Building, Room 805, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301–436–8713.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received.

Dr. Paul Becton, Director, National Brucellosis Eradication Program, Veterinary Services, Animal and Plant Health Inspection Service, has

determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action because the Department is not able to predict when brucellosis may occur in herds treated with Albendazole or other drugs requiring a prolonged withdrawal period before slaughter and must be able to pay indemnity to such herd owners to guarantee their cooperation in the brucellosis eradication program.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Brucellosis is a contagious, infectious, and communicable disease which affects animals and man and is caused by bacteria of the genus brucella. A National Cooperative State-Federal Brucellosis Eradication Program to eliminate brucellosis from cattle and swine of the United States is being carried out in each of the various States. Among the tools being used to eradicate brucellosis in the various States is the testing of cattle and swine herds for brucellosis with identification and destruction by slaughter of infected and exposed animals with the payment of indemnities to owners of animals destroyed under the regulations in 9 CFR Part 51.

The regulations presently permit the Deputy Administrator only to extend the time limit for destruction of brucellosis affected animals beyond 30 days for "Acts of God." Recently, Albendazole, a drug for the treatment of liver flukes in cattle, was released by the Food and Drug Administration for experimental use with a 6-month withdrawal period before slaughter. Liver flukes and brucellosis share many of the same areas in prevalence. Coordination of the two programs cannot now be accomplished under the regulations if liver fluke treatment is necessary in a known brucellosis affected herd. Surveillance measures of the brucellosis eradication program have and will continue to occasionally disclose brucellosis infection in a herd under treatment for liver flukes or other drugs which may be approved for use on livestock provided they undergo a prolonged withdrawal period before slaughter. The Department believes a provision should be made in the brucellosis indemnity regulations (9 CFR Part 51) to allow the payment of indemnity to the owner who cooperates in eradicating brucellosis from his herd even though he has to withhold affected animals from slaughter for longer than 30 days to comply with the regulations of another Federal Agency, such as those governing the experimental liver fluke treatment. Therefore, the regulations are being amended to allow the Deputy Administrator, upon request in specific cases, to extend the time for the destruction of brucellosis affected animals beyond 30 days, when such delay is due to the requirement of another Federal Agency. Additionally, "may" has been changed to "shall" to more accurately reflect the interpretation of this provision as it has been applied, in practice, by the Deputy Administrator.

Accordingly, Part 51, Title 9, Code of Federal Regulations is amended as follows:

§ 51.6 [Amended]

1. In § 51.6, section (c) is amended to read:

* * * * *

(c) And except further, that the Deputy Administrator shall, upon request in specific cases, extend the time limit beyond the 30-day period when unusual and unforeseen circumstances occur which prevent or hinder the destruction of the animals within the 30-day period, such as, but not limited to, floods, storms, or other Acts of God which are beyond the control of the owner, or when destruction is delayed due to requirements of another Federal Agency.

(Secs. 3, 4, 5, 11, and 13, 23 Stat. 32, as amended; sec. 2, 32 Stat. 792, as amended; (21 U.S.C. 111, 114, 114a, 114a–1, 120, 37 FR 28464, 28477, 38 FR 19141))

Done at Washington, D.C., this 11th day of June 1980.

Pierre A. Chaloux, VMD,

Deputy Administrator, Veterinary Services.

[FR Doc. 80–18185 Filed 6–16–80; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 504 and 506

[Docket No. ERA–R–78–19G]

Powerplant and Industrial Fuel Use Act of 1978; Existing Facilities; Amendment to Interim Rule

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Amendment to interim rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing this amendment to its Interim Rule on existing facilities, published on July 23, 1979 (44 FR 43176 *et seq.*) to implement provisions of Title III of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620 (FUA). This amendment revokes 10 CFR 504.12 and 506.12 (relating, respectively, to cost calculations for existing powerplants and for existing installations). ERA takes this action because it has determined, after evaluating the numerous public comments received on the foregoing provisions of its Interim Rule, that it is appropriate to propose for public comment a new rule with respect to these cost calculations. ERA intends to propose such a rule shortly.

EFFECTIVE DATE: June 17, 1980.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B–110, Washington, D.C. 20461 (202) 653–4055

Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 7002, Washington, D.C. 20461 (202) 653–3217

Robert L. Davies (Fuels Conversion—Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461 (202) 653–3649

G. Randolph Comstock (Office of the General Counsel), Department of Energy, Room 6G–087—Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–2967

(Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 [42 U.S.C. 7101 *et seq.*]; Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 [42 U.S.C. 8301 *et seq.*]; E.O. 12009 [42 FR 46267, September 15, 1977])

PART 504—EXISTING ELECTRIC POWERPLANTS

§ 504.12 [Reserved]

PART 506—EXISTING MAJOR FUEL BURNING INSTALLATIONS

§ 506.12 [Reserved]

In consideration of the foregoing, Parts 504 and 506, Subchapter E, of Chapter II, Title 10 of the Code of Federal Regulations are amended by revoking § 504.12 and 506.12, and by designating such sections as "Reserved," effective June 17, 1980.

Issued in Washington, D.C., June 10, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

[FR Doc. 80-18118 Filed 6-16-80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Regulation T; Docket No. R-0054]

Credit by Brokers and Dealers; Credit Extended to Exchange Specialists

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This amendment adopts and revises a proposed amendment published by the Board in the **Federal Register** on August 15, 1979 (44 FR 47775) to reflect comments received. It will permit stock specialists and option marketmakers to finance with a broker/dealer certain offsetting positions in related securities on more advantageous terms than are available to the ordinary customer. This concession is given to those exchange-registered dealers who are obliged to promote fair and orderly markets in their specialty securities. The present rule limits margin concessions to the financing of specialty securities only. This action derives from the advent of exchange-traded options in 1973.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Laura Homer, Chief Attorney or Patsy Abelle, Senior Attorney, Securities Regulation Section, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, (202) 452-2781.

SUPPLEMENTARY INFORMATION: The final rule includes a number of revisions to the August 15, 1979 proposal, based upon comments received. These include:

(1) In response to comments received from the Securities and Exchange Commission ("SEC") and the National Association of Securities Dealers, Inc. ("NASD") references to a "registered securities association" are being deleted from the rule. These agencies noted that it may be inappropriate to include broker dealers making markets in the over-the-counter market within the definition of "specialist" since under the Securities Exchange Act of 1934 that term is used only in connection with securities exchange markets. As an alternative they suggested that the financing of the market-making activities of these firms be treated in a separate section of Regulation T.

(2) The rule has also been revised to permit a specialist to purchase or sell short in the account securities other than the specialist securities or the permitted offset positions if the regular margin requirements are met. This revision was made at the request of the Chicago Board Options Exchange, Inc. ("CBOE") which noted that the August 15 proposal required creditors "to perform the time consuming and burdensome task of manually transferring certain stock positions from a specialist's account to a general account." The Board believes this revision will substantially reduce this operation problem.

(3) The definition of an "in or at the money" option has been broadened to permit specialists to offset their options positions with the underlying security provided the price of the security is within one standard exercise interval of the option being offset. The August 15 proposal required the underlying security to be within $2.50 or 5 percent of the option being offset. This change is intended to provide greater flexibility to specialists in employing hedging and spreading strategies to reduce the risk associated with making a market in options. It will also reduce an operational problem. The CBOE in commenting on this aspect of the August 15 proposal noted that it did not provide sufficient opportunities for hedging with the underlying security.

(4) The requirement has been deleted that the creditor call for additional margin whenever securities no longer serving as permitted offset positions continue to be retained in the account. Several commenters, including the New York Stock Exchange, Inc. ("NYSE"), the American Stock Exchange, Inc. ("ASE") and the CBOE, noted that this provision constitutes a maintenance margin requirement and that historically the Board has left the promulgation of rules governing maintenance margins to the exchanges. The Board in reviewing this matter was satisfied that the 25 percent initial margin requirement on the purchase of permitted offset positions, when viewed together with the limitations on the withdrawal of equity contained in the rule, provided a reasonable cushion against adverse variations in market prices.

(5) The "free-riding" penalty has been relaxed to exempt the acquistion or liquidation of permitted offset positions and to reduce the number of days the "free-riding" penalty must be in effect from 30 to 15 calendar days. Those commenting on the August 15 proposal stated that the "free-riding" penalty was unduly harsh and recommended it be deleted and that the exchanges be allowed to adopt "anti-free-riding" rules of their own. The Board notes that the SEC in its "Report of the Special Study of the Options Markets" (the "Option Study") cited "free-riding" as one of the practices prevalent in the options markets and recommended that the Board consider adopting rules curtailing it. The Board recognizes that the exchanges through their surveillance and enforcement program are in a better position to police this activity, and this revised amendment provides a means through which these agencies may adopt their own rules to limit this activity. If the level of enforcement of the exchange rule is not sufficient to curtail the practice, the Board will consider eliminating the exemption.

The Board continues to believe that a 25 percent margin is appropriate for permitted offset positions. Three option exchanges asked that it be changed to a "good faith" margin. Under the rule being adopted, the 25 percent initial margin requirement on permitted offset positions in concert with the limitations on the withdrawal of equity serve as the basis for accommodating market needs without permitting the excessive use of credit for purchasing or carrying securities.

Accordingly, pursuant to sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and w), the Board revises section 220.4(g) of Regualtion T (12 CFR 220.4(g)) to read as follows:

§ 220.4 Special accounts.

* * * * *

(g) *Specialist's Account.* (1) *Applicability.* In a specialist's account, a creditor may clear and finance for a specialist who is a member of a national securities exchange the member's specialist transactions or transactions of any joint account in which all participants, or all participants other than the creditor, are registered and act as specialists. The provisions of this subsection are available to a specialist

who is a member of a national securities exchange which submits to the Board of Governors of the Federal Reserve System reports suitable for supplying current information regarding the use of specialist credit.

(2) *Definitions.* For the purpose of this subsection:

(i) "Joint account" means an account in which the creditor may participate and which by written agreement permits the commingling of the security positions of the participants and provides for a sharing of profits and losses from the account on some predetermined ratio;

(ii) "Underlying security" means the security which will be delivered upon exercise of the option and does not include a security convertible into the underlying security;

(iii) "Overlying option" means (A) a put option purchased or a call option written against an existing long position in a specialist's or market-maker's account, or (B) a call option purchased or a put option written against a short position in a specialist's or market-maker's account.

(iv) "In or at the money," with respect to a call option, indicates that the current market price of the underlying security is not more than one standard exercise interval below the exercise price of the option, and, with respect to a put option, that the current market price of the underlying security is not more than one standard exercise interval above the exercise price of the option.

(v) "In the money," with respect to a call option, indicates that the current market price of the underlying security is not below the exercise price of the option and, with respect to a put option, that the current market price of the underlying security is not above the exercise price of the option.

(3) *Permitted offset positions.* A specialist in options is permitted to establish in this account on a share-for-share basis a long or short position in the securities underlying the options in which the specialist makes a market, and a specialist in securities other than options is permitted to purchase or write options overlying the securities in which the specialist makes a market, only under one or more of the following conditions (such positions are referred to in this paragraph as "permitted offset positions"):

(i) The account holds a short option position which is "in or at the money" and is not offset by a long or short option position for an equal or greater number of shares of the same underlying security which is "in the money";

(ii) The account holds a long option position which is "in or at the money" and is not offset by a long or short option position for an equal or greater number of shares of the same underlying security which is "in the money";

(iii) The account held a short option position against which an exercise notice was tendered;

(iv) The account held a long option position which was exercised;

(v) The account holds a net long position in a security (other than an option) in which the specialist makes a market; or,

(vi) The account holds a net short position in a security (other than an option) in which the specialist makes a market.

(4) *Maximum loan value.* The maximum loan value of securities which may be used as collateral in the account shall be:

(i) No more than 100 per cent of the current market value of any long position in a security in which the specialist makes a market or a wholly-owned margin security;

(ii) 75 per cent of the current market value of any underlying security or overlying option purchased and held in the account as a permitted offset position.

(iii) The maximum loan value prescribed by the Board in § 220.8 (the Supplement to Regulation T) when a security purchased and held in the account does not qualify as a specialist or permitted offset position.

(5) *Adjusted debit balance.* The amount to be included in the adjusted debit balance of the account shall be:

(i) Not less than 100 per cent of the current market value of either a security sold short or an option written where such position qualifies as a specialist transaction;

(ii) 125 per cent of the current market value of any security sold short or option written and held in the account as a permitted offset position.

(iii) The amount prescribed by the Board in § 220.8 (the Supplement to Regulation T) when a security sold short in the account does not qualify as a specialist or permitted offset position plus, for a short position in a security other than an option, the current market value of the security sold short.

(6) *Additional margin; "free-riding."* Except as required by paragraph (g)(8), on any day when additional margin is required as a result of transactions in the account, the creditor shall issue a call for a deposit of cash or securities having loan value and may allow the specialist a maximum of five full business days to make a deposit sufficient to meet the call. To prevent "free-riding" in the account, a creditor who has not obtained this deposit (and is therefore required to liquidate sufficient securities to meet the call) is prohibited for a 15 day period from extending any further credit in the account to finance transactions in securities in which the specialist is not registered to make a market. The acquisition or liquidation of a permitted offset position shall not be subject to this "free-riding" penalty. The restriction on "free-riding" shall not apply to any national securities exchange adopting a "free-riding" rule applicable to specialists which has been approved by the Securities and Exchange Commission.

(7) *Withdrawals.* On any day when a specialist requests a withdrawal of cash or securities from the account, the creditor shall compute the status of the account for non-specialist securities positions in accordance with the provisions of § 220.8 (the Supplement to Regulation T), permitted offset positions in accordance with the provisions of paragraphs (g)(4)(ii) and (g)(5)(ii), and specialist positions on a "good faith" basis. Withdrawals shall be permitted to the extent that the adjusted debit balance in the account does not exceed the maximum loan value of all of the collateral held in the account after the withdrawal has been made.

(8) *Deficit accounts.* On any day when the account would liquidate to a deficit, the creditor shall not extend any further credit in the account, and shall issue a call for additional cash or collateral, which shall be met by noon of the following business day. In the event sufficient cash or collateral is not deposited the creditor shall liquidate existing positions in the account.

By order of the Board of Governors of the Federal Reserve System, June 11, 1980.

Griffith L. Garwood,

Assistant Secretary of the Board.

[FR Doc. 80-18193 Filed 6-16-80; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 220

[Docket No. R-0004]

Termination of Suspension of Uniform Margin Requirements for Options Specialists

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Rescission of order of suspension.

SUMMARY: In January, 1977, the Board of Governors suspended, for options specialists, the effective date of a new

rule establishing uniform margin requirements for the writing of options (42 FR 752). The suspension was put into effect until the Board could consider a separate, self-contained rule for options specialists. Since the Board has adopted such a separate rule today by a final amendment of § 220.4(g) of Regulation T, the suspension order is no longer necessary. Lifting the suspension is a housekeeping matter that will have no practical effect.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Lord, Securities Regulation Section, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202–452–2781).

SUPPLEMENTARY INFORMATION: On September 27, 1976, the Board adopted an amendment to Regulation T, effective January 1, 1977, which established a uniform margin requirement for the writing of options. (41 FR 43895) Although this rule was intended generally to apply to customer accounts, it also affected Specialists' accounts under the then-existing terms of § 220.4(g) of Regulation T, which required, with two exceptions, that credit terms to Specialists conform to those available to public customers in a general account

On December 15, 1976, the Board proposed an amendment to § 220.4(g) which would have allowed options specialists to calculate required margin differently from that provided in the new uniform margin rule applicable to public customers. (41 FR 55552) The Board was, however, unable to act on the proposed alternate method of calculation by January 1, 1977, the effective date of the new uniform rule. It therefore, suspended, for options specialists, the effective date of the uniform rule. (42 FR 752, January 4, 1977) In effect, the suspension permitted options specialists to use the pre-existing provisions of § 220.3(d)(5) instead of the new general account provisions.

Today, the Board adopted a final amendment to the specialist's credit rule (§ 220.4(g)), effective August 11, 1980. The new rule is self-contained and does not incorporate by reference the conditions of the regulation applicable to general customers, as did the prior rule.

Since the prior order temporarily suspending the applicability of §§ 220.3(d)(5) and 220.3(i) to options specialists will no longer be necessary, the Board hereby rescinds that prior order effective August 11, 1980 (the date the amendment to § 220.4(g) becomes effective).

By order of the Board of Governors of the Federal Reserve System, June 11, 1980.

Griffith L. Garwood,

Assistant Secretary of the Board.

[FR Doc. 80-18196 Filed 6-16-80; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[Policy Statements Amendment No. 71; Docket 37982; PS-94]

Domestic Passenger Fare Flexibility

AGENCY: Civil Aeronautics Board.

ACTION: Interim policy statement.

SUMMARY: The CAB broadens the zones within which airlines may set domestic passenger fares with limited risk of suspension by the agency. This interim policy includes full downward flexibility in all markets, and full upward flexibility for flights up to 200 miles. For flights between 200 and 400 miles, airlines may set fares up to 50 percent above the standard industry fare level, and for flights over 400 miles, 30 percent above. This policy is designed to counteract a bias against short-haul markets that is built into the previous zone of fare flexibility and to ease the transition to the full pricing deregulation that is mandated by the Airline Deregulation Act. Member Schaffer dissents and would allow additional flexibility only on an across-the-board basis rather than on a system which differentiates among markets on the basis of distance.

DATES: The policy was put into effect May 14, 1980. The amendments of 14 CFR Part 399 are effective June 11, 1980.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, 202–673–5442, or Julien R. Schrenk, Chief, Domestic Fares and Rates Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5298.

SUPPLEMENTARY INFORMATION:

Introduction

In a recent notice of proposed rulemaking, the Civil Aeronautics Board invited comments on six options to make domestic passenger fare policies more flexible (PSDR–66; 45 FR 24178; April 9, 1980) (the NPRM).

After considering the comments the Board decided, at its May 13, 1980, public meeting, to adopt the following combination of the proposed options as an interim policy: full downward flexibility in all markets; full upward flexibility for flights up to 200 miles; 50 percent upward flexibility for flights between 200 and 400 miles; and 30 percent upward flexibility for flights above 400 miles. The percentages are based on the standard industry fare level. This new flexibility is limited, at least for now, to flights within 48 contiguous States and the District of Columbia. The Puerto Rico/Virgin Islands, Hawaii, and Alaska markets will be addressed later in other policy statements.

The Board announced at the meeting that the policy would become effective the next day (May 14). Meanwhile, certain United States Senators filed a Motion for Reconsideration, and Ralph Nader and the Aviation Consumer Action Project filed a Motion for Stay. For the reasons discussed below, we are granting the Motion for Reconsideration, requesting comments to be submitted by July 17, 1980 and reply comments by August 1, 1980, (PSDR–66A, also issued today), and denying the Motion for Stay.

Background

The Board's domestic fare policy in effect before the May 13 decision was established in PS–80 (43 FR 39522; September 5, 1978), as modified by the Airline Deregulation Act of 1978, Pub. L. 95–504, and PS–92 (45 FR 24115; April 9, 1980). As set forth in 14 CFR Part 399, Subpart C, it allowed certificated air carriers, without providing justification to the Board, to establish fares ranging up to 5 percent, 10 percent, or more above the standard industry fare level (SIFL). Where four or more carriers had nonstop authority, the upper limit was 10 percent above the SIFL. In all other markets, the upper limit was 5 percent. Local service carriers, however, could set their fares as much as 30 percent above the SIFL fare formula.[1] The downward limit of the zone of flexibility was generally 50 percent below the SIFL, and 70 percent below for up to 40 percent of a carrier's weekly available seat-miles. Finally, all carriers had unlimited upward and downward pricing freedom on flights with aircraft up to 60 seats.

The Proposal

We proposed in the NPRM a wide range of options for increasing domestic fare flexibility. The regulation of route

[1] By "SIFL" we mean the predominant fare in effect on July 1, 1977, as updated periodically for cost increases, unless otherwise specified. The "SIFL" fare formula" refers to the updated Domestic Passenger Fare Investigation fare formula published by the Board from time to time in accordance with section 1002(d)(6)(B) of the Federal Aviation Act.

entry has been substantially ended in domestic markets; any fit carrier may enter a new route with only a minimum of waiting time, and subject only to consideration of environmental, safety, and specific local factors. The Board has been concerned, however, that the existing upward restraints on pricing, despite some liberalization, may be limiting various aspects of competition, including innovative pricing and the willingness of carriers to remain in existing markets and take risks in new ones. We also have been especially concerned about the undisputed fact that the old cost formulas upon which the fare restraints are based are biased against—that is, understate the costs of—short-haul routes. This may be causing loss of service in some of these markets, where the need for regulatory protection is less because of the availability of competitive surface transportation. Furthermore, there has been some evidence that despite frequent updating of the SIFL, airline yields have not kept pace with rapidly rising costs, and there is no question that the airline industry as a whole is experiencing large losses. The Board is of the opinion that the transition to deregulation of airline pricing should not proceed from relatively tight regulation to no regulation overnight, but should include a period of relative pricing freedom while the Board is still in a position to act upon evidence of abuse or major dislocation.

The proposed options were as follows:

I. Full downward flexibility in all markets.

II. 10 percent upward flexibility in two- and three-carrier markets as already allowed in four carrier-markets.

III. Full upward flexibility for flights up to 200 miles, coupled with 30 percent upward for 200–400 miles markets. [VARIATIONS: A higher percentage or unlimited flexibility for 200–400 mile markets.]

IV. Full upward flexibility for a portion of each carrier's available seat-miles each week in each market. [VARIATIONS: Measure by month, quarter, or 6-month period; apply to system instead of each market.]

V. 30 percent upward flexibility in all markets. [VARIATIONS: 50 percent upward for 0–200- or 0–400-mile markets.]

VI. Full upward flexibility in all markets.

The Comments

Twenty-three comments were filed in response to the NPRM, by air carriers, air carrier organizations, civic parties, consumer representatives, and others. A list of the commenters is attached as an Appendix. Most supported and none objected to Option I, full downward fare flexibility. We find little or no public interest in inhibiting fare reductions, and therefore we have adopted Option I. Predation continues to be a basis for suspension at any fare level, under guidelines set forth at § 399.32(b).

The comments on upward flexibility varied. The Airline Passengers Assocation, New York State Department of Transportation, and most of the air carriers supported full upward flexibility. They argued that this approach would best enable carriers to set prices to recover costs and meet consumer demand, and that actual and potential competition are now adequate to prevent abuse of market power. The carriers pointed out the current rapid financial deterioration of much of the airline industry, and the need for substantially greater management freedom to find its way through the crisis. They argued that unlimited pricing freedom is needed to provide the public with greater price and service options, to allow innovation by management, and forestall excessive service discontinuances.

USAir stated that we do not have the authority to adopt full upward flexibility, and suggested instead that we set the upper limit of the zone at 50 percent above SIFL in all markets. TWA suggested 30 percent as a general upper limit, with a possible 50 percent in short-haul markets and 5 percent in monopoly markets. Most supporters of increased upward flexibility opposed Option IV (full upward flexibility for a portion of each carrier's available seat-miles) as administratively unworkable. Bell Helicopter supported a combination of that option for markets over 400 miles with broader flexibility (Option III) for the short-haul markets. Also supporting broader flexibility in short-haul markets than elsewhere were Republic Airlines and, as an alternative to full upward flexibility, Piedmont Aviation. Several commenters urged that we treat all markets consistently, rather than distinguishing by flight length. They argued that such distinctions would continue distorted allocation of resources caused by regulatory controls.

The commenters opposing substantially broadened upward fare flexibility were the U.S. Office of Consumer Affairs (Esther Peterson), Ralph Nader and the Aviation Consumer Action Project (Nader/ACAP), the Commonwealth of Puerto Rico, and the Indianapolis Airport Authority. Puerto Rico discussed only Mainland-Puerto Rico markets, which we will address in a later document.

Esther Peterson and Nader/ACAP argued that our proposal was inconsistent with the Congressional intent to deregulate domestic air transportation on a fixed timetable. They noted that the Airline Deregulation Act of 1978 specifies December 31, 1981, as the end of our authority over routes (except for fitness determinations), and January 1, 1983, as the end of our authority over fares. They noted also that the Deregulation Act explicitly authorizes us to widen the statutory zone of reasonableness downwards but is silent on raising the upper limits, and argued that this prohibits our proposed increases in upward fare flexibility. Nader/ACAP argued further that the statutory flexibility of 5 percent over a level that is frequently updated for cost increases is adequate, and that broadening this zone would be an abdication of the Board's duty to protect the traveling public from unjustified price increases. Indianapolis argued that, despite the Board's liberal entry policies, competition is not yet strong enough to warrant any substantial increases in upward flexibility. Urging us to proceed more gradually, Indianapolis suggested that carriers wishing to increase prices more than 10 percent above the SIFL in a market should have to offer equivalent price reductions for the same amount of capacity in that market during off-peak hours or days.

Response to Comments

On the basis of the comments and the reasoning set forth in the NPRM, we have decided to establish the full/50/30 percent scheme of upward flexibility discussed above. This is a combination of the proposed Options III and V.

At the outset, we reject the argument that we have no authority to establish zones of fare flexibility that are broader than the one set forth in the Airline Deregulation Act. The statutory zone represents a range within which Congress chose to guarantee flexibility to air carriers by eliminating Board *jurisdiction* over the reasonableness of fares. As we stated in PS-92 when adopting 10 percent upward flexibility in certain markets,

> By now allowing the carriers some pricing flexibility above the ceiling with limited risk of suspension, we are simply establishing guidelines for the exercise of our discretionary suspension power. We are not relinquishing our *jurisdiction* over fares outside the statutory zone. In this regard, [the] observation that Congress has expressly given us the authority to disclaim jurisdiction over the reasonableness of fares below the floor of the statutory zone by increasing the downward zone but failed to give us similar authority to increase the upward zone is

correct. But it is not relevant. (emphasis in original)

We are retaining jurisdiction over the reasonableness of all fares that are outside the statutory zone, including those within the new limits. We can investigate any such fare and find it unlawful. The new policy merely states that we will ordinarily not suspend it while an investigation is in progress. Moreover, we will suspend a fare within the new limits when necessary, that is, when we find an abuse of market power that we do not expect to be corrected through marketplace forces. This might occur in markets that are subject to airport slot constraints, for example, or that involve isolated small communities.

We disagree also with the argument set forth by the Indianapolis Airport Authority that the current state of competition is such that a substantial increase in fare flexibility is inadvisable. Indianapolis stated that in 1979, a group of 17 new entrants collectively offered only 2 percent of industry capacity and carried only 6 percent of the traffic. It argued further that competition between existing certificated carriers is not effective, in that these carriers emphasize service competition over price competition on all but the most lucrative routes.

It is our judgment that competition faced by the certificated airlines, especially among themselves, is far sharper than the picture posed by Indianapolis. Also, in the shorter routes commuter airlines, which are not reflected in the figures cited by Indianapolis, provide competition that has substantially increased since passage of the Deregulation Act. More importantly, however, it is our opinion that the discipline of the marketplace cannot be simply measured by looking at the overt behavior of the existing carriers or the number of carriers in a given market. This subject is discussed in detail in Appendix D of the NPRM. The Board's fundamental policy premise, and that of the Airline Deregulation Act itself, is that the prices set by the sellers of services, where unhindered by restricted entry or governmentally-applied limits, tend to be the "right" price in terms of costs and efficient utilization of resources, whether or not the sellers indulge overtly in the frequent price movements that are commonly associated with "price competition." The public's acceptance or rejection of the carrier's services is the chief restraining force, reinforced by the threat or reality of new entry in those cases where a carrier is exploiting a special situation with monopolistic behavior. We cannot accept Indianapolis's underlying premise that government price regulation is needed in all cases except those where carriers are behaving in some approved manner. If that were valid, general deregulation of air fares would probably be never achievable, and never justified.

We rejected Option II, which would have merely extended 10 percent upward flexibility from four-carrier markets to all markets, as inadequate. We must set the upper limit high enough so carriers will have to decide for themselves how much to increase fares, rather than ritually taking the entire increase authorized each time we update the SIFL for industry-wide cost increases.

We rejected Option IV because we agreed with the commenters that allowing flexibility on a portion of a carrier's available seat-miles would be too complex for both carriers and the Board to administer. Linking prices more than 10 percent over SIFL to equivalent price reductions in the same markets, as suggested by Indianapolis, would be similarly unworkable.

We rejected Option VI because full upward flexibility in all markets is not necessary at this time. The combination of Options III and V that we have selected appears to provide enough flexibility while preserving a measure of Board oversight during the transition to full pricing deregulation on January 1, 1983.

From proposed Option III we have selected unlimited upward flexibility for markets up to 200 miles. As discussed in detail in the NPRM, the SIFL is based on a formula that is biased against short-haul markets. It understates the costs of providing jet service most severely in the markets under 200 miles. We do not want our fare policy to force jet aircraft out of shorter-haul markets because they are uneconomic, without giving carriers the opportunity to see if the community is willing to purchase jet service at a higher fare. To some extent the previous fare ceiling may have already caused some certificated carriers to leave markets that they might otherwise have retained. For example, in early 1979 many intra-California routes came under Federal jurisdiction for the first time. Fares in those markets has been held at low levels by the State's Public Utilities Commission. When Hughes Airwest filed with the Board to raise fares to the interstate SIFL we suspended the fares and issued a rule to phase in higher fares in California, despite the carrier's objection that the fares were uneconomic. Our attempt to help the consumer by constraining fare increases was followed by a withdrawal by certificated carriers from some short-haul California markets. Given a choice, communities may prefer a less expensive commuter service in these markets, but again that decision can and should be made by consumers in the marketplace. It should not be the inevitable outcome of a Federal regulatory policy that effectively dictates the type of service to be delivered in a market.

If it appeared that there were many situations, among markets of less than 200 miles, in which monopolistic behavior might even transitionally lead to unreasonably high fares, we would not eliminate the ceiling. But these markets are very competitive. Nearly 40 percent of the service is provided by commuter airlines. The fares of these carriers have never been regulated by the Board, yet they have rarely been more than 30 percent above the SIFL, even in their monopoly markets. In addition to commuters, whose costs are lower than jet operators', pricing competition in these markets comes from the automobile, bus, and, to a lesser extent, the train. Appendix B of the NPRM shows that for a trip up to almost 150 miles it is less expensive to drive than to fly. And, if there is more than one person traveling, ground travel becomes very competitive even for long trips. These observations are similar to the results of a study by Boeing Aircraft, a copy of which has been placed in the docket.

For markets between 200 and 400 miles we have chosen 50 percent upward flexibility, also from Option III. In this range the SIFL formula is still distorting, and we did not believe that a 30-percent zone would give enough flexibility in all cases to cover costs, invite new entry and develop more innovative pricing schemes. On the other hand, the distortion is less, and the absolute amounts of the fares are higher, so that on balance a 50 percent upward zone appears sufficient at this time.

For markets over 400 miles, the formula from which the SIFL derives was designed so that coach fares would be at or above average costs. The 30 percent upper limit of Option V therefore appears to provide ample flexibility. It also enables us to adjust the SIFL for cost increases twice a year, as set forth in section 1002(d) of the Act, instead of more often as we have been doing recently under the pressure of rapidly escalating fuel costs.

Grant of Reconsideration

After the May 13 announcement and while this interim policy statement was being prepared, 11 U.S. Senators filed a

motion for reconsideration. While noting that we had followed proper rulemaking procedures, and that the action was "effective on an interim basis," they stated that the action chosen by the Board was unexpected, and had generated considerable interest among public officials and local communities that had not filed comments. They urged that we grant reconsideration and allow another round of public comments. We are granting the motion. The new policy was intended from its inception to be an interim one, with our reexamination to begin immediately. A further round of comments will be useful for several reasons. The publicity following the May 13 announcement has generated widespread interest in fare flexibility among persons who did not comment on the NPRM. In addition, commenters can now focus on a single policy intead of having to address a broad range of alternatives. Finally, further comments can help us in assessing the actual effects of the new policy. By PSDR-66A, also issued today, we are requesting comment on this interim policy statement, to be submitted by July 17, 1980 with reply comments by August 1, 1980.

Denial of Stay

Nader/ACAP filed a motion to the Board to stay "its decision concerning upward fare flexibility made at the 'sunshine meeting' on May 13, 1980." The motion noted the standards set forth by the U.S. Court of Appeals for the D.C. Circuit for a court deciding whether to stay a final agency action, and argued that they apply to and are satisfied by this case: (a) Whether the petitioner has made a strong showing that it is likely to prevail on the merits; (b) whether the petitioner has shown that without such relief it will be irreparably injured; (c) whether the issuance of a stay would substantially harm other parties interested in the proceedings; and (d) where the public interest lies. *(Washington Metropolitan Area Transit Comm.* v. *Holiday Tours,* 550 F.2d 841 (D.C. Cir. 1977).) For the reasons that follow, we deny that motion.

1. The policy statement is not an appropriate stage at which to review the Board's action. The policy statement by itself makes no changes in any airline fares. For any such change to take place, an air carrier must file a tariff with the Board, against which any parties, including the petitioners, may file a complaint. If and when the Board dismissed the complaint, that would be a more appropriate point for any administrative or judicial review action petitioners wished to take. This distinction is not merely a matter of timing, although 7that is important enough. The policy statement zones are not rules. Tariffs filed for fares within the zones may be suspended upon a clear showing of abuse of market power that the Board does not expect to be corrected through marketplace forces. Conversely, tariffs filed for fares outside the zones may be accepted by the Board if they are sufficiently justified by the carrier filing them. Thus, the policy statement should not be a candidate for any type of stay or other review action at this time.

2. The likelihood of success on the merits is insubstantial. Opinions may indeed differ as to whether the Board action was envisioned by Congress when it enacted the Deregulation Act. But it is clear from section 1002 and cases interpreting virtually identical suspension provisions in other statutes that Congress has given the Board the power to do what it did. As pointed out above, in setting up the statutory fare flexibility zones, Congress removed Board jurisdiction within those areas. But the Board's administratively-established zones have a different effect—they establish guidelines for use of discretionary suspension power, not for a relinquishing of jurisdiction. As such they in no way conflict with the statutory zones.

3. Not only have Nader/ACAP failed to show that they or anyone else would be irreparably injured by not staying the policy statement, they have not shown, nor can we imagine how they could show, that they would be injured at all. Their arguments read as if the action mandates a large increase in all air fares. To the contrary, the board's action gives the airlines increased flexibility to decide what fares they will charge.

Miscellaneous

We take this occasion to clarify our policy about fares for through service and on-line connecting service. That policy has long been to allow a carrier to set fares up to the sum of local fares minus one terminal charge for each local fare after the first. It appears now in a new § 399.33(c). Since this amendment is a general statement of policy that has already been in effect, the Board finds that notice and public procedure are unnecessary and contrary to the public interest and that the amendment may become effective immediately.

The final rule also restores § 399.35, which sets out Board policy on Special Tariff Permission. That section was adopted in PS–91 (45 FR 20071, March 27, 1980) and inadvertently deleted by PS–92 (45 FR 24115, April 9, 1980). Since this restoration of § 399.35 merely corrects a clerical error in a policy statement and makes no substantive change, the Board finds that notice and public procedure are unnecessary and contrary to the public interest and that the amendment may become effective immediately.

All Members concurred in the adoption of the Policy Statement except Member Schaffer who filed the following dissenting statement:

Schaffer, Member, Dissenting:

Without question, circumstances call for the Board to extend a greater measure of fare flexibility to our domestic air carriers. In fact, present difficult economic circumstances make the case for increased pricing flexibility compelling. For pricing flexibility to work, or for that matter for price experimentation to be encouraged, the carriers must have an expanded zone of flexibility.

Unfortunately, the severe inflation of the past year, particularly the rapidly escalating price of fuel has all but neutralized the effect of the fare flexibility provisions of the ADA. When one adds the uncontrollable regulatory lag required by the ratemaking process, it readily becomes apparent that the limited upward fare flexibility now available—5 or 10 percent for trunk carriers and 30 percent for locals—does not provide a sufficiently large zone for carriers to experiment. What happens in such circumstances and unfortunately what we have seen for the past year is that the SIFL—the base from which the zone of reasonableness is calculated—becomes the upward price leader. The industry, responding to rapidly escalating costs, can do nothing more than follow the lead of the recalculated SIFL by uniformly adopting, on an across-the-board basis, whatever increases our calculations allow.

Thus, I agree with my colleagues that an additional measure of pricing flexibility is necessary now. I have already indicated that I favor additional upward fare flexibility, perhaps as much as 30 percent across the board. I differ with my colleagues on the method chosen, a proposal which embodies a system of a market differentiation based on distance: unlimited upward flexibility in short-haul markets up to 200 miles, 50 percent in markets between 200 and 400 miles and 30 percent in markets over 400 miles. In short, my main concern is the magnitude of the flexibility granted in short-haul markets, particularly the unlimited flexibility granted in markets under 200 miles, and the fact that the Board's action can be perceived as discriminating against those very short-haul, less dense markets that have already borne the brunt of excessive service cutbacks and abnormally high fare increases. Consumers of air transportation in many short-haul markets have already suffered adversely from the effects of airline deregulation. The Board's action in these markets seems to single out these beleagured airline consumers unfairly, subjecting them to potentially greater air fare cost escalation than those consumers in the long-haul markets. Thus, in the absence of compelling evidence to the contrary, I believe that the 30 percent ceiling for long-haul flights would, in the vast majority of markets, permit

price variations sufficient to justify the continuation of jet service for short-haul flights. Accordingly, I would accept that ceiling for all flights on an across-the-board basis.

The lack of evidence that additional flexibility is needed in short-haul markets is demonstrated by the fact that the initial impetus for additional fare flexibility has come from the trunk carriers and among them from those generally serving long-haul routes. It is apparent that the additional measure of fare flexibility available to local service carriers as a result of the DPFI generally is sufficient to allow them, carriers serving predominately shorter haul routes, to cover the higher costs of short-haul jet aircraft operations. It seems anomalous to take action which could have the effect of substantially increasing the relative level of short-haul fares when the remedy was designed to cure a different ailment; it is primarily the poor performance of the trunk carriers that has been the motivating factor for Board action in granting greater fare flexibility at this time. While it is true that some local service carriers have reported losses recently, that segment of the industry has been generally healthy; the local service carriers seem to have responded better to a deregulated environment than the trunks and an additional 30 percent zone, rather than 50 percent or unlimited flexibility should afford the locals, and trunk carriers serving short-haul markets who would be allowed to match their fares, a full measure of flexibility to price their product competitively.

On the other hand, I appreciate that the cost characteristics of short-haul markets in which large jet aircraft are utilized may be incompatible with the SIFL cost curve and that this variation provides justification for a distinction based on mileage. However, in my view, it would be better to abrogate the distortions of the DPFI by adopting a zone large enough to make the differences meaningless, rather than to perpetuate them as the majority has done. By such action we avoid the distortions inherent in a plan which, while allowing carriers total freedom to price their product in some markets, could be perceived as permitting them to abuse their market power in shorter haul, less dense markets, without any guarantee that the passenger will receive improved service to offset increased fares. It is doubtful, as the California experience has shown, that the increased flexibility afforded by the Board above and beyond that available in long-haul markets will either cause a shift of large jet aircraft service back to short-haul service or will slow down large aircraft service reductions.

Insofar as it allows total pricing freedom in some markets now—those under 200 miles—rather than in 1983, the Board's interim rule seems inconsistent with the Congressionally mandated scheme of the ADA. Similarly, the scheme of the Act was to limit, if not eliminate, the discriminatory treatment of different types of markets. To the extent that the Board's action perpetuates those distinctions, Congressional intent appears to have been violated a second time. Congress was aware of the distortion inherent in the DPFI cost curve when it utilized it as a basis for the zone of reasonableness enacted into law. Cost increases were to be recognized by the Board at least twice yearly and the zone was to shift to reflect those changes in the same way for all markets and all carriers. To the extent that the present Board rule appears to discriminate on the basis of distance, I believe it inconsistent with the scheme of the Act which sets the transition to full deregulation in motion.

I also see danger in allowing total upward fare flexibility in markets where there are major airport access problems. It is dangerous, in my judgment, to allow unlimited freedom, even if subject to CAB oversight, in many constrained short-haul routes particularly in the East. Numerous important short-haul markets, many under 200 miles, involve service at airports which are capacity controlled or at which potential competition is not and cannot be effective in controlling the pricing decisions of the incumbents. The best examples of the former are Washington National and LaGuardia and the protection accorded to Eastern in the conduct of its short-haul shuttle operation between Washington and New York, and New York and Boston. No competitor could offer to provide an effective competing service because of its inability to secure slots at both National in Washington and LaGuardia in New York. Potential competition may also be ineffective in many Atlanta markets because of the synergistic effect of networking enjoyed by Delta and Eastern. Obviously, these are the markets where price controls are justified, if they are justified anywhere. Yet the Board would remove all controls for short-haul markets under 200 miles, and permit a higher flexibility ceiling for short-haul markets under 400 miles without reference to the possible adverse effects upon the consumer of air transportation.

Actions by many carriers in recent days provide ample evidence that the industry has not yet been able to avoid the bad habits that have characterized pricing strategy and initiatives in the past. Since promulgation of the interim rule, many carriers have sought additional across-the-board fare increases without reference to the differing cost and demand characteristics of individual or groups of markets. While some increases have not been uniformly applied, the carriers do not yet seem to recognize that pricing strategies should be based on cost and demand characteristics that vary from market to market. While this suggests that there is nothing to lose from allowing differentials based on distance since the airlines will price on a uniform basis anyway, it does demonstrate that the carrier managements may be insensitive to differences in demand characteristics and may be induced to take whatever increase they can get, whenever they can get it, to the detriment of the shorter haul markets where greater freedom will be allowed. It appears to me that a 30 percent flexibility band is more than enough to permit adequate increases in short-haul markets while protecting the consumer from bearing a disproportionate burden of increased prices.

For these reasons I dissent from the Board's interim rule on fare flexibility.

Gloria Schaffer

PART 399—STATEMENTS OF GENERAL POLICY

Accordingly, the Civil Aeronautics Board amends Subpart C of 14 CFR Part 399, *Statements of General Policy*, as follows:

1. The Table of Contents is amended by adding a new § 399.35, to read:

Subpart C—Policies Relating to Rates and Tariffs

Sec.

* * * * *

399.35 Special Tariff Permission.

* * * * *

2. Section 399.32 is amended to read:

§ 399.32 Zone of limited suspension for domestic passenger fares.

(a) *Applicability.* This section sets forth the Board's policy on passenger fares for scheduled service by certificated air carriers within the 48 contiguous states and the District of Columbia, except to the extent that greater flexibility is set forth in § 399.33.

(b) *Downward flexibility.* Each carrier may set fares in each market at any amount below the SIFL. The Board will not suspend such a fare on the ground that its level is unreasonable, except in the following extraordinary circumstances:

(1) There is a high probability that the fare would be found to be unlawful after investigation;

(2) There is a substantial likelihood that the fare is predatory so that there would be an immediate and irreparable harm to competition if the fare were allowed to go into effect;

(3) The harm to competition is greater than the injury to the traveling public if the proposed fare were unavailable; and

(4) The suspension is in the public interest.

(c) [Reserved]

(d) *Upward Flexibility.* Each carrier may set fares above the SIFL as follows, and where they are so set, the Board will not suspend them on the ground that their level is unreasonable except upon a clear showing of abuse of market power that the Board does not expect to be corrected through marketplace forces:

(1) At any level, for markets whose shortest authorized airport-to-airport mileage is less than or equal to 200 miles;

(2) Up to 50 percent above the SIFL, for markets whose shortest authorized airport-to-airport mileage is more than 200 miles but not more than 400 miles; and

(3) Up to 30 percent above the SIFL in all other markets.

(e) *Fares above the zone.* Tariff filings that state fares above the applicable zone must include the data and information set forth in § 221.165 of this chapter. For peak fares, this must include a description of the carrier's off-peak fares that are available in the market. The Board will suspend a fare above the zone that it finds not to be justified by cost or competitive factors.

3. In § 399.33, paragraph (c), *Local service carriers,* is retitled and amended to read:

§ 399.33 Additional fare flexibility.

For scheduled service within the 48 contiguous States and the District of Columbia, certificated air carriers have the following fare flexibility in addition to that set forth in § 399.32:

* * * * *

(c) *Through service and on-line connecting service.* For through service and on-line connecting service, carriers may set their fares up to the sum of the local fares minus one tax-rounded coach ceiling terminal charge for each local fare after the first, if that level is higher than the ceiling set forth in § 399.32(d). The Board will not suspend such a fare on the ground that its level is unreasonable except upon a clear showing of abuse of market power that the Board does not expect to be corrected through marketplace forces.

4. A new § 399.35 is added, to read:

§ 399.35 Special Tariff Permission.

(a) *Definition.* As used in this section, "to grant STP" means to approve a carrier's application for Special Tariff Permission to file a tariff on less than the statutory notice set forth in § 221.160(a) of this chapter.

(b) *Lower fares, rates, and charges.* It is the policy of the Board to grant STP for tariffs that state lower fares, rates, or charges and any rules affecting only those lower fares, rates, or charges, except that:

(1) The Board will not grant STP to match a tariff filed on statutory notice; and

(2) The Board will not grant STP if the proposed fares, rates, charges, or rules raise significant questions of lawfulness, that is, could reasonably be expected to be found unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or predatory, under current statutory or Board guidelines. In these situations, if the carrier files the tariff on statutory notice and at the same time applies for STP to advance the tariff's effective date, the Board will use its best efforts to act within 15 days to grant or deny STP.

(c) *Higher fares.* For tariffs that state higher passenger fares, and any rules affecting only those fares, the Board's policy on STP is, except in unusual or emergency circumstances:

(1) To grant STP if the resulting fares are within a statutory or Board-established zone of presumed lawfulness; and

(2) Otherwise, to deny STP.

(Secs. 204, 403, 404, and 1002 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, 765, and 788, as amended, 49 U.S.C. 1324, 1373, 1374, and 1482.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

Appendix

Comments on PSDR-66 Were Filed by:

Airline Passengers Association
Air Transport Association of America (on behalf of certain carrier members)
Aloha Airlines
American Airlines
Bell Helicopter Textron
Big Sky Airlines
Braniff Airways
Commonwealth of Puerto Rico
Commuter Airline Association of America
Continental Air Lines
Delta Air Lines
Hawaiian Airlines
Indianapolis Airport Authority
New York State Department of Transportation
Pacific Southwest Airlines
Pan American World Airways
Piedmont Aviation
Ralph Nader and the Aviation Consumer Action Project
Republic Airlines
Trans World Airlines
United Air Lines
USAir
U.S. Office of Consumer Affairs (Esther Peterson)

[FR Doc. 80-18194 Filed 6-16-80; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Enforcement Policy Statement Regarding Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising for Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Enforcement Policy Statement Regarding Compliance with the Labeling Requirement of the Rule.

SUMMARY: On November 19, 1979 (44 FR 66466) the Federal Trade Commission issued a final rule that requires the disclosure of energy cost or efficiency information for the following categories of appliances: refrigerators and refrigerator-freezers, freezers, dishwashers, clotheswashers, water heaters, room air-conditioners and furnaces.

Due to Commission delays in publishing the information necessary to enable industry members to prepare labels, some affected industry members may have experienced difficulty in printing and distributing the required materials by May 19, 1980, the effective date of the rule.

The Commission, therefore, announces that it will take no enforcement action for failure to label under the rule with respect to products manufactured during the period from May 19, 1980, through July 3, 1980, provided the responsible industry member can show it has made a good faith effort to label and that failure to label was caused by the delay in publication of the ranges.

EFFECTIVE DATES: This enforcement policy is made effective retroactive to May 19, 1980.

FOR FURTHER INFORMATION CONTACT: Lucerne D. Winfrey, 202-724-1453, or James Mills, 202-724-1491, Attorneys, Federal Trade Commission, 414 11th Street, N.W., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Section 305.8 of the rule requires affected members of the appliance industry to submit to the Commission information relating to the energy cost or energy efficiency rating of covered products. On March 3, 1980 (45 FR 13998), the Commission published the ranges of energy cost or energy efficiency ratings for the appliances covered by the rule. This information is for use by the industry in preparing required labels, sheets and other materials.

After publication of ranges, the Commission discovered certain technical errors, and published corrections on March 25, 1980 (45 FR 19520). This second notice published the revised ranges for all seven categories of covered products.

The Commission found that the new information published on March 25 contained errors that were not ascertainable before publication. The Commission corrected these errors by notice published on April 17, 1980 (45 FR 26036). This third notice published the revised ranges for furnaces and gas-fueled water heaters only.

The Commission is aware that it may have been very difficult for many affected industry members to prepare their labels and fact sheets in time to distribute and affix them to products manufactured on or after May 19, 1980. The Commission recognizes that this difficulty may have arisen as a result of the delay in final publication of the ranges of comparability.

The Commission, therefore has decided to issue this enforcement policy statement in an effort to clarify and remedy this situation.

By Direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-18198 Filed 6-16-80; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-6212; 34-16829; 35-21586; 39-567; IC-11181; IA-722]

Comprehensive Revision of Regulation Concerning Conduct of Members and Employees and Former Members and Employees; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Final rules; correction.

SUMMARY: This document corrects FR Doc. 16315 appearing at page 36063 in the **Federal Register** of May 29, 1980. On page 36066, in the second column, par. (iii), the reference should be to (ii) above; in footnote 7 the reference should be to paragraph (5) of this section. On page 36067, in the second column, in footnote 11 the reference should be to paragraph (b)(2)(v)(B) of § 200.735-3; in the third column, par. (B), the reference should be to paragraph (b)(6)(vi)(A) of this section. On page 36070, in the third column, in § 200.735-6 the reference should be to § 200.735-3 (7) and (8). On page 36072, in the third column, in footnote 25 the reference should be to Rule 5.

FOR FURTHER INFORMATION CONTACT:

Myrna Siegel, Ethics Counsel, Securities and Exchange Commission, Washington, D.C. 20549 (202) 272-2430.

George A. Fitzsimmons

Secretary.

June 9, 1980.

[FR Doc. 80-18190 Filed 6-16-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 103 and 171

[T.D. 80-160]

Availability of Information; Fines, Penalties, and Forfeitures

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

ACTION: Final rule.

SUMMARY: The guidelines used by Customs for mitigation of claims for monetary penalties assessed pursuant to section 592, Tariff Act of 1930, as amended, were recently approved by the Treasury Department. This document advises the public that the mitigation guidelines are available, upon request, from Customs. The fact that the mitigation guidelines are available is also incorporated in the Customs Regulations.

EFFECTIVE DATE: June 17, 1980.

FOR FURTHER INFORMATION CONTACT:

Marilyn Morrison, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-8317).

SUPPLEMENTARY INFORMATION:

Background

The Customs Procedural Reform and Simplification Act of 1978 (Pub. L. 95-410), approved October 3, 1978 (the "Act"), made numerous amendments to statutes administered by Customs which relate to fines, penalties, forfeitures, and liquidated damages for violations of customs and navigation laws. Under the Act, section 592, Tariff Act of 1930 (19 U.S.C. 1592), relating to entry of merchandise by fraud or negligence, was amended.

New Procedures were adopted for the imposition of a monetary penalty or, in limited circumstances, for the seizure of merchandise, for a violation of 19 U.S.C. 1592 in a document published as Treasury Decision 79-160 in the **Federal Register** on June 4, 1979 (44 FR 31950). Guidelines used by Customs for the mitigation of claims for monetary penalties assessed pursuant to 19 U.S.C. 1592 were recently approved by the Treasury Department. This document advises the public that the mitigation guidelines are available upon request from Customs and amends the Customs Regulations as set forth below.

Notice of Availability of Mitigation Guidelines

The guidelines for mitigation by Customs of claims for monetary penalties assessed pursuant to section 592, Tariff Act of 1930, as amended, as approved by the Treasury Department on March 7, 1980, are available upon written request to the Commissioner of Customs, Attention: Office of Regulations and Rulings, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in accordance with Part 103, Customs Regulations (19 CFR Part 103), relating to the availability of information.

Amendments to the Regulations

Parts 103 and 171, Customs Regulations (19 CFR Parts 103, 171), are amended as set forth below:

PART 103—AVAILABILITY OF INFORMATION

§ 103.7 [Amended]

Section 103.7, Customs Regulations, is amended by inserting "Guidelines for Mitigation of Claims for Monetary Penalties Assessed Pursuant to Section 592, Tariff Act of 1930, as amended", in appropriate alphabetical order in the listing of documents in the section.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 171—FINES, PENALTIES AND FORFEITURES

Subpart C of Part 171, Customs Regulations, is amended by adding a new § 171.23 to read as follows:

§ 171.23 Availability of mitigation guidelines for monetary penalties assessed pursuant to section 592, Tariff Act of 1930, as amended.

The guidelines used by the Customs Service for the mitigation of claims for monetary penalties assessed pursuant to section 592, Tariff Act of 1930, as amended, are available upon written request to the Commissioner of Customs, Attention: Office of Regulations and Rulings, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

Inapplicability of Public Notice Requirement and Delayed Effective Date

Because the subject matter of this document does not constitute a departure from established policy or procedures, and is totally informational in nature, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary and contrary to the public interest. Further, for the same reasons, good cause exists for dispensing with the delayed effective date provisions of 5 U.S.C. 553(d).

Regulation Determined to be Nonsignificant

In the directive implementing Executive Order 12044, the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the **Federal Register** and codified in the Code of Federal Regulations to be "significant". However, regulations which are nonsubstantive, are essentially procedural, do not materially change existing or establish new policy, and do not impose substantial additional requirements or costs on, or substantially alter the legal rights or obligations of, those affected, may, with Secretarial approval, be determined not to be significant. Accordingly, it has been determined that this document does not meet the Treasury Department criteria in the directive for "significant" regulations.

Drafting Information

The principal author of this document was John E. Elkins, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William T. Archey,
Acting Commissioner of Customs.

Approved: June 6, 1980.

Richard J. Davis,
Assistant Secretary of the Treasury.

[FR Doc. 80-18197 Filed 6-16-80; 8:45 am]
BILLING CODE 4810-22-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Ch. I

Redesignation of the Department of Health, Education, and Welfare as the Department of Health and Human Services

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is amending Chapter I of Title 21 of the Code of Federal Regulations to reflect the redesignation of the Department of Health, Education, and Welfare as the Department of Health and Human Services.

EFFECTIVE DATE: May 4, 1980.

FOR FURTHER INFORMATION CONTACT: Agnes B. Black, Federal Register Writer's Office (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 5, 1980 (45 FR 29642), the Department of Health and Human Services announced the redesignation of the Department of Health, Education, and Welfare as the Department of Health and Human Services, in accordance with the Department of Education Organization Act of 1979 (Pub. L. 96-88), effective May 4, 1980.

In accordance with the redesignation, FDA is amending Chapter I of Title 21 of the Code of Federal Regulations to reflect the name change.

Parts 1-1299 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Chapter I of Title 21 of the Code of Federal Regulations is amended in Parts 1 through 1299 by changing "Department of Health, Education, and Welfare" to read "Department of Health and Human Services" and "HEW" to read "HHS" wherever they appear.

Effective date: May 4, 1980.

Dated: June 9, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-17999 Filed 6-16-80; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 1000

[Docket No. 79N-0086]

General; Dental Radiographs

AGENCY: Food and Drug Administration, HHS.

ACTION: Final recommendation.

SUMMARY: The agency is issuing a recommendation that insurance carriers and other remote parties refrain from requiring administrative dental x-ray examinations. Administrative dental x-ray examinations are those required by a remote third party (other than a patient's dentist or physician) for reasons not related to the patient's immediate dental needs. These dental x-ray examinations may result in unnecessary radiation exposure to the patient. This recommendation is a part of the agency's effort to minimize unnecessary exposure of the public to ionizing radiation.

DATE: This final recommendation shall become effective June 17, 1980.

FOR FURTHER INFORMATION CONTACT: Raymond F. Coakley, Jr., Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 17, 1979 (44 FR 41486), the Food and Drug Administration (FDA) proposed to add new § 1000.60 (21 CFR 1000.60) to Subpart C—Radiation Protection Recommendations, Part 1000 of Chapter I of Title 21 of the Code of Federal Regulations. The proposal recommended that post-treatment dental x-ray examinations not be taken solely for monitoring treatment claims for reimbursement by insurance carriers.

Twelve dentists, 4 educational institutions, 5 insurance carriers, 10 professional societies, 1 government agency, and 1 public interest group submitted substantive comments. These comments and the agency's response to them follow.

1. Four comments wanted to word the recommendation positively: three said radiographs are justified only to provide a health care benefit to the patient; the other comment, emphasizing the limits of the statement in the proposed recommendation that post-treatment radiographs should not be "taken solely for use by third-party carriers," preferred a recommendation for the radiographs according to good clinical practice and pointed out that some post-treatment radiographs are essential to good clinical practice for some treatments. In general, the idea implicit in these comments was to change the recommendation from the prohibition of a "bad" practice to the promotion of a "good" practice.

The agency agrees that the recommendation should be worded positively. The recommendation has been revised to emphasize good clinical practice.

2. Three comments wanted the recommendation to be extended from radiographs taken for insurance carriers to any administrative dental radiographs, that is, radiographs taken solely or exclusively for any reason not related to the patient's immediate dental needs. One comment said the principle of taking radiographs only when the dentist believes there will be a direct benefit to the patient should be applied uniformly and not restricted to third party insurance carriers. In support of this view, the comment noted that many State board examinations and some dental schools require post-treatment radiographs for the evaluation of training, competence, and qualification

of practitioners and others, rather than for the direct benefit of the patient. In a slightly different view, an insurance carrier agreed that administrative post-treatment radiographs should not be "routinely" required, but maintained that they could be occasionally required for certain purposes. A State society wanted the record to show that it believed "very strongly that x-rays done purely for administrative purposes simply do not justify the benefit to be gained."

These comments argue for a general prohibition of administrative radiographs, not just those taken for the benefit of insurance carriers. The agency agrees that dental x-ray examinations performed for other than diagnostic reasons are generally inappropriate. Because radiation exposure is potentially harmful, as a general principle, its use is warranted only when there is a corresponding benefit to the patient exposed. Thus, the recommendation has been extended to any administratively required dental x-ray examination, whether required by insurance carriers or other remote parties. In response to the comments, the final recommendation identifies some examples of administrative purposes for dental radiographs where a direct patient benefit has not been demonstrated. These examples include dental x-ray examinations taken for third parties solely:

1. To monitor insurance claims or detect fraud;
2. To satisfy a prerequisite for reimbursement;
3. To provide training or experience;
4. To certify qualifications or competence.

Because administrative uses of radiographs taken during the normal course of treatment should not be limited in any way by the recommendation, a sentence has been added to make this intention clear. However, the request by any third party for radiographs the dentist believes unnecessary for the patient's health care adds a needless radiation insult to the patient.

3. Two comments raised an issue not addressed in the proposal, namely, administrative radiographs required before treatment. One comment calls this "the more serious problem of unnecessary pretreatment radiographs, taken solely to comply with various preauthorization requirements commonly included in dental insurance contracts." Administrative radiographs would include redundant radiographs made solely for the insurance carrier. An insurance carrier, however, makes the point that insurance companies and their consultants have a professional responsibility to require a treating dentist to submit adequate numbers of x-rays of good diagnostic quality for evaluation before determining coverage.

The agency believes that administrative requirements for radiographs are inappropriate whether for pre-treatment or post-treatment purposes. The recommendation reflects this concept. Redundant radiographic procedures, whether before or after treatment, are also inappropriate because they represent an additional radiation exposure to the patient with no added benefit. To provide duplicate films, there are less costly and easier methods that do not involve additional radiation exposure to the patient. The practitioner, not a remote third party, can best determine the necessity for a dental x-ray examination.

4. Five comments addressed the question of who should determine the need for radiographs. All these statements argue that licensed practitioners can best decide when radiographs are necessary.

The agency agrees with this argument and has addressed it in the recommendation by specifying that dentists and physicians determine the need for x-ray examinations.

5. Five comments discussed the benefits possible from post-treatment radiographs. These mention that some post-treatment radiographs are necessary, useful, and beneficial to the patient.

The agency agrees that some post-treatment radiographs are generally recognized as part of proper dental care and has generalized the recommendation to reflect this.

6. Five comments addressed the problem of assessing treatment. A dental professor, after strongly endorsing the proposal, stated that "the use of radiation for a non-health care activity cannot be condoned * * *. Noninvasive methods to assess post-treatment status should be implemented, but unnecessary risk to patients as represented through use of diagnostic radiation is totally beyond reason." Another dentist notes that "physicians have not been forced to endanger their patients with unnecessary radiation in the past and dental patients deserve the same protection. Let the carriers resort to other means that are not medically dangerous to prevent fraud or incompetence." A professional association points out that even though an alternative may be inconvenient to the dentist, the consumer, and the insurance company, it eliminates one source of excessive radiation exposure. Another society calls for cheap, accurate, and safe alternatives and suggests evidence such as a satisfaction statement signed by the patient or photographs of the study models with the denture in place or of the mouth's interior. Two comments suggested the use of dual film packs to obtain duplicate radiographs. Another comment suggests a visual exam by the consultant or a review of dental records and of previous radiographs. All comments expressed the belief that radiation is not appropriate solely for administrative reasons.

These comments present a variety of viable alternatives. The agency believes, however, that it should not endorse any particular means to assess treatment status.

7. Five comments indicated that post-treatment dental radiographs do not provide insurance carriers with complete proof of treatment. However, a sixth comment stated that in those cases where post-treatment radiographs are essential to good clinical practice and a dentist opts not to order x-rays of this type, third party payers should have the right to require them.

The practice of ordering radiographs solely on the direction of a remote third party is not conducive to good health care, whether or not such a practice is effective for other objectives. Hence, the agency believes no change in the recommendation is necessary.

8. Three comments related occasions upon which post-treatment radiographs have been required. One dentist writes, "I often receive requests from insurance companies for radiographs to substantiate conditions for which there is no need to expose the patient to radiation. The insurance companies refuse to pay for treatment if the radiographs are not taken and sent to them."

Another writer complains that a certain carrier "still refuses to compensate patients for the cost of treatment unless post-treatment radiographs are sent to them to verify the claim. Patients are therefore being subjected to unnecessary radiation solely to satisfy the company's monitoring requirements." A specialist in endodontics relates that for several years he has been making efforts to convince two carriers of the impropriety of taking post-treatment radiographs in his area of dental practice, against the carrier's contention that their requirement protects the patient from unnecessary or fraudulent treatment.

All three comments demonstrate that administrative requirements for post-treatment dental x-ray examinations still exist and the recommendation continues to be needed. This

recommendation should help dissuade third parties from continuing unnecessary radiographic requirements.

9. Two comments from professional organizations cited another source of excessive radiation exposure, namely, the poor techniques used by inadequately trained personnel. One expressed alarm at the potential dangers to which a dental patient and dental auxiliary are exposed as a result of x radiation. Many of these hazards, they went on, "result from overexposure or unnecessary exposure to radiation frequently resulting from the improper and/or inadequate radiographic techniques of untrained and/or unqualified dental auxiliaries * * *. Model national standards for qualifications of medical radiation technologists (including dental auxiliaries) are essential for the adequate protection of the public."

The agency recognizes the problem of inadequately trained medical radiation technologists. For a number of years, the agency has been concerned with the qualifications of those individuals operating medical radiation-emitting equipment. To obtain the advice and assistance of other interested individuals and groups, the agency published a Notice of Intent on National Standards for Qualifications of Medical Radiation Technologists in the **Federal Register** of March 13, 1979 (44 FR 14637). If analysis of the numerous comments obtained in response to this notice indicates that this approach is the most effective, the agency will develop and propose a voluntary national standard for qualification of these technologists, as a preliminary step toward the desired goal. The problem of inadequately trained medical radiation technologists is, however, a separate issue and therefore no change in this recommendation is necessary.

10. Three comments extended the concept of the health cost of unnecessary radiographs to include their monetary cost. One insurance carrier stated that its policy has been not "to require post-treatment radiographs both because of the excess radiation exposure to which the patient must be subjected, and the increased cost implications of taking additional, otherwise unnecessary, radiographs." A public interest group, expressing concern over the increasing cost of health care and insurance, notes that excessive x-rays have been frequently cited in medical and legal literature as a potentially unnecessary cost of medical insurance without a matching benefit for the patient. Not only should unnecessary exposures be immediately halted, but also measures should be enacted to reduce the amount of radiation received from necessary medical x-rays. Both comments reflect the concern for the lowest cost (in health and dollars) with the least risk. On this topic, another insurance carrier points out that the proposed recommendation does not address what it calls the most serious problem of all, that of "radiographs taken primarily to gain third party reimbursement." Their reviewers continually discover x-rays that have little or no diagnostic value and that are of poor quality.

The first two comments mention an important additional reason to eliminate radiographs taken solely for administrative purposes. Radiographs taken solely to obtain third party reimbursement can never be justified. The reduction of unnecessary radiation is a common objective of all those who are concerned with the health care benefit of the patient. The agency considers that an additional phrase mentioning radiographs taken solely for monetary gain is not warranted in this recommendation.

11. Several comments appeared to misunderstand the role of an FDA recommendation. They urged the agency to prohibit administrative requirements for post-treatment dental x-ray examinations.

The agency, under the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90–602), can regulate the manufacture of electronic radiation products. The agency cannot, under this law, regulate how these products should be used in the practice of medicine. The agency can, however, make recommendations about the appropriate use of electronic products and publish such recommendations in the **Federal Register**, for codification in Chapter 21 of the Code of Federal Regulations (21 CFR). The agency cannot prohibit by regulation the practices addressed by this document. This recommendation will, however, provide guidance to dentists and physicians, organizations responsible for administering dental care, and third party carriers responsible for reimbursing the providers of dental care.

This recommendation is consistent with the Presidential Directive, "Radiation Protection Guidance to Federal Agencies for Diagnostic X Rays," published in the **Federal Register** of February 1, 1978 (43 FR 4377) and with "Recommendations in Radiographic Practices—March 1978," published by the Council on Dental Materials and Devices of the American Dental Association (JADA, Vol. 96, p. 485 (March 1978)).

Therefore, under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 356, 82 Stat. 1174–1175 (42 U.S.C. 263d)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 1000 is amended in Subpart C by adding new § 1000.60 to read as follows:

§ 1000.60 Recommendation on administratively required dental x-ray examinations.

(a) The Food and Drug Administration recommends that dental x-ray examinations be performed only after careful consideration of the dental or other health needs of the patient, that is, when the patient's dentist or physician judges them to be necessary for diagnosis, treatment, or prevention of disease. Administratively required dental x-ray examinations are those required by a remote third party for reasons not related to the patient's immediate dental needs. These x-ray examinations are usually a source of unnecessary radiation exposure to the patient. Because any unnecessary radiation exposure should be avoided, third parties should not require dental x-ray examinations unless they can demonstrate that such examinations provide a direct clinical benefit to the patient, and the patient's dentist or physician agrees with that assessment.

(b) Some examples of administrative x-ray examinations that should not be required by third parties are those intended solely:

(1) To monitor insurance claims or detect fraud;

(2) To satisfy a prerequisite for reimbursement;

(3) To provide training or experience;

(4) To certify qualifications or competence.

(c) This recommendation is not intended to preclude dental x-ray examinations ordered by the attending practitioner, based on the patient's history or physical examination, or those performed on selected populations shown to have significant yields of previously undiagnosed disease. This recommendation is also not intended to preclude the administrative use by third parties of dental radiographs that are taken on the order of the patient's dentist or physician as a necessary part of the patient's clinical care.

Effective date. This recommendation shall become effective July 17, 1980. However, interested persons may at any time submit written comments on the recommendation to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. The

comments will be considered in determining whether further amendments to or revisions of the recommendation are warranted. Comments should be in four copies (except that individuals may submit single copies), identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

(Sec. 356, 82 Stat. 1174–1175 (42 U.S.C. 263d))

Dated: June 9, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-17998 Filed 6-16-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7703]

Income Tax; Taxable Years Beginning after December 31, 1953; Elapsed Time Method of Crediting Service of Employees Under Qualified Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the elapsed time method of crediting service of employees under qualified plans. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974. These regulations provide necessary guidance to the public for compliance with the law, and affect all qualified plans which elect to use the elapsed time method of crediting service of employees.

DATE: The regulations have varying effective dates, the earliest of which, for plans not in existence on January 1, 1974, is plan years beginning after September 2, 1974.

FOR FURTHER INFORMATION CONTACT: Kirk F. Maldonado of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3430) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 28, 1976, the Department of Labor published in the **Federal Register** a proposed amendment to the Minimum Standards for Employee Pension Benefit Plans (29 CFR 2530.200b–9) under sections 202, 203, and 204 of the Employee Retirement Income Security Act of 1974 (ERISA) (88 Stat. 853). Section 2530.200b–9 was published both as a temporary regulation effective immediately, and as a proposed regulation on which public comments were solicited.

Section 101 of the Reorganization Plan No. 4 of 1978 (43 FR 47713) transferred jurisdiction over the subject matter of this regulation from the Secretary of Labor to the Secretary of the Treasury.

Section 106 of the Reorganization Plan requires that the Secretary of the Treasury notify the Secretary of Labor before any regulations are issued on certain subject matters, listed therein, if the regulations would significantly impact on or substantially affect collectively bargained plans. This Treasury decision affects sections 410(a)(3) and 411(a) (5) and (6) of the Code, which are subject matters listed in section 106. The Secretary of the Treasury is also prohibited from issuing such regulations unless, within 100 calendar days after this notice is given, the Secretary of Labor certifies that he has no objection or fails to respond. These requirements of section 106 have been satisfied.

Although numerous comments were submitted on this regulation, a public hearing was neither requested nor held. After consideration of all the comments submitted regarding the proposed amendment, the amendment is adopted as revised by this Treasury decision.

Overview

The elapsed time method is an alternative method of crediting the service of employees for purposes of determining eligibility to participate, vesting, and benefit accrual. Under the elapsed time method, the amount of service to be credited to an individual is not determined by the number of hours worked in a particular year, but rather, with reference to the total period of time which elapses while that individual is employed by the employer or employers maintaining the plan. Accordingly, the rules regarding breaks in service contained in Code sections 410(a)(5) and 411(a)(6) are recast in this regulation in a manner compatible with the elapsed time concepts.

Transfers Between Methods of Crediting Service

Section 1.410(a)–7(f)(1) provides the rules for plans using the general method of crediting service for some classes of employees, and the elapsed time method of crediting service for other classes of employees. This provision has been changed as a result of comments so that employees transferring from the general method class to the elapsed time method class will receive the greater of the credit they would receive under the elapsed time method for the entire year in which the transfer occurs, or the service they were credited with under the general method as of the date of the transfer.

Section 1.410(a)–7(f)(2) provides the rules applicable when an employee transfers from a plan using either the general method of crediting service or the elapsed time method, to a plan using the other method. This provision has been changed as a result of comments so that an employee's service required to be credited under the transferee plan will be determined under the rules for transfers within a plan that uses different methods of crediting service for different classes of employees.

Some of the plans in existence may be required to be amended to conform with the new rules of the final regulations. Those plans which may have to be amended are those which use the elapsed time method for crediting the service of some classes of employees and the general method for other classes. Also such plans are required to be amended only if they provide for partial years of service for purposes of benefit accrual.

Because the changes in the final regulations may require plan amendments, a transitional rule is provided for the provisions of paragraph (f) of § 1.410(a)–7. For plans in existence on June 17, 1980, the provisions of paragraph (f) apply to plan years beginning after December 31, 1983.

Miscellaneous

Certain changes of a clerical nature and for the purpose of clarity are made in these final regulations. No substantive change is intended by the deletion in the final regulations of the citations to the "mirror image" provisions of Title I of ERISA. Also, certain conforming changes to the Income Tax Regulations are made on account of this regulation.

Drafting Information

The principal author of these regulations is Kirk F. Maldonado of the Employee Plans and Exempt Organizations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing this regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendment to 29 CFR Part 2530, § 2530.200b–9, is redesignated as an amendment to 26 CFR Part 1, § 1.410 (a)–7, and is hereby adopted as set forth below:

Paragraph 1. Section 1.410 (a)–1 is amended by redesignating paragraph (b) (7) and (b) (8) as (b) (8) and (b) (9), respectively, and by adding a new paragraph (b) (7) to read as follows:

§ 1.410 (a)–1 Minimum participation standards; general rules.

* * * * *

(b) *Organization of regulations relating to minimum participation standards.* * * *

(7) *Elapsed time.* Section 1.410 (a)–7 provides rules under sections 410 and 411 relating to the elapsed time method of crediting years of service.

* * * * *

§ 1.410 (a)–4 [Amended]

Par. 2. Section 1.410 (a)–4 (b) (1) is revised by deleting "Department of Labor Regulations" and inserting in lieu thereof "§ 1.410 (a)–7".

§ 1.410 (a)–5 [Amended]

Par. 3. Section 1.410 (a)–5 (a) is revised by deleting from the second sentence "elapsed time,".

Par. 4. Section 1.410 (a)–7 is added at the appropriate place to read as follows:

§ 1.410 (a)–7 Elapsed time.

(a) *In general*—(1) *Introduction to elapsed time method of crediting service.* (i) 29 CFR § 2530.200b–2 sets forth the general method of crediting service for an employee. The general method is based upon the actual counting of hours of service during the applicable 12-consecutive-month computation period. The equivalencies set forth in 29 CFR § 2530.200b–3 are also methods for crediting hours of service during computaton periods. Under the general method and the equivalencies an employee receives a year's credit (in units of years of service or years of participation) for a computation period during which the employee is credited with a specified number of hours of service. In general, an employee's statutory entitlement with respect to eligibility to participate, vesting and benefit accrual is determined by totalling the number of years' credit to which an employee is entitled.

(ii) Under the alternative method set forth in this section, by contrast, an employee's statutory entitlement with respect to eligibility to participate, vesting and benefit accrual is not based upon the actual completion of a specified number of hours of service during a 12-consecutive-month period. Instead, such entitlement is determined generally with reference to the total period of time which elapses while the employee is employed (i.e., while the employment relationship exists) with the employer or employers maintaining the plan. The alternative method set forth in this section is designed to enable a plan to lessen the administrative burdens associated with the maintenance of records of an employee's hours of service by permitting each employee to be credited with his or her total period of service with the employer or employers maintaining the plan, irrespective of the actual hours of service completed in any 12-consecutive-month period.

(2) *Overview of the operation of the elapsed time method.* (i) Under the elapsed time method of crediting service, a plan is generally required to take into account the period of time which elapses while the employee is employed (*i.e.*, while the employment relationship exists) with the employer or employers maintaining the plan, regardless of the actual number of hours he or she completes during such period. Under this alternative method of crediting service, an employee's service is required to be taken into account for purposes of eligibility to participate and vesting as of the date he or she first performs an hour of service within the meaning of 29 CFR 2530.200b–2 (a) (1) for the employer or employers maintaining the plan. Service is required to be taken into account for the period of time from the date the employee first performs such an hour of service until the date he or she severs from service with the employer or employers maintaining the plan.

(ii) The date the employee severs from service is the earlier of the date the employee quits, is discharged, retires or dies, or the first anniversary of the date the employee is absent from service for any other reason (*e.g.*, disability, vacation, leave of absence, layoff, etc.). Thus, for example, if an employee quits, the severance from service date is the date the employee quits. On the other hand, if an employee is granted a leave of absence (and if no intervening event occurs), the severance from service date will occur one year after the date the employee was first absent on leave, and this one year of absence is required to be taken into account as service for the employer or employers maintaining the plan. Because the severance from service date occurs on the earlier of two possible dates (*i.e.*, quit, discharge, retirement or death *or* the first anniversary of an absence from service for any other reason), a quit, discharge, retirement or death within the year after the beginning of an absence for any other reason results in an immediate severance from service. Thus, for example, if an employee dies at the end of a four-week absence resulting from illness, the severance from service date is the date of death, rather than the first anniversary date of the first day of absence for illness.

(iii) In addition, for purposes of eligibility to participate and vesting under the elapsed time method of crediting service, an employee who has severed from service by reason of a quit, discharge or retirement may be entitled to have a period of time of 12 months or less taken into account by the employer or employers maintaining the plan if the employee returns to service within a certain period of time and performs an hour of service within the meaning of 29 CFR 2530.200b–2 (a) (1). In general, the period of time during which the employee must return to service begins on the date the employee severs from service as a result of a quit, discharge or retirement and ends on the first anniversary of such date. However, if the employee is absent for any other reason (*e.g.*, layoff) and then quits, is discharged or retires, the period of time during which the employee may return and receive credit begins on the severance from service date and ends one year after the first day of absence (*e.g.*, first day of layoff). As a result of the operation of these rules, a severance from service (*e.g.*, a quit), or an absence (*e.g.*, layoff) followed by a severance from service, never results in a period of time of more than one year being required to be taken into account after an employee severs from service or is absent from service.

(iv) For purposes of benefit accrual under the elapsed time method of crediting service, an employee is entitled to have his or her service taken into account from the date he or she begins to participate in the plan until the severance from service date. Periods of severance under any circumstances are not required to be taken into account. For example, a participant who is discharged on December 14, 1980 and rehired on October 14, 1981 is not required to be credited with the 10 month period of severance for benefit accrual purposes.

(3) *Overview of certain concepts relating to the elapsed time method*—(i) *In general.* The rules with respect to the elapsed time method of crediting service

are based on certain concepts which are defined in paragraph (b) of this section. These concepts are applied in the substantive rules contained in paragraphs (c), (d), (e), (f) and (g) of this section. The purpose of this subparagraph is to summarize these concepts.

(ii) *Employment commencement date.* (A) A concept which is necessary in order to credit service accurately under any service crediting method is the establishment of a starting point for crediting service. The employment commencement date, which is the date on which an employee first performs an hour of service within the meaning of 29 CFR 2530.200b–2 (a) (1) for the employer or employers maintaining the plan, is used to establish the date upon which an employee must begin to receive credit for certain purposes (*e.g.*, eligibility to participate and vesting).

(B) In order to credit accurately an employee's total service with an employer or employers maintaining the plan, a plan also may provide for an "adjusted" employment commencement date (*i.e.*, a recalculation of the employment commencement date to reflect noncreditable periods of severance) or a reemployment commencement date as defined in paragraph (b) (3) of this section. Fundamentally, all three concepts rely upon the performance of an hour of service to provide a starting point for crediting service. One purpose of these three concepts is to enable plans to satisfy the requirements of this section in a variety of ways.

(C) The fundamental rule with respect to these concepts is that any plan provision is permissible so long as it satisfies the minimum standards. Thus, for example, although the rules of this section provide that credit must begin on the employment commencement date, a plan is permitted to "adjust" the employment commencement date to reflect periods of time for which service is not required to be credited. Similarly, a plan may wish to credit service under the elapsed time method as discrete periods of service and provide for a reemployment commencement date. Certain plans may wish to provide for both concepts, although it is not a requirement of this section that plans so provide.

(iii) *Severance from service date.* Another fundamental concept of the elapsed time method of crediting service is the severance from service date, which is defined as the earlier of the date on which an employee quits, retires, is discharged or dies, or the first anniversary of the first date of absence for any other reason. One purpose of the severance from service date is to provide the endpoint for crediting service under the elapsed time method. As a general proposition, service is credited from the employment commencement date (*i.e.*, the starting point) until the severance from service date (*i.e.*, the endpoint). A complementary purpose of the severance from service date is to establish the starting point for measuring a period of severance from service in order to determine a "break in service" (see paragraph (a)(3)(v) of this section). A third purpose of such date is to establish the starting point for measuring the period of time which may be required to be taken into account under the service spanning rules (see paragraph (a)(3)(vi) of this section).

(iv) *Period of service.* A third elapsed time concept is the use of the "period of service" rather than the "year of service" in determining service to be taken into account for purposes of eligibility to participate, vesting and benefit accrual. For purposes of eligibility to participate and vesting, the period of service runs from the employment commencement date or reemployment commencement date until the severance from service date. For purposes of benefit accrual, a period of service runs from the date that a participant commences participation under the plan until the severance from service date. Because the endpoint of the period of service is marked by the severance from service date, an employee is credited with the period of time which runs during any absence from service (other than for reason of a quit, retirement, discharge or death) which is 12 months or less. Thus, for example, a three week absence for vacation is taken into account as part of a period of service and does not trigger a severance from service date.

(v) *Period of severance.* A period of severance begins on the severance from service date and ends when an employee returns to service with the employer or employers maintaining the plan. The purpose of the period of severance is to apply the statutory "break in service" rules to an elapsed time method of crediting service.

(vi) *Service spanning.* Under the elapsed time method of crediting service, a plan is required to credit periods of service and, under the service spanning rules, certain periods of severance of 12 months or less for purposes of eligibility to participate and vesting. Under the first service spanning rule, if an employee severs from service as a result of quit, discharge or retirement and then returns to service within 12 months, the period of severance is required to be taken into account. Also, a situation may arise in which an employee is absent from service for any reason other than quit, discharge, retirement or death and during the absence a quit, discharge or retirement occurs. The second service spanning rule provides in that set of circumstances that a plan is required to take into account the period of time between the severance from service date (*i.e.*, the date of quit, discharge or retirement) and the first anniversary of the date on which the employee was first absent, if the employee returns to service on or before such first anniversary date.

(4) *Organization and applicability.* (i) The substantive rules for crediting service under the elapsed time method with respect to eligibility to participate are contained in paragraph (c), the rules with respect to vesting are contained in subparagraph (d), and the rules with respect to benefit accrual are contained in paragraph (e). The format of the rules is designed to enable a plan to use the elapsed time method of crediting service either for all purposes or for any one or combination of purposes under sections 410 and 411. Thus, for example, a plan may credit service for eligibility to participate purposes by the use of the general method of crediting service set forth in 29 CFR 2530.200b–2 or by the use of any of the equivalences set forth in 29 CFR 2530.200b–3, while the plan may credit service for vesting and benefit accrual purposes by the use of the elapsed time method of crediting service.

(ii) A plan using the elapsed time method of crediting service for one or more classifications of employees covered under the plan may use the general method of crediting service set forth in 29 CFR 2530.200b–2 or any of the equivalencies set forth in 29 CFR 2530.200b–3 for other classifications of employees, provided that such classifications are reasonable and are consistently applied. Thus, for example, a plan may provide that part-time employees are credited under the general method of crediting service set forth in 29 CFR 2530.200b–2 and full-time employees are credited under the elapsed time method. A classification, however, will not be deemed to be reasonable or consistently applied if such classification is designed with an intent to preclude an employee or employees from attaining his or her statutory entitlement with respect to eligibility to participate, vesting or benefit accrual. For example, a classification applied so that any full-

time employee credited with less than 1,000 hours of service during a given 12-consecutive-month period would be considered part-time and subject to the general method of crediting service rather than the elapsed time method would not be reasonable.

(iii) Notwithstanding paragraph (a) (4) (i) and (ii) of this section, the use of the elapsed time method for some purposes or the use of the elapsed time method for some employees may, under certain circumstances, result in discrimination prohibited under section 401(a)(4), even though the use of the elapsed time method for such purposes, and for such employees, is permitted under this section.

(5) *More than one employer plans.* For special rules for computing years of service in the case of a plan maintained by more than one employer, see 29 CFR Part 2530 (Department of Labor regulations relating to minimum standards for employee pension benefit plans).

(b) *Definitions*—(1) *Employment commencement date.* For purposes of this section, the term "employment commencement date" shall mean the date on which the employee first performs an hour of service within the meaning of 29 CFR 2530.200b–2 (a)(1) for the employer or employers maintaining the plan.

(2) *Severance from service date.* For purposes of this section, a "severance from service" shall occur on the earlier of—

(i) The date on which an employee quits, retires, is discharged or dies; or

(ii) The first anniversary of the first date of a period in which an employee remains absent from service (with or without pay) with the employer or employers maintaining the plan for any reason other than quit, retirement, discharge or death, such as vacation, holiday, sickness, disability, leave of absence or layoff.

(3) *Reemployment commencement date.* For purposes of this section, the term "reemployment commencement date" shall mean the first date, following a period of severance from service which is not required to be taken into account under the service spanning rules in paragraphs (c)(2)(iii) and (d)(1)(iii) of this section, on which the employee performs an hour of service within the meaning of 29 CFR 2530.200b–2(a)(1) for the employer or employers maintaining the plan.

(4) *Participation commencement date.* For purposes of this section, the term "participation commencement date" shall mean the date a participant first commences participation under the plan.

(5) *Period of severance.* For purposes of this section, the term "period of severance" shall mean the period of time commencing on the severance from service date and ending on the date on which the employee again performs an hour of service within the meaning of 29 CFR 2530.200b–2(a)(1) for an employer or employers maintaining the plan.

(6) *Period of service*—(i) *General rule.* For purposes of this section, the term "period of service" shall mean a period of service commencing on the employee's employment commencement date or reemployment commencement date, whichever is applicable, and ending on the severance from service date.

(ii) *Aggregation rule.* Unless a plan provides in some manner for an "adjusted" employment commencement date or similar method of consolidating periods of service, periods of service shall be aggregated unless such periods may be disregarded under section 410(a)(5) or 411(a)(4).

(iii) *Other federal law.* Nothing in this section shall be construed to alter, amend, modify, invalidate, impair or supersede any law of the United States or any rule or regulation issued under such law. Thus, for example, nothing in this section shall be construed as denying an employee credit for a "period of service" if credit is required by a separate federal law. Furthermore, the nature and extent of such credit shall be determined under such law.

(c) *Eligibility to participate*—(1) *General rule.* For purposes of section 410(a)(1)(A), a plan generally may not require as a condition of participation in the plan that an employee complete a period of service with the employer or employers maintaining the plan extending beyond the later of—

(i) The date on which the employee attains the age of 25; or

(ii) The date on which the employee completes a one-year period of service. See the regulations under section 410(a) (relating to eligibility to participate).

(2) *Determination of one-year period of service.* (i) For purposes of determining the date on which an employee satisfies the service requirement for initial eligibility to participate under the plan, a plan using the elapsed time method of crediting service shall provide that an employee who completes the 1-year period of service requirement on the first anniversary of his employment commencement date satisfies the minimum service requirement as of such date. In the case of an employee who fails to complete a one-year period of service on the first anniversary of his employment commencement date, a plan which does not contain a provision permitted by section 410(a)(5)(D) (rule of parity) shall provide for the aggregation of periods of service so that a one-year period of service shall be completed as of the date the employee completes 12 months of service (30 days are deemed to be a month in the case of the aggregation of fractional months) or 365 days of service.

(ii) For purposes of section 410(a)(1)(B)(i), a "3-year period of service" shall be deemed to be "3 years of service."

(iii) *Service spanning rules.* In determining a 1-year period of service for purposes of initial eligibility to participate and a period of service for purposes of retention of eligibility to participate, in addition to taking into account an employee's period of service, a plan shall take into account the following periods of severance—

(A) If an employee severs from service by reason of a quit, discharge or retirement and the employee then performs an hour of service within the meaning of 29 CFR 2530.200b–2(a)(1) within 12 months of the severance from service date, the plan is required to take into account the period of severance; and

(B) Notwithstanding paragraph (c)(2)(iii)(A) of this section, if an employee severs from service by reason of a quit, discharge or retirement during an absence from service of 12 months or less for any reason other than a quit, discharge, retirement or death, and then performs an hour of service within the meaning of 29 CFR 2530.200b–2(a)(1) within 12 months of the date on which the employee was first absent from service, the plan is required to take into account the period of severance.

(iv) For purposes of determining an employee's retention of eligibility to participate in the plan, a plan shall take into account an employee's entire period of service unless certain periods of service may be disregarded under section 410(a)(5) of the Code.

(v) *Example.* Employee W, age 31, completed 6 months of service and was laid off. After 2 months of layoff, W quit. Five months later, W returned to service. For purposes of eligibility to participate, W was required to be credited with 13 months of service (8 months of service and 5 months of severance). If, on the other hand, W had not returned to service within the first 10 months of severance (*i.e.*, within 12 months after the first day of layoff), W would be required to be credited with only 8 months of service.

(3) *Entry date requirements*—(i) *General rule.* For purposes of section 410(a)(4), it is necessary for a plan to

provide that any employee who has satisfied the minimum age and service requirements, and who is otherwise entitled to participate in the plan, commences participation in the plan no later than the earlier of—

(A) The first day of the first plan year beginning after the date on which such employee satisfied such requirements, or

(B) The date six months after the date on which he satisfied such requirements, unless such employee was separated from service before the date referred to in subdivision (i) (A) or (B), whichever is applicable. See the regulations under section 410(a) (relating to eligibility to participate).

(ii) *Separation from service*—(A) *Definition.* For purposes of this section, the term "separated from service" includes a severance from service or an absence from service for any reason other than a quit, discharge, retirement or death, regardless of the duration of such absence. Accordingly, if an employee is laid off for a period of six weeks, the employee shall be deemed to be "separated from service" during such period for purposes of the entry date requirements.

(B) *Application.* A period of severance which is taken into account under the service spanning rules in paragraph (c)(2)(iii) of this section or an absence of 12 months or less may result in an employee satisfying the plan's minimum service requirement during such period of time. In addition, once an employee satisfies the plan's minimum service requirement, either before or during such period of time, such period of time may contain an entry date applicable to such employee. In the case of an employee whose period of severance is taken into account and such period contains an entry date applicable to the employee, he or she shall be made a participant in the plan (if otherwise eligible) no later than the date on which he or she ended the period of severance. In the case of an employee whose period of absence contains an entry date applicable to such employee, he or she, no later than the date such absence ended, shall be made a participant in the plan (if otherwise eligible) as of the first applicable entry date which occurred during such absence from service.

(iii) *Examples.* For purposes of the following examples, assume that the plan provides for a minimum age requirement of 25 and a minimum service requirement of one year, and provides for semi-annual entry dates.

(A) Employee A, age 35, worked for 10 months in a job classification covered under the plan, became disabled for nine consecutive months and then returned to service. During the period of absence, A completed a 1-year period of service and passed a semi-annual entry date after satisfying the minimum service requirement. Accordingly, the plan is required to make A a participant no later than his return to service effective as of the applicable entry date.

(B) Employee B, after satisfying the minimum age and service requirements, quit work before the next semi-annual entry date, and then returned to service before incurring a 1-year period of severance, but after such semi-annual entry date. Employee B is entitled to become a participant immediately upon his return to service effective as of the date of his return.

(4) *Break in service.* For purposes of applying the break in service rules under section 410(a)(5) (B) and (C), the term "1-year period of severance" shall be substituted for the term "1-year break in service". A 1-year period of severance shall be determined on the basis of a 12-consecutive-month period beginning on the severance from service date and ending on the first anniversary of such date, provided that the employee during such 12-consecutive-month period does not perform an hour of service within the meaning of 29 CFR 2530.200b–2(a)(1) for the employer or employers maintaining the plan.

(5) *One-year hold-out*—(i) *General rule.* (A) For purposes of section 410(a)(5)(C), in determining the period of service of an employee who has incurred a 1-year period of severance, a plan may disregard the employee's period of service before such period of severance until the employee completes a 1-year period of service after such period of severance.

(B) *Example.* Assume that a plan provides for a minimum service requirement of 1-year and provides for semi-annual entry dates, but does not contain the provisions permitted by section 410(a)(5)(D) (relating to the rule of parity). Employee G, age 40, completed a seven-month period of service, quit and then returned to service 15 months later, thereby incurring a 1-year period of severance. After working four months, G was laid off for nine months and then returned to work again. Although the plan may hold employee G out from participation in the plan until the completion of a 1-year period of service after the 1-year (or greater) period of severance, once the 1-year hold-out is completed, the plan is required to provide the employee with such statutory entitlement as arose during the 1-year hold-out. Accordingly, employee G satisfied the 1-year hold-out requirement as of the eighth month of layoff, and G is entitled to become a participant in the plan immediately upon his return to service after the nine-month layoff effective as of the first applicable entry date occurring after the date on which he satisfied the 1-year of service requirement (*i.e.*, the first applicable entry date after the first month of layoff). See the regulations under section 410 (a) (relating to eligibility to participate).

(6) *Rule of parity*—(i) *General rule.* For purposes of section 410(a)(5)(D), in the case of a participant who does not have any nonforfeitable right under the plan to his accrued benefit derived from employer contributions and who incurs a 1-year period of severance, a plan, in determining an employee's period of service for purposes of section 410(a)(1), may disregard his period of service if his latest period of severance equals or exceeds his prior periods of service, whether or not consecutive, completed before such period of severance. See the regulations under section 410(a) (relating to eligibility to participate).

(ii) In determining whether a completely nonvested employee's service may be disregarded under the rule of parity, a plan is not permitted to apply the rule until the employee incurs a 1-year period of severance. Accordingly, a plan may not disregard a period of service of less than one year until an employee has incurred a period of severance of at least one year.

(iii) *Example.* Assume that a plan provides for a minimum service requirement of one year and provides for the rule of parity. An employee works for three months, quits and then is rehired 10 months later. Such employee is entitled to receive 13 months of credit for purposes of eligibility to participate and vesting (see the service spanning rules). Although the period of severance exceeded the period of service, the three months of service may not be disregarded because no 1-year period of severance occurred.

(d) *Vesting*—(1) *General rule.* (i) For purposes of section 411(a)(2), relating to vesting in accrued benefits derived from employer contributions, a plan which determines service to be taken in account on the basis of elapsed time shall provide that an employee is credited with a number of years of service equal to at least the number of whole years of the employee's period of service, whether or not such periods of service were completed consecutively.

(ii) In order to determine the number of whole years of an employee's period of service, a plan shall provide that non-successive periods of service must be aggregated and that less than whole year periods of service (whether or not consecutive) must be aggregated on the

basis that 12 months of service (30 days are deemed to be a month in the case of the aggregation of fractional months) or 365 days of service equal a whole year of service.

(iii) *Service spanning rules.* In determining a participant's period of service for vesting purposes, a plan shall take into account the following periods of severance—

(A) If an employee severs from service by reason of a quit, discharge or retirement and the employee then performs an hour of service within the meaning of 29 CFR 2530.200b–2(a)(1) within 12 months of the severance from service date, the plan is required to take into account the period of severance; and

(B) Nothwithstanding paragraph (d)(1)(iii)(A) of this section, if an employee severs from service by reason of a quit, discharge or retirement during an absence from service of 12 months or less for any reason other than a quit, discharge, retirement or death, and then performs an hour of service within the meaning of 29 CFR 2530.200b–2(a)(1) within 12 months of the date on which the employee was first absent from service, the plan is required to take into account the period of severance.

(iv) For purposes of determining an employee's nonforfeitable percentage of accrued benefits derived from employer contributions, a plan, after calculating an employee's period of service in the manner prescribed in this paragraph, may disregard any remaining less than whole year, 12-month or 365-day period of service. Thus, for example, if a plan provides for the statutory five to fifteen year graded vesting, an employee with a period (or periods) of service which yield 5 whole year periods of service and an additional 321-day period of service is twenty-five percent vested in his or her employer-derived accrued benefits (based solely on the 5 whole year periods of service).

(2) *Service which may be disregarded.* (i) For purposes of section 411(a)(4), in determining the nonforfeitable percentage of an employee's right to his or her accrued benefits derived from employer contributions, all of an employee's period or periods of service with an employer or employers maintaining the plan shall be taken into account unless such service may be disregarded under paragraph (d)(2)(ii) of this section.

(ii) For purposes of paragraph (d)(2)(i) of this section, the following periods of service may be disregarded—

(A) The period of service completed by an employee before the date on which he attains age 22;

(B) In the case of a plan which requires mandatory employee contributions, the period of service which falls within the period of time to which a particular employee contribution relates, if the employee had the opportunity to make a contribution for such period of time and failed to do so;

(C) The period of service during any period for which the employer did not maintain the plan or a predecessor plan;

(D) The period of service which is not required to be taken into account by reason of a period of severance which constitutes a break in service within the meaning of paragraph (d)(4) of this section;

(E) The period of service completed by an employee prior to January 1, 1971, unless the employee completes a period of service of at least 3 years at any time after December 31, 1970; and

(F) The period of service completed before the first plan year for which this section applies to the plan, if such service would have been disregarded under the plan rules relating to breaks in service in effect at that time. See the regulations under section 411(a) (relating to vesting).

(3) *Seasonal industry.* [Reserved.]

(4) *Break in service.* For purposes of applying the break in service rules, the term "1-year period of severance" shall be substituted for the term "1-year break in service". A 1-year period of severance shall be a 12-consecutive-month period beginning on the severance from service date and ending on the first anniversary of such date, provided that the employee during such 12-consecutive-month period fails to perform an hour of service within the meaning of 29 CFR 2530.200b–2(a)(1) for an employer or employers maintaining the plan.

(5) *One-year hold-out.* For purposes of section 411(a)(6)(B), in determining the nonforfeitable percentage of the right to accrued benefits derived from employer contributions of an employee who has incurred a 1-year period of severance, the period of service completed before such period of severance is not required to be taken into account until the employee has completed a 1-year period of service after his return to service. See the regulations under section 411(a) (relating to vesting).

(6) *Vesting in pre-break accruals.* For purposes of section 411(a)(6)(C), a "1-year period of severance" shall be deemed to constitute a "1-year break in service." See the regulations under section 411(a) (relating to vesting).

(7) *Rule of partity*—(i) *General rule.* For purposes of section 411(a)(6)(D), in the case of an employee who is a nonvested participant in employer-derived benefits at the time he incurs a 1-year period of severance, the period of service completed by such participant before such period of severance is not required to be taken into account for purposes of determining the vested percentage of his or her right to employer-derived benefits if at such time the consecutive period of severance equals or exceeds his prior periods of service, whether or not consecutive, completed before such period of severance. See the regulations under section 411(a) (relating to vesting).

(e) *Benefit accrual.* (1) For purposes of section 411(b), a plan may provide that a participant's service with an employer or employers maintaining the plan shall be determined on the basis of the participant's total period of service beginning on the participation commencement date and ending on the severance from service date.

(2) Under section 411(b)(3)(A), a defined benefit pension plan may determine an employee's service for purposes of benefit accrual on any basis which is reasonable and consistent and which takes into account all service during the employee's participation in the plan which is included in a period of service required to be taken into account under section 410(a)(5) (relating to service which must be taken into account for purposes of determining an employee's eligibility to participate). A plan which provides for the determination of an employee's service with an employer or employers maintaining the plan on the basis permitted under paragraph (e)(1) of this section will be deemed to meet the requirements of section 411(b)(3)(A), provided that the plan meets the requirements of 29 CFR 2530.204–3, relating to plans which determine an employee's service for purposes of benefit accrual on a basis other than computation periods. Specifically, under 29 CFR § 2530.204–3, it must be possible to prove that, despite the fact that benefit accrual under such a plan is not based on computation periods, the plan's provisions meet at least one of the three benefit accrual rules of section 411(b)(1) under all circumstances. Further, 29 CFR § 2530.204–3 prohibits such a plan from disregarding service under section 411(b)(3)(C) (which would otherwise permit a plan to disregard service performed by an employee during a computation period in which the employee is credited with less than 1,000 hours). See the regulations under section 411(b) (relating to benefit accrual).

(f) *Transfers between methods of crediting service*—(1) *Single plan.* A

plan may provide that an employee's service for purposes of eligibility to participate, vesting or benefit accrual shall be determined on the basis of computation periods under the general method set forth in 29 CFR 2530.200b–2 for certain classes of employees but under the alternative method permitted under this section for other classes of employees if the plan provides as follows—

(i) In the case of an employee who transfers from a class of employees whose service is determined on the basis of computation periods to a class of employees whose service is determined on the alternative basis permitted under this section, the employee shall receive credit for a period of service consisting of—

(A) A number of years equal to the number of years of service credited to the employee before the computation period during which the transfer occurs; and

(B) The greater of *(1)* the period of service that would be credited to the employee under the elapsed time method for his service during the entire computation period in which the transfer occurs or *(2)* the service taken into account under the computation periods method as of the date of the transfer.

In addition, the employee shall receive credit for service subsequent to the transfer commencing on the day after the last day of the computation period in which the transfer occurs.

(ii) In the case of an employee who transfers from a class of employees whose service is determined on the alternative basis permitted under this section to a class of employees whose service is determined on the basis of computation periods—

(A) The employee shall receive credit, as of the date of the transfer, for a number of years of service equal to the number of 1-year periods of service credited to the employee as of the date of the transfer, and

(B) The employee shall receive credit, in the computation period which includes the date of the transfer, for a number of hours of service determined by applying one of the equivalencies set forth in 29 CFR 2530.200b–3 (e) (1) to any fractional part of a year credited to the employee under this section as of the date of the transfer. Such equivalency shall be set forth in the plan and shall apply to all similarly situated employees.

(2) *More than one plan.* In the case of an employee who transfers from a plan using either the general method of determining service on the basis of computation periods set forth in 29 CFR 2530.200b–2 or the method of determining service permitted under this section to a plan using the other method of determining service, all service required to be credited under the plan to which the employee transfers shall be determined by applying the rules of paragraph (f)(1) of this section.

(g) *Amendments to change method of crediting service.* A plan may be amended to change the method of crediting service for any purpose or for any class of employees between the general method set forth in 29 CFR 2530.200–2 and the method permitted under this section, if such amendment contains provisions under which each employee with respect to whom the method of crediting service is changed is treated in the same manner as an employee who transfers from one class of employees to another under paragraph (f)(1) of this section.

(h) *Transitional rule.* For plans in existence on [insert the date of the publication of this document], the provisions of paragraph (f) of this section are effective for plan years beginning after December 31, 1983.

§ 1.411(a)–5 [Amended]

Par. 5. Section 1.411 (a)–5 (b) is revised by deleting from subparagraphs (1)(iii) and (2) "Department of Labor regulations" and inserting in lieu thereof "§ 1.410 (a)–7".

§ 1.411(a)–6 [Amended]

Par. 6. Section 1.411 (a)–6 (c)(1)(iii) is revised by deleting from the second sentence "Department of Labor Regulations" and inserting in lieu thereof "§ 1.410 (a)–7".

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

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: June 2, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80–18202 Filed 6–16–80; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 40

Farm Labor Contractor Registration; Documents Acceptable as Evidence of a Bona Fide Inquiry of Employability Status

Correction

In FR Doc. 80–16181 appearing on page 35323 in the issue for Tuesday, May 27, 1980, make the following correction:

On page 35325, in § 40.51 (p)(1)(xi)(A), change ". . . number such (voluntary) . . ." to read ". . . number (voluntary) . . .".

BILLING CODE: 1505–01–M

Wage and Hour Division, Employment Standards Administration

29 CFR Part 697

Industries in American Samoa; Wage Order

Note.—This document originally appeared in the **Federal Register** for Monday, June 16, 1980. It is reprinted in this issue to meet requirements for publication on the Tuesday–Friday schedule assigned to the Department of Labor.

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: Under the Fair Labor Standards Act, minimum wage rates in American Samoa are set by a special industry committee appointed by the Secretary of Labor. After such a committee has investigated conditions in American Samoa, it recommends minimum wage rates which must be published in the **Federal Register** and which become the new wage rates. Industry Committee No. 14 for American Samoa has completed its review and established new minimum wage rates, which are published herewith.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Anthony J. Ponturiero, Director, Division of Government Contract Wage Determinations, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W.—Room S–3012, Washington, D.C. 20210, Phone: 202–523–7455.

SUPPLEMENTARY INFORMATION: Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended (29 U.S.C. 205, 206, 208)) and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and by means of Administrative Order No. 655 (44 F.R. 76888), the Secretary of Labor appointed and convened Industry Committee No. 14 for Industries in American Samoa, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 6 of the act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 14 are hereby published, revising § 697.1 and 697.3 of Part 697, Title 29, Code of Federal Regulations.

The wage rates for government employees apply only to employees of the Government of American Samoa and its political subdivisions who are engaged in nontraditional activities. In *National League of Cities* v. *Usery*, 426 U.S. 833 (1976), the Supreme Court held that the minimum wage and overtime provisions of the Fair Labor Standards Act are not constitutionally applicable to the integral operations of the States and their political subdivisions in areas of traditional governmental functions. According to the Court, such functions include, among others, schools and hospitals, fire prevention, police protection, sanitation, public health, and parks and recreation. Nontraditional functions, however, continue to be covered by the Fair Labor Standards Act. While this decision dealt with the 50 States and their political subdivisions, it is apparent, as a matter of statutory interpretation, that the restrictions imposed by *National League of Cities* should be the same in American Samoa.

Determinations of whether particular functions are traditional or nontraditional will be made by the Courts or by the U.S. Department of Labor on a case-by-case basis. Determinations that particular functions are nontraditional will be published in the **Federal Register** in the form of amendments to Title 29 CFR, § 775.3. A determination was issued by the Wage and Hour Division of the Department of Labor on August 14, 1979, that American Samoa Government's communication system, electric utility, marine railway and liquor store should be considered nontraditional activities since these operations appear to be essentially no different from regular commercial operations in the United States. The amendment to Regulations Part 775.3 incorporating these earlier decisions was published in the **Federal Register** on December 21, 1979.

The rates set forth herein for government workers apply only to such activities as are determined to be nontraditional. This document was prepared under the direction and control of Henry T. White, Jr., Deputy Administrator, Wage and Hour Division.

PART 697—INDUSTRIES IN AMERICAN SAMOA

Part 697 of title 29 CFR is amended as follows:

1. Section 697.1(a), (b), (c), (d), (e), (1), (f), (g), (1), (h), (1), (h), (1), (i), (1), (j), (1), (k), (1), (l), (m), and (n) is amended to read as follows:

§ 697.1 Wage rates and industry definitions.

* * * * *

(a) *Fish canning and processing and can manufacturing industry.* (1) the minimum wage for this industry is $2.16 an hour for a period of 1 year following the effective date specified in § 697.3 and $2.33 an hour thereafter.

(2) This industry shall include the canning, freezing, preserving, and other processing of any kind of fish, shellfish, and other aquatic forms of animal life, the manufacture of any byproduct thereof, and the manufacture of cans and related activities.

(b) *Shipping and transportation industry.* (1) The minimum wage for classification A, stevedoring, lighterage and maritime shipping agency activities, is $2.15 an hour for a period of 1 year following the effective date specified in § 697.3 and $2.32 an hour thereafter. The minimum wage for classification B, all other activities, is $2.08 an hour for a period of 1 year following the effective date specified in § 697.3 and $2.21 an hour thereafter. (2) This industry shall include the transportation of passengers and cargo by water or by air and all activities in connection therewith, including storage and lighterage operations: *Provided, however,* That this industry shall not include the operation of tourist bureaus and of travel and ticket agencies: *Provided, further;* That this industry shall not include bunkering of petroleum products or activities engaged in by seamen in American vessels which are documented or numbered under the Laws of the United States, which operate exclusively between points in the Samoan Islands, and which are not in excess of 350 tons net capacity. Within this industry there shall be two classifications:

(i) Classification A: *Stevedoring, lighterage and maritime shipping agency activities.* This classification shall include all employees of employers who engage in each of the following three services: Stevedoring, lighterage and maritime shipping agency activities.

(ii) Classification B: *All other activities.* All other activities in the shipping and transportation industry.

(c) *Tour and travel service industry.* (1) The minimum wage for this industry is $1.76 an hour for a period of 1 year following the effective date specified in § 697.3 and $1.88 an hour thereafter. (2) This industry shall include the operation of tourist bureaus and of travel and passenger ticket services and agencies: *Provided, however.* That this industry shall not include the operation of a freight shipping agency.

(d) *Petroleum marketing industry.* (1) The minimum wage for this industry is $2.15 an hour for a period of 1 year following the effective date specified in § 697.3 and $2.32 an hour thereafter. (2) This industry shall include the wholesale marketing and distribution of gasoline, kerosene, lubricating oils, diesel and marine fuels, and other petroleum products, bunkering operations in connection therewith, and repair and maintenance of petroleum storage facilities.

(e) *Construction industry.* (1) The minimum wage for this industry is $1.75 an hour for a period of 1 year following the effective date specified in § 697.3 and $1.85 an hour thereafter.

* * * * *

(f) *Hotel industry.* (1) The minimum wage for this industry is $1.40 an hour for a period of 1 year following the effective date specified in § 697.3 and $1.50 an hour thereafter. (2) This industry shall include all activities in connection with the operation of hotels, motels, apartment hotels, and tourist courts engaged in providing lodging, with or without meals, for the general public, including such activities as are engaged in by a hotel or motel or other lodging facility on its own linens or on garments of its guests.

(g) *Retailing, wholesaling and warehousing industry.* (1) The minimum wage for this industry is $1.57 an hour for a period of 1 year following the effective date specified in § 697.3 and $1.65 an hour thereafter.

* * * * *

(h) *Laundry and dry cleaning industry.* (1) The minimum wage for this industry is $1.15 an hour for a period of 1 year following the effective date specified in § 697.3 and $1.20 an hour thereafter.

* * * * *

(i) *Bottling and dairy products industry.* (1) The minimum wage for this

industry is $1.49 an hour for a period of 1 year following the effective date specified in § 697.3 and $1.59 an hour thereafter.

* * * * *

(j) *Printing and publishing industry.* (1) The minimum wage for this industry is $1.72 an hour for a period ending 1 year from the date specified in § 697.3 and $1.84 an hour thereafter.

* * * * *

(k) *Finance and insurance industry.* (1) The minimum wage for this industry is $1.93 an hour for a period ending 1 year from the date specified in § 697.3 and $2.05 an hour thereafter.

* * * * *

(l) *Private hospital and educational institutions industry.* (1) The minimum wage for this industry is $1.48 an hour for the period ending 1 year from the date specified in § 697.3 and $1.54 an hour thereafter. (2) This industry shall include all activities performed in connection with the operation of private hospitals, nursing homes and related institutions primarily engaged in the care of the sick, the aged or the mentally ill or defective who reside on the premises of such institutions, private schools for the mentally or physically handicapped or for gifted children, preschools, elementary or secondary schools, or institutions of higher education: *Provided, however,* That this industry shall not include employees of the Government of American Samoa or employees of any agency or corporation of the Government of American Samoa.

(m) *Government employees industry (nontraditional activities).* (1) The minimum wage for this industry is $1.60 an hour for the period ending 1 year from the date specified in § 697.3 and $1.70 an hour thereafter. (2) This industry is defined as the nontraditional governmental activities of an employee of the Government of American Samoa. The Administrator of the Wage and Hour Division of the United States Department of Labor has included within the definitions of nontraditional governmental activities of the Government of American Samoa all employees engaged in:

(i) Communication activity, including the installation, repair and maintenance of tele-communication equipment.

(ii) Electric utility operations including the production and distribution of electric energy and installation, repair and maintenance of such production and distribution facilities and equipment.

(iii) Operation, repair and maintenance of the Marine Railway, including structural ship and motor repairs and all other activities in connection therewith.

(iv) All activities in connection with the operation of the liquor store.

Provided, however, That this industry shall not include any employee of the United States or its agencies.

(n) *Miscellaneous activities industry.* (1) The minimum wage for this industry is $1.43 an hour for the period ending 1 year from the date specified in § 697.3 and $1.50 an hour thereafter. (2) This industry shall include every activity not included in any other industry defined herein.

* * * * *

2. Section 697.3 is revised to read as follows:

§ 697.3 Effective date.

The wage rates specified in § 697.1 shall be effective July 1, 1980.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064; 29 U.S.C. 205, 206, 208.)

Signed at Washington, D.C. this 12th day of June 1980.

Henry T. White, Jr.,

Deputy Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc. 80-18209 Filed 6-13-80; 8:45 am]

BILLING CODE 4510-27-M

Pension and Welfare Benefit Programs

29 CFR Part 2530

Deletion of Regulation Relating to the Elapsed Time Method of Crediting Service of Employees

AGENCY: U.S. Department of Labor.

ACTION: Deletion of regulation.

SUMMARY: On December 28, 1976 the Department of Labor published a regulation on the elapsed time method of crediting service of employees (29 CFR 2530.200b-9) for purposes of sections 202, 203, and 204 of the Employee Retirement Income Security Act of 1974. Section 2530.200b-9 was published both as a temporary regulation effective immediately upon publication and as a proposed regulation on which public comments were solicited.

Section 101 of the Reorganization Plan No. 4 of 1978 (43 FR 47713) transferred jurisdiction over the subject matter of section 2530.200b-9 from the Secretary of Labor to the Secretary of the Treasury. Elsewhere in this issue of the **Federal Register**, the Secretary of the Treasury has published final regulations on the elapsed time method of crediting service of employees under qualified plans (26 CFR 1.410(a)-7).

FOR FURTHER INFORMATION CONTACT:

J. Scott Galloway, Esq., Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20216, 202-523-8658 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department of Labor, therefore, hereby amends 29 CFR Part 2530 by deleting 29 CFR 2530.200b-9.

Signed at Washington, D.C., this 11th day of June 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-18099 Filed 6-16-80; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1517-1]

Approval and Promulgation of Implementation Plans; Massachusetts Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving three revisions to the Massachusetts Implementation Plan. Amendments to the Sulfur-in-fuel regulation allow use of higher sulfur fuel oil at two sources in Fitchburg on a year-round basis. Amendments to the Open Burning regulation allow brush burning in certain areas of the State from January 15 to May 1 of each year. Finally, the provisions of the Fuel Oil Viscosity regulation, which requires installation of automatic viscosity controllers, are varied for the Cambridge Electric Light Company.

EFFECTIVE DATE: June 17, 1980.

FOR FURTHER INFORMATION CONTACT:

Margaret McDonough, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5609.

SUPPLEMENTARY INFORMATION: On January 21, 1980 (45 FR 3928) the Regional Administrator published a Notice of Proposed Rulemaking in the **Federal Register**, proposing approval of three revisions to the Massachusetts State Implementation Plan (SIP). These revisions, which were submitted by the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the DEQE), are not part of an attainment plan under Part D of the Clean Air Act, as amended. The SIP revisions amend Regulations 310 CMR

7.05(1) and 7.07, and vary the provisions of Regulation 7.04(5).

Amendments to Regulation 310 CMR 7.05(1), Sulfur Content of Fuels and Control Thereof, were submitted on September 28, 1979. This regulation presently allows the use of 2.2% sulfur residual fuel oil at approved sources in the Central Massachusetts Air Pollution Control District (CMAPCD) which are larger than 100 million Btu/hour heat input. Sources smaller than 100 million Btu/hour heat input and all remaining sources larger than 100 million Btu/hour heat input are limited to 1.0% sulfur residual fuel oil. However, a special provision limits the use of 2.2% sulfur fuel at the two approved large sources in Fitchburg to seven months of the year. April through October; during the rest of the year, November through March, these sources must burn 1.0% sulfur fuel. The revision removes the seasonal restrictions for these two sources which are

Fitchburg Paper Company (55 meter stacks only) and James River-Massachusetts. The other two large sources in Fitchburg are General Electric and Fitchburg Gas and Electric, and the boilers vented by the 23 meter stacks at Fitchburg Paper remain limited to 1.0% sulfur fuel oil at all times.

Technical support for this revision shows compliance with the National Ambient Air Quality Standards (NAAQS) and Prevention of Significant Deterioration (PSD) increments for sulfur dioxide (SO_2). Accordingly, EPA proposed to approve the revision to Regulation 310 CMR 7.05(1) to allow the year-round use of 2.2% sulfur residual fuel oil at James River Massachusetts, Fitchburg, and in the boilers vented by the 55 meter stacks at Fitchburg Paper Company, Fitchburg. All other sources in Fitchburg must continue to burn 1.0% sulfur oil, including the boilers vented by the 23 meter stacks at Fitchburg Paper.

Amendments to Regulation 310 CMR 7.07, Open Burning, were submitted on September 28, 1979. The present regulation permits open burning for cooking; for training or research in fire protection or prevention; for combating or backfiring an existing fire; for agricultural purposes, agricultural land clearing, and disposal of fungus-infested elm wood; for operation of blowtorches and welding torches; for disposal of combustible material for which no suitable alternative is available; and for reduction of brush, cane, driftwood, and forestry debris under certain conditions during two months of each year.

The SIP revision extends the time allowed for open burning of brush, cane, driftwood, and forestry debris. The months during which brush burning presently is permitted are March 1 to May 1 in the Berkshire APCD and January 15 to March 15 in the other APCD's. The revision allows a uniform period throughout the State, from January 15 to May 1 of each year. The conditions under which brush burning is allowed remain unchanged, including the condition that no open burning be conducted in cities and towns which show recorded or potential violations of the NAAQS for Total Suspended Particulates (TSP).

The technical support for this revision states that it is being proposed merely as a uniform administrative tool which will allow a longer period of time each year to dispose of essentially the same amount of brush, cane driftwood and forestry debris as is presently burned. Therefore no increase in annual particulate emission will occur.

Furthermore, the DEQE's approach minimizes potential impacts of open burning emissions on TSP levels by prohibiting brush burning in those cities and towns where particulate NAAQS had been or were likely to be exceeded, and by setting conditions on brush burning which are designed to ensure that the dispersive capacity of the atmosphere is fully utilized. EPA proposed to approve the revision to Regulation 310 CMR 7.07, which will allow open burning of brush from January 15 to May 1 of each year. Emissions resulting from the revision are not expected to impact TSP levels in non-attainment areas, and any impacts elsewhere will be minimized by the safeguards contained in the regulation.

A SIP revision to vary the provisions of Regulation 310 CMR 7.04(5), Fuel Oil Viscosity, was submitted on December 28, 1978. The regulation requires the installation and use of automatic viscosity controllers at fossil fuel utilization facilities of over 250 million Btu/hour heat input, effective July 1, 1978. The proposed revision varies the provisions of Regulation 7.04(5) as it applies to two plants owned and operated by the Cambridge Electric Light Company, Kendall Station, First Street, Cambridge, and Blackstone Station, Blackstone Street, Cambridge. Both plants utilize residual fuel oil of not more than 0.5 percent sulfur content.

Cambridge Electric's request to continue to operate without installing automatic viscosity controllers was supported by fuel and operational data submitted to the DEQE and presented at the public hearing. Cambridge Electric showed that compliance with the particulate emission limitation and opacity requirements has not been a problem at the plants in question, and in this particular case, continued compliance is not dependent on installation and use of automatic viscosity controllers. Instead, use of low sulfur residual oil which consistently meets tight specifications is an effective particulate control measure.

EPA proposed to approve the variance to Regulation 310 CMR 7.04(5) for Cambridge Electric's Kendall and Blackstone Stations in Cambridge, which will allow these two plants to operate without installing automatic viscosity controllers. Approval of this SIP revision is not expected to result in increased particulate emissions and should therefore have no impact on ambient air quality standards or on the PSD increments.

No comments were received during the public comment period.

After evaluation of the DEQE's submittals, the Administrator has determined that the Massachusetts revisions meet the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, these revisions are approved as revisions to the Massachusetts Implementation Plan. The Agency finds that good cause exists for making this action immediately effective because these revisions are already in effect under state law and EPA approval imposes no additional regulatory burdens.

(Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7401)

Dated: June 10, 1980.

Douglas M. Costle,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart W—Massachusetts

§ 52.1120 [Amended]

1. In Section 52.1120, paragraph (c)(24) is amended by adding a phrase at the end, to read "and a revision removing the seasonal restriction in Fitchburg for Fitchburg Paper Company (55 meter stacks only) and James River-Massachusetts submitted on September 28, 1979 by the Commissioner."

2. Section 52.1120, paragraph (c) is amended by adding subparagraphs (27) and (28), as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(27) Revisions to Regulation 310 CMR 7.07, Open Burning, submitted on September 28, 1979 by the Commissioner

of the Massachusetts Department of Environmental Quality Engineering.

(28) A revision varying the provisions of Regulation 310 CMR 7.04(5), Fuel Oil Viscosity, for Cambridge Electric Light Company's Kendall Station, First Street, Cambridge, and Blackstone Station, Blackstone Street, Cambridge, submitted on December 28, 1978 by the Commissioner of the Massachusetts Department of Environmental Quality Engineering.

[FR Doc. 80-18136 Filed 6-16-80; 8:45 am]
BILLING CODE 6560-01-M

Proposed Rules

Federal Register
Vol. 45, No. 118
Tuesday, June 17, 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 536

Grade and Pay Retention

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing revised regulations to implement the grade and pay retention provisions of the Civil Service Reform Act of 1978. Title VIII of the Act provides that certain employees who are placed in a lower grade as a result of reduction-in-force procedures, or whose positions are reduced in grade as a result of reclassification of the positions, are entitled to retain for a period of 2 years the grade held immediately before that placement or reduction. It also provides the authority for granting certain employees indefinite pay retention.

DATE: Comments must be received on or before August 18, 1980.

ADDRESS: Send or deliver written comments to Mr. Craig B. Pettibone, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Larry Holman (202) 632-5604.

SUPPLEMENTARY INFORMATION: Interim regulations, effective on the first day of the first applicable pay period beginning on or after January 11, 1979, were published in the **Federal Register** on March 2, 1979 (44 FR 11741-11745). The interim regulations were specific in the area of grade retention entitlement with all other extensions being determined by OPM upon agency request for an exception. The most significant mandatory extension of grade retention in the interim regulations was the addition of transfers of function outside the commuting area. Pay retention included several specific mandatory extensions with a general redelegation of authority to the agency head to grant further extensions.

As a result of comments received from agencies and labor organizations concerning these interim regulations, OPM is proposing modifications to those regulations. Because of the significance of the changes, OPM is publishing the revised regulations as proposed regulations, allowing for another period of public comment.

Generally, the comments received concerned the circumstances which should or should not warrant the mandatory extension of grade retention. Several agencies disputed the inclusion of transfers of function as a mandatory extension of grade retention. They suggested that this extension would serve as a disincentive for people to move with the function. The majority of commenters, however, supported its inclusion as a natural extension very similar to those covered by the law.

Additionally, since the publication of the interim regulations, OPM has received several requests for extending grade retention to individuals in circumstances very similar to those covered by the law. The difference of opinion regarding the inclusion of transfers of function as a grade retention extension and the exceptions requested by agencies demonstrates a problem with OPM's mandatorily extending grade retention as a Government-wide policy. Any action of this nature would work well in some circumstances and poorly in others.

We recognize that our identification of additional circumstances which might warrant grade retention might compromise the need of agency management to deal with situations in a manner that only they can determine is efficient. OPM, therefore, is proposing to revise the interim regulations to remove transfer of function as a mandatory extension and to allow agency heads to determine those circumstances (including transfers of function) in a reorganization or reclassification effort which will warrant grade retention. The proposed redelegation of this authority is particularly in keeping with the purpose of the grade and pay retention provisions of the Civil Service Reform Act. It provides management a tool to help reorganize or reclassify within its organization while lessening the normal adverse impact of these actions on its employees.

Similar to the redelegation of authority to extend grade retention and for basically the same reasons, OPM is proposing to revise the interim regulations in the area of pay retention. OPM proposes to remove some of the more minor extensions of the interim regulations and allow agency heads to determine those circumstances which warrant pay retention. The extensions which are still specified are generally those for which major commitments were made in the legislative process. The proposed regulation would only limit this authority to situations either beyond the employee's control or to further the mission of the agency.

As a result of comments received concerning the interim regulations and issues raised since their publication, OPM is also proposing the following revisions:

1. § 536.105—Employees who are being placed in another position for not satisfactorily completing the probationary period required of a new supervisor or manager would be excluded from grade and pay retention eligibility.

2. § 536.205—Would require that a reasonable offer inform the employee that any entitlement to grade or pay retention will be terminated if the offer is declined.

3. § 536.206, 536.207, and 536.208—Would establish the time period during which employees may elect to terminate eligibility for grade or pay retention entitlement prior to the beginning of the grade or pay retention period.

4. § 536.206—Circumstances in addition to those listed in the law for terminating grade retention would be added to terminate eligibility or entitlement to grade retention in situations outside those called for in the law.

5. § 536.302—The time period for filing an appeal of a termination of benefits because of the declination of a reasonable offer would be changed to 15 days after the employee has been notified that grade or pay retention benefits have been terminated.

Although no revision was involved, an issue was raised concerning the appeal of the termination of benefits because of the declination of a reasonable offer. The interim regulations provided for appeal only through the grievance

procedure of a negotiated labor-management agreement for affected employees of an exclusively recognized bargaining unit if the agreement provided for this review. OPM received comments that this appeared to be contrary to the law but, unless specifically excepted from 5 U.S.C. 7121, it is mandated by law. No change, therefore, has been made in this regulation.

OPM received comments on several other areas of the interim regulations which were designed primarily to add detail for clarification purposes. OPM intends to use several of these suggestions when preparing the guidance of Federal Personnel Manual Supplement 990–2, Book 536. The suggested changes were, in most cases, not appropriate for inclusion in regulation.

OPM is reserving a section in these regulations for dealing with merit pay and grade retention. OPM anticipates little or no need for regulation in this area. Employees under merit pay schedules will generally be considered in the same manner as employees under the General Schedule. Some minor regulation may be necessary. OPM is continuing to study the situation to identify potential problems in the area of merit pay.

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

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, the Office of Personnel Management proposes to revise Part 536 of Title 5, Code of Federal Regulations, to read as follows:

PART 536—GRADE AND PAY RETENTION

Subpart A—Definitions; Coverage and Applicability

Sec.

536.101 General.
536.102 Definitions.
536.103 Coverage and applicability of grade retention.
536.104 Coverage and applicability of pay retention.
536.105 Exclusions.

Subpart B—Determination of Retained Grade and Rate of Basic Pay; Loss of, or Termination of, Eligibility

536.201 Period of grade retention.
536.202 Determination of retained grade.
536.203 Determination of applicable pay schedule.
536.204 Determination of rate of basic pay.
536.205 Criteria for a "reasonable offer."
536.206 Loss of eligibility for grade retention.
536.207 Termination of grade retention.

Sec.

536.208 Loss of eligibility for, or termination of, pay retention.

Subpart C—Miscellaneous Provisions

536.301 Grade and pay retention under the Merit Pay System [Reserved].
536.302 Appeal of termination of benefits because of reasonable offer.
536.303 Documentation.
536.304 Issuance of employee letters.
536.305 Effect of grade retention on quota spaces.
536.306 Retroactive entitlement.

Authority: 5 U.S.C. 5361–5366, Pub. L. 95–454.

Subpart A—Definitions; Coverage and Applicability

§ 536.101 General.

(a) Title VIII of Pub. L. 95–454 (The Civil Service Reform Act of 1978) provides that certain employees who are placed in a lower grade as a result of reduction-in-force procedures, or whose positions are reduced in grade as a result of reclassification of the positions, are entitled to retain for a period of 2 years the grade held immediately before that placement or reduction. It also provides the authority for granting certain employees indefinite pay retention. In addition to specifying criteria and conditions for the application of the grade and pay retention provisions, the law authorizes the Office of Personnel Management to extend the application of these provisions to other individuals and situations to which they would not otherwise apply.

(b) This part contains the regulations—including extensions, conditions, criteria, and procedures—which the Office of Personnel Management has prescribed for the administration of the grade and pay retention benefit. This part supplements and implements the provisions of 5 U.S.C. 5361–5366, and section 801(b) of Pub. L. 95–454, and must be read together with those sections of law.

§ 536.102 Definitions.

For the purposes of this part:

"Demotion at an employee's request" means a demotion:

(a) Which is initiated by the employee for his or her benefit, convenience or personal advantage, including consent to a demotion in lieu of one for personal cause, and

(b) Which is not predicated on an announced management-initiated action which, in turn, may result in a negative impact on the employee.

"Demotion for personal cause" means a demotion action based on the conduct, character, or unacceptable performance of an employee.

"Employee" means an employee as defined in 5 U.S.C. 5361 and also an individual who is moved from a position which is not under a covered pay schedule to a position which is under a covered pay schedule provided that the individual's employment immediately prior to the move was on other than a temporary or term basis.

"Employment on a temporary or term basis" means employment under an appointment having a definite time limitation or designated as temporary or term.

"Rate of basic pay" means, in addition to the definition in 5 U.S.C. 5361, the rate of pay fixed by law or administrative action for the position held by an employee before any deductions and exclusive of additional pay of any kind.

"Representative rate" means:

(a) The fourth rate of the grade in the case of a position under the General Schedule, or the single rate of GS–18;

(b) The fourth rate of the corresponding grade of the General Schedule in the case of a position under the merit pay system established by chapter 54 of title 5, United States Code;

(c) The second rate of the grade of a position under a regular prevailing rate schedule established under subchapter IV of chapter 53, United States Code, or in the case of a position with a single rate, the single rate of that position; or

(d) The rate designated as representative of the position by the agency responsible for establishing and adjusting the special schedule in the case of a position under a special prevailing rate schedule established under 5 U.S.C. 5343.

"Temporary promotion" means a promotion with a definite time limitation, and one which the individual is informed in advance is temporary and would normally require that the individual return to his or her permanent grade at the expiration of that promotion.

"Temporary reassignment" means a reassignment with a definite time limitation, and one which the individual is informed in advance is temporary and would normally require that the individual return to his or her permanent position at the expiration of that reassignment.

§ 536.103 Coverage and applicability of grade retention.

(a) Grade retention shall apply to an employee who moves to a position in a covered pay schedule which is lower graded than the position held immediately prior to the demotion in the following circumstances:

(1) As a result of reduction-in-force procedures; or

(2) As a result of a reclassification process.

(b) Except as excluded by § 536.105 of this part, the head of the agency may provide grade retention to eligible employees downgraded in circumstances similar to those set forth in paragraph (a) of this section, which, except for grade retention, have resulted in or may result in a negative impact on the affected employee as a consequence of a management-initiated action over which the employee has no control, for example, a transfer of function outside of the commuting area. The specific management-initiated action must be a part of, or a result of, a reorganization or reclassification effort which is formally announced prior to the effective date of actions which trigger entitlement to benefits under this part.

(c)(1) An employee who, immediately prior to being placed in a lower graded position as a result of reduction-in-force procedures, is in a position under a covered pay schedule, is eligible for grade retention only if the employee has served for 52 consecutive weeks or more in position(s) under a covered pay schedule at a grade(s) higher than the position to which the employee moves.

(2) An employee is eligible for grade retention when his or her position has been reclassified at a lower grade only if the position which is being reduced had been classified at a higher grade(s) for a continuous period of a leat 1 year immediately before the reduction.

(3) In situations other than those covered in paragraphs (c)(1) and (c)(2) of this section, an employee is eligible for grade retention if he or she has served in a position in any pay schedule for 52 weeks immediately prior to being placed in the lower grade, provided such service was in an agency as defined in 5 U.S.C. 5361 at a grade(s) higher than the position to which the employee moves.

§ 536.104 Coverage and applicability of pay retention.

(a) Pay retention shall apply to any employee whose rate of basic pay would otherwise be reduced:

(1) As the result of the expiration of the 2-year period of grade retention; or

(2) As a result of the reduction or elimination of scheduled rates, except those reflecting a decrease in the level of prevailing rates as determined by a wage survey, or the reduction or elimination of special schedules or special rates; or

(3) As a result of the placement in a position in a lower wage area or in a position in a different pay schedule; or

(4) As a result of the placement of the employee in a formal employee development program generally utilized Governmentwide: Upward Mobility, Apprenticeship, and Career Intern Programs.

(b) Except as excluded under § 536.105 of this part, the head of the agency may provide pay retention to eligible individuals whose rates of basic pay would otherwise be reduced as a result of management-initiated actions.

(c) An employee who is entitled to continue to receive a retained rate of basic pay under 5 U.S.C. 5337 or 5345, as provided in section 801(a)(4)(B) of Pub. L. 95–454, is entitled, at the same time, to pay retention under this section, if, as a result of an action covered under this section, that employee's rate of basic pay would be reduced, were it not for the entitlement under 5 U.S.C. 5337 or 5345.

§ 536.105 Exclusions.

(a) Grade and pay retention shall not apply to any employee who:

(1) Moves from a position which is not in an agency as defined in 5 U.S.C. 5361; or

(2) Moves from a nonappropriated fund position, if the individual is not already covered by law; or

(3) Is reduced in grade or pay for personal cause or at the employee's request; or

(4) Does not satisfactorily complete the probationary period prescribed by 5 U.S.C. 3321(a)(2), and, as a result, is moved out of his or her supervisory or managerial position.

(b) An employee serving under a temporary promotion or temporary reassignment may not retain a grade or rate of basic pay held during the temporary promotion or temporary reassignment. However, an employee's entitlement to grade or pay retention will not be affected as a result of a temporary promotion or temporary reassignment.

Subpart B—Determination of Retained Grade and Rate of Basic Pay; Loss of, or Termination of, Eligibility

§ 536.201 Period of grade retention.

(a) An employee entitled to grade retention is entitled to retain that grade for 2 years beginning on the date the employee is placed in the lower graded position.

(b) If, during a 2-year period of grade retention, an employee is further reduced in grade under circumstances also entitling the employee to grade retention, the employee shall continue to retain the previous retained grade for the remainder of the previous 2-year retention period. At the end of that period, the employee shall be entitled to retain the grade of the position from which the further reduction in grade was made, until 2 years have passed from the date of the further reduction in grade.

§ 536.202 Determination of retained grade.

(a) For the purpose of determining whether the grade of a position is equal to, higher than, or lower than the grade of another position in movements between pay schedules, the representative rates of the positions will be compared.

(b) An employee who is in a position under a covered pay schedule immediately prior to the action which entitles him or her to grade retention shall retain the grade held immediately prior to that action.

(c) An employee who is in a position not under a covered pay schedule immediately prior to the action which entitles him or her to grade retention shall retain:

(1) The lowest grade of the covered pay schedule in which placed which has a representative rate equal to or higher than the representative rate, as designated by the agency, of the grade held immediately prior to that placement; or

(2) The highest grade of the covered pay schedule in which placed, if there is no grade in the covered pay schedule with a representative rate equal to or higher than the representative rate held immediately prior to that placement.

§ 536.203 Determination of applicable pay schedule.

(a) When an employee entitled to grade retention is placed in a different geographical area, the pay schedule which applies to the employee is the schedule in the new geographical area.

(b) When an employee entitled to grade retention is placed in, or his or he position is changed to, a different occupational series, the pay schedule which applies to the individual is the pay schedule for the new occupational series.

§ 536.204 Determination of rate of basic pay.

(a) When an employee becomes entitled to grade retention, or moves to another position during a period of grade retention and continues the grade retention entitlement, the employee is entitled to the greater of:

(1) His or her rate of basic pay before the movement, or

(2) The rate of basic pay from the applicable pay schedule for the grade

and step held by the employee before the movement, or

(3) The lowest rate of basic pay from the applicable pay schedule for the retained grade which equals or exceeds the employee's rate of basic pay before the movement.

(b)(1) When an employee becomes entitled to pay retention, or moves to another position while receiving pay retention, the employee's current rate of basic pay shall be compared with the range of rates of basic pay for the new grade.

(2) The employee is entitled to the lowest rate of basic pay in the new grade which equals or exceeds his or her current rate of basic pay. If the current rate of basic pay can be accommodated in the rate range of the new grade, pay retention does not apply.

(3) If the employee's current rate of basic pay, when he or she becomes entitled to pay retention, exceeds the maximum rate of the new grade, the employee is entitled to the lower of:

(i) The rate of basic pay payable to the employee immediately before the reduction in pay; or

(ii) 150 percent of the maximum rate of basic pay payable for the new grade.

(c) When, as a result of an increase in the scheduled rates(s) of the grade of the employee's position, an employee's retained rate of basic pay becomes equal to or lower than the maximum rate of that grade, the employee is entitled to the lowest rate of the grade of his or her position which is equal to or higher than the retained rate and pay retention ceases.

(d) An employee who is serving on a temporary promotion at the time he or she becomes eligible for pay retention is entitled to retain the rate of basic pay which he or she would have been receiving at that time had the temporary promotion not occurred.

(e) When an employee's entitlement to grade or pay retention terminates, the employee's rate of basic pay may be set at any rate of his or her grade in accordance with the provisions of Subpart B, Part 531 of this title and Federal Personnel Manual Supplement 532–1 unless:

(1) Grade retention is being terminated as a result of the expiration of the 2-year retention period; or

(2) The employee is moved to a grade equal to or greater than the retained grade; or

(3) The employee is entitled to a rate of basic pay under paragraphs (b) or (c) of this section.

§ 536.205 Criteria for a "reasonable offer".

For the purposes of this part, an offer of a position, in order to be considered a reasonable one, must fulfill, as a minimum, the following conditions:

(a) The offer must be in writing, must include an official position description of the offered position, and must inform the individual that any entitlement to grade or pay retention will be terminated if the offer is declined; and

(b) The offered position must be of tenure equal to or greater than that of the position from which the employee is coming and one for which the employee meets the established qualification requirements; and

(c) The offered position must be in an agency, as defined in 5 U.S.C. 5361, although not necessarily in the same agency in which the employee is serving at the time of the offer; and

(d) The offered position must be full-time, unless the employee's position immediately before the change creating entitlement to grade or pay retention was less than full-time, in which case the offered position must have a work schedule of no less time than the position held before the change; and

(e) The offered position must be in the same commuting area as the employee's position immediately before the offer, unless the employee is subject to a mobility agreement or a published agency policy which requires employee mobility.

§ 536.206 Loss of eligibility for grade retention.

(a) Eligibility for grade retention as a result of entitlement under § 536.103(a) of this part ceases if any of the following conditions occurs at any time after the employee receives official notice of the downgrading action, but before the commencement of the 2-year period of grade retention:

(1) The employee has a break in service of one workday or more; or

(2) The employee is demoted for personal cause or at the employee's request; or

(3) The employee is placed in, or declines a reasonable offer of, a position the grade of which is equal to or higher than the retained grade; or

(4) The employee elects in writing to have the benefits of grade retention terminate.

(b) Eligibility for grade retention as a result of entitlement under § 536.103(b) of this part ceases if any of the following conditions occurs at any time after the employees is made aware by management of an impending management action which will or could result in downgrading, but before the commencement of the 2-year period of grade retention:

(1) Any of the conditions listed in paragraph (a) of this section; or

(2) The employee refuses to enroll in a program providing priority consideration for placement.

§ 536.207 Termination of grade retention.

(a) Grade retention terminates if any of the conditions listed in § 536.206(a) occurs after commencement of the 2-year period of grade retention.

(b) Grade retention as provided by § 536.103(b) also terminates if any of the conditions listed in § 536.206(b) occur after the commencement of the 2-year period of grade retention.

(c) The effective date of termination of grade retention benefits is:

(1) The date before placement if the termination is the result of the employee's placement in another position; or

(2) At the end of the last day of the pay period in which the employee:

(i) Declines a reasonable offer; or

(ii) Elects to waive grade retention benefits; or

(iii) Refuses to enroll in a program providing priority consideration for placement.

§ 536.208 Loss of eligibility for, or termination of, pay retention.

(a) Eligibility for pay retention, or actual retention of pay, ceases if any of the following conditions occurs at any time after the employee has received written notification that his or her pay is to be reduced:

(1) The employee has a break in service of one workday or more; or

(2) The employee is entitled to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the rate to which the employee is entitled under pay retention; or

(3) The employee is demoted for personal cause or at the employee's request.

(b) The effective date of termination of pay retention benefits is:

(1) The date before placement if the termination is the result of the employee's placement in another position; or

(2) The end of the last day of the pay period in which the employee declines a reasonable offer.

Subpart C—Miscellaneous Provisions

§ 536.301 Grade and pay retention under the Merit Pay System [Reserved].

§ 536.302 Appeal of termination of benefits because of reasonable offer.

(a) Except as provided for in paragraph (e) of this section, an employee whose grade or pay retention benefits are terminated on the grounds the employee declined a reasonable offer of a position the grade or pay of which is equal to or greater than his or her retained grade or pay may appeal the termination to the Office of Personnel Management.

(b) An employee who appeals under this section shall file the appeal in writing with the Office of Personnel Management not later than 15 calendar days after being notified that his or her grade or pay retention benefits have been terminated, and shall state in the appeal the reasons why the employee believes the offer of a position was not a reasonable offer.

(c) The Office of Personnel Management may conduct any investigation or hearing it determines necessary to ascertain the facts of the case.

(d) If a decision by the Office of Personnel Management on an appeal under this section requires corrective action by an agency, including the retroactive or prospective restoration of grade or pay retention benefits, the agency shall take that corrective action.

(e) Termination of benefits based on a declination of a reasonable offer by an employee in an exclusively recognized bargaining unit may be reviewed under negotiated grievance and arbitration procedures in accordance with chapter 71 of title 5, United States Code, and the terms of any applicable collective bargaining agreement. An employee in an exclusively recognized bargaining unit may not appeal a termination of benefits to the Office of Personnel Management if the grievance procedure of the agreement by which he or she is covered provides for such review.

(f) Decisions issued by the Office of Personnel Management shall be considered final decisions. OPM may, at its discretion, reconsider an original appellate decision when information is presented, in writing, by the employee or the agency, which establishes a reasonable doubt as to the appropriateness of the original decision. A request for reconsideration of an original appeal decision must be submitted to OPM within 30 calendar days of the date of the original decision.

§ 536.303 Documentation.

The application of the provisions of this part shall be documented in writing as a permanent part of the employee's Official Personnel Folder. The documentation shall include a complete description of the circumstances warranting grade or pay retention.

§ 536.304 Issuance of employee letters.

When an employee is entitled to grade and/or pay retention, the employing agency shall give to the employee, with a copy of the Notification of Personnel Action (SF–50) documenting entitlement to grade and/or pay retention, a letter explaining the action and the nature of the grade or pay retention entitlement.

§ 536.305 Effect of grade retention on quota spaces.

For the purpose of determining the number of positions at GS–16, –17 and –18, or the equivalent, including positions in the Senior Executive Service, authorized by an Act of Congress, the grades (or SES levels) of the positions occupied, rather than the retained grades, are to be used.

§ 536.306 Retroactive entitlement.

Employees who are eligible for grade retention as provided by § 536.103(a) except that the reduction in grade took place on or after January 1, 1977, and before the first day of the first pay period beginning on or after January 11, 1979, shall be entitled to pay and benefits as provided in section 801(b) of the Civil Service Reform Act of 1978 under procedures and instructions issued by the Office of Personnel Management.

[FR Doc. 80-18315 Filed 6-16-80; 8:45 am]

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CIVIL AERONAUTICS BOARD

14 CFR Part 399

[Policy Statements Docket 37982; PSDR-66A]

Domestic Passenger Fare Flexibility

Dated: June 11, 1980.

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: In PS–94, also adopted today, the CAB announced an interim policy of broadened flexibility for airlines to set domestic passenger fares. This issuance requests comments on that subject, in response to a Motion for Reconsideration filed by 11 U.S. Senators.

DATES: Comments by: July 17, 1980; Reply comments by: August 1, 1980.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should sent to Docket 37982, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Julien R. Schrenk, Chief, Domestic Fares and Rates Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5298.

SUPPLEMENTARY INFORMATION: For the reasons set forth in PS–94, also adopted today, the Board will reconsider the interim policy on domestic passenger fares that is announced in that issuance.

Accordingly, the Board requests comments on the interim policy set forth in PS–94.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-18195 Filed 6-16-80; 8:45 am]

BILLING CODE 6320-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1252

Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Asssitance

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed regulations

SUMMARY: The National Aeronautics and Space Administration (NASA) proposed specific regulations to carry out its responsibilities under the Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq, and the government-wide regulations published in the **Federal Register** June 12, 1979, 44 FR 33768 (1979). The Age Discrimination Act prohibits discrimination on the basis of age in programs and activities receiving Federal financial assistance. The Act contains exceptions which permit, under certain circumstances, continued use of age distinctions or factors other than age that may have adisproportionate effect on a particular age group. The Act excludes from its coverage most employment practices except for

programs funded under the public services employment titles of the Comprehensive Employment and Training Act (CETA).

EFFECTIVE DATE: Comments should be submitted in writing not later than July 17, 1980.

ADDRESS: Richard N. Wolf, Office of General Counsel, Code GK-3, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Richard N. Wolfe, (202) 755-3160.

SUPPLEMENTARY INFORMATION: The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act contains exceptions which limit the general prohibition against age discrimination. The Act permits the use of age distinctions which are necessary to the normal operation of a program or to the achievement of a statutory objective. It also permits actions based on reasonable factors other than age. In accordance with section 304(a)(1) of the Act, the Secretary of the Department of Health, Education, and Welfare (HEW) has issued government-wide regulations to guide the development of agency specific regulations by each Federal agency that administers programs of Federal financial assistance. Final government-wie regulations were published in the **Federal Register** on June 12, 1979, (45 CFR 90).

Section 90.31(b) of the government-wide regulations requires NASA to issue proposed regulations applicable to its specific federally assisted programs and activities.

In addition to publishing specific regulations consistent with the government-wide regulations, the following actions are being taken by NASA in connection with implementation of the Act.

1. An appendix listing all age distinctions, which appear in Federal statutes and regulations and which affect the agency's programs of financial assistance, is required and will be included in the final regulations.

2. As a second step in the public information process, NASA must review any age distinctions it imposes on its recipients by regulation or by administrative action in order to determine whether these distinctions are permissible under the act. This review must be completed within 12 months after publication of agency final regulations and must be published for public comment in the **Federal Register.**

3. The act requires NASA to report annually to the Congress through HEW on its compliance and enforcement activities.

4. NASA is required to provide written notices to each recipient of the recipient's obligations under the Act, to provide technical assistance to recipients where necessary, and to make available educational materials explaining the rights and obligations of beneficiaries and recipients.

5. NASA is required to establish a procedure for processing complaints of age discrimination. The complaint handling procedure must include an initial screening by NASA and notice to complainants and recipients of their rights and obligations in the complaint process. All complaints which fall within the coverage of the Act will be referred to a mediation process managed by the Federal Mediation and Conciliation Service (FMCS).

6. NASA must review the effectiveness of its regulations 30 months after their effective date. The review is to be published in the **Federal Register** with an opportunity for public comment.

NASA's regulations are divided into four major parts: A—General; B—Standards for Determining Age Discrimination; C—Responsibilities of Recipients; D—Investigation, Conciliation, and Enforcement Procedures.

The general section of the regulations explains the purpose of NASA's age discrimination regulations and defines terms used throughout the document. Section 1252.103 defines the term "recipient." It should be noted that these regulations do not apply to assistance programs administered by the Federal Government directly to beneficiaries, e.g., individual fellowship award programs. However, the regulations may apply whenever direct aid is provided to an individual on condition that the aid be spent in providing services or benefits to others.

Although the HEW government-wide regulations and NASA regulations do not require written assurances in their grant agreements, the legal obligation of a recipient to comply with these regulations remains unchanged.

The general and specific prohibitions against discrimination on the basis of age (§ 1252.200) as well as the exceptions of those prohibitions are set forth in Part B (§ 1252.201). As a general rule, under the regulations, no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving NASA financial assistance.

The Act contains several exceptions which limit the general prohibitions against age discrimination. Section 304(b)(1) of the Act permits the use of age distinctions which are necessary to the normal operation of a program or to the achievement of a statutory objective. The regulation provides definitions for two terms which are essential to an understanding of those exceptions: "Normal operation" and "statutory objective" (§ 1252.201(a)). "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives. "Statutory objective" is defined to mean any purpose which is explicitly stated in a Federal statute, State statute or local statute or ordinance.

The regulations establish a four-part test, all parts of which must be met for an explicit age distinction to satisfy one of the statutory exceptions and to continue in use in a federally assisted program. This four part test will be used to scrutinize age distinctions which are imposed in the administration of NASA's assisted programs, but which are not explicitly authorized by a Federal, State or local statute.

Recipients of NASA funds also are permitted to take an action otherwise prohibited by the Act, if the action is based on "reasonable factors other than age." In that event, the action may be taken even though it has a disproportionate effect on persons of different ages. However, according to the regulations (§ 1252.201(c)) the factor other than age must bear a direct and substantial relationship to the program's normal operation or to the achievement of a statutory objective.

Where a NASA recipient passes on financial assistance to subrecipients, the recipient must notify subrecipients of their obligations under the regulations (§ 1252.301). Each recipient and each subrecipient would be required to complete a one-time written self-evaluation of its compliance with the proposed regulations. The self-evaluation must be kept on file for three years from the effective date of the regulations and made available to the public upon request.

Part D of the proposed regulations establishes the procedures for investigation, conciliation, and enforcement of the Act. This section closely reflects the procedural requirements included in HEW's government-wide regulations.

Section 1252.402 introduces mediation into the complaint process for age discrimination. NASA will refer all complaints of discrimination under the Act to the Federal Mediation and

Conciliation Services (FMCS), which was designated by the Secretary of HEW to manage the mediation process.

Complainants and recipients are required to participate in the effort to reach a mutually satisfactory mediated settlement of the complaint. Mediation may last no more than 60 days from the date NASA first receives the complaint. No further action will be taken by NASA in connection with a successfully mediated complaint.

NASA will, however, investigate complaints that are unresolved after mediation or are reopened because the mediation agreement is violated.

Finally, the regulations permit NASA to disburse withheld funds to an appropriate alternate recipient. The alternate recipient must be in compliance with the regulations and must demonstrate the ability to achieve the goals of the program for which the funds were originally extended.

14 CFR Chapter V is proposed to be amended by adding a new Part 1252, reading as follows:

PART 1252—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart 1252.1—General

Sec.

1252.100 What is the purpose of NASA's age discrimination regulations?
1252.102 To what programs do these regulations apply?
1252.103 Definitions.

Subpart 1252.2—Standards for Determining Age Discrimination

1252.200 Rules against age discrimination.
1252.201 Exceptions to the rules against age discrimination.
1252.202 Burden of proof.

Subpart 1252.3—Responsibilities of Recipients

1252.300 General responsibilities of recipients.
1252.301 Notice to subrecipients.
1252.302 Self-evaluation.
1252.303 Information requirements.

Subpart 1252.4—Investigation, Conciliation, and Enforcement Procedures

1252.400 Compliance reviews.
1252.401 Complaints.
1252.402 Mediation.
1252.403 Investigation.
1252.404 Prohibition against intimidation or retaliation.
1252.405 Compliance procedure.
1252.406 Hearings.
1252.407 Notices, decisions, and post-termination proceedings.
1252.408 Remedial action by recipients.
1252.409 Alternate funds disbursal procedure.
1252.410 Exhaustion of administrative remedies.

Authority: Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq.; (45 CFR 90).

Subpart 1252.1—General

§ 1252.100 What is the purpose of NASA's age discrimination regulations?

The purpose of these regulations is to set out NASA's policies and to implement agencywide or agency procedures under the Age Discrimination Act of 1975 according to the government-wide age discrimination regulations at 45 CFR Part 90. (Published at 44 FR 33768, June 12, 1979.) The Act and the government-wide regulations prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act and the government-wide regulations permit federally assisted programs and activities, and recipients of Federal funds, to continue to use age distinctions and factors other than age which meet the requirements of the Act and the government-wide regulations.

§ 1252.102 To what programs do these regulations apply?

These regulations apply to each NASA recipient and to each program or activity operated by the recipient which receives or benefits from Federal financial assistance provided by NASA.

§ 1252.103 Definitions.

As used in these regulations, the term:

(a) "Act" means the Age Discrimination Act of 1975, as amended. (Title III of Public Law 94–135.)

(b) "Action" means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

(c) "Age" means how old a person is, or the number of elapsed years from the date of a person's birth.

(d) "Age distinction" means any action using age or an age-related term.

(e) "Age related term" means a word or words which necessarily imply a particular age or range of ages (for example, "children," "adult," "older persons," but not "student").

(f) "Discrimination" means unlawful treatment based on age.

(g) "NASA" means the National Aeronautics and Space Administration.

(h) "Federal financial assistance" means any grant, entitlement, loan, cooperative agreement contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or interest in or use of property, including:

(i) Transfers or lease of property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

(i) "FMCS" means the Federal Mediation and Conciliation Service.

(j) "Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

(k) "Administrator" means the Administrator of the National Aeronautics and Space Administration or designee.

(l) "Subrecipient" means any of the entities in the definition of "recipient" to which a recipient extends or passes on Federal financial assistance. A subrecipient is generally regarded as a recipient of Federal financial assistance and has all the duties of a recipient in these regulations.

(m) "United States" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

Subpart 1252.2—Standards for Determining Age Discrimination

§ 1252.200 Rules against age discrimination.

The rules stated in this section are limited by the exceptions contained in Section 1252.201.

(a) General rule: No person in the United States shall, on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b) Specific rules: A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under

a program or activity receiving Federal financial assistance; or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

§ 1252.201 Exception to the rules against age discrimination.

(a) Definitions. For purposes of this section, the terms "normal operation" and "statutory objective" shall have the following meaning:

(1) "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(2) "Statutory objective" means any purpose of a program or activity expressly stated in any Federal statute, state statute, or local statute or ordinance adopted by any elected, general purpose legislative body.

(b) Normal operation or statutory objective of any program or activity. A recipient is permitted to take an action otherwise prohibited by § 1252.200 if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(1) Age is used as a measure of approximation of one or more other characteristics; and

(2) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(3) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(4) The other characteristic(s) are impractical to measure directly on an individual basis.

(c) Reasonable factors other than age. A recipient is permitted to take an action otherwise prohibited by § 1252.200 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

§ 1252.202 Burden of proof.

The burden of proving that an age distinction or other action falls within the exceptions outlined in § 1252.201 (b) and (c) is on the recipient of Federal financial assistance.

Subpart 1252.3—Responsibilities of Recipients

§ 1252.300 General responsibilities of recipients.

Each NASA recipient must ensure that its programs and activities comply with these regulations.

§ 1252.301 Notice to subrecipients.

Where a recipient passes on Federal financial assistance from NASA to subrecipients, the recipient shall provide the subrecipient written notice of their obligations under these regulations.

§ 1252.302 Self-evaluation.

(a) Each recipient employing the equivalent of 15 or more full-time employees shall complete a one-time written self-evaluation of its compliance under the Act within 18 months of the effective date of these regulations.

(b) In its self-evaluation, each recipient shall identify and justify each age distinction imposed in the program or activity receiving Federal financial assistance from NASA.

(c) Each recipient shall take corrective action whenever a self-evaluation indicates a violation of the Act or these regulations.

(d) Each recipient shall make the self-evaluation available on request to NASA and to the public for a period of 3 years following its completion.

§ 1252.303 Information requirements.

Each recipient shall:

(a) Make available upon request to NASA information necessary to determine whether the recipient is complying with the Act and these regulations.

(b) Maintain and permit reasonable access by NASA to the books, records, accounts, and other recipient facilities and sources of information to the extent necessary to determine whether the recipient is in compliance with the Act and these regulations.

Subpart 1252.4—Investigation, Conciliation, and Enforcement Procedures

§ 1252.400 Compliance reviews.

(a) NASA may conduct compliance reviews and pre-award reviews of recipients or use other similar procedures that will permit it to investigate and correct violations of the Act and these regulations. NASA may conduct these reviews even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of these regulations has occurred.

(b) If a compliance review or pre-award review indicates a violation of the Act or these regulations, NASA will attempt to secure the recipient's voluntary compliance with the Act. If voluntary compliance cannot be achieved, NASA will arrange for enforcement as described in § 1252.405.

§ 1252.401 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with NASA, alleging discrimination prohibited by the Act or these regulations based on an action occurring on or after July 1, 1979. A complaint must be filed within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause shown, NASA may extend this time limit.

(b) NASA will attempt to facilitate the filing of complaints wherever possible, including taking the following measures:

(1) Accepting as a sufficient complaint, any written statement, which identifies the parties involved and the date the complainant first had knowledge of the alleged violation, describes generally the action or practice complained of, and is signed by the complainant.

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint.

(3) Widely disseminating information regarding the obligations of recipients under the Act and these regulations.

(4) Notifying the complainant and the recipient of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the complaint procedure.

(5) Notifying the complainant and the recipient (or their representatives) of their right to contact NASA for information and assistance regarding the complaint resolution process.

(c) NASA will return to the complainant any complaint outside the jurisdiction of these regulations, and will state the reason(s) why it is outside the jurisdiction of these regulations.

§ 1252.402 Mediation.

(a) Referral of complaints for mediation. NASA will refer to the Federal Mediation and Conciliation Service all complaints that:

(1) Fall within the jurisdiction of the Act and these regulations; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible. There must be at least one meeting with the mediator before NASA will accept a judgment that an agreement is not possible. However, the recipient and the complainant need not meet with the mediator at the same time.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and recipient sign it. The mediator shall send a copy of the agreement to NASA. NASA will take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement. However, NASA retains the right to monitor the recipient's compliance with the agreement.

(d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the mediation agency.

(e) NASA will use the mediation process for a maximum of 60 days after receiving a complaint.

(f) Mediation ends if:

(1) 60 days elapse from the time NASA receives the complaint; or

(2) Prior to the end of that 60-day period, an agreement is reached; or

(3) Prior to the end of that 60-day period, the mediator determines that an agreement cannot be reached.

(g) The mediator shall return unresolved complaints to NASA.

§ 1252.403 Investigation.

(a) Informal inquiry. (1) NASA will investigate complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement.

(2) As part of the initial inquiry, NASA will use informal fact finding methods, including joint or separate discussions with the complainant and recipient to establish the facts, and, if possible, settle the complaint on terms that are mutually agreeable to the parties. NASA may seek the assistance of any involved State program agency.

(3) NASA will put any agreement in writing and have it signed by the parties and an authorized official at NASA.

(4) The settlement shall not affect the operation of any other enforcement effort of NASA, including compliance reviews and investigation of other complaints which may involve the recipient.

(5) The settlement is not a finding of discrimination against a recipient.

(b) Formal investigation. If NASA cannot resolve the complaint through informal means it will develop formal findings through further investigations of the complaint. If the investigation indicates a violation of these regulations, NASA will attempt to obtain voluntary compliance. If NASA cannot obtain voluntary compliance, it will begin enforcement as described in § 1252.405.

§ 1252.404 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by the Act or these regulations; or

(b) Cooperates in any mediation, inquiry, hearing, or other part of NASA's investigation, conciliation, and enforcement process.

§ 1252.405 Compliance procedure.

(a) NASA may enforce the act and these regulations through:

(1) Termination of a recipient's Federal financial assistance from NASA under the program or activity involved where the recipient has violated the Act or these regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. Therefore, cases which are settled in mediation, or prior to a hearing, will not involve termination of a recipient's Federal financial assistance from NASA.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or these regulations.

(ii) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or these regulations.

(b) NASA will limit any termination under § 1252.405(a)(1) to the particular program or activity NASA finds in violation of these regulations. NASA will not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from NASA.

(c) NASA will take no action under paragraph (a) until:

(1) The Administrator has advised the recipient of its failure to comply with the Act and these regulations and has determined that voluntary compliance cannot be obtained.

(2) 30 days have elapsed after the Administrator has sent a written report of the circumstances and grounds of the action to the committees of Congress having legislative jurisdiction over the Federal program or activity involved. The Administrator will file a report whenever any action is taken under paragraph (a) of this section.

(d) NASA also may defer granting new Federal financial assistance from NASA to a recipient when a hearing under § 1252.405(a)(1) is initiated.

(1) New Federal financial assistance from NASA includes all assistance for which NASA requires an application or approval, including renewal or continuation of existing activities during the deferral period. New Federal financial assistance from NASA does not include assistance approved prior to the beginning of a hearing under § 1252.405(a)(1).

(2) NASA will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under § 1252.405(a)(1). NASA will not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Administrator. NASA will not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

§ 1252.406 Hearings.

The procedural provisions for those hearings required by § 1252.405 are contained in 14 CFR 1250.108. § 1252.407 Notice, decisions and post-termination proceedings.

All notices, decisions and post-termination proceedings, insofar as NASA is concerned, shall be made in accordance with 14 CFR 1250.109.

§ 1252.408 Remedial action by recipients.

Where NASA finds a recipient has discriminated on the basis of age, the recipient shall take any remedial action that NASA may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, NASA

may require both recipients to take remedial action.

§ 1252.409 Alternate funds disbursal procedure.

(a) When NASA withholds funds from a recipient under these regulations, the Administrator may disburse the withheld funds directly to an alternate recipient.

(b) The Administrator will require any alternate recipient to demonstrate:

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the Federal statute authorizing the program or activity.

§ 1252.410 Exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and NASA has made no finding with regard to the complaint; or

(2) NASA issues any finding in favor of the recipient.

(b) If NASA fails to make a finding within 180 days or issues a finding in favor of the recipient, NASA will:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief; and

(3) Inform the complainant:

(i) That the complainant may bring a civil action only in a United States district in which the recipient is located or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint.

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Administrator, the Attorney General of the United States, and

(iv) That the notice must state: the alleged violation of the act; the relief requested; the court in which the complainant is bringing the action; and, whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

Robert A. Frosch,

Administrator.

[FR Doc. 80-18100 filed 6-16-80; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 163

[Docket No. 78N-0361]

Cocoa Butters; Termination of Consideration of Codex Standard

Correction

In FR Doc. 80-12840 appearing on page 28348 in the issue of Tuesday, April 29, 1980, make the following corrections:

(1) In the third paragraph of the first column of page 28349, in the fourth line from the bottom, change ". . . cocoa beans . . ." to read ". . . cocao beans . . .".

(2) In the fourth paragraph in the same column, in the second line from the bottom change ". . . cocao butters . . ." to read ". . . cocoa butters . . .".

BILLING CODE 1505-01-M

21 CFR Part 589

[Docket No. 75N-0180]

Substances Prohibited From Use In Animal Food or Feed; Tentative Final Regulation

Correction

In FR Doc. 80-12823 appearing on page 28349 in the issue of Tuesday, April 29, 1980, in Table 4 on page 28351, change the 9th item *"p, p'*—DDD" to read *"o, p'*—DDD".

BILLING CODE: 1505-01-M

21 CFR Part 640

[Docket No. 79N-0325]

Cryoprecipitated Antihemophilic Factor (Human)

Correction

In FR Doc. 80-12858 appearing on page 28358 in the issue of Tuesday, April 29, 1980, make the following correction:

In the middle column change the 9th line from ". . . Concentrate (Human). The amount of . . ." to "Concentrate (Human), and the remaining plasma in the unit may be used as the source of Cryoprecipitated Antihemophilic Factor (Human). The amount of . . .".

BILLING CODE: 1505-01-M

21 CFR Part 1030

[Docket No. 80N-0099]

Amendments to the Microwave Ovens Standard; Measurement and Test Conditions

Correction

In FR Doc. 80-13467 appearing at page 29307 in the issue for Friday, May 2, 1980, make the following corrections:

1. On page 29307, in the third column, the first full paragraph, the fifth line from the bottom reading "permitted by § 10.30.10(c)(1) of the" should be corrected to read "permitted by § 1030.10(c)(1) of the".

2. Also on page 29307, in the third column, the second paragraph, the fourth line down reads "lesser compliance with Part 1030. This" should be corrected to read "lessen compliance with Part 1030. This".

3. On page 29308, in the first column, the first line reads "§ 1030.10(C)(1) and (c)(3)(i) as a" should be corrected to read as follows "§ 1030.10(c)(1) and (c)(3)(i) as a ".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Fair Housing and Equal Opportunity

24 CFR Part 115

[Docket No. R-80-818]

Recognition of Substantially Equivalent Laws

AGENCY: Housing and Urban Development/Office of Fair Housing and Equal Opportuinty.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends current regulations which provide for recognition by the Department of those State and local fair housing laws which provide rights and remedies substantially equivalent to those provided by Title VIII of the Civil Rights Act of 1968. The amendment would grant recognition to the following:

States

California
Iowa
Maryland

Localities

Charleston, West Virginia
Charlotte, North Carolina
Fort Wayne, Indiana
Montgomery County, Maryland
Omaha, Nebraska
Philadelphia, Pennsylvania

Phoenix, Arizona
Seattle, Washington
Sioux Falls, South Dakota
Tacoma, Washington

DATES: Comments received on or before August 18, 1980 will be considered prior to publication of a final rule.

ADDRESSES: Send written comments to the Rules Docket Clerk, Room 5218, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20401.

FOR FURTHER INFORMATION CONTACT: Steven J. Sacks, Director, Federal, State and Local Programs Division, Room 5208, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755–5518.

SUPPLEMENTARY INFORMATION: The Department is proposing to grant recognition to the fair housing laws of three States and ten localities, pursuant to Section 810(c) of Title VIII of the Civil Rights Act of 1968. The evaluation of the laws of the three States and ten localities was conducted in accordance with the provisions of 24 CFR Part 115, with particular focus on §§ 115.2(a), 115.3 and 115.8. Those sections are set forth to give appropriate information to all parties with an interest in HUD's proposed action.

Section 115.2 Procedures for Recognition provides in (a): Recognition under this part shall be based on a consideration of the following materials and information: (1) The text of the jurisdiction's fair housing law and any regulations or directives issued thereunder; (2) the organization of the agency responsible for administering and enforcing such law; (3) the amount of funds and personnel made available to such agency for fair housing purposes during the current operating year; (4) when considering agencies which have been in operation for 1 year or more, any available indicia of the agency's ability to satisfactorily administer its law consonant with the performance standards delineated in § 115.8; and (5) any additional documents which the agency may wish to have considered.

Section 115.3 Criteria provides: In order for a determination to be made that a State or local fair housing law provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to those provided in the Act, the law or ordinance must: (a) Provide for an administrative enforcement body to receive and process complaints; (b) Delegate to the administrative enforcement body comprehensive authority to investigate the allegations of complaints, and power to conciliate complaint matters; (c) Not place any excessive burdens on the complainant which might discourage the filing of complaints; (d) Not contain exemptions which substantially reduce the coverage of housing accommodations as compared to Section 803 of the Act which provides coverage with respect to all dwellings except, under ceratin circumstances, single-family homes sold or rented by the owner, and units in owner occupied dwellings containing living quarters for no more than four families; and (e) Be sufficiently comprehensive in its prohibitions so as to be an effective instrument in carrying out and achieving the intent and purposes of the Act, i.e., the prohibition of the following acts if they are based on discrimination because of race, color, religion, sex, or national origin:

[1] Refusal to sell or rent.

[2] Refusal to negotiate for a sale or rental.

[3] Making a dwelling unavailable.

[4] Discriminating in terms, conditions, or privileges of sale or rental, or in the provisions of services or facilities.

[5] Advertising in a discriminatory manner.

[6] Falsely representing that a dwelling is not available for inspection, sale or rental.

[7] Blockbusting.

[8] Discrimination in financing.

[9] Denying a person access to or membership or participation in multiple listing services, real estate brokers' organizations, or other services.

Provided, that a law may be determined substantially equivalent if it meets all of the criteria set forth in this section but does not contain adequate prohibitions with respect to one or more of the acts based on discrimination because of sex, or with respect to one or more of the cases described in paragraphs (e)(7), (8), and (9) of this section. (f) In addition to the factors described in paragraphs (a), (b), (c), (d), and (e) of this section, consideration will be given to the provisions of the law affording judicial protection and enforcement of the rights embodied in the law. However, a law may be determined substantially equivalent even though it does not contain express provision for access to State or local courts.

Section 115.8 Performance Standards provides: (a) The initial and continued recognition by the Secretary that a State or local fair housing law provides rights and remedies substantially equivalent to those provided in the Act will be dependent upon, where applicable, an assessment of the State or local agency's administration of its fair housing law to insure that the law is in fact providing substantially equivalent rights and remedies. The performance standards set forth in paragraph (b) of this section will be used in making such assessment. (b) A state or local agency must: (1) Consistently and affirmatively seek the elimination of all prohibited practices under its fair housing law; (2) Consistently and affirmatively seek and obtain the type of relief designed to prevent recurrences of such practices; (3) Establish a mechanism for monitoring compliance with any agreements or orders entered into with or issued by the State or local agency to resolve discriminatory housing practices; (4) Engage in comprehensive and thorough investigative activities; and, (5) Commence and complete the administrative processing of a complaint in a timely manner, i.e., the average complaint should, under ordinary circumstances, be investigated and, where applicable, set for conciliation within 30–45 days.

Interested persons and organizations may, on or before August 18, 1980, filed written comments on the proposal. If after evaluating any comments so received, the Assistant Secretary for Fair Housing and Equal Opportunity is still of the opinion that recognition is appropriate, the Assistant Secretary shall grant such recognition by amending 24 CFR 115.11.

A finding of inapplicability of the National Environmental Policy Act of 1969 has been made, and is available for public inspection and copying in the Office of the Rules Docket Clerk, 451 7th Street, S.W., Washington, D.C. 20410.

This rule is not listed in the Department's semi-annual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, it is proposed to amend 24 CFR Part 115.11 by adding the following three States and ten localities:

States

California
Iowa
Maryland

Localities

Charleston, West Virginia
Charlotte, North Carolina
Fort Wayne, Indiana
Montgomery County, Maryland
Omaha, Nebraska
Philadelphia, Pennsylvania
Phoenix, Arizona
Seattle, Washington
Sioux Falls, South Dakota
Tacoma, Washington

(Sec. 7(d) of the Department of HUD Act 42 U.S.C. 3535(d))

Issued at Washington, D.C., May 28, 1980.

Weldon H. Latham,

General Deputy Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 80-18192 Filed 6-16-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 42

Federal Financial Assistance; Nondiscrimination on the Basis of Sex in Education Programs

AGENCY: Department of Justice.

ACTION: Proposed rules.

SUMMARY: The Department of Justice proposes to add a new regulation for nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from federal financial assistance. These rules are intended to implement Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.*, which prohibits (with certain exceptions) sex discrimination in federally-assisted education programs or activities.

DATES: Comments should be received on or before August 18, 1980.

ADDRESS: Comments must be submitted to: Drew S. Days III, Assistant Attorney General, Civil Rights Division, Department of Justice, Washington, D.C., 20530, phone (202) 633-2151. Comments received in response to this notice will be available for public inspection in Room 412, 521 12th Street, N.W., Washington, D.C., between 9:00 a.m. and 5:30 p.m. Monday through Friday, except on Federal holidays, until the proposed rule is published in final form.

FOR FURTHER INFORMATION CONTACT: Ms. Stewart B. Oneglia, Director, Office of Coordination and Review, Civil Rights Division, Department of Justice, Washington, D.C. 20530, phone: (202) 724-6758.

SUPPLEMENTARY INFORMATION: Title IX of the Education Amendments of 1972, as amended, requires each federal agency which extends financial assistance to any education program or activity to issue rules and regulations implementing Title IX.

On June 4, 1975, the Department of Health, Education, and Welfare (HEW) issued final rules implementing Title IX. 45 CFR Part 86. The rules proposed by this Department are intended to be consistent with the HEW rules, except as explained below.

Section by Section comparison of the proposed Department of Justice regulation with the HEW regulation.

Section 42.702 Definitions

(b) "Department". Many programs and activities funded by the Department of Justice are covered by a statute which prohibits discrimination in federally assisted programs on the basis of race, color, religion, national orgin, or sex. This provision was originally enacted as section 518 of the Omnibus Crime Control and Safe Streets Act of 1968 (Pub. L. No. 90-351) and codified at 42 U.S.C.A. § 3766(c). That statute is broader than Title IX in that it is not limited to education programs or activities and does not include the exemptions included in Title IX. Any violation of Title IX in a program or activity covered by that provision would therefore also be a violation of that provision, although a violation of that provision would not necessarily be a violation of Title IX. We have therefore determined that recipients covered by both that provision and Title IX should be deemed to be in compliance with this proposed regulation so long as they are in compliance with that provision and its implementing regulation. This determination is reflected in our proposed definition of "Department."

The terms of section 518 of the Omnibus Crime Control and Safe Streets Act of 1968 were subsequently enacted as section 262 of the Juvenile Justice and Delinquency Prevention Act of 1974 (Pub. L. No. 93-415). In 1977, that Act was amended by Public Law Number 95-115, which repealed section 262 and replaced it with an incorporation by reference of section 518 of the Omnibus Crime Control and Safe Streets Act of 1968. That incorporation by reference was codified at 42 U.S.C.A. § 5672.

The Justice System Improvement Act of 1979 (Pub. L. No. 96-157) reorganized the Law Enforcement Assistance Administration, which administered programs under both the Omnibus Crime Control and Safe Streets Act of 1968 and the Juvenile Justice and Delinquency Prevention Act of 1974. It also amended the Ominbus Crime Control and Safe Streets Act, moving the non-discrimination provision formerly in section 518 to section 815(c)(1). That provision is to be re-codified at 42 U.S.C. § 3789d(c).

Section 1301i of the Justice System Improvement Act of 1979 provided that, notwithstanding any other provision of that Act, provisions of the Omnibus Crime Control and Safe Streets Act required to implement the Juvenile Justice and Delinquency Prevention Act remain in effect. The Juvenile Justice and Delinquency Prevention Act is expected to be re-authorized and amended in 1980. Its incorporation of the non-discrimination provision is expected to be retained.

All programs and activities funded under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, or the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, are covered by, and are expected to remain covered by the non-discrimination provision originally enacted as section 518 of the Omnibus Crime Control and Safe Streets Act of 1968, however that provision may be re-numbered or re-codified. It is to that provision that the proposed definition of "Department" refers.

Section 42.702 Definitions

(m) *"Admission".* In the HEW regulations, the term "student" is defined as "a person who has gained admission". The term "admission" is defined as "selection for . . . enrollment, membership, or matriculation in or at an education program or activity . . . ." The Department of Agriculture, in its final Title IX regulations published on April 11, 1979, expanded the definition of "admission" to include selection for "participation" in an education program or activity to ensure that all participants in such activities are included, whether or not they are formally enrolled. The Department of Justice has adopted the Department of Agriculture's version of this definition.

Section 42.702 Definitions

(o) "Assisted education program or activity." The Department of Justice has added a definition of "assisted education program or activity", to make it clear that the phrase applies to any program or activity operated by an educational institution that receives federal financial assistance, as well as any education program or activity operated by any other recipient where that program benefits directly or indirectly from federal financial assistance. This provision is consistent with HEW's interpretation of its regulation.

Section 42.702 Definitions

(p) "Discrimination under any academic, extracurricular, research, occupational training, or other assisted education program or activity." The Department of Justice has added this definition. The phrase defined appears in § 86.31(a) of the HEW regulation, and in section 42.731(a) of this proposed regulation. The definition is intended to make it clear that discrimination which "infects" or causes discrimination in a

covered program or activity is prohibited even if the original discrimination occurs in a program or activity that is not covered.

Section 42.702 Definitions

The definitions of "Director", "Reviewing authority", and "Administrative law judge" found in the HEW regulation are omitted from this proposed regulation.

Section 42.706(d)

The HEW regulation requires recipients to take certain steps to implement Title IX. This section provides that if a recipient has already taken these steps in order to comply with the HEW regulation, it need not repeat them in order to comply with our regulation.

Section 42.715

This section exempts certain activities which are not referred to in the HEW rules. These exemptions reflect amendments to the Act made in 1976 by Pub. L. No. 94–482, 90 Stat. 2234.

Section 42.717

This section implements section 1681(2)(b) of the statute, and corresponds to section 86.16 of the HEW regulation. It applies to educational institutions which are exempt from the admissions requirements of Title IX, including the public undergraduate colleges which are exempt under section 1681(a)(5) of the statute because they have been traditionally and continually single sex schools. If such schools decide to begin admitting students of both sexes, they are permitted to do so under an approved transition plan over a period of not more than seven years.

Educational institutions that were not permanently exempt from the admissions requirement of Title IX (that is, institutions of vocational education, professional education, and graduate higher education, not otherwise exempt) were permitted to begin admitting students of both sexes under a transition plan over a period of seven years after the effective date of Title IX, June 23, 1972. The period allowed for such a transition plan expired on June 23, 1979, which is the date used in the HEW regulation.

Single sex schools which were not subject to the admissions requirement of Title IX on its effective date, including primary and secondary schools, certain public undergraduate colleges, and institutions which were not at that time receiving federal financial assistance, are permitted to adopt transition plans for a period of seven years beginning with the date such a school begins the process of changing from being a school which admits students of only one sex to being a school which admits students of both sexes. (20 U.S.C. 1681(2)(b).) Our proposed regulation reflects this provision of the statute.

Single sex schools to which the admissions requirement does not apply *are* in compliance with Title IX; Title IX simply does not require them to admit students of the opposite sex. However, as soon as such a school admits even one student of the previously excluded sex, all of the requirements of Title IX become immediately applicable. The purpose of the transition plan is to protect the school against Title IX complaints during the period when it is adjusting to its new co-educational status. Prohibiting use of a transition plan might discourage single sex schools from becoming co-educational because of a fear of Title IX liability. Since we believe that such schools should be encouraged to make the change, we believe that our regulation should point out that transition plans remain available to them.

Section 42.721(c) (2) and (3)

This section prohibits discrimination on the basis of parental status, including pregnancy-related conditions. Our purposed regulation includes false pregnancy as one of the pregnancy-related conditions on the basis of which discrimination is prohibited, making these sections consistent with sections 86.57 (c) and (d) of the HEW regulation.

Section 42.752(a)

On September 25, 1978, the five Federal agencies having primary responsibility for the enforcement of Federal equal employment opportunity laws (The Equal Employment Opportunity Commission, the Office of Personnel Management, the Department of Justice, the Department of Labor, and the Department of Treasury) promulgated Uniform Guidelines on Employee Selection Procedures. Because these Guidelines were not in effect when the HEW regulation was issued, they are not referred to in that regulation. Because the Guidelines are now in effect, however, the Department has incorporated them by reference in its proposed regulation.

Section 42.756(b)

This section corresponds to § 86.56(b) of the HEW regulation which provides that

A recipient shall not:

* * * * *

(2) Administer, operate, offer, or participate in a fringe benefit plan which does not provide either for equal periodic benefits for members of each sex, *or for equal contributions* to the plan by such recipients for members of each sex. (Emphasis added.)

This provision was consistent with the Department of Labor's interpretation of the Equal Pay Act (29 U.S.C. § 206(d)) that was in effect when the HEW regulation was adopted, but it is inconsistent with the Equal Employment Opportunity Commission's interpretation of Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e, 29 CFR 1604.9(f)). After the HEW regulation was issued, the Supreme Court decided *City of Los Angeles Department of Water and Power* v. *Manhart*, 435 U.S. 702 (1978). In that case, the Court ruled that requiring higher employee contributions to a pension plan from women than from similarly situated men was discrimination on the basis of sex which violated Title VII and the Equal Pay Act. We believe that, under the Court's reasoning in *Manhart*, payment of lower benefits under a pension or other fringe benefit plan to individual members of one sex than are paid to individual members of the other sex also is sex discrimination, and that such discrimination by a recipient violates Title IX. Our proposed regulation, therefore, prohibits use of fringe benefit plans which differentiate in benefits or in employee contributions on the basis of sex.

Examples of application of the proposed regulation to Department of Justice programs and activities.

1. The Federal Bureau of Investigation and the Drug Enforcement Administration provide training to employees of state and local law enforcement agencies. The local law enforcement agencies whose employees receive such training are recipients of federal financial assistance within the meaning of this regulation. To the extent that such agencies participate in the administration of the program, such as by selection of the employees to receive the training, they are covered by the requirements of the Act and this regulation.

2. The Drug Enforcement Administration, under its Public Education on Drug Abuse program, furnishes advisory services and technical assistance to law enforcement agencies and schools desiring to establish drug abuse prevention policy guidelines for school-police cooperation. When such services or assistance are furnished directly to entities which are "educational institutions" as defined in this regulation, all of the programs and activities of such educational institutions are covered by the Act and this regulation.

When services or assistance are furnished to law enforcement agencies, such agencies are recipients, and all of their education programs or activities which benefit from such services or assistance are covered by the Act and this regulation. In addition, any educational institution which receives such assistance indirectly through a law enforcement agency is also a recipient of federal financial assistance, and all of its programs or activities are covered by the Act and this regulation.

3. The Law Enforcement Assistance Administration gives a grant to a police department to provide training for its employees. The training program is covered by Title IX, but since the police department is a recipient of funds covered by the non-discrimination provision of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, all of its programs and activities are also covered by that non-discrimination requirement. If the department is in compliance with that requirement, its training program will be deemed to be in compliance with this regulation.

4. The Immigration and Naturalization Service provides, free of charge to a school system, textbooks on citizenship for use by aliens taking a course to prepare for naturalization. The school is an educational institution, and the free textbooks are federal financial assistance. Therefore, all programs and activities of the school system are covered by Title IX and this regulation.

5. The National Institute of Corrections gives a grant to a state sheriffs' association to develop and implement a plan to assist local jails. Activities under the grant project include training of resource personnel, who in turn provide on-site training to local jail employees. The sheriffs' association is a recipient of federal financial assistance for a program which includes education programs and activities. Title IX and this regulation apply to the association's selection and training of resource personnel, and to on-site training provided to local jail employees.

6. The National Institute of Corrections provides a grant to a state agency to implement state jail standards. Employees of the state agency provide training to employees of local jails on the requirements of the jail standards. This training is part of the implementation project which is the subject of the federal grant, and it is covered by Title IX and this regulation.

7. The National Institute of Corrections provides a grant to a non-profit agency to train managers of correctional agency staff training programs in upgrading the administration and operation of those programs. The agency is a recipient of federal financial assistance for an education program or activity, and its program is covered by Title IX and this regulation.

In addition, the managers trained in the program are indirect recipients of the federal financial assistance. The staff training programs they manage are, therefore, education programs or activities which indirectly benefit from such assistance, and they are covered by Title IX and this regulation.

8. The National Institute of Corrections issues a grant to a non-profit agency to provide training for the administrators of correctional institutions. The training program is covered by Title IX and this regulation. However, unless the administrators who receive the training apply it in an education program or activity, their programs are not covered by Title IX or this regulation.

The Department of Justice proposes to amend Part 42 of Title 28 of the Code of Federal Regulations by adding Subpart I as set forth below.

Dated: May 30, 1980.

Drew S. Days III,

Assistant Attorney General, Civil Rights Division.

PART 42—NONDISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY; POLICIES AND PROCEDURES

Subpart I—Education programs or activities receiving or benefiting from Federal Financial Assistance

Introduction

Sec.

42.701 Purpose and effective date.
42.702 Definitions.
42.703 Remedial and affirmative action and self-evaluation.
42.704 Assurance required.
42.705 Transfers of property
42.706 Effect of other requirements.
42.707 Effect of employment opportunities.
42.708 Designation of responsible employee and adoption of grievance procedures.
42.709 Dissemination of policy.

Coverage

42.711 Application.
42.712 Educational institutions controlled by religious organizations.
42.713 Military and merchant marine educational institutions.
42.714 Membership practices of certain organizations.
42.715 Exempt activities.
42.716 Admission.
42.717 Education institutions eligible to submit transition plans.
42.718 Transition plans.

Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

Sec.

42.721 Admission to assisted education programs and activities.
42.722 Preference in admission to assisted programs or activities.
42.723 Recruitment.

Discrimination on the Basis of Sex in Education Programs and Activities Prohibited

42.731 Education programs and activities.
42.732 Housing.
42.733 Comparable facilities.
42.734 Access to course offerings.
42.735 Access to schools operated by L.E.A.'s.
42.736 Counseling and use of appraisal and counseling materials.
42.737 Financial assistance.
42.738 Employment assistance to students.
42.739 Health and insurance benefits and services.
42.740 Marital or parental status.
42.741 Athletics.
42.742 Textbooks and curricular material.

Discrimination on the Basis of Sex in Employment in Education Programs and Activities Prohibited

42.751 Employment.
42.752 Employment criteria.
42.753 Recruitment.
42.754 Compensation.
42.755 Job classification and structure.
42.756 Fringe benefits.
42.757 Marital or parental status.
42.758 Effect of State or local law or other requirements.
42.759 Advertising.
42.760 Pre-employment inquiries.
42.761 Sex as a bona-fide occupational qualification.

Procedures

42.771 Interim procedures.

Appendix.

Authority: Title IX of the Education Amendments of 1972, Pub. L. 92-318, as amended by section 3 of Pub. L. 93-568, 88 Stat. 1855 and section 412 of Pub. L. 94-482, 90 Stat. 2234 (except sections 904 and 906 thereof); 20 U.S.C. 1681, 1682, 1683, 1685, 1686.

Subpart I—Education Programs or Activities Receiving or Benefiting From Federal Financial Assistance

Introduction

§ 42.701 Purpose and effective date.

The purpose of this subpart is to effectuate Title IX of the Education Amendements of 1972, Pub. L. 92-318, as amended by Pub. L. 93-568, 88 Stat. 1855 and Pub. L. 94-482, 90 Stat. 2234 (except section 904 and 906 of those Amendments) which is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not such program or activity is offered

or sponsored by an educational institution as defined in this subpart. The effective date of this subpart shall be 60 days after publication of the final regulations.

§ 42.702 Definitions.

As used in this subpart, the term:

(a) "*Title IX*" means Title IX of the Education Amendments of 1972, Pub. L. 92–318, as amended by section 3 of Pub. L. 93–568, 88 Stat. 1855 and section 412 of Pub. L. 94–482, 90 Stat. 2234 (except sections 904 and 906 thereof); 20 U.S.C. 1681, 1682, 1683, 1685, 1686.

(b) "*Department*" means the Department of Justice and includes each of its operating agencies and other organizational units. All financial assistance programs funded under the Omnibus Crime Control and Safe Streets Act of 1968 (Pub. L. No. 90–351, 42 U.S.C. 3701 *et seq.*), as amended, are covered by a separate general prohibition of sex discrimination and its implementing regulation (28 C.F.R. §§ 42.201–.217). Recipients subject to that statute and regulation shall be deemed to be in compliance with this subpart if they are in compliance with that statute and regulation as it pertains to sex discrimination.

(c) "*Attorney General*" means the Attorney General or any officer or employee of the Department to whom the Attorney General has delegated the authority to act under the regulations in this subpart.

(d) "*Federal financial assistance*" means any of the following, when authorized or extended under a law administered by the Department:

(1) A grant or loan of Federal financial assistance, including funds made available for:

(i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion thereof; and

(ii) Scholarships, loans, grants, wages or other funds extended to any entity for payment to or on behalf of students admitted to that entity, or extended directly to such students for payment to that entity.

(2) A grant of Federal real or personal property or any interest therein, including surplus property and the proceeds of the sale or transfer of such property, if the Federal share of the fair market value of the property is not, upon such sale or transfer, properly accounted for to the Federal Government.

(3) Provision of the services of Federal personnel.

(4) Sale or lease of Federal property or any interest therein at nominal consideration, or at consideration reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served thereby, or permission to use Federal property or any interest therein without consideration.

(5) Any other contract, agreement, or arrangement which has as one of its purposes the provision of assistance to any education program or activity, except a contract of insurance or guaranty.

(e) "*Recipient*" means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives or benefits from such assistance, including any subunit, successor, assignee, or transferee thereof.

(f) "*Applicant*" means one who submits an application, request, or plan required to be approved by a Department official, or by a recipient, as a condition to becoming a recipient.

(g) "*Educational institution*" means a local educational agency (L.E.A.) as defined by section 801(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 881), a preschool, a private elementary or secondary school, or an applicant or recipient of the type defined by paragraph (h), (i), (j), or (k) of this section.

(h) "*Institution of graduate higher education*" means an institution which:

(1) Offers academic study beyond the bachelor of arts or bachelor of science degree, whether or not leading to a certificate of any higher degree in the liberal arts and sciences; or

(2) Awards any degree in a professional field beyond the first professional degree (regardless of whether the first professional degree in such field is awarded by an institution of undergraduate higher education or professional education); or

(3) Awards no degree and offers no further academic study, but operates ordinarily for the purpose of facilitating research by persons who have received a graduate degree in any field of study.

(i) "*Institution of undergraduate higher education*" means:

(1) An institution offering at least two but less than four years of college level study beyond the high school level, leading to a diploma or an associate degree, or wholly or principally creditable toward a baccalaureate degree; or

(2) An institution offering academic study leading to a baccalaureate degree; or

(3) An agency or body which certifies credentials or offers degrees, but which may or may not offer academic study.

(j) "*Institution of professional education*" means an institution (except any institution of undergraduate higher education) which offers a program of academic study that leads to a first professional degree in a field for which there is a national specialized accrediting agency recognized by the United States Commissioner of Education.

(k) "*Institution of vocational education*" means a school or institution (except an institution of professional or graduate or undergraduate higher education) which has as its primary purpose preparation of students to pursue a technical, skilled, or semiskilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees, and whether or not it offers full time study.

(l) "*Administratively separate unit*" means a school, department or college of an educational institution (other than a local educational agency) admission to which is independent of admission to any other component of such institution.

(m) "*Admission*" means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, participation, or matriculation in or at an education program or activity operated by a recipient.

(n) "*Student*" means a person who has gained admission.

(o) "*Assisted education program or activity*" means:

(1) any program or activity operated by an educational institution as defined in § 42.702(g), where the institution receives federal financial assistance; or

(2) any education program or activity operated by any other recipient, which benefits directly or indirectly from federal financial assistance received by the recipient.

(p) "*Discrimination under any academic, extracurricular, research, occupational training, or other assisted education program or activity*" includes discrimination in any such program or activity which results directly or indirectly, from discrimination in any program, activity, or employment practice of a recipient.

(q) "*United States*" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the

territories and possessions of the United States, and the term "State" means any one of the foregoing.

§ 42.703 Remedial and affirmative action and self-evaluation.

(a) *Remedial action.* If the Attorney General finds that a recipient has discriminated against persons on the basis of sex in an assisted education program or activity, such recipient shall take such remedial action as the Attorney General deems necessary to overcome the effects of such discrimination.

(b) *Affirmative action.* In the absence of a finding of discrimination on the basis of sex in an assisted education program or activity, a recipient may take affirmative action to overcome the effects of conditions which resulted in limited participation therein by persons of a particular sex. Nothing herein shall be interpreted to alter any affirmative action obligations which a recipient may have under Executive Order 11246.

(c) *Self-evaluation.* Each recipient shall, within one year of the effective date of this subpart:

(1) Evaluate in terms of the requirements of this subpart, its current policies and practices and effects thereof concerning admission of students, treatment of students, and employment of both academic and non-academic personnel working in connection with the recipient's assisted education program or activity;

(2) Modify any of these policies and practices which do not or may not meet the requirements of this subpart; and

(3) Take appropriate remedial steps to eliminate the effects of any discrimination which resulted or may have resulted from adherence to these policies and practices.

(d) *Availability of self-evaluation and related materials.* Recipients shall maintain on file for at least three years following the effective date of this subpart or completion of the evaluation required under paragraph (c) of this section whichever is longer, and shall provide to the Attorney General upon request, a description of any modifications made pursuant to paragraph (c)(1) of this section and of any remedial steps taken pursuant to paragraph (c)(2) and (c)(3) of this section.

§ 42.704 Assurance required.

(a) *General.* Every application for Federal financial assistance shall as a condition of its approval contain or be accompanied by an assurance from the applicant or recipient, satisfactory to the Attorney General, that each assisted education program or activity operated by the applicant or recipient and to which this subpart applies will be operated in compliance with this subpart. An assurance of compliance with this subpart shall not be satisfactory to the Attorney General if the applicant or recipient to whom such assurance applies fails to commit itself to take whatever remedial action is necessary in accordance with § 42.703(a) to eliminate existing discrimination whether occurring prior or subsequent to the submission to the Attorney General of such assurance.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended to provide real property or structures thereon, such assurance shall obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used to provide an education program or activity.

(2) In the case of Federal financial assistance extended to provide personal property, such assurance shall obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases such assurance shall obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Form.* The Attorney General will specify the form of the assurances required by paragraph (a) of this section and the extent to which such assurances will be required of the applicant's or recipient's subgrantees, contractors, subcontractors, transferees, or successors in interest.

§ 42.705 Transfers of property.

If a recipient sells or otherwise transfers property financed in whole or in part with Federal financial assistance to a transferee which operates any education program or activity, and the Federal share of the fair market value of the property is not upon such sale or transfer properly accounted for to the Federal Government, both the transferor and the transferee shall be deemed to be recipients, subject to the provisions of §§ 42.711–42.718.

§ 42.706 Effect of other requirements.

(a) *Effect of other federal provisions.* The obligations imposed by this subpart are independent of, and do not alter, obligations not to discriminate on the basis of sex imposed by Executive Order 11246, as amended; Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*); the Equal Pay Act (29 U.S.C. 206 and 206(d)); and any other act of Congress or Federal regulation.

(b) *Effect of State or local law or other requirements.* The obligation to comply with this subpart is not obviated or alleviated by any State or local law or other requirement which would render any applicant or student ineligible, or limit the eligibility of any applicant or student, on the basis of sex, to practice any occupation or profession.

(c) *Effect of rules or regulations of private organizations.* The obligation to comply with this subpart is not obviated or alleviated by any rule or regulation of any organization, club, athletic or other league, or association which would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or activity operated by a recipient and which receives or benefits from Federal financial assistance.

(d) *Effect of compliance with HEW regulations.* If a recipient is covered by the Title IX regulations issued by HEW, 45 C.F.R. Part 86, and has already complied with the HEW requirements corresponding to §§ 42.703(c), 42.704(a), 42.708(a), and 42.709(a) and (b), then the requirements of those sections need not be duplicated in order to comply with this subpart. However, if the requirements have not been applied to all programs receiving assistance from this Department, then the requirements will have to be met as to those programs.

§ 42.707 Effect of employment opportunities.

The obligation to comply with this subpart is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for members of one sex than for members of the other sex.

§ 42.708 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this subpart, including any investigation of any complaint communicated to such recipient alleging its noncompliance with this subpart or alleging any actions which would be prohibited by this subpart. The recipient shall notify all its students and employees of the name, office address, and telephone number of the employee or employees appointed pursuant to this paragraph.

(b) *Complaint procedures of recipient.* A recipient shall adopt and publish grievance procedures providing for

prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by this subpart.

§ 42.709 Dissemination of policy.

(a) *Notification of policy.* (1) Each recipient shall implement specific and continuing steps to notify applicants for admission and employment, students and parents of elementary and secondary school students, employees, sources of referral of applicants for admission and employment and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of sex in the assisted education programs or activities which it operates, and that it is required by Title IX and this subpart not to discriminate in such a manner. Such notification shall contain such information, and be made in such manner, as the Attorney General finds necessary to apprise such persons of the protections against discrimination assured them by Title IX and this subpart, but shall state at least that the requirement not to discriminate in assisted education programs and activities extends to employment therein and to admission thereto unless §§ 42.721–42.723 do not apply to the recipient, and that inquiries concerning the application of Title IX and this subpart to such recipient may be referred to the employee designated pursuant to § 42.708(a) or to the Attorney General.

(2) Each recipient shall make the initial notification required by paragraph (a)(1) of this section within 90 days of the effective date of this subpart or of the date this subpart first applies to such recipient, whichever comes later, which notification shall include publication in: (i) local newspapers, (ii) newspapers and magazines operated by such recipient or by student, alumnae, or alumni groups for or in connection with such recipient; and (iii) memoranda or other written communications distributed to every student and employee of such recipient.

(b) *Publications.* (1) Each recipient shall prominently include a statement of the policy described in paragraph (a) of this section in each announcement, bulletin, catalog, or application form which it makes available to any person of a type described in paragraph (a) of this section, or which is otherwise used in connection with the recruitment of students or employees.

(2) A recipient shall not use or distribute a publication of the type described in this paragraph which suggests, by text or illustration, that such recipient treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by this subpart.

(c) *Distribution.* Each recipient shall distribute without discrimination on the basis of sex each publication described in paragraph (b) of this section, and shall apprise each of its admission and employment recruitment representatives of the policy of nondiscrimination described in paragraph (a) of this section, and require such representatives to adhere to such policy.

Coverage

§ 42.711 Application.

Except as provided in §§ 42.711–42.718, this subpart applies to every assisted education program or activity.

§ 42.712 Educational institutions controlled by religious organizations.

(a) *Application.* This subpart does not apply to an educational institution which is controled by a religious organization to the extent that application of this subpart would not be consistent with the religious tenets of such organization.

(b) *Exemption.* An educational institution which wishes to claim the exemption set forth in paragraph (a) of this section shall do so by submitting in writing to the Attorney General a statement by the highest ranking official of the institution identifying the provisions of this subpart which conflict with a specific tenet of the religious organization.

§ 42.713 Military and merchant marine educational institutions.

This subpart does not apply to an educational institution whose primary purpose is the training of individuals for a military service of the United States or for the merchant marines.

§ 42.714 Membership practices of certain organizations.

(a) *Social fraternities and sororities.* This subpart does not apply to the membership practices of social fraternities and sororities which are exempt from taxation under section 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at institutions of higher education.

(b) *YMCA, YWCA, Girl Scouts, Boy Scouts and Camp Fire Girls.* This subpart does not apply to the membership practices of the Young Men's Christian Association, the Young Women's Christian Association, the Girl Scouts, the Boy Scouts and Camp Fire Girls.

(c) *Voluntary youth service organizations.* This subpart does not apply to the membership practices of voluntary youth service organizations which are exempt from taxation under section 501(a) of the Internal Revenue Code of 1954 and the membership of which has been traditionally limited to members of one sex and principally to persons of less than nineteen years of age.

§ 42.715 Exempt activities.

(a) These regulations shall not apply to:

(1) Any program or activity of the American Legion undertaken in connection with the organization or operation of any Girls State Conference, Girls Nation Conference, Boys State Conference, Boys Nation Conference; or

(2) The selection of students to attend any such conference.

(b) These regulations shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex.

(c) These regulations shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in a pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.

§ 42.716 Admission.

(a) Admission to educational institutions prior to June 24, 1973, is not covered by this subpart.

(b) *Administratively separate units.* For the purpose only of this section, § 42.717 and § 42.718 and §§ 42.721–42.723, each administratively separate unit shall be deemed to be an educational institution.

(c) *Application of §§ 42.721–42.723.* Except as provided in paragraph (d) and (e) of this section, §§ 42.721–42.723 apply to each assisted education program or activity. A recipient to which §§ 42.721–42.723 apply shall not discriminate on the basis of sex in admission or recruitment in violation of that subpart.

(d) *Educational institutions.* Except as provided in paragraph (e) of this section as to recipients which are educational institutions, §§ 42.721–42.723 apply only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education.

(e) *Public institutions of undergraduate higher education.* Sections 42.721–42.723 do not apply to any public institution of undergraduate higher education which traditionally and continually from its establishment has had a policy of admitting only students of one sex.

§ 42.717 Educational institutions eligible to submit transition plans.

(a) This section applies to each public institution of undergraduate higher education which traditionally and continually from its establishment had a policy of admitting only students of one sex, but which after June 23, 1972 begins the process of changing to being an institution which admits students of both sexes.

(b) An educational institution to which this section applies shall not discriminate on the basis of sex in admission or recruitment in violation of §§ 42.721–42.723 unless it is carrying out a transition plan approved by the United States Commissioner of Education as described in § 42.718 which plan provides for the elimination of such discrimination by the earliest practicable date but in no event later than seven years after the institution begins the process of changing to an institution which admits students of both sexes.

§ 42.718 Transition plans.

(a) *Submission of plans.* An institution to which § 42.717 applies and which is composed of more than one administratively separate unit may submit either a single transition plan applicable to all such units or a separate transition plan applicable to each such unit.

(b) *Content of plans.* In order to be approved by the United States Commissioner of Education, a transition plan shall:

(1) State the name, address, and Federal Interagency Committee on Education (FICE) Code of the educational institution submitting such plan, the administratively separate units to which the plan is applicable, and the name, address, and telephone number of the person to whom questions concerning the plan may be addressed. The person who submits the plan shall be the chief administrator or president of the institution, or another individual legally authorized to bind the institution to all actions set forth in the plan.

(2) State whether the educational institution or administratively separate unit admits students of both sexes as regular students and, if so, when it began to do so.

(3) Identify and describe with respect to the educational institution or administratively separate unit any obstacles to admitting students without discrimination on the basis of sex.

(4) Describe in detail the steps necessary to eliminate as soon as practicable each obstacle so identified and indicate the schedule for taking these steps and the individual directly responsible for their implementation.

(5) Include estimates of the number of students, by sex, expected to apply for, be admitted to, and enter each class during the period covered by the plan.

(c) *Nondiscrimination.* No policy or practice of a recipient to which § 42.717 applies shall result in treatment of applicants to or students of such recipient in violation of §§ 42.721–42.723 unless such treatment is necessitated by an obstacle identified in paragraph (b)(3) of this section and a schedule for eliminating that obstacle has been provided as required by paragraph (b)(4) of this section.

(d) *Effects of past exclusion.* To overcome the effects of past exclusion of students on the basis of sex, each educational institution to which § 42.717 applies shall include in its transition plan, and shall implement, specific steps designed to encourage individuals of the previously excluded sex to apply for admission to such institution. Such steps shall include instituting recruitment programs which emphasize the institution's commitment to enrolling students of the sex previously excluded.

Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

§ 42.721 Admission to assisted education programs and activities.

(a) *General.* No person shall, on the basis of sex, be denied admission to an assisted education program or activity, or be subjected to discrimination in admission, by any recipient to which §§ 42.721–42.723 apply, except as provided in § 42.717 and § 42.718.

(b) *Specific prohibitions.* (1) In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which §§ 42.721–42.723 apply shall not:

(i) Give preference to one person over another on the basis of sex, by ranking applicants separately on such basis, or otherwise;

(ii) Apply numerical limitations upon the number or proportion of persons of either sex who may be admitted; or

(iii) Otherwise treat one individual differently from another on the basis of sex.

(2) A recipient shall not administer or operate any test or other criterion for admission which has a disproportionately adverse effect on persons on the basis of sex unless the use of such test or criterion is shown to predict validly success in the assisted education program or activity in question and alternative tests or criteria which do not have such a disproportionately adverse effect are shown to be unavailable.

(c) *Prohibitions relating to marital or parental status.* In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which §§ 42.721–42.723 apply:

(1) Shall not apply any rule concerning the actual or potential parental, family, or marital status of a student or applicant which treats persons differently on the basis of sex;

(2) Shall not discriminate against or exclude any person on the basis of pregnancy, false pregnancy, childbirth, termination of pregnancy, or recovery therefrom, or establish or follow any rule or practice which so discriminates or excludes;

(3) Shall treat disabilities related to pregnancy, false pregnancy, childbirth, termination of pregnancy, or recovery therefrom in the same manner and under the same policies as any other temporary disability or physical condition; and

(4) Shall not make pre-admission inquiry as to the marital status of an applicant for admission, including whether such applicant is "Miss" or "Mrs." A recipient may make pre-admission inquiry as to the sex of an applicant for admission, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this subpart.

§ 42.722 Preference in admission to assisted programs or activities.

A recipient to which §§ 42.721–42.723 apply shall not give preference to applicants for admission to an assisted program or activity, on the basis of attendance at any educational institution or other school or entity which admits as students only or predominantly members of one sex, if the giving of such preference has the effect of discriminating on the basis of sex in violation of §§ 42.721–42.723.

§ 42.723 Recruitment.

(a) *Nondiscriminatory recruitment.* A recipient to which §§ 42.721–42.723 apply shall not discriminate on the basis of sex in the recruitment and admission of students. A recipient may be required to undertake additional recruitment efforts for one sex as a remedial action pursuant to § 42.703(a), and may choose to undertake such efforts as affirmative action pursuant to § 42.703(b).

(b) *Recruitment at certain institutions.* A recipient to which §§ 42.721–42.723 apply shall not recruit primarily or exclusively at educational institutions, schools or entities which admit as students only or predominantly members of one sex, if such actions have the effect of discriminating on the basis of sex in violation of §§ 42.721–42.723.

Discrimination on the Basis of Sex in Education Programs and Activities Prohibited

§ 42.731 Education programs and activities.

(a) *General.* Except as provided elsewhere in this subpart, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other assisted education program or activity. Sections 42.731–42.742 do not apply to actions of a recipient in connection with admission of its students to an education program or activity of (1) a recipient to which §§ 42.721–42.723 do not apply, or (2) an entity, not a recipient, to which §§ 42.721–42.723 would not apply if the entity were a recipient.

(b) *Specific prohibitions.* Except as provided in §§ 42.731–42.742 providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

(1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;

(2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;

(3) Deny any person any such aid, benefit, or service;

(4) Subject any person to separate or different rules of behavior, sanctions, or other treatment;

(5) Discriminate against any person in the application of any rules of appearance;

(6) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;

(7) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;

(8) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

(c) *Assistance administered by a recipient educational institution to study at a foreign institution.* A recipient educational institution may administer or assist in the administration of scholarships, fellowships, or other awards established by foreign or domestic wills, trusts, or similar legal instruments, or by acts of foreign governments and restricted to members of one sex which are designed to provide opportunities to study abroad, and which are awarded to students who are already matriculating at or who are graduates of the recipient institution; *Provided,* a recipient educational institution which administers or assists in the administration of such scholarships, fellowships, or other awards which are restricted to members of one sex provides, or otherwise makes available reasonable opportunities for similar studies for members of the other sex. Such opportunities may be derived from either domestic or foreign sources.

(d) *Programs not operated by recipient.* (1) This paragraph applies to any recipient which requires participation by any applicant, student, or employee in any education program or activity not operated wholly by such recipient, or which facilitates, permits, or considers such participation as part of or equivalent to an education program or activity operated by such recipient, including participation in educational consortia and cooperative employment and student-teaching assignments.

(2) Such recipient:

(i) Shall develop and implement a procedure designed to assure itself that the operator or sponsor of such other education program or activity takes no action affecting any applicant, student or employee of such recipient which this subpart would prohibit such recipient from taking; and

(ii) Shall not facilitate, require, permit, or consider such participation if such action occurs.

§ 42.732 Housing.

(a) *Generally.* A recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided in this section (including housing provided only to married students).

(b) *Housing provided by recipient.* (1) A recipient may provide separate housing on the basis of sex.

(2) Housing provided by a recipient to students of one sex, when compared to that provided to students of the other sex, shall be as a whole:

(i) Proportionate in quantity to the number of students of that sex applying for such housing; and

(ii) Comparable in quality and cost to the student.

(c) *Other housing.* (1) A recipient shall not, on the basis of sex, administer different policies or practices concerning occupancy by its students of housing other than that provided by such recipient.

(2) A recipient which, through solicitation, listing, approval of housing, or otherwise, assists any agency, organization, or person in making housing available to any of its students, shall take such reasonable action as may be necessary to assure itself that such housing as is provided to students of one sex, when compared to that provided to students of the other sex, is as a whole: (i) proportionate in quantity and (ii) comparable in quality and cost to the student. A recipient may render such assistance to any agency, organization, or person which provides all or part of such housing to students only of one sex.

§ 42.733 Comparable facilities.

A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.

§ 42.734 Access to course offerings.

A recipient shall not provide any courses (including health, physical education, industrial, business, vocational, technical, home economics, music and adult education courses) or otherwise carry out any of its assisted education programs or activities separately on the basis of sex, or require or refuse participation therein by any of its students on such basis.

(a) With respect to classes and activities in physical education at the elementary school level, the recipient shall comply fully with the section as expeditiously as possible but in no event later than one year from the effective date of this regulation. With respect to physical education classes and activities at the secondary and post-secondary levels, the recipient shall comply fully with this section as expeditiously as possible but in no event later than three

years from the effective date of this regulation.

(b) This section does not prohibit grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

(c) This section does not prohibit separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact.

(d) Where use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one sex, the recipient shall use appropriate standards which do not have such effect.

(e) Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

(f) Recipients may make requirements based on vocal range or quality which may result in a chorus or choruses of one or predominantly one sex.

§ 42.735 Access to schools operated by L.E.A.'s.

A recipient which is a local educational agency shall not, on the basis of sex, exclude any person from admission to:

(a) Any institution of vocational education operated by such recipient; or

(b) Any other school or educational unit operated by such recipient, unless such recipient otherwise makes available to such person, pursuant to the same policies and criteria of admission, courses, services, and facilities comparable to each course, service, and facility offered in or through such schools.

§ 42.736 Counseling and use of appraisal and counseling materials.

(a) *Counseling.* A recipient shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission.

(b) *Use of appraisal and counseling materials.* A recipient which uses testing or other materials for appraising or counseling students shall not use different materials for students on the basis of their sex or use materials which permit or require different treatment of students on such basis unless such different materials cover the same occupations and interest areas and the use of such different materials is shown to be essential to eliminate sex bias. Recipients shall develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex. Where the use of a counseling test or other instrument results in a substantially disproportionate number of members of one sex in any particular course of study or classification, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination in the instrument or its application.

(c) *Disproportion in classes.* Where a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors.

§ 42.737 Financial assistance.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, in providing financial assistance to any of its students, a recipient shall not:

(1) On the basis of sex, provide different amounts or types of such assistance, limit eligibility for such assistance which is of any particular type or source, apply different criteria, or otherwise discriminate;

(2) Through solicitation, listing, approval, provision of facilities or other services, assist any foundation, trust, agency organization, or person which provides assistance to any of such recipient's students in a manner which discriminates on the basis of sex; or

(3) Apply any rule or assist in application of any rule concerning eligibility for such assistance which treats persons of one sex differently from persons of the other sex with regard to marital or parental status.

(b) *Financial aid established by certain legal instruments.* (1) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established pursuant to domestic or foreign wills, trusts, bequests or similar legal instruments or by acts of a foreign government which require that awards be made to members of a particular sex specified therein; *Provided,* that the overall effect of the award of such sex-restricted scholarships, fellowships, and other forms of financial assistance does not discriminate on the basis of sex.

(2) To ensure nondiscriminatory awards of assistance as required in subparagraph (b)(1) of this paragraph, recipients shall develop and use procedures under which:

(i) Students are selected for award of financial assistance on the basis of nondiscriminatory criteria and not on the basis of availability of funds restricted to members of a particular sex;

(ii) An appropriate sex-restricted scholarship, fellowship, or other form of financial assistance is allocated to each student selected under subparagraph (b)(2)(i) of this paragraph; and

(iii) No student is denied the award for which he or she was selected under subparagraph (b)(2)(i) of this paragraph because of the absence of a scholarship, fellowship, or other form of financial assistance designated for a member of that student's sex.

(c) *Athletic scholarships.* (1) To the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.

(2) Separate athletic scholarships or grants-in-aid for members of each sex may be provided as part of separate athletic teams for members of each sex to the extent consistent with this paragraph and § 42.741.

§ 42.738 Employment assistance to students.

(a) *Assistance by recipient in making available outside employment.* A recipient which assists any agency, organization or person in making employment available to any of its students:

(1) Shall assure itself that such employment is made available without discrimination on the basis of sex; and

(2) Shall not render such services to any agency, organization, or person which discriminates on the basis of sex in its employment practices.

(b) *Employment of students by recipients.* A recipient which employs any of its students shall not do so in a manner which violates §§42.751–42.761 of this subpart.

§ 42.739 Health and insurance benefits and services.

In providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students, a recipient shall not discriminate on the basis of sex, or provide such benefit, service, policy, or plan in a manner which would violate §§ 42.751–42.761 if it were provided to employees of the recipient. This section shall not prohibit a recipient from providing any benefit or service which

may be used by a different proportion of students of one sex than of the other, including family planning services. However, any recipient which provides full coverage health service shall provide gynecological care.

§ 42.740 Marital or parental status.

(a) *Status generally.* A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.

(b) *Pregnancy and related conditions.* (1) A recipient shall not discriminate against any student, or exclude any student from its assisted education program or activity, including any class or extracurricular activity on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

(2) A recipient may require such a student to obtain the certification of a physician that the student is physicially and emotionally able to continue participation in the normal education program or activity so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of physician.

(3) A recipient which operates a portion of its assisted education program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student as provided in subparagraph (b)(1) of this paragraph shall ensure that the instructional program in the separate program is comparable to that offered to non-pregnant students.

(4) A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which such recipient adminsters, operates, offers, or participates in with respect to students admitted to the recipient's assisted education program or activity.

(5) In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

§ 42.741 Athletics.

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics, offered by the recipient, and no recipient shall provide any such athletics separately on such basis.

(b) *Separate teams.* Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered unless the sport involved is a contact sport. For the purposes of this subpart, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

(c) *Equal opportunity.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available, the Attorney General will consider, among other factors:

(1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(2) The provision of equipment and supplies;

(3) Scheduling of games and practice time;

(4) Travel and per diem allowance;

(5) Opportunity to receive coaching and academic tutoring;

(6) Assignment and compensation of coaches and tutors;

(7) Provision of locker rooms, practice and competitive facilities;

(8) Provision of medical and training facilities and services;

(9) Provision of housing and dining facilities and services;

(10) Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but the Attorney General may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

(d) *Adjustment period.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the elementary school level shall comply fully with this section as expeditiously as possible but in no event later than one year from the effective date of this regulation. A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the secondary or post-secondary school level shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.

§ 42.742 Textbooks and curricular material.

Nothing in this regulation shall be interpreted as requiring or prohibiting or abridging in any way the use of particular textbooks or curricular materials.

Discrimination on the Basis of Sex in Employment in Education Programs and Activities Prohibited

§ 42.751 Employment.

(a) *General.* (1) No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefor, whether full-time or part-time, under any assisted education program or activity.

(2) A recipient shall make all employment decisions in any assisted education program or activity operated by such recipient in a nondiscriminatory manner and shall not limit, segregate, or classify applicants or employees in any way which could adversely affect any applicant's or employee's employment opportunities or status because of sex.

(3) A recipient shall not enter into any contractual or other relationship which directly or indirectly has the effect of subjecting employees or students to discrimination prohibited by §§ 42.751–42.761, including relationships with employment and referral agencies, with labor unions, and with organizations providing or administering fringe benefits to employees of the recipient.

(4) A recipient shall not grant preferences to applicants for employment on the basis of attendance at any educational insitution or entity which admits as students only or predominantly members of one sex, if

the giving of such preferences has the effect of discriminating on the basis of sex in violation of this subpart.

(b) *Application.* The provisions of §§ 42.751–42.761 apply to:

(1) Recruitment, advertising, and the process of application for employment;

(2) Hiring, upgrading, promotion, consideration for and award of tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation, and changes in compensation;

(4) Job assignments, classifications and structure, including position descriptions, lines of progression, and seniority lists;

(5) The terms of any collective bargaining agreement;

(6) Granting and return from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for persons of either sex to care for children or dependents, or any other leave;

(7) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(8) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, selection for tuition assistance, selection for sabbaticals and leaves of absence to pursue training;

(9) Employer-sponsored activities, including social or recreational programs; and

(10) Any other term, condition, or privilege of employment.

§ 42.752 Employment criteria.

A recipient shall not administer or operate any test or other criterion for any employment opportunity which has a disproportionately adverse effect on persons on the basis of sex unless:

(a) Use of such test or other criterion is shown to predict validly successful performance in the position in question in accordance with the Uniform Guidelines on Employee Procedures (28 CFR § 50.14); and

(b) Alternative tests or criteria for such purpose, which do not have such disproportionately adverse effect, are shown to be unavailable.

§ 42.753 Recruitment.

(a) *Nondiscriminatory recruitment and hiring.* A recipient shall not discriminate on the basis of sex in the recruitment and hiring of employees. Where a recipient has been found to be presently discriminating on the basis of sex in the recruitment or hiring of employees, or has been found to have in the past so discriminated, the recipient shall recruit members of the sex so discriminated against so as to overcome the effects of such past or present discrimination.

(b) *Recruitment patterns.* A recipient shall not recruit primarily or exclusively at entities which furnish as applicants only or predominantly members of one sex if such actions have the effect of discriminating on the basis of sex in violation of §§ 42.751–42.761.

§ 42.754 Compensation.

A recipient shall not make or enforce any policy or practice which, on the basis of sex:

(a) Makes distinctions in rates of pay or other compensation;

(b) Results in the payment of wages to employees of one sex at a rate less than that paid to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

§ 42.755 Job classification and structure.

A recipient shall not:

(a) Classify a job as being for males of or for females;

(b) Maintain or establish separate lines of progression, seniority lists, career ladders, or tenure systems based on sex; or

(c) Maintain or establish separate lines of progression, seniority systems, career ladders, or tenure systems for similar jobs, position descriptions, or job requirements which classify persons on the basis of sex, unless sex is a bona-fide occupational qualification for the positions in question as set forth in § 42.761.

§ 42.756 Fringe benefits.

(a) *"Fringe benefits" defined.* For purposes of this subpart, "fringe benefits" means: any medical, hospital, accident, life insurance, or retirement benefit, service, policy or plan, any profit-sharing or bonus plan, leave, and any other benefit or service of employment not subject to the provision of 42.754.

(b) *Prohibitions.* A recipient shall not:

(1) Discriminate on the basis of sex with regard to making fringe benefits available to employees or make fringe benefits available to spouses, families, or dependents of employees differently upon the basis of the employee's sex;

(2) Administer, operate, offer, or participate in a fringe benefit plan which differentiates in benefits or in employee contributions on the basis of sex; or

(3) Administer, operate, offer, or participate in a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex or which otherwise discriminates in benefits on the basis of sex.

§ 42.757 Marital or parental status.

(a) *General.* A recipient shall not apply any policy or take any employment action:

(1) Concerning the potential marital, parental, or family status of an employee or applicant for employment which treats persons differently on the basis of sex; or

(2) Which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

(b) *Pregnancy.* A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom.

(c) *Pregnancy as a temporary disability.* A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom and any temporary disability resulting therefrom as any other temporary disablity for all job-related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment.

(d) *Pregnancy leave.* In the case of a recipient which does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status which she held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

§ 42.758 Effect of State or local law or other requirements.

(a) *Prohibitory requirements.* The obligation to comply with §§ 42.751–42.761 is not obviated or alleviated by the existence of any State or local law or other requirement which imposes prohibitions or limits upon employment

of members of one sex which are not imposed upon members of the other sex.

(b) *Benefits.* A recipient which provides any compensation, service, or benefit to members of one sex pursuant to a State or local law or other requirement shall provide the same compensation, service, or benefit to members of the other sex.

§ 42.759 Advertising.

A recipient shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex is a bona-fide occupational qualification for the particular job in question.

§ 42.760 Pre-employment inquiries.

(a) *Marital status.* A recipient shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is "Miss" or "Mrs."

(b) *Sex.* A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this subpart.

§ 42.761 Sex as a bona-fide occupational qualification.

A recipient may take action otherwise prohibited by §§ 42.751–42.761 provided it is shown that sex is a bona-fide occupational qualification for that action, such that consideration of sex with regard to such action is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section which is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

Procedures

§ 42.771 Interim procedures.

For the purposes of implementing this subpart, the procedural provisions applicable to Title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 28 CFR 42.106–.111.

Appendix

Programs covered by title IX include, but are not limited to, the following:

1. Citizenship Education and Training. 8 U.S.C. 1443(b).
2. Law Enforcement Assistance—Advanced Police Training. 42 U.S.C. 3774.
3. Law Enforcement Assistance—FBI Crime Laboratory Support. 5 U.S.C. 301 and 42 U.S.C. 3774.
4. Law Enforcement Assistance—FBI Field Police Training. 42 U.S.C. 3774.
5. Law Enforcement Assistance—FBI Fingerprint Identification. 28 U.S.C. 534.
6. Law Enforcement Assistance—Uniform Crime Reports. 28 U.S.C. 534.
7. Corrections—Training and Staff Development. 18 U.S.C. 4351–4353.
8. Corrections—Research and Evaluation. 18 U.S.C. 4351–4353.
9. Drug Enforcement Administration. 21 U.S.C. 872–73, 1004.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-012]

Standard for Locking Out and Tagging Machines, Equipment, Systems and Processes, Advance Notice of Proposed Rulemaking

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice announces the intention of the Occupational Safety and Health Administration (OSHA) to commence a rulemaking proceeding to establish lockout and tagging requirements for machines, equipment, systems and processes, to protect employees from injuries caused by failure to lock out and tag movable, electrically energized or pressurized equipment and systems, or systems containing hazardous materials, during the installation, repair, maintenance, and servicing of the equipment or system. This notice also supplements the "Notice of Request for Information" published by the National Institute for Occupational Safety and Health (NIOSH) at 45 FR 7006 on January 31, 1980. As used in this notice, lockout is defined as a method or device which ensures deactivation of machinery, equipment, systems or processes while installation, repair, servicing and maintenance activities are being performed, and prevents reactivation under conditions that would be hazardous.

This notice responds to petitions received from national consensus organizations requesting the Agency to adopt their standards containing lockout provisions; comments received in connection with issues raised by OSHA in the **Federal Register** publication, "Machinery and Machine Guarding, Request for Information," at 42 FR 1741 on January 7, 1977; a petition for a lockout standard from the International Union, United Automobile, Aerospace and Agricultural Implements Workers of America (UAW); and data made available to OSHA by trade associations the insurance industry, professional societies and labor unions.

OSHA solicits information and comments on the issues raised in this advance notice and any other pertinent information that will aid in the development of a proposed standard. Comments regarding injury data, safety benefits to be derived from implementation of such a standard, and the projected costs of compliance are also requested. Information submitted in response to the January 31, 1980 NIOSH request need not be resubmitted to OSHA because the two agencies will share submissions.

DATES: All comments on this notice should be received by September 15, 1980.

ADDRESS: All comments should be submitted in quadruplicate to the Docket Officer, Docket No. S–012, Occupational Safety and Health Administration, U.S. Department of Labor, Room S–6212, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523–7894. Comments received will be available for public inspection and copying at the above location.

FOR FURTHER INFORMATION CONTACT: James Scully or Pat Cattafesta, Office of Mechanical Engineering Safety Standards, occupational Safety and Health Administration, Room N–3506, U.S. Department of Labor, Washington, D.C. 20210, (202) 523–7202.

SUPPLEMENTARY INFORMATION: The Occupational Safety and Health Administration intends to develop a proposal establishing lockout and tagging requirements for all machines, equipment, systems and processes covered by the General Industry Standards, 29 CFR Part 1910. Any rulemaking would be intended to protect employees from injuries caused by failure to deactivate and prevent reactivation of movable, electrically energized or pressurized equipment or systems, or systems involving hazardous materials while employees are

performing work on the equipment or system. Examples of lockout-related provisions in the General Industry Standards (29 CFR Part 1910) are found in the following sections: 1910.145(f)(1)(i), 1910.145(f)(3)(iii), 1910.179(g)(5)(i), 1910.179(g)(5)(ii), 1910.179(g)(5)(iii), 1910.213(b)(3), 1910.213(b)(5), 1910.218(a)(3)(iii), 1910.218(a)(3)(iv), 1910.218(d)(2), 1910.218(f)(1), 1910.218(f)(2), 1910.218(g)(2), 1910.218(g)(5), 1910.218(h)(2), 1910.218(j)(1), 1910.261(b)(4), 1910.262(c)(1), 1910.262(n)(2), 1910.262(p)(1), 1910.263(l)(3)(iii)(*b*), 1910.263(l)(8)(iii), 1910.265(c)(12)(v), and 1910.265(c)(26)(v). A generic regulation would add new material and consolidate lockout-related provisions into one document. The existing provisions are not uniform in their coverage, and may be outdated, incomplete, and ineffective. The proposed lockout and tagging requirements would be expected to remedy these shortcomings.

In 1977, OSHA published "Machinery and Machine Guarding, Request for Information" (42 FR 1741, January 7, 1977); two sections of this request addressed lockout problems. NIOSH also published a "Notice of Request for Information" (45 FR 7006, January 31, 1980), which asked for general information on lockout and tagging procedures to aid in developing criteria for NIOSH's recommendations for occupational safety and health standards. OSHA, however, requires more specific and detailed information than has been received in response to these requests to prepare a proposal. OSHA and NIOSH are coordinating their information-gathering efforts, and all comments submitted to NIOSH will be available to OSHA. However, if more specific information than has previously been submitted to NIOSH is available, it should be submitted to OSHA. OSHA is requesting information on lockout and tagging requirements for the construction industry in a separate advance notice of proposed rulemaking published today.

The need for a lockout and tagging regulation is supported by injury and fatality data from several sources. A recent study made by OSHA's Division of Statistical Studies showed that 59 of 125 fatalities in the fixed-machine category for the 1974–1976 period were related to failure to deenergize and lock out equipment. OSHA's analysis of the 22 accident cases reported by the UAW in connection with its petition for a lockout standard showed that these accidents involved workers from a variety of skilled trades and occurred in situations in which lockout procedures were either inadequate, non-existent, or not observed. A review by the Bureau of Labor Statistics (BLS) of workers' compensation first reports of injury identified a substantial number of incidents that were lockout-related and sufficiently serious to be classified as lost workday cases. The BLS is presently compiling detailed information to aid in a more comprehensive evaluation of lockout-related injuries.

Even as early as 1970, an article in the *American Society of Safety Engineers Journal* pointed out that there had been a significant change in the causes of machine accidents. This shift can be accounted for by the use of modern machines that incorporate the latest developments in hydraulics, pneumatics, and electronics, including such kinetic-energy-producing components as solenoids and air or hydraulic cylinders. This article also noted that the hazards associated with high-voltage currents, high-pressure pneumatic and hydraulic systems and high-speed equipment have not been adequately recognized or controlled. A more recent article (*National Safety News*, December 1975) emphasized that many accidents are caused by the release of stored (potential) energy within equipment which has only been electrically locked out. Thus, the failure to use more comprehensive lockout procedures with complex equipment has caused an increase in the number of accidents involving maintenance and operating personnel.

To deal with the safety challenges posed by these sophisticated machines and processes, procedures based on recent lockout concepts, Zero Mechanical State (ZMS) and Zero Energy State (ZES), have been developed. ZMS is the condition in which the possibility of unexpected mechanical movement of a machine has been reduced to a minimum; ZES is the condition in which any source of energy, active or latent, has been blocked off in a machine, process or system. ZMS procedures are being extended to ZES programs, such as those recently advocated by the UAW in a petition to OSHA asking the Agency to promulgate a lockout standard. ZES extends lockout and tagging procedures to radiation, chemical, and thermal processes by requiring that servicing and maintenance procedures take the total energy of each system into account, thus eliminating the possibility of a sudden or unintended release of energy. ZES also requires that a comprehensive maintenance and servicing plan be written for each machine, unit of equipment, or process within a plant. OSHA is particularly interested in receiving comments on the appropriate application and use of ZES and other control procedures.

Since existing lockout coverage does not provide sufficient protection, OSHA intends to address the entire range of lockout and tagging problems, from simple electrical machine lockout to ZES procedures, in a single generic standard.

OSHA must address two broad issues in the development of a generic lockout and tagging proposal. The first concerns the effectiveness of potential regulatory alternatives in reducing lockout-related hazards in general industry, and the second involves determining the regulatory impact of these alternatives on the affected industries. The Agency requests responses to the questions below to aid in the development of a lockout and tagging proposal and to evaluate the technological and economic impact of such a standard.

1. Lockout-related provisions in 29 CFR Part 1910 (see above) do not provide sufficient protection from the lockout hazards associated with the mechanical, electrical, potential energy and hazardous material exposures found in general industry, is there an alternative to promulgating such a regulation that would provide equilvalent employee protection?

2. (a) Should a general lockout and tagging standard designed for general industry apply to electric utility industries engaged in the operation and maintenance of electric power generation, transmission and distribution systems?

(b) Can existing positive lockout methods (locks or devices) used in the offices and repair shops of the electric utilities also be applied to power generation, transmission, and distribution systems?

(c) What control methods are the electric utility industries presently using to protect against lockout-related hazards in power generation, transmission and distribution activities?

(d) What criteria should be used to measure the effectiveness of the methods described in (c)?

(e) What are the problems, if any, associated with the use of these methods?

3. Current OSHA regulations for deenergizing telecommunications equipment and systems during repair and maintenance can be found in sections such as 1910.268(g)(2). Do these requirements adequately address the hazards in the telecommunications industry, or is additional lockout coverage required?

4. The terms "lockout," "tagout," "tagging," "isolation," "deenergize," and "interlock" are used to identify methods and procedure for deactivating equipment and processes. Because of the variety of electrical, mechanical, pneumatic and chemical hazards and processes found in industry, it is important to develop clear definitions of these terms. How should (a) lockout, (b) tagout, (c) tagging, (d) isolation, (e) deenergizing, and (f) interlock be defined?

5. To what extent should electrical interlocks be considered as lockout devices? For example, should the limitations of these devices prohibit their use as the sole means for deenergizing circuits or equipment being maintained or serviced? What additional precautions must be taken if interlocks are used?

6. (a) Identify by name those electrical systems and operations requiring lockout, those requiring fagout, those requiring tagging, and those requiring a combination of locks and tags, and describe what factors determine which control method should be used. For example, how would voltage level, complexity of systems and circuitry, number of employees, and workplace conditions affect the choice of control method?

(b) How and to what extent should removing an isolating-circuit element (fuse), blocking a control switch, or disconnecting motor leads be considered when choosing a control method?

7. (a) Identify by name and explain why certain types of electrical work, operations, and systems cannot be deenergized during maintenance of "troubleshooting" operations.

(b) What steps can be taken to protect employees working on or near energized circuits from shock hazards? What procedures, training, and protective equipment would be appropriate in these situations.

8. (a) Should the specific physical requirements for various types of locks and tags be standardized and applied throughout industry or should they be tailored to the individual facility and left to the employer's discretion?

(b) What color, size, shape, material, or other characteristics of locks, tags, and other devices would it be appropriate to specify in a general lockout standard?

(c) Should certain devices, tags, and symbols be used only for certain operations, equipment and processes?

9. When and how are locks and tags, locks only, or tags only used in the following situations:

(a) To shut down and deenergize an electrical system (specific both the procedure and the system to which it applies);

(b) To verify that a system has been deenergized;

(c) To ensure continuity of the lockout procedure during a shift change or when the person(s) responsible for the procedure are absent from the workplace;

(d) To safeguard employees from the hazards associated with potential (residual) electrical, mechanical, pneumatic, hydraulic, gravity, and spring energy;

(e) To restore electrical circuits and equipment to service once the lockout or tagout is no longer needed; and

(f) To allow for unusual situations, such as removing locks and tags during testing of a system?

Please provide as many examples as possible of unusual lockout situations and procedures.

10. What criteria should be used to determine whether or not cleaning, adjusting, inspecting, minor maintenance and corrections, and in particular setup operations, require lockout procedures? Please comment on the following factors and any others that are relevant:

(a) The time required to accomplish the task;

(b) The need to use power intermittently;

(c) The number of people involved in the task;

(d) The location and visibility of disconnect devices in relation to the employees involved in the work;

(e) The use of machine activating controls, such as an operator mode, control-key, jog and inch device, or two-hand control; and

(f) The use of blocks, chains, clamps or other devices to physically restrain potentially hazardous materials and movable machine components.

11. The diversity and complexity of industrial operations provide management with a correspondingly broad choice of safety training and written materials. Which of the following should be considered, and to what extent, in the developoment of training and safety programs:

(a) Is there any justification for allowing exceptions to a requirement that every employer provide written lock and tag procedures?

(b) Would a rule requiring a job safety hazard analysis for each piece of equipment be practical? If not, what criteria should be used to determine when this this type of analysis is appropriate?

(c) What are the factors that determine the type, extent, and content of a training program dealing with lockout-related hazards? In your answer, consider such factors as informal on-the-job vs. formal training; classroom-group training vs. individual training; and initial training only vs. periodic refresher training.

(d) What are the criteria for evaluating the effectiveness of any training program?

12. Most lockout procedures involving more than one person require each person in the operation to apply and remove his own individual lock. However, group lockout procedures are currently being used which involve a large work force and the use of one lock applied by a supervisor responsible for the safety of all employees in the activity. Are all the people working under the direction of such a supervisor adequately protected by this group procedure? Specify the minimum requirements for such a procedure and define the precise conditions under which this method provides sufficient safety or discuss those situations in which a group procedure has not proven adequate.

13. A thorough lockout procedure requires careful examination of the equipment or process involved to detect and relieve, disconnect, or restrain any potential (residual) energy. For example, blocks or physical restraints can be used to immobilize equipment, grounds may be used to discharge the energy in electrical circuits, and valves may be bled to relieve pressure. What hardware, such as a three-way air valve, is currently available to accomplish these tasks either automatically or manually? What procedures are used to achieve Zero Mechanical State or Zero Energy State?

14. Maintenance operations for process piping systems use valves and other means to control the flow of flammable, hot, toxic, corrosive or pressurized materials and to prevent employee exposure to these hazards.

(a) Is it necessary or practical to lock out: 1) all valves in use? and 2) recessed (in-ground) valves when access to the tool required to activate the valve is restricted, for example when only the mechanic working on the system has access to a T-handled wrench?

(b) If a piping system has been deactivated by locking out the valve controlling the flow of hazardous material to the affected area and the system has been drained and purged, is it also necessary to isolate the section with a blank flange? What general lockout procedures should be followed for working on a piping system without

any valves? What general lockout procedures are applicable to all piping systems?

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210.

This Advance Notice of Proposed Rulemaking is issued under section 6 of The Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655) and Secretary of Labor's Order No. 8–76 (41 FR 25059).

Signed at Washington, D.C., this 6th day of June 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-18199 Filed 6-16-80; 8:45 am]

BILLING CODE 4510-26-M

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29 CFR Part 1926

[Docket No. S–203]

Standard for Lockout/Tagout of Machines and Equipment; Advance Notice of Proposed Rulemaking

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: This notice announces the intention of the Occupational Safety and Health Administration (OSHA) to commence a rulemaking proceeding either to revise the existing provisions of 29 CFR Part 1926 that apply to lockout/tagout procedures in construction or to propose a new generic lockout/tagout standard for construction. Prospective rulemaking action would be intended to protect workers in construction from accidents caused by the failure to lock out powered machinery or equipment during installation, repair, service, or maintenance. As used in this notice, locking out is defined as deactivation of machinery or equipment and ensuring that it cannot be reactivated while work is being performed on the machine or equipment.

At present, construction lockout/tagout rules appear in various subparts of Part 1926; however, many of these provisions may require updating or clarifying. The Agency will determine, based on staff research, public comment, and information received in response to the issues raised by this notice, which regulatory approach is best suited to dealing with lockout-related hazards in construction. OSHA is requesting information on lockout/tagout procedures in general industry in a separate advance notice of proposed rulemaking. The Agency's efforts to develop lockout regulations both for construction and general industry will be coordinated during the rulemaking process.

This notice also solicits information and comments on the issues raised in this notice, and provides the public an early opportunity to participate in Agency rulemaking. OSHA will share information on this topic with the National Institute for Occupational Safety and Health.

DATES: Comments on this notice must be received by September 15, 1980.

ADDRESS: Comments and information should be submitted in quadruplicate to the Docket Officer, Docket No. S–203, Occupational Safety and Health Administration, Room S–6212, U.S. Department of Labor, Washington, D.C. 20210, (202) 523–7894.

FOR FURTHER INFORMATION CONTACT: Martin B. Newdorf, Office of Construction and Civil Engineering Safety Standards, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3457, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523–8161.

SUPPLEMENTARY INFORMATION: The Occupational Safety and Health Administration (OSHA) is evaluating the clarity, adequacy, and comprehensiveness of its rules for lockout/tagout procedures in the construction industry. The Agency recognizes that there may be areas where current technology has surpassed existing requirements, with the result that the present lockout/tagout standards may no longer be an effective means of providing employee safety as intended by the Act. This notice reaffirms the Agency's commitment to a common sense approach in bringing existing standards up to date with current technology, and emphasizes the unique nature of the construction industry.

Any proposed standard developed as a result of this notice would be intended to protect employees in the construction industry from those accidents caused by the failure to deactivate and prevent reactivation of machinery or equipment while the machine or equipment is being installed, serviced, repaired, or maintained. The Construction Advisory Committee will review any lockout/tagout proposal developed for the construction industry. Any regulation subsequently promulgated would apply to mechanical, hydraulic, electrical, pneumatic, potential energy and chemical hazards associated with the wide range of machinery and equipment found in the construction industry.

To obtain the information to develop a lockout/tagout proposal or to update and expand its present lockout/tagout coverage, the Agency needs detailed responses to the questions listed below.

1. (a) At present, provisions dealing with lockout and tagout in construction appear at such sections in 29 CFR Part 1926 as: Sections 1926.20(b)(3), 1926.54(e), 1926.150(d)(1)(ii), 1926.200(h), 1926.200(i), 1926.252(b), 1926.300(d), 1926.304(a), 1926.352(g), 1926.400(g), 1926.553(a)(i), 1926.553(a)(3)(iii), 1926.555(a)(7), 1926.600(a)(3)(i), and (ii), 1926.906(j), 1926.906(1), 1926.950(d), and 1926.957(b). What would the advantages and disadvantages be of combining these provisions, and any necessary additional lockout coverage, into a generic lockout standard covering all construction equipment and equipment to be installed?

(b) Are the existing construction lockout provisions clear, specific in application, and adequate for dealing with hazards in construction? Describe any problems associated with these provisions or any gaps in lockout coverage.

2. What equipment/machinery used in construction, including batch plant equipment, should be locked out/tagged out? Explain why this equipment/machinery requires lockout, and whether locks and tags, locks only, or tags only are needed.

3. OSHA specifically requests economic data related to lockout procedures, including labor, capital, and maintenance cost data and information on economic benefits.

4. Because of the variety of mechanical, hydraulic, electrical, pneumatic, potential energy and chemical hazards found in construction, it is important to develop clear definitions of the terms involved. (a) How should "lockout," "tagging," "tagout," "isolation," "deenergize," "deactivate," and "interlock," be defined?

(b) What other significant terms are used in connection with lockout procedures, and how should they be defined?

5. To what extent should interlocks be considered lockout devices? Should interlocks be used as the sole means of deactivating equipment? What additional precautions, if any, should be taken when interlocks are used?

6. What procedures or devices are currently in use in construction to lock out/tag out systems that are components of a larger system? For example, to work on an electrical system that powers a hydraulic system, is it necessary to isolate the hydraulic system, including the pump? How can this be

accomplished when there are no separate controls for the pump?

7. What electrical, hydraulic, mechanical, pneumatic, or pressurized equipment used in construction must be worked on while it is still energized, e.g., in troubleshooting or maintenance operations? What precautions are taken to protect employees close to or performing such work?

8. (a) Should specific requirements for locks and tags, such as color, size, shape or material, be standardized and applied throughout the construction industry?

(b) Should certain devices, tags, and symbols be used exclusively for certain operations or equipment? Why?

9. When and how are lock and tags, lock only, and tag only used in the following situations in construction:

(a) To shut down and deactivate a system;

(b) To verify that a system has been deactivated;

(c) To ensure continuity of the lockout procedure during a shift change or when the person responsible for the lockout is not on the site;

(d) To safeguard employees from the hazards of latent (potential) electrical, mechanical, pneumatic, hydraulic, gravity, and spring energy;

(e) To restore equipment to service once the lockout is no longer needed;

(f) To allow for unusual situations, such as removing locks to test a newly repaired or serviced system; and

(g) To protect employee during the installation and testng of new equipment?

10. What criteria should be used to determine how extensive lockout/tagout procedures need to be for specific machines/equipment/worksites? How does each of the following factors affect the choice of procedure:

(a) The time required to perform the work;

(b) The number of employees involved;

(c) The need to use power during the work;

(d) The accessibility of disconnect devices to employees involved in the work;

(e) The use of machine activating controls, such as an operator mode or two-hand control;

(f) The use of blocks, chains, clamps or other devices to physically restrain potentially hazardous materials and movable machine components;

(g) The cost;

(h) Specific injury data; and

(i) Loss of productivity.

If other factors have been overlooked, describe how they might affect the choice of procedure.

11. (a) What training and motivation methods have been successfully used in construction to increase employee awareness of lockout/tagout procedures?

(b) What should written training materials include?

(c) What lockout procedures are best learned in practice sessions?

12. Most lockout procedures involving more than one person require each person in the operation to apply and remove his own lock. However, group lockout procedures are currently being used that involve a large work force and the use of one lock applied by a supervisor responsible for the safety of employees in the activity. Explain how the people working under the direction of such a supervisor are adequately protected by this group procedure. What are the minimum requirements for such a procedure and under what conditions does this method provide adequate safety?

13. A thorough lockout procedures requires careful examination of the equipment involved to detect and then restrain any latent (potential) energy. For example, blocks or physical restraints may be used to immobilize equipment, grounds may be used to discharge electrical energy, and valves may be bled to relieve pressure. What hardware, such as a three-way air valve, is currently available to accomplish these tasks either manually or automatically? What procedures are used in construction to achieve Zero Mechanical State or Zero Energy State?

14. What procedures are used to blank out the flow to the working area of a system conveying or storing fluids or gases? What procedures are used to work on a valveless system?

15. Describe in detail any situations in construction in which it would be impossible to use a positive means (locks or devices) of locking out equipment.

16. (a) Is the respondent aware of injury and accident information that is specifically related to construction lockout/tagout procedures? What documentation is available?

(b) Could these data be organized in tabular form to relate the accidents to the non-existence, misapplication or inadequacy of lockout/tagout procedures, and to the type and severity of the resulting injury?

(c) Are lockout/tagout accidents in construction increasing in frequency and severity?

17. What procedures should be used for machinery that is left running but not in use while the operator is temporarily away from the equipment/machinery?

18. What lockout devices are available to retrofit construction equipment? How expensive and readily available are such devices?

19. Are there lockout procedures and situations in construction that require recordkeeping for effective implementation? Describe in detail.

20. Describe the situations and types of machinery/equipment for which it is appropriate to use physical means of blocking, such as blocks to keep the dozer blade from falling.

OSHA needs specific and detailed answers to the questions raised by this notice and any additional data related to this subject that might be helpful to develop a lockout/tagout proposal. All comments, views, objections, and data should be submitted to the address noted above.

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210.

This Advance Notice of Proposed Rulemaking is issued under section 6 of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655) and Secretary of Labor's order No. 8–76 (41 FR 25059).

Signed at Washington, D.C., this 6th day of June 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80–18189 Filed 6–16–80; 8:45 am]

BILLING CODE 4510–26–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1515–6]

Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions for the State of Michigan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is proposing to approve Michigan's State Implementation Plan which has been revised to comply with USEPA regulations contained in 40 CFR Part 58. The plan provides for the implementation of a statewide network for ambient air quality monitoring and data reporting. USEPA has determined that the plan meets requirements for quality assurance of the monitoring stations, network design and probe citing criteria, and monitoring methods to be used.

DATE: Comments must be received by no later than July 17, 1980.

ADDRESS: Send comments to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Boniface Thayil, Environmental Engineer, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6058.

Copies of the State Implementation Plan (SIP) revision and supporting documents are available at the address cited above and at:

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

Michigan Department of Natural Resources, P.O. Box 30028, Lansing, Michigan 48909.

SUPPLEMENTARY INFORMATION

Requirements for Air Quality Surveillance Network

Section 319 of the Clean Air Act, as amended, requires the United States Environmental Protection Agency (USEPA) to establish monitoring criteria to be followed uniformly across the Nation. Pursuant to this requirement and the recommendations of the Standing Air Monitoring Work Group (SAMWG), USEPA, on May 10, 1979 (44 FR 27558), promulgated Rules and Regulations for Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions. The regulations revoke Part 51 of Title 40 of the code of federal regulations and establish a new Part 58 entitled Ambient Air Quality Surveillance.

40 CFR 58.20 requires that the State adopt and submit to the administrator a revision to the plan which will:

(a) Provide for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) which measure ambient concentrations of those pollutants for which standards have been established in (40 CFR Part 50).

(b) Provide for meeting the requirements of Appendices A, C, D, and E to this part.

(c) Provide for the operation of at least one SLAMS per pollutant during any stage of an air pollution episode as defined in the contingency plan.

(d) Provide for the review of the air quality surveillance system on an annual basis to determine if the system meets the monitoring objectives defined in Appendix D to this part. Such review must identify needed modifications to the network such as termination or relocation of unnecessary stations or establishment of new stations which are necessary.

(e) Provide for having a SLAMS network description available for public inspection and submission to the Administrator upon request. The network description must be available at the time of plan revision submittal and must contain the following information for each SLAMS:

(1) The Storage and Retrieval of Aerometric Data (SAROAD) site identification form for existing stations.

(2) The proposed location for scheduled stations.

(3) The sampling and analysis method.

(4) The operating schedule.

(5) The monitoring objective and spatial scale of representativeness as defined in Appendix D to this part.

(6) A schedule for: (i) Locating, placing into operation, and making available the SAROAD site identification form for each SLAMS which is not located and operating at the time of plan revision submittal;

(ii) Implementing quality assurance procedures of Appendix A to this part for each SLAMS for which such procedures are not implemented at the time of plan revision submittal; and

(iii) Resiting each SLAMS which does not meet the requirements of Appendix E to this part at the time of plan revision submittal.

Michigan's Air Quality Surveillance Network

On December 19, 1979, the State of Michigan submitted to USEPA a revision to its SIP which provides for the establishment of an air quality surveillance network. The submittal includes a description of the proposed network which will cover the criteria pollutants; Particulate matter, sulfur dioxide, nitrogen oxides, carbon monoxides, and ozone.

The Michigan monitoring SIP commits the State to the implementation of statewide SLAMS and National Air Monitoring Stations (NAMS) monitoring system to meet the requirements of 40 CFR Part 58. The system will be derived from the existing Michigan Air Sampling Network (MASN) with adjustments and additions made where necessary.

Besides establishing the SLAMS and the NAMS (a subset of SLAMS), the SIP revision provides for the establishment of Special Purpose Monitoring Stations (SPMS). These monitors may be placed and used at will to fill special monitoring study needs.

The SIP states that specific SLAMS sites will be designated as Episode Monitoring Sites (EMS). A telemetry system will be used to allow the air quality staff to poll the sites frequently during air pollution episodes. Each site will be polled every 24 hours during non-episode periods.

All SLAMS in the Michigan monitoring system will be operated in accordance with the criteria given in Subject B of 40 CFR Part 58. Each SLAMS monitor will meet the siting criteria given in 40 CFR Part 58, Appendix E. Methods used in the SLAMS will be reference or equivalent as defined in 40 CFR Part 58, Appendix A.

The air monitoring system will be reviewed in the second quarter of each year to determine if there is a SLAMS at each location where one is required, or if all of the stations in the network are necessary. All changes to the network will be discussed with the USEPA to achieve prior approval.

Included as a part of the SIP revision is a description of the proposed NAMS network. This description covers the existing and proposed monitoring locations, reference methods, objectives, and implementation dates.

USEPA has reviewed the submittal and has determined that it meets the requirements of section 110 and 319 of the Clean Air Act, as amended, and USEPA regulations in 40 CFR Part 58. USEPA is therefore proposing approval of the revised Michigan Air Quality Surveillance Plan.

Interested persons are invited to comment on the revised Michigan SIP and on USEPA's proposed actions. Comments should be submitted to the address listed in the front of this Notice. Public comments received on or before July 17, 1980 will be considered in USEPA's final rulemaking. All comments received will be available for inspection at Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois, 60604.

This Notice of Proposed Rulemaking is issued under the authority of section 110 of the Clean Air Act, as amended.

Dated: May 30, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80–18135 Filed 6–16–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Parts 52 and 81

[FRL 1517-3]

Wisconsin; Approval and Promulgation of Implementation Plan Designation of Areas for Air Quality Planning Purposes; Ozone and Carbon Monoxide

National Ambient Air Quality Standards

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: EPA is proposing to approve or conditionally approve as a revision to the Wisconsin State Implementation Plan (SIP) revised control strategies for ozone and carbon monoxide which were submitted by the State. The strategies proposed today consist of a vehicle emission control inspection and maintenance (I/M) program and transportation control measures (TCM). EPA is also proposing rulemaking on attainment demonstrations for carbon monoxide (CO) and ozone. Additionally, EPA is proposing to redesignate Grant, Crawford, and Douglas Counties as attaining the National Ambient Air Quality Standards (NAAQS) for ozone and Sheboygan County as not attaining the NAAQS for ozone.

DATE: Comments on these revisions and on the proposed EPA action on the revisions are due by July 17, 1980. A 30 day comment period is provided to enable publication of final action on the SIP revision as soon as possible because the statutory date by which each State is required to have an approved Part D plan has passed.

ADDRESSES: Copies of these revisions to the SIP are available for inspection at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch Region V, 230 South Dearborn Street, Chicago, Illinois 60604

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

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FUTHER INFORMATION CONTACT: Robert B. Miller, Regulatory Analysis Section, Air Programs Branch Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6031

SUPPLEMENTARY INFORMATION: General introduction: On March 3, 1978 (43 FR 8962; 40 CFR 81.350), pursuant to the requirements of section 107 of the Clean Air Act (Act) as amended, EPA designated certain areas in each State as not meeting the National Ambient Air Quality Standards (NAAQS) for carbon monoxide and ozone. Part D of the Act, which was added by the 1977 Amendments, requires each State to revise its State Implementation Plan (SIP) to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary standards as expeditiously as practicable, but not later than December 31, 1982. Under certain circumstances that date may be extended to no later than December 31, 1987 for ozone and/or carbon monoxide.

Pursuant to Part D of the Act, the State of Wisconsin submitted plans for each of the 3 urbanized areas designated as nonattainment for ozone (Green Bay, Madison and Milwaukee) on July 13, 1979, September 4, 1979, and February 28, 1980. It also submitted a carbon monoxide plan and schedule for portions of the Milwaukee urbanized area. Revisions relating to the State's I/M program were submitted to EPA on August 1, 1979, October 6, 1979, May 7, 1980, and May 8, 1980. Pursuant to section 107 of the Act, the State requested redesignation of the ozone designations for Sheboygan, Grant, La Crosse, and Douglas Counties. The State also submitted stationary source volatile organic compound (VOC) Reasonably Available Control Technology (RACT) rules which are applicable statewide. The VOC RACT regulations were approved by EPA on January 11, 1980 (45 FR 2319).

EPA has completed its review of the Wisconsin submissions. EPA at this time solicits public comments on the provisions of the plan and EP A's proposed rulemaking as delineated in this notice. In the discussion below, EPA specifies portions of the proposed revisions to the Wisconsin SIP which it considered disapprovable, approvable or conditionally approvable. For minor deficiencies, EPA proposes to approve the SIP on the condition that the State provide strong assurances that the deficiency will be corrected in accordance with a schedule to be negotiated between the State. The July 2, 1979 (44 FR 38583) and November 23, 1979 (44 FR 76182) **Federal Registers** discuss conditional approvals in more detail.

The measures proposed for promulgation today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations or, if it chooses, challenges the new regulations. In some instances, the present emission control regulations contained in the federally-approved SIP are different from the regulations currently being enforced by the State. In these situations, the present federally-approved SIP will remain applicable and enforceable until there is compliance with the newly promulgated and federally-approved regulations. Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of new regulations, because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable.

The only exception to this rule is in cases where there is a conflict between the requirements of the new regulations and the requirements of existing regulations such that it would be impossible for a source to comply with the pre-existing SIP while moving toward compliance with the new regulations. In these situations, the State may exempt a source from compliance with the pre-existing regulations. Any exemptions granted will be reviewed and acted on by EPA either as part of these promulgated regulations or as a future SIP revision.

Transportation Control Plans and Attainment Demonstrations for Carbon Monoxide and Ozone

In each urban nonattainment area, the designated lead local agency, in conjunction with the Wisconsin Department of Natural Resources (WDNR) and the Wisconsin Department of Transportation (WDOT), developed a control strategy designed to ensure attainment of the carbon monoxide and/or ozone NAAQS in the area.

EPA has evaluated the transportation control plans using the requirements for an approvable nonattainment area SIP which appeared in the April 4, 1979, July 2, 1979, August 28, 1979, September 17, 1979, November 23, 1979, May 13, 1980(2) **Federal Registers** (44 FR 20372, 38583, 50371, 53761, and 67182; 45 FR 31303 and 31307), the "USEPA-USDOT Guideline

for Air Quality-Transportation Plans" and the Office of Transportation and Land Use Policy "Checklist for Transportation SIPs." To assist the public in preparing comments on the proposed SIP revisions, a summary of the principal requirements is presented below.

1. Technical Assessments, Demonstrations of Attainment and Reasonable Further Progress.—Section 172 of the Act states that the SIP must include a program for selecting transportation measures to attain the emission reduction target in the SIP. This program must include schedules for the expeditious implementation of adopted transportation measures and schedules for the analysis and adoption of additional transportation measures.

2. Interagency Agreements and Assignments of Tasks.—Pursuant to section 174 of the Act, the State and elected officials of affected local governments must determine the respective responsibilities of the state air pollution control agency, other state agencies, the lead local agencies, and local units of government. This determination must identify the responsibilities for strategy evaluation, adoption, implementation, and enforcement.

3. Analysis of Alternatives.—Pursuant to section 172(b)(2) of the Act, all reasonably available transportation measures must be evaluated and considered for implementation. At a minimum, the strategies listed in section 108(f) of the Act must be considered for each nonattainment area needing transportation related emission reductions. Areas that need an extension of the attainment date for carbon monoxide or ozone must commit to establish, expand, or improve public transit to meet basic transportation needs (110(a)(3)(D), 110(c)(5)(B).

4. Implementor Commitments.—Pursuant to section 172(b)(10) of the Act, the SIP must include written evidence that the State and other units of government have adopted the necessary requirements in legally enforceable form. Further, the SIP must contain commitments to implement and enforce the SIP strategies as well as meet annual emissions reduction goals.

5. Financial Manpower Resources.—Pursuant to section 172(b)(7) of the Act, the SIP must identify the fiscal resources necessary to carry out the plan provisions.

6. Reporting of Progress.—Pursuant to section 172(b)(5) of the Act, the SIP must contain procedures and schedules for periodic monitoring of progress in implementing strategies and in achieving annual emission reductions. Section 176(c) of the Act requires that the lead local agency determine the conformity of its transportation control plan and programs with the SIP.

7. Impacts of Plan Provisions.—Pursuant to section 172(b)(9)(A) of the Act, the SIP must identify and analyze the air quality, health, welfare, economic, energy and social effects of the plan provisions and the alternatives considered.

8. Public Participation.—Pursuant to section 172(b)(9) of the Act, the SIP must contain evidence of public, local government, and State legislative involvement and consultation regarding the planning process and proposal.

9. Strategies.—Each State Implementation Plan must include strategies which will be used to demonstrate attainment of the NAAQS.

EPA has reviewed each of the three transportation control plans to determine if they satisfy these requirements. A discussion of the review for each metropolitan area follows. This discussion contains a brief description of each transportation control plan and a detailed explanation of those areas of the plan which do not satisfy the requirements listed above. A detailed discussion of EPA's review is on file at the EPA Regional Office.

Milwaukee Area: Carbon Monoxide and Ozone

A portion of the City of Milwaukee has been designated as nonattainment for the carbon monoxide NAAQS. The Counties of Kenosha, Milwaukee, Ozaukee, Racine, and Waukesha have been designated as nonattainment for ozone.

The Southeastern Wisconsin Regional Planning Commission (SEWRPC), designated as the lead local agency under section 174 of the Act, in conjunction with WDNR and WDOT developed the transportation control plans for CO and ozone.

The Wisconsin SIP submittal contains a demonstration that the CO and ozone NAAQS cannot be attained in this area by 1982 despite the implementation of all reasonably available control measures. Pursuant to section 172 of the Act, the State on January 10, 1980 requested an extension to no later than December 31, 1987 for attaining the standards. As discussed in a later section of this notice, EPA proposes to grant this request.

The transportation control plans contain the following strategies:

Strategy	Number of projects	Implementor
I. Traffic flow improvement:		
Stub-end freeway treatment	4 projects	WDOT, Milwaukee County, Milwaukee.
Work time rescheduling	1 study	SEWRPC.
Traffic signing, pavement marking and signalization.	125 projects	Various counties and municipalities.
II. Transit improvement:		
Transit route evaluation	6 studies	Milwaukee County, SEWRPC.
UBUS/UPARK	1 project	Milwaukee County, University of Wisconsin, Milwaukee Campus.
Transit shelters	3 projects	Kenosha, Shoreward, and Milwaukee County.
III. Vehicle occupancy increases:		
Park, ride, pool and express bus service	19 projects	WDOT, Milwaukee County, Ozaukee County.
Carpool, vanpool promotion	2 projects	WDOT, Milwaukee County.

Additionally, as a part of the overall plan, the Milwaukee area's key implementors have committed to meet basic transportation needs. EPA proposes to approve the ozone transportation control plan for the the Milwaukee area as satisfying all applicable requirements. EPA believes that the carbon monoxide transportation control plan for the Milwaukee area satisfies all applicable requirements with the following exception.

The transportation control plan contain projects in the "Regional Transportation Plan Year 2000-Report 25" to reduce carbon monoxide emissions areawide. Because the projected emission reduction from these areawide strategies may be insufficient to demonstrate attainment, the State has also proposed to study and develop specific "hotspot" strategies. The State included the following schedule in the submittal for the study and development of the specific "hotspot" strategies.

Project	Start	Finish
1. CO hotspot identification	Mar. 1, 1980	Apr. 15, 1980.
2. Determination of CO emission reduction at each hotspot.	Apr. 8, 1980	May 1, 1980.
3. Hotspot strategy alternative analysis.	May 1, 1980	June 1, 1980.
4. Presentation of strategy options to implementors.	June 1, 1980	June 30, 1980.
5. Secure implementor commitment.	June 1, 1980	July 31, 1980.
6. Inclusion of strategies in 1982 transportation improvement program.	Oct. 1980	Dec. 31, 1980.

EPA proposes to approve the carbon monoxide strategy on the condition that the State makes a commitment to identify the strategies for each CO hotspot; to identify the funding sources and implementors for each hotspot strategy; and to submit a schedule containing dates for awarding the construction contracts, initiating on-site construction, starting operations, and eliminating hotspots.

Madison Area: Ozone

Dane County which contains the Madison urbanized area has been designated as nonattainment for the ozone NAAQS. The Dane County Regional Planning Commission (DCRPC), designated as the lead local agency under section 174 of the Act, developed the transportation control plan for ozone in conjunction with WDNR and WDOT.

The Wisconsin SIP submittal contains a demonstration that the ozone NAAQS can be attained in this area by December 31, 1982. The following table identifies strategies in the transportation control plan for attaining the ozone NAAQS.

Strategy	Status	Implementor
1. Carpol	Continuing	Dane County
2. Vanpool	Continuing	Wisconsin Department of Administration, University of Wisconsin.
3. Residential parking permits (affects most central Madison neighborhood areas).	Continuing	Madison.
4. Downtown parking efficiency demonstration program (includes attendant parking in ramps, parking rate changes, fringe lots with shuttle buses, etc).	Approved 1978, implement 79-80.	Madison.
5. State Street transit/pedestrian mall	50 percent complete, 100 percent by 1982.	Madison.
6. Transit service increases	Addition of 48 buses in 1979	Madison.
7. Bus shelters	New shelters by 1982	Madison.
8. Downtown shuttle service increase	Additional shuttle buses added by 1982.	Madison.
9. Bus/taxi late night coordination demonstration program.	Study in progress	Madison.
10. Express bus service to fringe areas	Being Implemented	Madison.
11. Discounted bus passes to employees	Continuing	Hospitals, Dane County government, and others.
12. Outer area transit service increases	Continuing	Private transit services and Madison.
13. Transit rate changes for better efficiency and service.	Continuing	Madison.
14. Improved transportation system surveillance and monitoring.	Continuing	DCRPC Municipalities.
15. Traffic operations improvements—channelization of traffic—one way streets—computerized traffic control.	Continuing	Local implementing agencies.
16. Bikeway system improvements	Continuing	Various municipalities.

EPA proposes to approve the ozone transportation control plan for the Madison urbanized area as satisfying all applicable requirements.

Green Bay Area: Ozone

Brown County which contains the Green Bay urbanized area has been designated as nonattainment for the ozone NAAQS. The Green Bay urbanized area has a population of less than 200,000. Consequently, transportation controls are not required in this area. As discussed in the April 4, 1979 **Federal Register** (44 FR 20372), transportation controls are not required "rural" nonattainment areas since controls on major stationary sources and the development of transportation control plans in urban areas should assure reasonable further progress and attainment of the standard in "rural" areas by minimizing the transport of the pollutant from urban to rural areas.

The State has chosen to develop a transportation control plan for this area. The Plan was developed by the Brown County Planning Commission, which is the designated lead local agency for the area, in conjunction with WDNR and WDOT. The plan demonstrates that the ozone NAAQS can be attained in this area by December 31, 1982. The plan relies on the following strategies:

Strategy	Implementor
Traffic flow improvement	Green Bay.
4th Street and Lost Dauphin Road Improvement.	De Pere.
5th Street, Route 172 and bridge crossing improvements.	WDOT.
Railroad crossing improvements	Green Bay.
Transit increase ridership (50 percent)	Green Bay Transit Commission.
Hillcrest Drive and Bridge Improvement	Howard.

EPA proposes to approve the ozone transportation control plan for the Green Bay urbanized area as part of the Federally approved SIP.

Attainment Demonstrations for Carbon Monoxide and Ozone

The April 4, 1979 **Federal Register** (44 FR 20372) and its supplements detail the requirements for acceptable attainment demonstrations. A summary of the requirements follows:

a. A definition of the geographic areas covered by the plan.

b. An accurate, comprehensive, and current emission inventory.

c. Emission reduction estimates for each adopted or scheduled control measure or for related groups of control measures.

d. A determination of the level of control needed to demonstrate attainment of the primary NAAQS by 1982 (1987 if attainment cannot be made by 1982 for ozone or carbon monoxide despite the application of all reasonably available control measures). This should include a consideration of future emissions growth.

e. A provision for reasonable further progress (RFP) toward attainment of the primary standards prior to 1982 or 1987.

f. A provision for annual reporting on the progress toward meeting the compliance schedule outlined in the SIP.

9. An identification and quantification of an emissions growth increment, which will allow for major new or modified stationary sources. Alternatively, an emissions offset approach can be adopted to accommodate new sources.

In addition, for those areas requesting an ozone and/or CO attainment date extension beyond 1982, section 172 of the Act requires the implementation of certain additional measures. The additional measures required by Section 172 of the Act are: (1) The development, adoption and implementation of a vehicle inspection and maintenance program, (2) the establishment of a program for the analysis of alternatives for those sources proposing to locate in the area, and (3) the identification of other measures necessary to provide for attainment of the NAAQS by December 31, 1987. Additionally, Sections 110(a)(3)(D) and 110(c)(5)(B) require basic transportation needs to be met. USEPA has reviewed Wisconsin's CO and ozone attainment demonstrations to determine if they satisfy these requirements. The analysis of alternatives was proposed for approval in a recent **Federal Register** issue concerning Wisconsin's New Source Review program. Wisconsin's I/M program is analyzed later in notice. A discussion of USEPA's review for each metropolitan area follows. Contained in

this discussion is a brief description of the attainment demonstration for each metropolitan area and a detailed explanation of those portions of the attainment demonstrations which do not satisfy the requirements listed above.

Milwaukee Area: Carbon Monoxide and Ozone

The State's modeling analysis predicts that a CO emission reduction of between 38% and 46% is necessary to demonstrate attainment of CO NAAQS in the Milwaukee area. These emission reductions are based on both a macroscale dispersion modeling analysis and a microscale modeling analysis. The Wisconsin CO Control strategy relies primarily upon the Federal Motor Vehicle Control Program (FMVCP) and transportation control measures to provide CO emission reductions in the Milwaukee area. The State's submission indicates that the required level of CO emissions reduction to demonstrate attainment cannot be achieved by 1982, despite the implementation of all reasonably available control measures. However, the submission does indicate that the necessary emission reductions can be achieved by 1987 to demonstrate attainment of the CO NAAQS. Based on its inability to attain the CO NAAQS by 1982, the State, on January 10, 1980, requested an attainment date extension until no later than December 31, 1987.

The State CO attainment demonstration contained a technical deficiency in that the State has not fully substantiated its assumption that stationary sources are insignificant contributors to the CO emission inventory in the nonattainment area.

EPA proposes to approve the CO demonstration of attainment and the State's request for an attainment date extension if, prior to final rulemaking, the State corrects the above noted deficiency.

Alternatively, if the appropriate State official(s) provide EPA with assurances that the above noted deficiency will be adequately corrected according to date(s) negotiated between the State and the EPA Regional Office, the EPA will conditionally approve the above noted portion and propose the negotiated date(s) for approval in a subsequent **Federal Register.**

The State's modeling analysis for demonstrating attainment of the ozone NAAQS predicts that a 69% reduction in VOC emissions is required to meet the standard. This emission reduction requirements was determined using the Empirical Kinetic Modeling Approach (EKMA). The ozone control strategy relies upon VOC RACT controls on stationary sources (approved 45 FR 2319), the FMVCP, transportation control measures, and an I/M program to provide VOC emission reductions in the Milwaukee area. The State's submission indicates that the required level of VOC emissions reduction cannot be achieved by 1982, despite the implementation of all reasonably available control measures. The submission also fails to predict attainment of the ozone NAAQS by 1987. However, the State has committed itself to develop and implement any additional control measures necessary to assure that the ozone standard will be attained by 1987. Based on its inability to attain the ozone and carbon monoxide NAAQS by 1982, on January 10, 1980, the State requested an attainment date extension for both pollutants until no later than December 31, 1987. EPA has reviewed the State's ozone attainment demonstration and the State's request for an attainment date extension for the Milwaukee area and proposes to approve these portions of Wisconsin's SIP as satisfying all applicable requirements.

Madison Area: Ozone

The State's modeling analysis for demonstrating attainment of the ozone NAAQS that an 11% reduction in VOC emissions is required to meet the standard. This emission reduction requirement was determined using the Linear Rollback Approach (LRA) model. The ozone control strategy relies upon VOC RACT controls on stationary sources (approved at 45 FR 2319), the FMVCP, and transportation control measures. The State's submission indicates that a 39.8% reduction in VOC emission can be achieved by December 31, 1982, thus assuring attainment of the ozone standard.

EPA proposes to approve the Madison area ozone attainment demonstration as satisfying all applicable requirements.

Green Bay Area: Ozone

The State's modeling analysis for demonstrating attainment of the ozone NAAQS predicts that a 34% reduction in VOC emissions is required to meet the standard. This emission reduction requirement was determined using the LRA model. The ozone control strategy relies upon VOC RACT controls on stationary sources (approved at 45 FR 2319), the FMVCP, and transportation control measures. The State's submission indicates that a 39.3% reduction in VOC emissions can be achieved by December 31, 1982, thus assuring attainment of the ozone standard.

EPA proposes to approve the Green Bay area ozone attainment demonstration as satisfying all applicable requirements.

Vehicle Inspection and Maintenance

"Inspection/Maintenance" (I/M) refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes of vehicles can be included as well. Vehicles which do not comply with the program requirements can be prohibited from operating on public roads by requiring proof of compliance in order to purchase license plates or to register a vehicle.

Section 172(b)(11) of the Act requires the establishment of a specific schedule for the implementation of a vehicle emission control inspection and maintenance (I/M) program when SIP revisions demonstrate that attainment of the primary standards for carbon monoxide (CO) and/or ozone are not possible in an area prior to December 31, 1982, despite the implementation of all reasonable emission control measures.

USEPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Both of those items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking (44 FR 23072, 23073, n.6). The July 17, 1978 guidance should be consulted for details. The key elements for I/M SIP approval are as follows:

1. Legal Authority—According to section 172(b)(10), State or local governments must have adopted the necessary statutes, regulations, ordinances, or other legally enforceable documents to implement and enforce the inspection/maintenance program. The legal authority must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decisionmaking to an appropriate regulatory body. For example, a State department of environmental protection or department of transportation may be charged with implementing the program, selecting the type of test procedure to be used, and adopting all necessary rules and regulations. I/M legal authority must be included with plan revisions which include I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982) unless an approved

extension to certify legal authority is granted by USEPA. The granting of such an extension however, is an exceptional remedy to be utilized only when a State legislature has had no opportunity to consider enabling legislation.

2. Commitment to implement—Section 172(b)(10) of the Act also requires that written evidence of the appropriate governmental bodies commitment to implement and enforce the appropriate elements of the program must be included.

3. Identification and Commitment to Resources—Section 172(b)(7) of the Act requires that the necessary finances and resources to carry out the I/M program must be identified and committed.

4. Schedules for the Implementation of the Plan—A specific schedule to establish an inspection/maintenance program is required. (Section 172(b)(11)(B).) The July 17, 1978, guidance memorandum established as USEPA policy the key milestones for the implementation of the various types of I/M programs. These milestones were the general SIP requirement for compliance codified at 40 CFR 51.15(c). This section required that increments of progress be incorporated for compliance schedules for over one year in length.

5. Program Effectiveness—In the July 17, 1978, I/M Policy Memorandum USEPA stated that each State must commit to achieve a reduction of at least 25 percent in light duty vehicle exhaust emissions by 1987. This reduction is measured by comparing the levels of emissions projected to December 31, 1987, with and without the I/M program. This policy is based on section 172(b)(2) which states that "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures * * *."

To be acceptable, an I/M program must achieve the requisite 25 percent reductions in both hydrocarbons and carbon monoxide exhaust emissions from passenger cars by the end of Calendar Year 1987. The Act mandated "implementation of all reasonably available control as expeditiously as practicable." (Section 172(b)(2).) At the time of the passage of the Clean Air Act Amendments of 1977, several inspection/maintenance programs were already operating, including the mandatory programs in New Jersey and Arizona, at about 20 percent stringency. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet had not undergone I/M before. Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the program.)

Depending on program type (private garage or centralized inspection), a mandatory I/M program may be implemented as late as December 31, 1982, and the attainment date may be as late as December 31, 1987. Based on an implementation date of December 31, 1982, and a 20 percent stringency factor, EPA predicts that reductions of both CO and VOC exhaust emissions by 25 percent can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20 percent stringency factors, it is EPA policy to use a 25 percent emission reduction as the criterion to determine compliance of the I/M portion with section 172(b)(2).

Wisconsin has demonstrated that attainment of the NAAQS for carbon monoxide and ozone is not possible in the Milwaukee Metropolitan Area by December 31, 1982. Consequently, the State has requested an extension until December 31, 1987 for this area. According to the requirements of section 172(b)(11) of the Act, an I/M program must be implemented in this area. The following analysis discusses the conformance of the Wisconsin SIP with the requirements for SIP approval.

1. Legal Authority—On August 1, 1979, the State requested a one year extension to certify legal authority to implement and enforce an I/M program.

Conditions for EPA to grant such an extension are discussed in the February 24, 1978, General Criteria for SIP Approval Guidance, the July 17, 1978 Hawkins I/M policy memorandum and the Regional Administrator's letter of January 24, 1979. This guidance indicates that an extension to July 1, 1980, is possible, but only when the State can demonstrate that (a) there was insufficient opportunity to conduct necessary technical analyses and/or (b) the legislature has had no opportunity to consider any necessary enabling legislation for I/M between enactment of the 1977 amendements to the Act and June 30, 1979.

Wisconsin's extension request was based on both of the exceptions for 1978 and 1979 respectively. EPA recognized that a technical analysis of the I/M program took place throughout the entire 1978 legislative session, and further recognized that this was a valid reason for not obtaining I/M legislation in 1978.

Also, EPA realized that the Wisconsin legislature is biennial, that the first session occurs in 1979, and the the first order of business is the budget. Furthermore, section 16.47(2) of the Wisconsin Statutes prohibits passage of any fiscally significant bill until the general fund budget bill has passed both houses. While there is a provision to allow bills to be passed prior to this, Wisconsin noted that the fiscal effects of such bills must be less than a specified fiscal ceiling. EPA agreed that the effects of an I/M bill would exceed this ceiling. It is therefore apparent that since the budget bill was not passed until the end of July, there was no opportunity for the legislature to consider I/M by June 30, 1979.

In light on the above, EPA wrote to the Governor of Wisconsin on November 5, 1979, and informed him that the state qualified for an extension of the date for securing I/M enabling legislation.

On April 2, 1980, the Wisconsin legislature passed Amended Assembly Bill 500, which provides legal authority for the implementation and enforcement of an I/M program. The Governor signed the bill on May 1, 1980, on May 7, 1980, it was formally submitted to EPA, and on May 11, 1980 it became an enforceable State Law in Wisconsin.

EPA has reviewed the bill and based on this review, proposes to approve the State of Wisconsin's legal authority to implement and enforce an I/M program.

This proposed action is based on the following analysis. The I/M bill, as adopted by the legislature, authorizes the implementation of an I/M program in those areas of the State where the NAAQS for ozone or carbon monoxide will not be attained by December 31, 1982, despite the implementation of all reasonable available control measures. The bill provides for a program to be implemented January 1, 1983. The bill also provides for prohibiting registration of non-complying vehicles in affected areas by WDOT. The bill requires that the inspection incorporate a test procedure which complies with the Clean Air Act requirements.

2. Commitment to Implement—The Wisconsin I/M Bill was officially submitted to EPA on May 7, 1980. The Bill provides that an I/M program shall be implemented and that non-complying vehicles shall be denied motor vehicle registration. EPA considers this to be a commitment to implement and to enforce. Also, on October 6, 1979, the Governor of Wisconsin wrote to EPA and commited to take all necessary actions to implement an I/M program. Consequently, EPA recognizes the

state's commitment to implement and enforce the I/M program.

3. Identification and Commitment of Resources—The Legislative Authority enacted in Wisconsin does not address a mechanism to fund the program. Therefore, on May 8, 1980, the state submitted a revised schedule for implementation of an I/M program, which included a milestone to secure the financial and manpower resources to implement and operate the I/M program. EPA proposes to approve the State's I/M resource commitment based on this submittal. However, if the legislature fails to authorize resources sufficient to cover the cost of the program, then the Wisconsin SIP would no longer be approvable. The schedule for securing these resources is considered to be acceptable since it will allow adequate time for the program to be implemented by December 31, 1982.

4. Schedule for Implementation of the Plan—The State's submittal of a revised implementation schedule on May 8, 1980 established key milestones which meet the criteria established in EPA's July 17, 1978 guidance memorandum, and is thus an acceptable schedule for implementation of an I/M Program. The schedule demonstrates that the program will be implemented on January 1, 1983.

5. Program Effectiveness—Based on information in the SIP, the I/M program for light duty vehicles will achieve in 1987 a 42 percent reduction in VOC exhaust emissions and a 50 percent reduction in CO exhaust emissions in the Milwaukee metropolitan area. These emission reductions were calculated by comparing total mobile source exhaust emissions in 1987 with and without the I/M program. The calculations are based on the assumptions that the I/M program will have a 20 percent stringency factor and that a mechanics' training program will be implemented. The State has committeed to implement a mechanics' training program by indicating in the implementation schedule that the mechanics' training program will be developed and implemented. Therefore, the program is in conformity with EPA criteria for SIP approval. The EPA is proposing to approve the Wisconsin I/M program for light duty vehicles.

Ozone Redesignation

The March 3, 1978, **Federal Register** notice designated Grant, La Crosse, Douglas, Brown, Villas, Kenosha, Milwaukee, Ozawkee, Racine, Waukesha, Columbia, and Dane Counties as not attaining the 0.080 part per million (ppm) one hour oxidant standard (43 FR 8962; 40 CFR 81.35). Sheboygan County was designated attainment/unclassifiable. On February 8, 1979, the standard was changed to a 0.120 ppm ozone standard, not to be exceeded on the average of more than 1.00 times a year (44 FR 8220). The WDNR has demonstrated that although Grant, Crawford and Douglas Counties have recorded violations of the 0.080 ppm standard, no violations of the 0.120 ppm standard have been recorded in these Counties. Additionally, ambient monitoring performed subsequent to the March 3, 1978 designations has shown violations of the 0.120 ppm standard in Sheboygan County. Wisconsin has recommended that EPA revise its designations accordingly. EPA today is proposing to accept Wisconsin's recommendations by redesignating Grant, Crawford, and Douglas Counties from "Does Not Meet the Primary Standards" for oxidants to "Cannot Be Classified or Better than National Standards" for ozone. Additionally, EPA proposes to redesignate Sheboygan County from "Cannot be Classified or Better Than National Standards" for oxidants to "Does Not Meet Primary Standards" for ozone.

Part D Requirements for Rural Counties

In order to meet the Part D requirements in "rural" ozone nonattainment areas, i.e., urbanized areas of less than 200,000 population, the EPA requires only the adoption of stationary source VOC RACT regulations on major sources. Transportation control measures are not required in rural nonattainment areas because the combination of controls on major stationary sources in all nonattainment areas and the development of transportation control plans in urban areas should assure attainment in the rural areas by minimizing the pollutant transported from urban to rural areas.

The EPA approved on January 11, 1980 (45 FR 2319) Wisconsin's VOC RACT regulation and its commitment to adopt further RACT regulations as required. These RACT regulations meet the Part D requirements for Wisconsin's rural Counties. The EPA is, therefore, proposing to approve Wisconsin's ozone strategy for La Crosse, Villas, Kenosha, and Columbia Counties. If the EPA does not redesignate Grant, Crawford, and Douglas Counties to attainment as discussed earlier, the plan for these areas also would meet the Part D requirements, and the EPA would then approve the plan for these three Counties. If Sheboygan County is designated nonattainment, the plan for it meets the Part D requirements, and the EPA is proposing to approve the ozone plan for Sheboygan County.

Conclusion

The EPA is proposing to redesignate Grant, Crawford, and Douglas Counties to attainment/unclassifiable for ozone and Sheboygan County to nonattainment. It is proposing to approve the ozone plan for La Crosse, Villas, Kenosha, and Columbia Counties, and to approve if required, the ozone plan for Grant, Crawford, Douglas, and Sheboygan Counties. It is proposing to approve the ozone plans, including the transportation management portions, for Brown and Dane Counties. It is proposing to approve the attainment date extension to 1987 for ozone and CO in the Milwaukee area. It is proposing to approve the I/M Program for light duty motor vehicles.

It is proposing to approve the ozone strategy, including transportation control strategies and I/M, for the Milwaukee Area. This approval is based upon continued progress by the State and other interested parties in developing additional strategies sufficient to attain the ozone NAAQS by 1987. The designated ozone nonattainment Counties in the Milwaukee urbanized area are Milwaukee, Ozaukee, Waukesha, and Racine. The Milwaukee area CO strategy is being proposed for approval conditioned on correction of noted deficiencies and the continued meeting of the schedule for adoption of CO transportation control measures.

Interested persons are invited to comment on these revisions to the Wisconsin SIP and on EPA's proposed actions. Comments should be submitted to the address listed in the front of this Notice. All comments received will be available for inspection at the Region V Office, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Under Executive Order 12044 (43 FR 12681), EPA 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. EPA labels these other regulations "specialized." I have reviewed this proposed regulation pursuant to the guidance in EPA'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.

(Secs. 107, 110, 172, and 301(a) of the Clean Air Act as amended)

Dated: May 14, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-18137 Filed 6-16-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 169

[FRL 1515-7]

Pesticide Enforcement; Books and Records of Pesticide Production and Distribution; Notification to the Secretary of Agriculture of a Final Regulation

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

ACTION: Notification to Secretary of Agriculture of Final Regulation.

SUMMARY: Notice is given as required by Section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, that the Administrator, EPA, has forwarded to the Secretary of the U.S. Department of Agriculture a copy of EPA's final rule amending regulations which impose certain record keeping requirements upon producers of pesticides and devices. This amendment adds new record keeping requirements to those currently required to be kept by producers who manufacture pesticides and devices for export. It also extends the record keeping requirements to producers who manufacture active ingredients used in producing pesticides.

FOR FURTHER INFORMATION CONTACT: John J. Neylan III, Pesticides and Toxic Substances, Enforcement Division (EN-342), Office of Enforcement, EPA, Room 3624, 401 M Street, S.W., Washington, D.C. 20460, telephone 202/755-1212.

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of FIFRA states that the Administrator shall provide the Secretary of Agriculture a copy of any final regulation at least 30 days prior to signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall publish in the **Federal Register** (with the final regulation) the comments of the Secretary, if requested, and the response of the Administrator. If the Secretary does not comment in writing within 15 days after receiving the final regulations, the Administrator may sign such regulation for publication in the **Federal Register** any time after the 15 day period.

Pursuant to FIFRA Section 25(a)(3), a copy of this final regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The final regulation has also been submitted to the FIFRA Scientific Advisory Panel, as required by Section 25(d).

(Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: June 6, 1980.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 80-18157 Filed 6-16-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3809

Surface Management of Mining Claims Located on the Public Lands; Extension of the Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Extension of the Comment Period.

SUMMARY: The decision has been made to extend the comment period on the proposed rulemaking on the Surface Management of Mining Claims Located on the Public Lands published in the **Federal Register** of March 3, 1980 (45 FR 13597), for 30 days to provide the public additional time to make their comments on the proposed rulemaking after giving consideration to the regulatory impact analysis that has been prepared on the proposed rulemaking.

DATE: Comments should be made by July 16, 1980.

ADDRESS: Send comments to: Director (650), Bureau of Land Management, 1800 C Street NW.; Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Bob Anderson, 202 343-8537; or Vincent Hecker, 202 343-8537; or Robert C. Bruce, 202 343-8735.

James W. Curlin,

Deputy Assistant Secretary of the Interior.

June 13, 1980.

[FR Doc. 80-18311 Filed 6-16-80; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL MARITIME COMMISSION

46 CFR 531 and 536

[Docket No. 80-37]

Used Household Goods—Tariff Filing Regulations Applicable to Carriers in the Foreign and Domestic Offshore Commerce of the United States; Notice of Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Proposed Rulemaking.

SUMMARY: The proposed amendments would: (1) exempt transportation of used household goods by non-vessel operating common carriers from all tariff filing requirements; (2) require that rates for used household goods established by vessel operating common carriers be stated on a weight or per container basis only and that the weight of such shipments be substantiated by a public weigher's certificate furnished by the shipper.

DATES: Comments (original and 15 copies) on or before August 18, 1980.

ADDRESS COMMENTS AND INQUIRIES TO: Francis C. Hurney, Secretary, Federal Maritime Commission, Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTAL INFORMATION:

I. Non-Vessel Operating Carriers—Tariff Requirements for Used Household Goods

Non-vessel operating common carriers (NVOCC's) undertaking ocean transportation are subject to Federal Maritime Commission regulation in both foreign and domestic commerce.[1] Several NVOCC's also operate as motor carriers under the Interstate Commerce Act (ICA) and as inland freight forwarders exempt from regulation under other provisions of the ICA. These carriers frequently specialize in the carriage of used household goods and personal effects and maintain FMC tariffs providing for the port-to-port segments of through ocean/inland transportation services which reflect only part of the total transportation costs incurred by the shipper.[2]

On January 23, 1968 the Commission instituted a proceeding (Docket 68-7), which proposed an exemption for the transportation of used household goods and personal effects by NVOCC's. After

[1] *See Common Carriers by Water—Status of Express Companies, Truck Lines and Other Non-Vessel Carriers*, 6 F.M.B. 245 (1961) and *Bernard Ulmann Co. v. Porto Rico Express Co.*, 3 F.M.B. 771 (1952), construing the applicable provisions of the Shipping Act, 1916 (46 U.S.C. 801 *et seq.*).

[2] This transportation, originates or terminates at interior United States points and moves in intermodal services under through bills of lading.

receiving several comments opposing the proposal, however, it was concluded that further study was called for and the proceeding was discontinued.

On July 6, 1976, all non-vessel operating common carriers providing transportation for military household goods and personal effects when there is also an inland movement in the United States were granted continuing special permission to file tariff supplements and/or revised pages for such transportation on less than the statutory 30-day notice requirement.[3] A waiver of the general tariff format requirements stipulated in 46 CFR Parts 531 and 536 was also granted. This action was intended to facilitate the intermodal movement of household goods and personal effects for the account of the Department of Defense (DOD).

The Commission has more recently been petitioned by DOD to further amend its regulations relating to the intermodal movement of household goods and personal effects for the purpose of achieving greater compatibility with DOD's competitive rate program. The modification sought by DOD would require NVOCC'S to submit their through intermodal rate quotations to the Military Traffic Management Command (MTMC) and have these quotations approved and accepted by MTMC before they are filed with the Commission, but not later than their proposed effective date. The Household Goods Forwarders Association of America, Inc., objects to DOD's petition and states that its proposed modifications in the Commission's regulations are unwarranted.

The Commission has observed the effectiveness of the tariff filing regulations applicable to NVOCC's naming through intermodal rates on military household goods and believes these procedures may no longer be serving a necessary regulatory purpose. Since the present rules took effect in 1976, only one NVOCC conference has filed tariffs under the waiver provisions granted in Docket No. 73–4. Although this tariff contains rates covering the entire through movement, this information does not provide the Commission with any greater ability to judge the propriety of the port-to-port segment than it would have if the information were obtained *after* the cargo had actually moved. Moreover, it appears that even the published through rates do not encompass the total costs commonly experienced by household goods shipper.[4]

Section 35 of the Shipping Act, 1916 (46 U.S.C. 834) authorizes the Commission to exempt operations of water carriers or other persons or activities from statutory requirements, where it finds that such exemption would not substantially impair effective regulation, be unjustly discriminatory or be detrimental to commerce. The transportation of used household goods and personal affects by NVOCC's appears to fall within the category of operations which could be exempted from tariff filing requirements without detrimental effects on any affected interests.

II. Vessel Operating Carriers—Method of Rating Household Goods Shipments

The Commission has received information that NVOCC's frequently underdeclare the measurements of containerized household goods and personal effects shipments when tendering such cargo to vessel operating common carriers (VOCC), thereby paying less than the applicable transportation charges.[5] In order to minimize the possibility of this malpractice, it is further proposed that VOCC's establish rates for the carriage of pre-packed household goods and personal effects only on the basis of the commodity's weight or on a per container basis, and that all such shipments be accompanied with a copy of a public weigher's certificate when received by the carrier.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 533), section 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844) and sections 18(a) and (b), 22, 35 and 43 of the Shipping Act, 1916 (46 U.S.C. 817(a), 817(b), 821, 833a and 841(a), the Commission proposes to amend parts 531 and 536 of Title 46 Code of Federal Regulations as follows:

Paragraph 536.1(b)(2) is to be deleted. A new paragraph 536.1(a)(6) would be substituted in lieu thereof which reads as follows:

§ 536.1 [Amended]

The following services are exempt from the tariff filing requirements of the Act and the rules of this part:

* * * * *

(6) Transportation of used household goods and personal effects by non-vessel operating common carriers.

Add a new § 531.1(f) which reads:

§ 531.1 [Amended]

* * * * *

(f) Transportation of used household goods and personal effects by non-vessel operating common carriers.

Modify § 536.6(a) to read:

§ 536.6 [Amended]

(a) The application of all rates shall be clear and definite and explicitly stated per 100 pounds, per cubic foot, per ton of 2,000 pounds, per ton of 2,240 pounds, or some other expressly defined unit with the exception of those vessel operating common carriers transporting used household goods and personal effects who shall file these rates stated per 100 pounds, per ton of 2,000 pounds, per ton of 2,240 pounds or other defined weight unit or on a per container basis. Vessel operating common carriers carrying used household goods and personal effects must require, in addition to other freighting documents, a public weigher's certificate from the shipper at the time of receipt of cargo when the applicable rates are based on weight.

* * * * *

Modify § 531.6(b) to read:

§ 531.6 [Amended]

* * * * *

(b) The correct application of rates shall be clearly and definitely stated in terms of an established unit of freight (*e.g.*, per 100 pounds, ton of 2,000 pounds, ton of 2,240 pounds, cubic foot). Provided, however that vessel operating common carriers transporting used household goods and personal effects shall file these rates stated per 100 pounds or other defined weight unit or on a per container basis. Vessel operating common carriers carrying such household goods and personal effects must require, in addition to other freighting documents, a public weigher's certificate from the shipper at the time of receipt of cargo when the applicable rates are based on weight.

By the Commission.

Frances C. Hurney,

Secretary.

Service List

Dellon E. Coker, Chief, Regulatory Law Office, Office of The Judge Advocate General, Department of the Army (DAJA–RL), Washington, D.C. 20310 for The Department of Defense.

Alan F. Wohlstetter, Joseph F. Mullins, Jr., Attorneys for Household Goods Forwarders Association of America,

[3] *Report and Order in Docket No. 73–4*, 41 FR 27726 (1976). *See* 46 CFR 536.1(b)(2).

[4] Because of the nature of household goods movements, it still appears that establishing through rates *and* disclosing the port-to-port portion of such through rates is a practical impossibility.

[5] Vessel operating carriers often assess household goods rates on the basis of the *interior* measurements of containerized shipments, but rarely inspect containers tendered for shipment to verify the shipper's (often an NVOCC) measurements.

Inc., Denning & Wohlstetter, 1700 K Street, N.W., Washington, D.C. 20006.
Comptroller General of the United States, General Accounting Office, Washington, D.C. 20548.
William McDade, General Services Administration, Office of Transportation, Travel Management Division, 425 I Street, N.W., Washington, D.C. 20406.
Mr. Waddell Burwell, SER/MO/TT, Agency for International Development, Washington, D.C. 20523.

[FR Doc. 80-18191 Filed 6-16-80; 8:45 am]
BILLING CODE 6730-01-M

Notices

Federal Register
Vol. 45, No. 118
Tuesday, June 17, 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

Agricultural Marketing Service

Flue-Cured Tobacco Advisory Committee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name: Flue-Cured Tobacco Advisory Committee.
Date: June 27, 1980.
Place: Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, laboratory, Room 223 Flue-Cured Tobacco Cooperative Stabilization Corporation, 1306 Annapolis Drive, Raleigh, North Carolina 27505.
Time: 1:00 p.m.
Purpose: To discuss marketing area opening dates and selling schedules for flue-cured tobacco to be sold in each marketing area for the 1980 season. Also, other matters as specified in 7 CFR, Part 29, Subpart G, § 9404.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact Mr. T. A. VonGarlem, Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, 300 12th Street, S.W., Washington, D.C. 20250 (202) 447–2567. Written statements should be submitted prior to or at the meeting.

Dated: June 12, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80–18188 Filed 6–16–80; 8:45 am]

BILLING CODE 3410–02–M

Warehouse Examination Policy

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Termination of Activity on The Development of a Change in Policy and Pilot Projects.

SUMMARY: This action terminates activity on the development of a policy whereby the Department would share with States its examination responsibilities under provisions of the U.S. Warehouse Act (7 U.S.C. 241). Three hundred thirty-nine comments were received from States, producers, warehousemen, trade associations, processors, bankers, and other interested individuals and groups. Ninety percent of the comments received were not in favor of the change in policy. Without substantial support from those who would be affected by the change, the Department considers it inadvisable and impracticable to proceed further with the development of a policy and, accordingly, with pilot projects.

The Department appreciates the support expressed for its present program and the statements of interest sent in by several States.

FOR FURTHER INFORMATION CONTACT: Dr. Orval Kerchner, Chief, Warehouse Development Branch, Warehouse Division, AMS, Washington, D.C. 20250, 202–447–3821.

SUPPLEMENTAL INFORMATION: The notice of request for comments on warehouse examination policy and expressions of interest in a possible model program was published in the **Federal Register** (45 FR 16146) on March 12, 1980. Interested persons were afforded an opportunity to file views and written proposals by May 12, 1980.

Dated: June 12, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80–18171 Filed 6–16–80; 8:45 am]

BILLING CODE 3410–02–M

Rural Electrification Administration

N. W. Electric Power Cooperative, Inc., Cameron, Mo.; Proposed Loan Guarantee

Under the authority of Public Law 93–32 (87 STAT. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $9,200,000 to N. W. Electric Power Cooperative, Inc., of Cameron, Missouri, and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of $3,100,000 to this cooperative. These loan funds will be used to finance the construction of approximately 133 miles of 69 kV and approximately 2 miles of 161 kV transmission line, substations, and other system improvements.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed construction, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Curtis L. Funston, Manager, N. W. Electric Power Cooperative, Inc., P. O. Box 312, Cameron, Missouri 64429.

In order to be considered, proposals must be submitted on or before July 17, 1980 to Mr. Funston. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as N. W. Electric Power Cooperative, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 9th day of June 1980.

Susan T. Shepherd,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 80–18117 Filed 6–16–80; 8:45 am]

BILLING CODE 3410–15–M

CIVIL AERONAUTICS BOARD

[Docket 38185]

Lone Star Airways, Inc. Fitness Investigation; Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled proceeding now assigned to be

held on June 13, 1980 (45 FR 37471, June 3, 1980) is postponed until June 20, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

Dated at Washington, D.C., June 11, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-18160 Filed 6-16-80; 8:45 a.m.]

BILLING CODE 6320-01-M

[Order 80-6-53]

United States-Ireland Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 80-6-53.

SUMMARY: The Board proposes to award U.S.-Shannon certificate authority to Northwest Airlines, Inc. (Docket 36920) Transamerica Airlines, Inc. (Docket 34874) and World Airways, Inc. (Docket 35011), and to deny the carriers' requests to serve points in Ireland other than Shannon. The Board has instituted the United States Ireland Show Cause Proceeding, Docket 38302, for these purposes.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that these actions should be taken, as described in the order cited above, shall, NO LATER THAN June 27, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the airlines, the Department of Transportation, the Department of State, and the Ambassador of Ireland in Washington, D.C. A statement must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed certificate amendments.

Address objections to: Docket 38302, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

For futher information, contact Patricia Lofts DePuy, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5878.

By the Civil Aeronautics Board, June 10, 1980.

Phillis T. Kaylor,

Secretary.

[FR Doc. 80-18159 Filed 6-16-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Implementing the National Environmental Policy Act; Revised EDA Directive

AGENCY: Ecomonic Development Administration (EDA), U.S. Department of Commerce.

ACTION: Notice of availability for public comment of EDA procedures to implement the National Environmental Policy Act.

SUMMARY: This notice presents for public review revised EDA Directive 17.02—2 which contains procedures implementing the National Environmental Policy Act (NEPA). These procedures have been developed in compliance with the regulations of the Council on Environmental Quality (CEQ), (40 CFR § 1507.3), and the Department of Commerce Administration Order 216-6. This revised directive will be effective for all EDA components upon publication of this notice. The revised directive is, however, subject to change before final adoption, based on comments received during the review period. Subsequent to public review of the revised directive, a final directive will be filed with CEQ and published in the **Federal Register.**

COMMENT DATE: Comments should be in written form and be received no later than July 17, 1980 by: Mr. Andrew E. Kauders, Special Assistant for the Environment, Economic Development Administration, Room 7217, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

FURTHER INFORMATION: For further information, contact Mr. Andrew E. Kauders, same address as above, telephone: (202) 377-4208.

Dated: June 11, 1980.

Robert T. Hall,

Assistant Secretary for Economic Development.

EDA Directive for the Implementation of the National Environmental Policy Act of 1969 and Other Federal Environmental Mandates, as Required

Table of Contents

EDA directive for the implementation of the National Environmental Policy Act of 1969 and other Federal environmental mandates as required

Chapter I. General

1. The National Environmental Policy Act of 1969 (NEPA).
2. The Council on Environmental Quality (CEQ) Regulations.
3. Department of Commerce Administrative Order.
4. EDA Policy on Implementation of the NEPA Process.
5. Use of NEPA Documents by Decisionmakers.
6. Applicability.
7. Responsibilities.
   - 7.1 Assistant Secretary for Economic Development.
   - 7.2 Deputy Assistant Secretary for Economic Development.
   - 7.3 Special Assistant for Environment.
   - 7.4 All Other Deputy Assistant Secretaries.
   - 7.5 Chief Counsel.
   - 7.6 Regional Director.
   - 7.7 Deputy Regional Director.
   - 7.8 Regional Environmental Officer.
   - 7.9 Other Assistant Regional Directors.
   - 7.10 Regional Counsel.
   - 7.11 Economic Development Representative.
   - 7.12 Applicant.
8. Environmental File.

Chapter II. Classes of EDA Actions

1. Introduction.
2. Class I, Actions that normally do not require either an EIS or an Environmental Assessment.
3. Class II, Actions that normally require EAs.
4. Class III, Actions that normally require an EIS.
5. Indicators of significance.

Chapter III. Environmental Assessments (EA)

1. Definition.
2. Information gathering and environmental analysis.
3. Documentation of Environmental analysis.
4. Timing.
5. Reassessment.

Chapter IV. The Finding of No Significant Impact (FONSI)

1. Definition.
2. Distribution.

Chapter V. Planning and processing Environmental Impact Statements (EIS)

1. Types of EISs.
2. Responsibilities of the EIS coordinator.
3. States of EISs.
   - 3.1 Supplemental EIS.
   - 3.2 Additional information.
4. Timing and Planning of the EIS.
   - 4.1 Sequence of timing.
   - 4.2 Timing.
   - 4.3 Early Planning.
   - 4.4 Notice of Intent.
   - 4.5 Initiating the scoping process.
   - 4.6 How to hold a scoping meeting.
   - 4.7 Completing the scoping process.

5. Content of EISs.
5.1 Preliminary Draft EIS and Preliminary Final EIS.
5.2 The Final EIS.
5.3 Preparation of supplemental draft of Final EIS.
6. Processing an EIS.
6.1 Regional Environmentalist Review of Preliminary Draft EIS.
6.2 Program Area Review of Preliminary Draft EIS.
6.3 Special Assistant Review of Preliminary Draft EIS.
6.4 Draft EIS.
6.5 Preliminary Final EIS and Final EIS.
6.6 Limits on Administrative Action EISs.
6.7 Record of Decision.

Chapter VI. Public Information and Involvement

1. Requirement.
2. Input to the environmental assessment (EA).
3. Review of the Finding of No Significant Impact (FONSI).
4. Notice of intent.
5. List of interested groups.
6. Distribution and review of the draft environmental impact statement.
7. Commenting period.
8. EIS availability.
9. Distribution and review.
10. Record of decision.
11. Public hearings.
12. Public contact.
13. Other public notice.

Chapter VII. Protection and Enhancement of Historic and Cultural Properties

1. Purpose and Policy.
2. Identification of Historic and Cultural Properties.
3. Evaluation of Historic and Cultural Properties.
4. Determination of Effect.
5. Alternatives.
6. Mitigation.
7. Participation by Interested Parties.
8. Procedures for Discovery Situations.
9. Agreements with ACHP and Matters brought before the Council Members of the ACHP.

List of Figures

1. Decision Points.
2. Sample Environmental Checklist.
3. NEPA in EDA Planning Process.
4. Sample Finding of No Significant Impact.
5. Sequence of Actions Related to EIS Preparation.

Chapter I. General

1. *The National Environmental Policy Act of 1969 (NEPA).* Section 101 of NEPA directs all Federal agencies to the fullest extent possible: (1) to use a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and decision-making which may have an impact on man's environment; (2) to identify and develop methods and procedures which will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decision-making along with economic and technical considerations; and (3) to include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official which includes:

a. The environmental impact of the proposed action;

b. Any adverse environmental effects which cannot be avoided should the proposal be implemented;

c. Alternatives to the proposed action;

d. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

e. Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Other environmental mandates to be considered include, but are not limited to:

(1) Environmental Quality Improvement Act

(2) National Historic Preservation Act of 1966, as amended

(3) Archeological and Historic Preservation Act

(4) Clean Air Act, as amended

(5) Federal Water Pollution Control Act, as amended

(6) Endangered Species Act, as amended

(7) Wild and Scenic Rivers Act

(8) Executive Order 11514, Protection and Enhancement of Environmental Quality, as amended

(9) Executive Order 11593, Protection and Enhancement of the Cultural Environment

(10) Fish and Wildlife Coordination Act

(11) Floodplain Management Program

(12) Protection of Wetlands Program.

2. *The Council on Environmental Quality (CEQ) Regulations.*

CEQ issued Regulations on November 29, 1978 (43 FR 55978) under the authority of NEPA and Executive Order 11514 as amended by Executive Order 11991. The CEQ Regulations, which apply to all Federal agencies, further describe how Federal agencies shall comply with NEPA.

3. *Department of Commerce Administrative Order.*

Department of Commerce Administrative Order 216–6 mandates how the Department of Commerce shall comply with NEPA and the CEQ Regulations.

4. *EDA Policy on Implementation of the NEPA Process.* It is the policy of EDA to assure, through the procedures set forth in this Directive, that proper environmental review of program activities takes place, that there is a proper balance between the goals of economic development and environmental enhancement, and that adverse environmental impacts are mitigated or avoided to the extent possible.

This directive shall be implemented in conjunction with EDA's Directive 17.04, the EDA Program to Implement Executive Orders 11988 and 11990, "Floodplain Management" and "Protection of Wetlands."

5. *Use of NEPA Documents by Decisionmakers.*

a. Environmental documents (environmental assessments, environmental checklists, notices of intent, findings of no significant impact and environmental impact statements) and the comments and responses that have been made on the documents shall accompany the proposed action through agency review.

b. Responsible officials (see paragraph 7) shall use the environmental documents when deciding (see figure 1) whether to offer assistance and when weighing the proposed action against alternatives to the proposed action. Those alternatives considered by the responsible officials shall be discussed in the environmental documents.

c. The responsible official shall consider all alternatives covered in the environmental documents when making a decision.

d. All alternatives available to the decisionmaker shall be included in the environmental documents.

6. *Applicability*

This derective is applicable to all EDA actions at both Headquarters and Regional Offices, and implements NEPA including the CEQ Regulations, and DAO 216–6.

Figure 1.—*Decision Points*

Action	Responsible official	Available environmental data
Development Finance		
Profile or initial application review	Regional Environmental Officer.	Data from application or profile.
Processing application	Regional Office	Responses to REO's request for additional data for EA/EIS (from applicant or consultant).
Approval/denial of application	Regional Director/Assistant Secretary.	EIS or EA if not categorically excluded.
Operations		
Profile	EDR	None.
Project review committee	Regional Director	A/E report, maps, basic project information, etc.
Preapplication	EDR	All data necessary for the environmental assessment.
Preapplication conference	Regional Director	Same.
Application authorization	Regional Director	All data necessary for the environmental assessment.
Acceptance of application	DEP RD. for P.I	Reassessment.
Approval/denial of application	Regional Director/A.S	EA or EIS if not categorically excluded.
301(b) Grants		
District recommendation, RO/EDR review/recommendation.	R.D	Sufficient information to determine if action is categorically excluded. If not excluded, assessment shall be prepared.
Headquarters approval of additional funds.	DAS/PP	
Authorize application	R. D	
Review application	R. D	
Preliminary decision	R. D	
Approval/disapproval	DAS/PP	
302(a) Grants		
Identification/invitation to submit preapplication.	DAS/PP	Sufficient information to determine if action is categorically excluded. If not excluded, assessment shall be prepared.
Review/meeting	R.D. or Director ODOP	
Response/authorize formal application.	DAS/PP	
Joint review of application	R.D., Director ODOP	
Approval/disapproval	DAS/PP	

7. *Responsibilities.*

7.1 *Assistant Secretary for Economic Development.*

a. For EDA ensures the proper balance between economic development and environmental enhancement;

b. Ensures that EDA policies and programs reflect appropriate consideration of environmental values;

7.2 *Deputy Assistant Secretary for Economic Development.*

a. Serves as mediator and decisionmaker on conflicts between program missions and the attainment of environmental goals;

b. Provides policy direction to the EDA environmental program;

7.3 *Special Assistant for Environment.*

a. Acts as principal advisor on environmental affairs to the Assistant Secretary;

b. Serves as the responsible Agency official under the CEQ Regulations (Section 1507.2(a));

c. Serves as the responsible Agency official under the Advisory Council on Historic Preservation's "Regulations for the Protection of Historic and Cultural Properties," hereafter referred to as the "Advisory Council's Regulations";

d. Advises the Assistant Secretary for Economic Development on the adequacy of EAs, EISs and all other environmental documents;

e. Develops and recommends to the DAS/ED agency procedures for complying with other environmental legislation, Executive Orders, and regulations;

f. Reviews EDA's activities and program involvements, and recommends approval, disapproval or modification by the Assistant Secretary based upon the balancing of anticipated beneficial or adverse environmental impacts against the anticipated economic benefits of the project, and upon the fulfillment of the requirements of this Directive;

g. Develops controls for avoiding or mitigating adverse environmental impacts and monitors and ensures their implementation;

h. Coordinates EDA's environmental program with the environmental programs of local, State and other Federal agencies that become involved with EDA projects;

i. Represents the Assistant Secretary at conferences, meetings, and public hearings, and on interagency committees dealing with environmental matters;

j. Maintains liaison on environmental matters with interested public groups and local, State and other Federal agencies;

k. Reviews and evaluates legislative and administrative proposals for environmental concerns;

l. Assists in resolving questions of lead agency determinations;

m. Provides guidance in addressing environmental issues which surface after project approval;

n. Provides policy guidance and training for the Regional Office staff;

o. Monitors and audits EDA's performance in carrying out its responsibilities under this Directive;

p. Performs such other assignments of a policy, administrative or operational nature as requested by the Deputy assistant Secretary for Economic Development;

q. Acts as Environmental Coordinator for programmatic and legislative issues;

r. Coordinates EDA review of EISs prepared by other agencies in accordance with DAO 216–6;

s. Acts as EIS Coordinator for EIS prepared by the headquarters office;

t. Files, draft, final and supplemental EIS prepared by the headquarters office with EPA and other public and private parties.

7.4 *All Other Deputy Assistant Secretaries in EDA.*

a. Ensure that programs under their direction reflects the proper balance between economic development and environmental enhancement.

b. Ensure that their programs reflect positive and appropriate considerations of environmental values.

7.5 *Chief Counsel.*

a. Determines legal adequacy of environmental documentation and compliance;

b. Assists the Special Assistant for Environment in the development of special conditions for the mitigation of adverse environmental impacts.

7.6 *Regional Director.*

a. Executes findings of no significant impact (FONSI) after consideration of an environmental assessment and the recommendation of EDA's Regional Environmental Officer;

b. Files draft, final and supplemental EISs with EPA and circulates them to appropriate public and private parties.

c. Refers to the Deputy Assistant Secretary for Economic Development for resolution conflicts between himself and the Regional Environmental Officer.

d. Reports to the Deputy Assistant Secretary for Economic Development instances where someone other than the Regional Environmental Officer (REO) exercises duties of the REO. The reports shall specifically state the circumstances requiring such substitutions.

7.7 *Deputy Regional Director.*

a. Assists in the development of a regional strategy that is consistent with EDA's environmental program;

b. Assists Regional Environmental Officer in prioritizing workload.

7.8 *Regional Environmental Officer.*

a. Acts as principal advisor on environmental matters to the Regional Director;

b. Reviews on a project-by-project basis the Regional Office's program activities, and recommends project approval, disapproval or modification by the Regional Director based upon the balancing of anticipated beneficial or adverse environmental impacts against the anticipated economic benefits of the project, and upon the fulfillment of this Directive's requirements;

c. Represents the Regional Director at conferences and meetings dealing with environmental matters of a Regional Office nature;

d. Maintains liaison on Regional Office environmental matters with interested public groups and local, state, and other Federal agencies;

e. Reviews and evaluates proposals in terms of their environmental impact at the request of the Regional Director;

f. Develops and recommends controls for avoiding or mitigating adverse environmental impacts and monitors their implementation;

g. Provides assistance in resolving post-approval environmental matters at the Regional Office level;

h. Maintains records management system for those actions required by this Directive;

i. Provides guidance and training to Regional Office staff, including Economic Development Representatives, on the requirements of this Directive;

j. Performs other assignments of an administrative or operational nature that may be requested by the Regional Director or the Special Assistant;

k. Acts as EIS Coordinator for EISs prepared by the Regional Office;

l. Coordinates with the State Historic Preservation Officer (SHPO) all actions that may have a potential effect on cultural resources;

m. For actions affecting cultural resources, formulates mitigation measures in consultation with the SHPO and submits a request to the Advisory Council for its review and comment;

n. Consults with the Special Assistant concerning mitigation measures if there is disagreement with the SHPO, the ACHP, the applicant, or another affected Federal agency;

o. For projects adversely affecting cultural resources, submits information to the Special Assistant for further coordination with the Advisory Council on Historic Preservation;

p. Submits requests to the Keeper of the National Register of Historic Places for determinations of eligibility; and

q. For actions not requiring an EIS or environmental assessment prepares as a part of the administrative record any appropriate environmental documentation;

r. Review EISs from other agencies and transmits comments to the Special Assistant.

7.9 *Other Assistant Regional Directors* (if applicable).

a. Assures timely submission of initial and followup information to Regional Environmental Officer;

b. Notifies Regional Environmental Officer of preapplication conferences;

c. Identifies and considers alternatives to proposed actions;

d. Assures timely compliance with NEPA requirements in project processing;

e. Assures that mitigation measures are implemented; and,

f. Informs Regional Environmental Officer of any substantive changes in the proposed action or significant new information that becomes available concerning potential environmental impacts.

7.10 *Regional Counsel.*

a. Determines legal adequacy of environmental documentation and compliance;

b. Assists the Regional Environmental Officer in the development of special conditions for the mitigation of adverse environmental impacts.

7.11 *Economic Development Representative.*

a. Informs applicants of EDA environmental requirements;

b. Assists applicants in properly responding to environmental questions in the application before it is submitted to EDA;

c. Assists Regional Environmental Officer by providing requested information;

d. Certifies the completeness of environmental portion of application; and

e. Notes if a site visit has been made and if any environmental issues or controversies exist.

7.12 *Applicant.*

a. Provides environmental information requested in the application and needed for Agency review;

b. For Public Works projects, meets A–95 requirements and submits comments to Regional Officer;

c. Initiates compliance Section 106 of the National Historic Preservation Act of 1966, by submitting appropriate information to the SHPO.

8. *Environmental File.*

EDA shall initiate an environmental file for each project which shall contain the following, as appropriate:

a. The Economic Development Representative's certification as required in paragraph 7.11d;

b. Comments per OMB Circular A–95 from the appropriate State and areawide clearinghouses, including all supplemental comments made by reviewing agencies;

c. Comments, permits and documents of an environmental nature from Federal agencies, non-Federal or private organizations, or interested individuals;

d. The Regional Office's completed environmental assessment and impact determination;

e. Completed Form ED–524, "Certification of Compliance with the Clean Air Act and the Federal Water Pollution Control Act," as necessary;

f. The Regional Environmental Officer's recommendation to the Regional Director for continued processing based on a balancing between the goals of economic development and environmental enhancement;

g. Where required, draft, final or supplemental environmental impact statement, and the record of decision;

h. For projects requiring an environmental impact statement, the Special Assistant's review and certification that the requirements of this Directive have been met and a recommendation for approval or disapproval to the Assistant Secretary based on a balancing between the goals of economic development and environmental enhancement;

i. Copies of minutes, recordings or transcripts of any public meetings or hearings;

j. Copies of any environmental notices;

k. Findings required under EDA Directive 17.04 for actions affecting floodplains or wetlands.

Chapter II. Classes of EDA Actions

1. *Introduction.*

All EDA actions shall receive appropriate environmental review. The exent of the environmental review will depend upon the conditions present in each case. The classes of EDA actions (praragraphs 2 through 4) and indicators of significance (paragraph 5) are listed below. The indicators shall be used as a part of the review process to help determine the level of review that is necessary. Except for those actions that are categorically excluded from the requirement to prepare an EIS or EA (paragraph 2) the range of appropriate review runs from completion of an Environmental Checklist to preparation of a final EIS and record of decision.

2. *Class I, Actions that normally do not require either an EIS or an Environmental Assessment.*

The actions in subparagraphs *a* through *n* below are categorically excluded from the requirement to prepare an EIS or an EA under normal circumstances. However, during the application review process the responsible official shall document the file to reflect the fact that the action qualifies for the exclusion and shall be alert to unusual conditions that would require an EIS or an EA. A project categorically excluded from compliance with NEPA under this section may still require full compliance with EDA Directive 17.04. The following economic assistance actions are categorically excluded because Agency experience has shown that they do not significantly affect the quality of the human environment:

a. Loans or loan guarantees for working capital;

b. Interest subsidy for existing loans and/or actions covered in this exclusion;

c. Acquisition of machinery and equipment (M&E) unless these require applications for or amendments to existing air, water or solid waste permits,

d. Additional funds to cover cost overruns for previously EDA-funded and environmentally-assessed activity;

e. Weatherization of non-historic properties;

f. Repair to, or replacement-in-kind, of plant and equipment for utilities and infrastructure;

g. Environmental monitoring;

h. Research, planning grants and technical assistance projects that are not reasonably expected to commit the Federal government to a course of action, or to result in legislative proposals, or to result in direct development;

i. EDA administrative actions in support of maintaining normal day-to-day operations such as personnel actions, travel, procurement of supplies, ect.;

j. Procurement contracts for EISs, office space, supplies, etc.;

k. Projects funded under Section 204/ Title IX of PWEDA (Revolving Loan funds);

l. Grants to states under Section 304 of PWEDA;

m. Loans and loan guarantees to restructure debt.

3. *Class II, Actions that normally require EAs.*

An EA shall normally be prepared for these actions to determine if an EIS is necessary:

a. Any action located in or potentially affecting the values and functions of a floodplain or wetland;

b. Any action affecting cultural resources either listed on or eligible for the National Register of Historic Places, unless excluded by a programmatic Memorandum of Agreement with the Advisory Council on Historic Preservation;

c. New infrastructure such as roads, water lines, or sewer lines;

d. Actions that may affect prime farmlands;

e. Actions that result in changes in land use;

f. Activities related to development of tourism or recreational facilities;

g. Any action of which the primary purpose involves the development, manufacture, transportation, storage, procurement or use of toxic or hazardous materials;

h. All other Agency program actions not otherwise excluded or normally requiring an EIS.

4. *Class III, Actions that normally require an EIS.*

The actions in *a* through *c*, below, normally require the preparation of an EIS because they either meet the indicators of significance, they are required by other Agency Directives, or experience has shown that significant impacts are normally associated with such actions.

a. Construction of a critical action within the boundaries of a critical action floodplain, as defined by the Water Resources Council;

b. Construction of non-functionally dependent activities located in wetlands (a functionally-dependent use if one which can not perform its intended purpose unless it is located or carried out in close proximity to water).

c. Regional or multi-county water or sewer systems.

5. *Indicators of significance.*

Classes I and III were established in part on the indicators of significance. The determination of whether Class II actions require an EIS or a lesser form of environmental review shall be made based on the following indicators. This order does not arbitrarily establish the number of indicators of significance that must be exceeded before an EIS is required on an action, because each proposed action must be evaluated on a case-by-case basis. However, normally if two or more of the thresholds are exceeded, an EIS is required.

a. Traffic generated by the action would represent a 10 percent increase in average daily traffic volume on the access roads to the site or the major arteries in the affected area, and peak-hour congestion occurs daily on the access road to the site or on the major arteries in the affected area.

b. The action may lead to a violation of Federal, state or local law or requirements imposed for the protection of the environment; for example, if air quality standards have been violated within the past year and the project is expected to increase emissions, or construction traffic or project noise will definitely be in violation of noise standards and one or more types of sensitive receptors would definitely be at risk.

c. The proposed project, its contractors, or final solid waste disposal site(s) will not be in compliance with the EPA's "Solid Waste Management Guidelines" for thermal processing and land disposal, storage and collection, source separation, and resource recovery facilities; or with any other Federal, state, or local regulations, standards or health codes or the final disposal site(s) will not have adequate capacity for the solid waste from the proposed project.

d. Public utilities have insufficient capacity to provide reliable service to the project and to ensure delivery of required flow for average and peak periods.

e. The action is located on or near an active geological fault or unique geological features.

f. Wastewater generated by the applicant's facility will represent more than 3 percent of the unused capacity (considering pending applications) of the available treatment facilities and the level of treatment does not meet the Federal Water Pollution Control Act compliance schedule.

g. The proposed project will not be compatible with the present land use character of the specific site or affected area.

h. The proposed action may adversely affect an endangered or threatened species or its habitat.

i. The proposed action may adversely affect or be located on parklands, prime farmlands, floodplains, wetlands, wild and scenic rivers, or other ecologically critical areas.

j. The proposed action will result in the handling of a significant amount (defined as an amount that if spillage occurs it will result in a health hazard or damage to the ecosystem, or if accidentally dumped into the sewage system will damage treatment facilities or contaminate rivers or streams) of toxic, hazardous, or radioactive materials.

k. Archeological or cultural resources on or potentially eligible for listing on the National Register will be adversely affected by the proposed action.

l. Local community service agencies indicate that one or more community services will be inadequate to serve the project.

m. The proposed project will permanently alter or severely affect an area that has been formally recommended for protection by Federal, state, regional, or local government agencies as part of a land use or development plan.

n. The proposed project lies adjacent to groundwater recharge areas or significant groundwater aquifers, wells or well fields.

o. The proposed project has generated an environmental controversy on a local, state, or national level, whether due to factors mentioned in *a* through *n* above, or for other reasons of an environmental nature.

Chapter III. Environmental Assessments

1. *Definition.*

The Environmental Assessment (EA) is a document that discusses the need for a proposal and the environmental impacts that may result from the proposal and any alternatives being considered. An EA is prepared for all proposed actions except for those in Class I (Chapter 2.2) and Class III. EA's vary in scope, length and content in accordance to the severity of potential environmental impacts.

2. *Information gathering and environmental analysis.*

The type and amount of information gathered and the level of environmental analysis conducted by the responsible official will vary depending upon the type and scope of the proposed action, its alternatives, and the environmental setting. The methodologies used for this process vary from the general, nonquantitative to specific and quantitative. The responsible offical must be sensitive to the advantages and shortcomings of each methodology as well as the level of analysis required for each proposed action. For these reasons, no one methodology is required.

3. *Documentation of environmental analysis.*

The type and amount of documentation necessary for environmental analysis will vary with each individual action. Chapter II identifies EDA actions that require environmental analysis and classifies them according to the level and analysis required. EDA environmental analysis is normally documented in one of the following formats:

a. Environmental Checklist.

(1) The environmental checklist, figure 2, is a useful tool in the initial stages of the NEPA process. It is useful in directing and organizing areas of study. The checklist may be used to document the first step of environmental analysis and provide the basis for the initial decision regarding the need for an environmental assessement (EA). For actions requiring an EA, the checklist will help to identify the scope of the EA by organizing the available information and highlighting the areas of impact that are of primary concern.

(2) The checklist shall be completed in consultation with appropriate Agency specialists and the applicant as necessary. Background information, when available, shall be attached to the checklist or referenced in an attachment to the checklist to support the findings.

(3) If the checklist indicates that there will be no potential for significant impacts, then no further review is necessary. If the checklist is inconclusive or indicates that significant impacts may occur, the responsible official shall prepare an environmental assessment or an EIS.

b. The Environmental Assessment.

(1) The EA is an important document in the decisionmaking process because it is used with other technical and economic studies as a basis for decisions by the responsible Agency officials. It is a public document and it may be entered as evidence to support decisions in hearings and court actions. Therefore, the EA shall disclose all pertinent information.

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ENVIRONMENTAL CHECKLIST (SAMPLE)

ACTION:
LOCATION:

BRIEF DESCRIPTION

ENVIRONMENTAL RESOURCES	PROBABLE ENVIRONMENTAL IMPACTS			
	None	Minor	Potentially Significant 1/	Discuss mitigating measures for all "minor" items
(1) Subsurface conditions (soils, underground water)				
(2) Landforms (topography, floodplains, wetlands, related water quality)				
(3) Vegetation and Wildlife				
(4) Existing Community Land Use and Zoning (residential, commercial, etc.)				
(5) Proposed community long-range plans				
(6) Historic (Sites, Buildings, Archaeological and Architectural)				
(7) Energy (electrical, fuel, etc.)				
(8) Solid Waste Disposal (quantity, hazardous materials)				
(9) Water (potable, operations, etc.)				
(10) Sewer System (storm and sanitary, hazardous substances)				
(11) Public Transit System (Buses, Rail, etc.)				
(12) Streets and Traffic (parking)				
(13) Ambient Air Quality (pollutants, dust hazardous substances, etc.)				
(14) Ambient Noise (operations, construction, etc.)				
(15) Other				

PREPARED BY _____
DATE _____
APPROVED BY _____
DATE _____

1/ Any potential significant impact which may be identified requires an EA.

FIGURE 2. Sample environmental checklist.

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(2) The EA is intended to be a brief analysis that provides sufficient evidence for determining whether to prepare an environmental impact statement (EIS) or a finding of no significant impact (FONSI). It may also be used as evidence of compliance with NEPA when no EIS is necessary, and to facilitate preparation of an EIS when one is necessary.

4. *Timing.*

Preparation of the documentation of environmental impacts shall begin immediately after the inital identification that assistance may be requested from EDA. Figure 3 illustrates how NEPA compliance fits into the EDA process.

5. *Reassessment.*

a. As the project develops through the various Agency decision points, all environmental considerations shall be periodically reevaluated by the responsible officials. The EA shall be updated with a reassessment even if there has been no major change in project scope or environmental impact. For example, if the intial assessment was made on a preapplication and resulted in a FONSI, a reassessment would be made upon receipt of an application. Reassessments are necessary because new relevant information, such as the availability of an historic structure eligibility report, may be developed or becomes available as an action proceeds. Other reassessments shall be made as deemed necessary by the responsible official.

b. If the responsible headquarters or regional official concludes that there are no known potential significant environmental impacts following review of the application, the appropriate officials shall prepare a FONSI.

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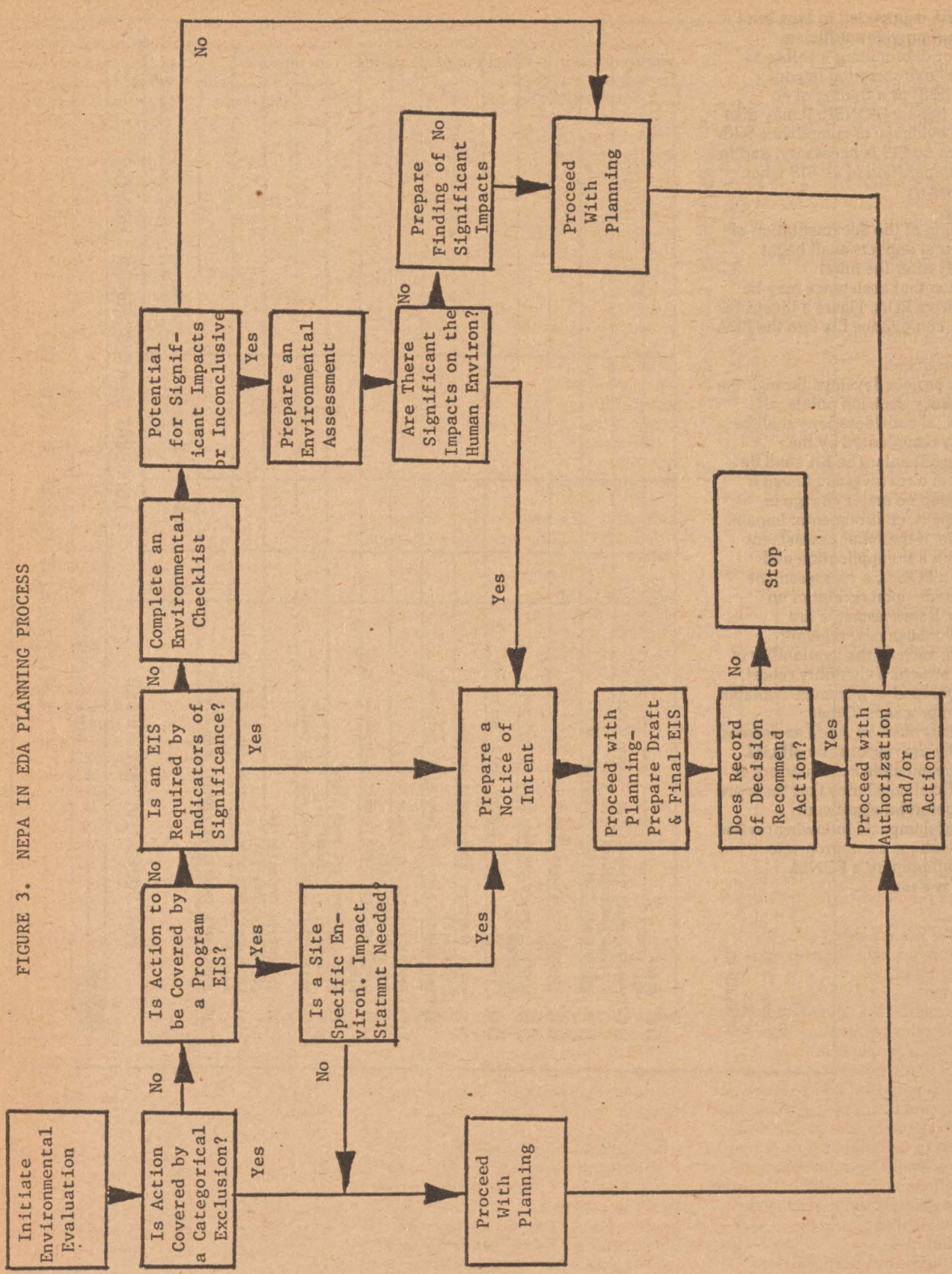
FIGURE 3. NEPA IN EDA PLANNING PROCESS



Chapter IV. The Finding of No Significant Impact (FONSI)

1. *Definition.*

A finding of no significant impact (FONSI), Figure 4, is a document stating that an administrative decision has been made based upon the environmental assessment (EA) and that the proposed action is not considered a major Federal action having a significant impact on the quality of human environment and, therefore, not requiring the preparation of an environmental impact statement (EIS).

2. *Distribution.*

A copy of FONSI shall be placed in the official project file, the environmental file, and circulated in accordance with DAO 216-6.

Figure 4. Sample finding of no significant impact

ENVIRONMENTAL ASSESSMENT

Memorandum for the Project File

From: (Insert name), Regional Director/ Assistant Secretary.
Subject: Environmental Impact Determination and Necessary Environmental Findings for (Insert name and number of project).

An environmental assessment has been completed by the Regional Environmental Officer for the subject project. After reviewing the assessment and the supporting materials attached to it, I find that the subject project will not significantly affect the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary.

Chapter V. Environmental Impact Statements (EIS)

1. *Types of EISs.*

There are three types of EISs that are likely to be prepared by EDA. They are:

a. Project

Most EISs are prepared to assess the impacts from a single action proposed for funding by EDA.

b. Program

Programmatic EISs cover actions which have relevant similarities, such as common timing, impacts, alterations, methods of implementation, or subject matter. They may evaluate new or existing programs or actions which have few known specifics and scopes which are difficult to determine. An example of this in EDA would be applications to support actions which result in the same types of environmental impact such as small scale alcohol plants.

c. Legislation

EISs on legislative proposals are required when EDA develops or provides significnt cooperation or support to the proposed legislation (such as the National Public Works and Economic Development Act) which would result in significnt impacts on the human environment.

2. *Responsibilities of the EIS Coordinator.*

For EISs prepared by EDA as either the lead or joint-lead NEPA agency, or in cooperation with another agency (cooperating agency), the Regional Environmental Officer of the SA/E (or an immediate staff person) shall assume the role of EIS coordinator. The responsibilites of the EIS Coordinator are to:

a. Act as EDA point of contact for all actions relating to the EIS;

b. Arrange for the preparation and publication of all notices;

c. Develop the Scope of Work for the EIS;

d. Arrange with the funding program (technical assistance, public works for step one grants, etc.) officer the submittal of request for proposals;

e Review the contractors proposals and make the selection of a contractor.

f. Supervise the contractor on the day-to-day development of the EIS;

g. Review and comment on the contractors EIS work;

h. Coordinate with any interested or affected parties;

i. Chair public meetings and hearings;

j. Assure that the EIS requirements of NEPA, the CEQ Regulations and this Directive are met.

For EISs in which EDA is a cooperating agency, the EIS coordinator responsibilities may include all of the above responsibilities, but shall as a minimum include items, a, c, e, and j. In addition, the EIS Coordinator shall attend all meetings and hearings relating to the EIS.

3. *States of EISs.*

3.1 Supplemental EIS.

A supplemental EIS is subject to the same requirements as a draft or final EIS. Supplements to draft or final EISs shall be prepared if:

"(i) There are substantial changes in the proposed action that are relevant to environmental concerns; or

(ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts (1502.9)(c)(1)).

3.2 Additional information.

Additional information addressing environmental concerns pertinent to a particular project (updated noise, air quality, historic, public or employee health studies or data, etc.) may be made available to the public at any time during the EIS process. Such information may have a direct bearing on project impacts and would fulfill EDA's duty to disclose relevant project information. It does not result in a substantial change in the scope of the project or reveal new information which would result in substantial changes in environmental impacts resulting from the project as proposed. Should the information or data result in either condition referenced above, see supplemental EIS section. Additional information shall be:

a. Sent to the EPA Regional Office in accordance with Section 1506.9 of the Regulations;

b. Filed with the Regional Environmentalist for appropriate distribution;

c. Filed with Special Assistant;

d. Mailed to all recipients of the draft or final EIS;

e. Included in the public record used by the decisionmaker; and

f. Made available in selected locations with the draft and final EIS for public inspection.

4. *Timing and Planning of the EIS.*

4.1 Figure 5 presents the sequence of timing of actions related to EIS preparation. It indicates the sequence of appropriate actions that must be taken in order to facilitate preparation of the EIS.

4.2 Timing.

Section 1502.5 of the CEQ Regulations requires:

"An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal (Sec. 1508.23) so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize or justify decisions already made * * *"

4.3 Early Planning.

Immediately after an environmental assessment or an environmental checklist has been prepared on an action and a determination has been made that the action is a major Federal action significantly affecting the quality of human environment, the Regional Environmental Officer shall begin the preparation of the environmental impact statements (EIS).

4.4 Notice of Intent.

a. A notice of intent to prepare an EIS shall be prepared for publication in the **Federal Register.** For actions in compliance with the OMB Circular A-95, notification under this procedure will include the statement that EIS will be prepared.

b. The notice shall briefly:

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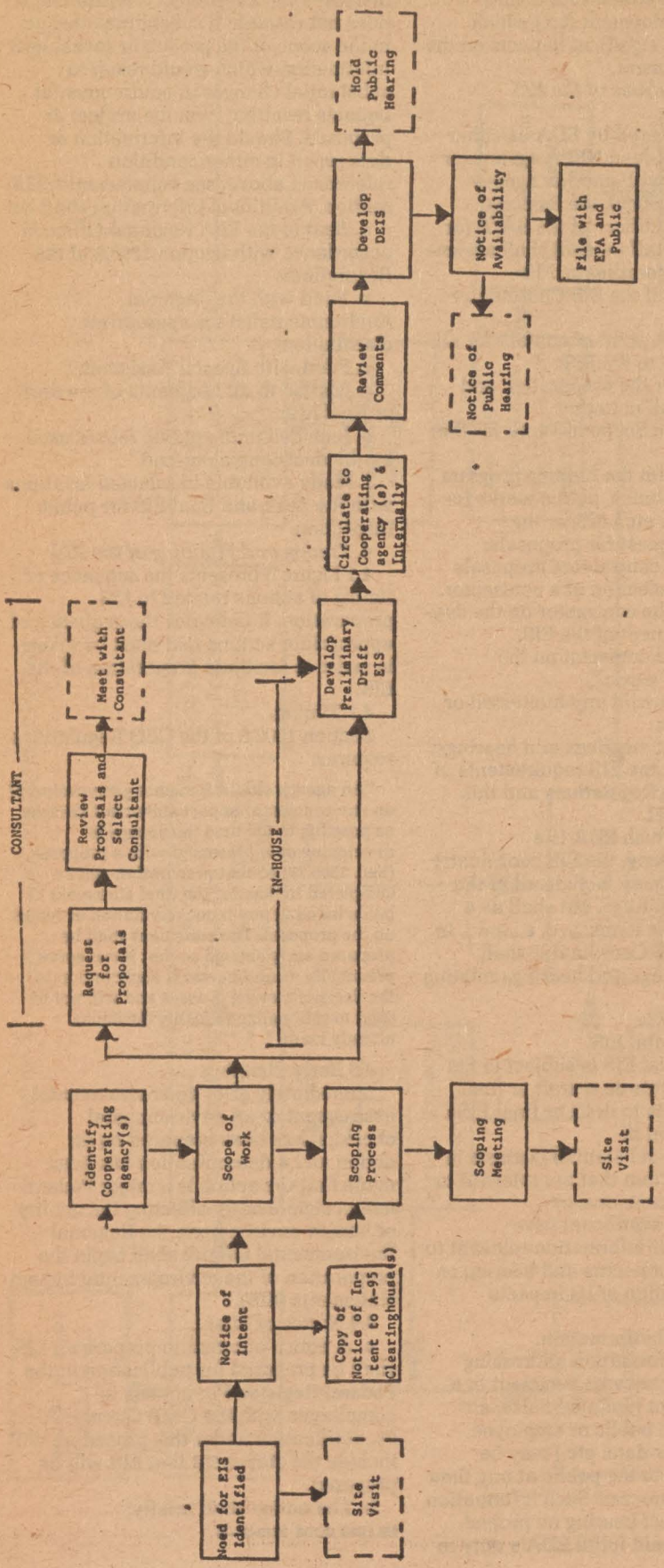
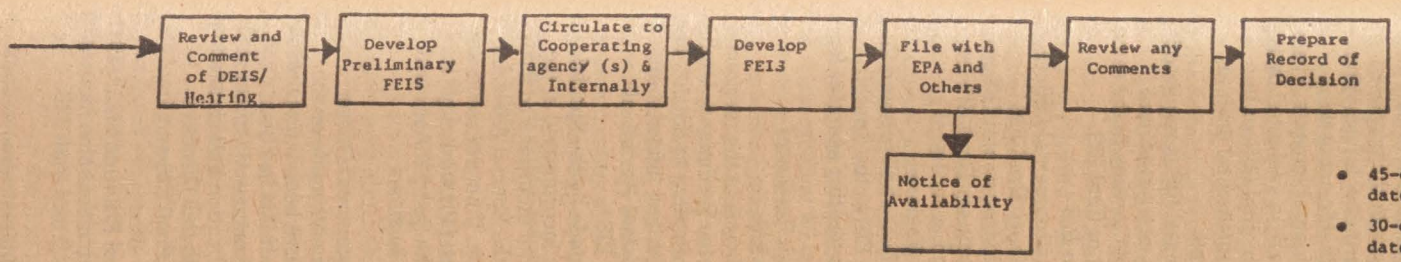


Figure 5. Sequence of Actions Related to EIS Preparation



MANDATORY TIME PERIODS

- 45-day DEIS review period (from date availability appears in F.R.)
- 30-day FEIS review period (from date availability appears in F.R.)
- 5-day limit on notice of hearing (after DEIS notice of availability)
- 15-day prior notice of scoping meeting/public hearing

AGENCY TIME PERIODS

- 10-day review of pre-DEIS
- 10-day review of pre-FEIS
- 10-day notice of intent

MINIMUM TIME for completion of an EIS: 105 Days

Figure 5. Sequence of Actions Related to EIS Preparation.

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(1) Describe the proposed action and alternatives;

(2) Include the name and address of the responsible Agency official;

(3) If a scoping meeting (see paragraph 4.6 below) is not planned, the notice shall request written comments regarding the scope of the EIS;

(4) The Regional Director shall transmit the notice to the Special Assistant for submission to the **Federal Register.**

4.5 Initiating the scoping process.

Scoping is a process by which other Federal Agencies, the public and the applicant are invited, through meetings or correspondence, to identify the significant issues to be addressed in assessing the proposed action and alternatives. Conversely this process also identifies those issues or impact areas to be given nominal attention in the EIS.

a. As soon as possible after, or concurent with, the publication of the notice of intent in the **Federal Register,** the Regional Director shall begin the scoping process. The scoping process shall be accomplished in accordance with the CEQ Regulations and OMB Circular A–95.

b. The public involvement requirements listed in Section 1506.6(b) of the Regulations shall be considered by the Regional Director as the means to inform the public about the scoping process.

c. The Environmental Protection Agency, the A–95 Clearinghouses, the local planning authority, the State Historic Preservation Officer and the applicant and other interested parties with identified interests in the project shall always be informed about the scoping meeting.

4.6 How to hold a scoping meeting.

Scoping meetings shall conform to the following conditions:

a. The meeting shall be opened by Regional Environmental Officer or appropriate EDA official who will act as moderator with a brief presentation on the proposed action.

b. The meeting shall not be used as a debate on the merits of the proposed action.

c. The interested participants shall be asked to register by mail or in person for an opportunity to make a presentation at the meeting. They shall be allowed to speak in the order of registration.

d. A time limit, not to exceed ten minutes, shall be established for each oral presentation. (This condition may be modified by the moderator of the meeting.)

e. Written comments shall be accepted for incorporation into the record at the meeting and for ten workdays following the meeting.

f. A verbatim transcript or recording of the meeting shall be made a part of the administrative record and be available to the public.

4.7 Completing the scoping process.

The scoping process shall be considered complete when the provisions of Section 1501.7(a)(2) through 1501.7(a)(7) of the CEQ Regulations have been accomplished.

5. *Content of EISs.*

5.1 Preliminary Draft EIS and Preliminary Final EIS. It is a detailed document which identifies and analyzes the anticipated environmental impacts of a proposed action and its alternatives and discusses how the adverse affects will be mitigated. Internal working documents which after review result in Draft or Final EIS.

5.2 The Final EIS.

The final EIS shall reflect the data and substantive comments and the EDA response submitted on the draft EIS by other Federal agencies, State and local officials, individuals and groups and the EDA responses to those comments.

a. "If changes in response to comments are minor and are confined to . . . factual corrections (and explanations) why the comments do not require further agency response." (Section 1503.4 of the CEQ Regulations), in such cases the final EIS filed with EPA and the public shall be composed of:

(1) The draft EIS with a new cover sheet;

(2) Errata sheets;

(3) Comments; and

(4) Responses to the comments.

The final EIS which is circulated for public review shall be composed of a new cover sheet and the items listed in subpararaphs 5.2a(1) through (4), above.

b. If changes in the draft EIS exceed the conditions in subparagraph 5.2a, above, the following requirements apply to the final EIS:

(1) Changes and additions to the test of the draft EIS shall be marked by a vertical line in the margin, unless the final EIS differs substantially from the draft EIS;

(2) Where opposing professional views and responsible opinions have been overlooked in the draft EIS and are then brought to the Agency's attention, the action should be reviewed and a meaningful reference made in the final EIS to opposing views as well as EDA's position on the issues raised;

(3) All substantive comments received on the draft EIS (or summaries thereof when comments have been exceptionally voluminous) shall be addressed in the final EIS. All comments whether or not they are considered to merit individual discussion in the text of the statement shall be attached to the final EIS; and

(4) Where appropriate, substantive comments on the draft EIS should be correlated to the text of the final EIS by placing a page or section number in the margin of the comment designating the location of the proper response.

5.3 Preparation of supplemental draft of final EISs.

a. Responsible regional EDA program officials shall be familiar with any substantive changes in the proposed action or significant new information that becomes available concerning potential environmental impacts. These circumstances shall be evaluated by the Regional Environmental Officer to determine if a supplemental draft or final EIS is required.

b. If a supplemental EIS is required it shall be prepared, processed, and circulated for public review in the same manner as a draft or final EIS.

6. *Processing an EIS*

6.1 Regional Environmental Officer Review or Preliminary Draft EIS.

The Regional Environmental Officer shall review Preliminary Draft EIS for content, scope, and accuracy of presentation. The Regional Environmental officer shall forward the Preliminary Draft EIS to the Special Assistant and cooperating agencies for their review.

6.2 Program Area Review of Preliminary Draft EIS.

Responsible officials in the program area shall review the Preliminary Draft EIS with special attention to the validity and adequacy of project information.

6.3 Special Assistant Review of Preliminary Draft EIS.

All comments made by the Special Assistant shall be incorporated in the Draft EIS. Those not incorporated shall be resolved with the Special Assistant prior to publication. If no comments are received within ten (10) work days it can be assumed the Special Assistant has no comments to make.

6.4 Draft EIS.

Regional Environmental Officer assures that comments made on the preliminary EIS have been incorporated into the draft EIS. If this has been done, the Regional Environmental Officer shall proceed with publication and circulation in accordance with this Directive.

6.5 Preliminary Final EIS and Final EIS.

Preliminary Final EISs and Final EISs shall be processed in the same manner as preliminary draft and draft EIS, respectively.

6.6 Limits on administrative actions.

No final decision shall be made on a project prior to:

(1) Ninety calendar days following publication of the notice of availability of the draft EIS in the **Federal Register**;

(2) Thirty calendar days after publication of the notice of availability of the final EIS in the **Federal Register**; and

(3) The time when the record of decision has been prepared, signed and made available to the public.

6.7 Record of Decision.

The record of decision shall:

a. Be signed by the Regional Director or Assistant Secretary following the 30 day review period for the final EIS. The record of decision may be incorporated into the EDA Form 506;

b. State what the decision was;

c. Identify all alternatives considered by the Agency in reaching its decision and specify the alternative or alternatives which were considered to be environmentally preferable. It may discuss preferences among alternatives based on relevant factors including environmental, economic and technical considerations and agency statutory missions. The record of decision shall identify and discuss all such factors including any essential considerations of national policy which were considered by the agency in making its decision and state how those considerations entered into its decision;

d. State whether all practicable means to avoid or minimize adverse environmental impacts from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation;

e. Include copy of the final EIS or supplement as appropriate.

Chapter VI. Public Information and Involvement

1. *Requirement.*

The National Environmental Policy Act and the CEQ Regulations require that the public be offered an opportunity to be informed about and involved in Federal actions that may significantly affect the quality of the human environment before decisions are made to implement the actions.

2. *Input to the environmental assessment (EA).*

The public shall be asked to provide, to the extent possible, input to the EA. Examples of acceptable methods are, contact through the A–95 process or public notice in local newspapers with request for written comments.

3. *Review of the finding of no significant impact (FONSI).*

If the EA results in the preparation of a FONSI, the FONSI shall be available in the Regional Office for public review.

4. *Notice of intent.*

If the EA shows that an EIS is needed or the action is an action which normally requires an EIS, a notice of intent to prepare an EIS shall be prepared and published.

5. *List of interested groups.*

The Regional Environmental Officer shall maintain a list of groups who are known to be interested in EDA activities and a list of individuals and groups who have requested an opportunity to comment on a project or action for subsequent distribution of the EA or EIS.

6. *Distribution and review of the draft environmental impact statement.*

a. The office that prepares the EIS shall be responsible for printing of the EIS and preparing the appropriate transmittal letters for its distrubution.

b. The Regional Director or Special Assistant shall sign EIS transmittal letters to appropriate local officials, Federal, state and local agencies, special interest groups and the public for review and comment. Comments shall be solicited from appropriate state, regional or metropolitan clearinghouses in accordance with procedures prescribed by the OMB Circular A–95, Revised, unless the Governor of the state involved has designated some other point for obtaining the review.

c. Federal agencies which have jurisdiction by law or special expertise with respect to any environmental impact or which are authorized to develop and enforce environmental standards shall be asked to comment on draft EISs.

d. In implementing the provisions of section 309 of the Clean Air Act, as amended, the responsible official shall submit five copies each of all draft EISs to the Central Office of EPA and five copies to the appropriate regional office of EPA for review and comment.

7. *Commenting period.*

A minimum of 45 calendar days from the publication of availability in the **Federal Register** shall be provided for comment on the draft EIS. The magnitude and complexity of the EIS and the extent of citizen interest in the proposed action shall be considered when the commenting period is established. Commenting periods may be extended an additional 15 calendar days at the discretion of the responsible official. Comments not received within the allotted commenting period will not normally be responded to in the text of the final EIS.

8. *EIS availability.*

a. The Environmental Protection Agency (EPA) will publish in the **Federal Register** lists of environmental impact statements received during the preceding week which are available for public comment. The **Federal Register** date of the notice of availability establishes the availability date of the draft EIS and the beginning date from which the 45-day minimum review period will be calculated.

b. In addition to the **Federal Register**, a notice for a draft EIS shall be published in one or more local newspapers of general circulation in the project area by the office which prepared the EIS. The newspaper(s) may be issued weekly and may be very local in nature, if appropriate. If a public hearing will be held for the proposed action, the notice of the public hearing and notice of EIS availability should be combined into one notice. EISs shall be made available to the public without charge to the extent practicable or at a fee which is not more than the cost of reproduction. The draft EIS will also be made available for public review in local Regional Offices and the applicant's facilities if possible.

9. *Distribution and review.*

a. The responsible official shall send copies of the final EIS, with comments attached, to all Federal, State and local agencies and private organizations, clearinghouses, and individuals that made substantive comments on the draft statement and to individuals who request a copy of the final EIS. In all cases, the final EIS shall be sent to the Environmental Protection Agency to assist it in carrying out its responsibilities under Section 309 of the Clean Air Act. Where the number of comments on a draft EIS is such that distribution of the final EIS to all commenting entities appears impracticable, the Regional Environmental Officer will consult with the Special Assistant concerning alternative arrangements for distribution of the statement.

b. A minimum of 30 calendar days shall be provided for comment on the final EIS. The date the review period begins is determined in the same manner as for the draft EIS in subparagraph 6.

10. *Record of decision.*

For actions requiring an EIS at the time of a decision to take an action, or, if appropriate, make a recommendation to the Congress, a publicly available record of decision shall be prepared in compliance with Section 1505.2 of the CEQ Regulations. It shall be signed by the Regional Director under whose jurisdiction the action is being planned or the Assistant Secretary. The record of decision may be incorporated into EDA Form 506 and shall not be signed prior to

the expiration of the 30-day review period for the final EIS.

11. *Public hearings.*

a. Prior to the distribution of a draft EIS for an action. a determination shall be made by the responsible official regarding whether a public hearing should be held. This determination shall be documented and attached to the draft EIS. The following factors shall be considered in determining whether a public hearing is appropriate:

(1) The magnitude of the proposal in terms of economic costs, geographic area involved, and the uniqueness or size of commitment of resources;

(2) The degree of interest in the proposal as indicated by requests from the public and Federal, State and local authorities that a hearing be held;

(3) The complexity of the issue and the likelihood that information will be presented at the hearing which will be of assistance to the Agency in fulfilling its responsibilities under NEPA; and

(4) The extent to which public involvement already has been achieved with respect to environmental concerns through other means, such as earlier public hearings, meeting with citizen representatives, and/or written comments on proposed actions.

b. The draft EIS shall be made available to the public at least 15 calendar days prior to the hearing.

c. The notice of public hearing shall be issued no later than five workdays after distribution of the draft EIS and shall be published in a local newspaper of general circulation at least 15 calendar days prior to the date of the hearing. The notice shall contain but is not necessarily limited to the following:

(1) The date, time, place and purpose of the hearing;

(2) A description of the proposal;

(3) A statement that any person or organization desiring to comment on the draft EIS will be given an opportunity to be heard;

(4) The location and times where the draft EIS will be available for review by the public; and

(5) The Federal agency or agencies sponsoring the project.

d. A verbatim transcript or recording of the hearing shall be kept.

e. Where necessary a reasonable time limit may be established for each speaker.

f. An open meeting to acquaint and inform the public about the actions or receive information from the public may be held anytime within the NEPA process if it is considered necessary.

12. *Public contact.*

For general information or status reports on EISs and other elements of the NEPA process for EDA actions, members of the public should contact the Special Assistant for the Environment, Room 7217, U.S. Department of Commerce, Washington, D.C. 20230.

13. *Other public notice.*

If it is decided that an EIS is not necessary for a proposed action which (1) normally would require an EIS as set out in Chapter II, (2) is similar to actions for which a significant number of statements have been prepared, or (3) has previously been announced as the subject of a statement, the responsible official shall prepare a publicly available record briefly setting forth the decision and the reasons for the decision. The decision and any evaluation to support the decision shall be made available to the public upon request. The public shall be notified in the same manner in which a notification of intent is publicized (see paragraph 8(b) above).

Chapter VII—Protection and Enhancement of Historic and Cultural Properties

1. *Purpose and Policy.*

The purpose of this Chapter is to establish procedures which will allow EDA to meet its responsibilities pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470f), Executive Order 11593, and the regulations issued by the Advisory Council on Historic Preservation "Protection of Historic and Cultural Properties" (36 CFR Part 800). EDA is responsible for the identification and protection of historic, archaeological, architectural, scientific, and paleontological resources, hereinafter referred to as historic and cultural properties, affected by its policies and the undertakings and programs it administers. EDA undertakings are all direct and supplemental funding assistance, actions, activities, and programs. Certain categories of EDA undertakings, however, have no potential to create physical impacts and therefore would not have an effect, as defined in 36 CFR 800.3(a), on a National Register or eligible property if one were to be present. Since these categories of EDA undertakings would not be subject to Advisory Council on Historic Preservation (ACHP) review, they are not subject to review under the provisions of this Chapter. These categories are:

—actions or activities related to the completion of a previously approved undertaking for which the requirements of Section 106 of the National Historic Preservation Act and 36 CFR 800 have been previously complied with. Such actions and activities shall neither have nor create any change in the nature and scope of the originally reviewed undertaking. An example would be construction of a structure on an industrial park previously developed with EDA assistance which was reviewed under Section 106;

—Loans and guarantees to re-structure or re-finance debt;

—Technical and managerial assistance to firms where such assistance would have no potential to result in the physical alteration of sites or structures;

—Actions or activities involving payment of costs associated with economic, technical, and environmental analyses where the overall undertaking is subject, or will be subjected, to review under the provisions of this Chapter; and

—EDA administrative activities in support of normal day-to-day operations, such as personnel actions, travel, procurement contracts for supplies, and so forth.

It is the responsibility of EDA and its applicants to identify, evaluate, protect, and enhance all districts, sites, structures, buildings, and objects significant in American history, architecture, archeology, and culture which may be included in or eligible for inclusion in the National Register of Historic Places under the Criteria for Evaluation (36 CFR 60.6). These responsibilities shall be fully considered by EDA in policy formulation, program administration, and the awarding of EDA assistance.

It is EDA's policy to avoid, to the fullest extent possible, the loss or degradation of significant historic and cultural properties. EDA is committed to the identification, evaluation, preservation and protection of historic and cultural properties for the benefit of this and future generations. To assure that Native American traditional religious cultural rites and practices are considered, EDA shall ensure that traditional religious leaders and tribal governing bodies (or their representatives) are consulted where an EDA undertaking affects Indian lands.

a. To the fullest extent possible, it is EDA's policy to preserve historic and cultural properties and to avoid adversely affecting such properties. However, when all factors related to the undertaking are evaluated from the overall public benefit standpoint, it is possible that some historic and cultural properties may be adversely affected. Whenever an undertaking would adversely affect a historic or cultural property, EDA will attempt to minimize the adverse effects to such a property.

b. Neither EDA nor any applicant shall take or sanction any action to implement an undertaking or approve a policy or plan which could result in the alteration, destruction, modification, or relocation of historic and cultural properties until the procedures established by this Chapter have been complied with. No action shall be taken which may result in the foreclosing of alternatives to a proposed undertaking having the potential to adversely affect properties listed in or eligible for listing in the National Register of Historic Places until the consultation process between the State Historic Preservation Officer (SHPO), ACHP, and EDA has been concluded. The execution of a Memorandum of Agreement (MOA) between the ACHP, the SHPO, and EDA normally concludes the consultation process set forth in 36 CFR 800.6.

c. EDA shall initiate consultation with the appropriate SHPO by either requiring the potential applicant to notify and seek the comments of the SHPO or by directly contacting the SHPO and providing information concerning the nature and scope of the proposed undertaking. The Regional Environmental Officer (REO) shall make every effort to involve the SHPO(s) at the earliest stages of consideration of any application. The Environmental Impact Statement (EIS) coordinator shall invite the SHPO to participate in any scoping meetings held in accordance with Chapter V of this Directive. If the undertaking will affect Indian lands, the REO or EIS coordinator shall notify the affected Indian tribe and inform it of the nature and scope of the proposed undertaking.

d. Whenever it is determined that an undertaking has the potential to affect a National Register or eligible property (see Section 4 of this Chapter), the REO or EIS Coordinator shall initiate consultation with the ACHP in either of the following two ways:

(1) *Environmental Impact Statement Required.* Whenever an undertaking requires the preparation of an EIS, notification to the ACHP should be accomplished through the draft EIS. The draft EIS should discuss, to the extent possible at the time of its issuance, the results of historic and cultural surveys and reports concerning the undertaking's area of potential environmental impact and the effect of the undertaking on all identified historic and cultural properties, along with the necessary documentation. When it is intended that the draft EIS constitute notification to the ACHP, the transmittal letter must clearly state that the draft EIS is being submitted to request the comments of the ACHP.

(2) *Environmental Impact Statement Not Required.* Whenever an undertaking does not require the preparation of an EIS, but the undertaking will affect one or more National Register eligible or listed properties, notification shall be accomplished by providing the ACHP with the necessary documentation.

2. *Identification of Historic and Cultural Properties.*

Except for those actions and activities listed in paragraph 1 as not subject to review under this chapter, the REO or EIS Coordinator (as appropriate) shall ensure that the SHPO is consulted concerning any application for assistance actively under consideration by EDA by either EDA or the potential applicant. These same EDA officials shall also consult the published listings of properties listed in and previously determined eligible for listing in the National Register of Historic Places (National Register) and, as appropriate, public records, and other individuals or organizations with historical and cultural expertise, to determine what historic and cultural properties are known to be within the area of the undertaking's potential environmental impact.

The REO or EIS Coordinator shall determine what further actions are necessary to locate and identify potentially eligible properties that may be present within the area of the undertaking's potential environmental impact. Such actions may include a professional survey for historic and cultural properties in the environmental impact area, or parts of the area, if the area has not previously been adequately surveyed. Every effort should be made to follow the recommendations of the SHPO in such matters.

3. *Evaluation of Historic and Cultural Properties.*

a. All historic and cultural properties located within the undertaking's area of potential environmental impact, except those previously determined eligible or listed in the National Register, shall be evaluated in consultation with the SHPO for their potential significance based on Criteria for Evaluation. Other qualified professionals, such as a State Historian or State Archeologist or local historical society, may assist the REO in this evaluation of historic and cultural properties.

b. If in the opinion of the REO or the SHPO, the property appears to meet the 36 CFR 60.6 Criteria for inclusion in the National Register, the REO shall request a determination of eligibility from the Keeper of the National Register in accordance with 36 CFR 63.

4. *Determination of Effect.*

The ACHP Criteria of Effect shall be applied to all properties listed in or determined eligible for listing in the National Register within an undertaking's area of potential environmental impact. Where it is determined that an undertaking will not affect such properties, documentation to support the finding will be provided to the SHPO and any designated tribal official (if appropriate). Unless the SHPO objects in a timely manner, EDA may proceed with the undertaking.

With the exception of those undertakings listed under a (1) through (5) below, determination of effect shall be made in consultation with the SHPO.

a. *No Effect.* The following types of assistance will be considered to not normally affect properties listed in or eligible for listing in the National Register of Historic Places.

(1) Financial assistance for:

(a) Insulation (except for the use of granular or liquid injected foam insulation in exterior walls and other vertical surfaces);

(b) Caulking;

(c) Weatherstripping;

(d) Replacement of HVAC equipment; PROVIDED: (i) that such equipment is screened from public view and (ii) will not affect those qualities of the property which qualify it to meet the 36 CFR 60.6 Criteria;

(e) *In-kind* refenestration (for example, two over two windows of a similar configuration and color);

(f) Lowering of ceilings; PROVIDED: (i) the ceilings will not be visible from outside of the building or from an interior public space and (ii) it will not affect a quality which qualified the building to meet the 36 CFR 60.6 Criteria);

(g) Replacement *in-kind* of substantially deteriorated material.

(2) Installation of machinery, equipment, furnishings, fixtures, etc., in the interior of existing buildings; PROVIDED: such installations will have no effect on those qualities which qualified the building to meet the 36 CFR 60.6 Criteria.

(3) Undertakings which involve the payment of costs for engineering, design, or similar preliminary technical functions which may or may not result in the later approval of an undertaking; PROVIDED: (i) that appropriate protective measures for historic and cultural properties potentially affected by the plan, study, or similar function are included in the function; (ii) that such functions would be subject to applicable Federal historic preservation statutes and implementing regulations

should carrying out of the functions be approved.

(4) Plans or strategies for economic development that establish a general approach, alternative courses of action, or other possible remedies for the economic problems of an area, but do not result in specific monetary assistance, commitments or responses from EDA for construction or physical alteration of sites or structures; PROVIDED: (i) that each future specific action resulting from such plan or strategy would provide appropriate protective measures for any historic and cultural property potentially affected by such plan or strategy; and (ii) that such plan or strategy would be subject to all applicable Federal historic preservation statutes and implementing regulations.

(5) Projects designed to upgrade work and safety conditions, to modify production methods for production lines, to care for and to preserve collateral or to re-open recently closed facilities; *Provided:* that such actions do not affect those qualities which qualify the property to meet the National Register Criteria.

b. *Determination of No Adverse Effect.* If it is determined that there will be an effect on a National Register or eligible property, the REO or EIS Coordinator and the SHPO, shall apply the Criteria set forth in 36 CFR 800.3(b) to determine whether or not the effect will be potentially adverse. If it is determined that the effect will not be adverse, documentation to support this will be sent to the SHPO and any designated tribal official (if appropriate) for their comments. The REO or EIS Coordinator (as appropriate) shall forward a copy of any comments received along with documentation to support the determination of no adverse effect (see 36 CFR 800.13) to the ACHP. Unless the ACHP responds within 30 days, EDA may proceed with the undertaking without further consultation.

c. *Determination of Adverse Effect.* If it is determined that an undertaking has the potential to adversely affect either National Register or eligible properties of if the ACHP objects to a finding of "no adverse effect," the REO or EIS Coordinator shall notify the Special Assistant for the Environment (SA/E) who will submit documentation to the ACHP in the form of a Preliminary Case Report. The REO or EIS Coordinator shall be responsible for preparing the Preliminary Case Report and for transmitting it to the SA/E.

5. *Alternatives.*

Whenever it is determined that an undertaking may have a potentially adverse effect on a National Register or eligible property, the SA/E shall, in consultation with the ACHP and the SHPO, conduct a study of alternatives to avoid the potentially adverse effect. Where the property has significance based on Native American religious cultural rites and practices, the REO or EIS Coordinator shall confer with the affected tribal government to determine appropriate measures to protect and preserve Native American religious cultural rites and practices. Alternatives that shall be considered include:

a. Carrying out the proposed undertaking at a location that will eliminate or substantially reduce the potential to adversely affect historic and cultural properties (alternative sites);

b. Conducting other undertakings, actions, activities, or programs with similar objectives which could avoid or substantially reduce the potential to adversely affect historic and cultural properties (alternative undertakings);

c. Implementing other plans, designs, schemes, or concepts with similar objectives which avoid or substantially reduce the potentially adverse affect to historic and cultural properties (alternative designs); and,

d. Taking no action (no action alternative).

6. *Mitigation*

Where alternatives to avoid adversely affecting historic and cultural properties are determined by the consulting parties not to be feasible and prudent, the REO or EIS Coordinator shall develop measures to minimize the potentially adverse effect. Such measures shall be developed in consultation with the ACHP and the SHPO for all properties listed in or eligible for listing in the National Register. Mitigation measures may inclue:

a. Limiting the magnitude or extent of the proposed undertaking or identified alternatives;

b. Modification of the proposed undertaking through redesign, reorientation to the project site, and other similar changes;

c. Rectifying the potentially adverse effects by rehabilitating, repairing, or restoring the affected resources;

d. Compensating for the potentially adverse effects; for example, through the recovery and preservation of scientific, prehistoric, historic, and archeological data; and

e. Minimizing the potentially adverse effects over time through preservation and maintenance activities throughout the life of an undertaking.

Mitigation measures should be appropriate to the nature and importance of the historic and cultural properties in question. For example, mitigation for a property possessing architectural merit will necessarily differ from that for an archeological site important only for the information it may contain. In all cases, the mitigation shall be for preservation of such physical features as may be possible.

Any final EIS, in addition to identifying the adverse effects, shall describe the mitigation plans developed in consultation with the SHPO, affected tribal governments and the ACHP even though a Memorandum of Agreement may not have been formally executed.

7. *Participation by Interested Parties.*

EDA will invite the participation of interested parties in accordance with the CEQ NEPA regulation (40 CFR 1506.6) as implemented in Chapter VI of this Directive.

8. *Procedures for Discovery Situations.*

Should historic and cultural properties be discovered after compliance with this Chapter is complete and during the implementation of an undertaking, the Secretary of the Interior shall be requested to investigate the discovery through the Heritage Conservation and Recreation Service (HCRS), in order to determine the appropriate action. The investigation will be initiated within 48 hours of notification by the REO or SA/E in accordance with Section 4(a) of the Archeological and Historic Preservation Act (16 U.S.C. 479,(a)), as indicated in the Statement of Program Approach (44 FR 18117–19) and the proposed implementing regulations as published in the **Federal Register** on January 28, 1977 by HCRS (42 FR 5371). Telephone notification followed by a telegraphic abstract and a request to the appropriate Field Office of the Interagency Archeological Services (IAS) within HCRS by the REO shall constitute notification. The SHPO and any affected tribal governing body will be notified by the REO concurrently with notification of IAS. If the Secretary of the Interior through IAS or the SA/E determines that the significance of the property, the effect, or any proposed mitigation measures warrant consideration by the ACHP, the SA/E shall request the comments of the ACHP pursuant to 36 CFR 800.7(b).

9. *Agreements with ACHP and Matters brought before the Council Members of the ACHP.*

The SA/E is hereby given the authority to enter into Memoranda of Agreement and sign Conditional No Adverse Effect letters with the ACHP for the purpose of furthering compliance under this Chapter. The SA/E shall also represent EDA concerning matters

brought before the Council members of the ACHP.

[FR Doc. 80-18110 Filed 6-16-80; 8:45 am]
BILLING CODE 3510-24-M

International Trade Administration

Harvard University; Decision on Application for Duty-Free Entry of Scientific Article

The following is decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 80-00064. Applicant: Harvard University, 12 Oxford Street, Cambridge, Massachusetts 02138. Article: Laser, Model K-261-2. Manufacturer: Lumonics Corporation, Canada. Intended use of article: The article is intended to be used for the investigation of the dynamics of excited states in small organic molecules using various techniques of laser spectroscopy. The systems under study are polyenes, olefins and aliphatic azo compounds. They display nonradiative photochemcial processes typical for nonrigid systems. The objective of this research is threefold: (1) to monitor and establish all energy relaxation pathways from low lying excited states, (2) to obtain kinetic and structural information about the intermediates involved in such simple photochemcal reactions as cistrans isomerization, (3) to elucidate the effect of the environment on reaction mechanisms. In addition, the article will be used for education purposes in the course Chem 98-Research.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign arictle provides six millijoules (mJ) of pulse energy at 337 nanometers (nm) wavelength. The most closely comparable domestic instrument is the Model 100XR manufactured by Tachisto Incorporated, Meedham, Massachusetts 02194. The Model 100XR provides 1.7 mJ of pulse energy at 337 nm wavelength. The Department of Health, Education and Welfare (HEW) advises in its memorandum dated March 28, 1980 that the higher peak pulse power in the ultraviolet region particularly at 337 nm is pertinent to the applicant's intended work and the domestic instrument cited above does not provide the pertinent feature. We, therefore, find that the Model 100XR is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-18088 Filed 6-16-80; 8:45 am]
BILLING CODE 3510-25-M

National Institutes of Health; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 80-00005. Applicant: National Institutes of Health, Building 10, Room 7B-15, Bethesda, Maryland 20014. Article: 2 (two) each 16 Gruntzig Dilation Catheters. Manufacturer: Schneider Medintag Ag, Switzerland. Intended use of article: The article is intended to be used to increase the blood flow to the heart of patients with coronary artery disease by dilating obstructions in the coronary arteries.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article in intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket No. 79-00071 which was denied without prejudice to resubmission on May 7, 1979 for informational deficiencies. The foreign article provides a balloon length of 20 millimeters (mm) with diameters ranging from 3 to 3.7 mm and requires only 3 to 6 bars pressure to reach the final balloon shape. The National Bureau of Standards advises in its memorandum dated April 4, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-18087 Filed 6-16-80; 8:45 am]
BILLING CODE 3510-25-M

University of California; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 5:30 a.m. and 8:00 p.m. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 80-00043. Applicant: University of California, Lawrence Berkeley Laboratory, One Cyclotron Road, Berkeley, CA. 94720. Article: 2 each, Type TH-515, 200 MHZ R.R. Amplifier Electron Tubes. Manufacturer: Thomson-CSF Electron Tubes, France. Intended use of article: The article is intended to be used as spares to identical tubes now in service in a proton-deuteron accelerator complex (the Bevatron) to furnish power at approximately 300 MHz for the second of three stages of acceleration, a 50 MeV linear accelerator. The ultimate goal of the Bevatron is to provide protons or deuterons to high energy physics experiments involved in the exploration of the nuclear structure of matter.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for

such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to a complex repair component to a sophisticated instrument that was built by the applicant as a part of its research program. The National Bureau of Standards advises in its memorandum dated April 24, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-18086 Filed 6-16-80; 8:45 am]

BILLING CODE 3510-25-M

University of Nebraska-Lincoln; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 80-00055. Applicant: University of Nebraska-Lincoln, Midwest Center for Mass Spectrometry, Department of Chemistry, Lincoln, NE 68588. Article: MS 50 Triple Analyzer Mass Spectrometer and Accessories. Manufacturer: Kratos Scientific Instruments, Inc., United Kingdom. Intended use of article: The article is intended to be used for conducting the following experiments:

(1) Complex mixture analysis using ion selected mass spectrometry,

(2) Fundamental studies of gas phase ions,

(3) Structure proofs of new compounds,

(4) Studies of phyrolysis and

(5) High resolution metastable and collisional activation studies.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides high resolution (1000,000 10% valley) with its electron impact source and triple analyzer system. The National Bureau of Standards advises in its memorandum dated April 24, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-18085 Filed 6-16-80; 8:45 am]

BILLING CODE 3510-25-M

University of North Carolina-CH; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 80-00039. Applicant: University of North Carolina-CH, Physics Department, 170 Phillips Hall, Chapel Hill, NC 27514. Article: Crossed Field Spin Precessor System, Model 2170. Manufacturer: ANAC, Inc., New Zealand. Intended use of article: The article is intended to be used in connection with a tandem Van de Graaff accelerator and an ion source which produces beams of spin-polarized proton and deuteron beams. These beams will pass from the ion source, through the spin precessor, through the accelerator, and to the experimental area where studies are to be made of the spin-dependent part of the force which holds atomic nuclei together. The article will also be used to train graduate students working on their Masters and Ph.D. degrees, in front-line nuclear physics research techniques.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article controls the orientation of the polarization axes of an ion beam and produces spin-polarized proton and deuteron beams. The National Bureau of Standards advises in its memorandum dated April 16, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-18090 Filed 6-16-80; 8:45 am]

BILLING CODE 3510-25-M

University of Wisconsin-Madison; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 80-00003. Applicant: University of Wisconsin-Madison Department of Physics, 1150 University Avenue, Madison, Wisconsin 53706. Article: ANAC Model 2976 Crossfield Spin Precessor and Accessories. Manufacturer: ANAC Incorporated, New Zealand. Intended use of article: The article is intended to be used for the

study of the nuclei of atoms through the periodic table involving the effect of proton or deuteron polarization on the scattering process. The experiments to be conducted will involve the acceleration of a beam of polarized hydrogen ions to the energies where nuclear phenomena are important. Observations will be concerned with the number and type of interactions that occur as a function of the polarization state and scattering angle. In addition, the article will be used in connection with Physics Department Course No. 990, Graduate Research.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides proton or deuteron polarization via crossed field spin precession. The National Bureau of Standards advises in its memorandum dated March 27, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-18089 Filed 6-16-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Public Hearings on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed Gray's Reef Marine Sanctuary.

The hearings will be held on July 7th and 8th at the following locations:

July 7, 1980—7:00 p.m.: Brunswick-Glynn County Regional Library, 208 Gloucester Street, Brunswick, Georgia.

July 8, 1980—7:00 p.m.: Savannah Science Museum, 4405 Paulsen Street, Savannah, Georgia.

The views of interested persons and organizations on the adequacy of the impact statement and the proposed Gray's Reef Marine Sanctuary are solicited, and may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of 5 minutes. This time allotment may be extended before the hearing when the number of speakers can be determined. No verbatim transcript of the hearing will be prepared, but staff present will record the general thrust of the remarks. The comment period for this draft environmental impact statement will end on August 5, 1980.

As part of the procedures leading toward approval of the Gray's Reef Marine Sanctuary a Final Environmental Impact Statement, reflecting consideration of these comments, will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: June 11, 1980.

Michael Glazer,

Assistant Administrator, Office of Coastal Zone Management.

[FR Doc. 80-18098 Filed 6-16-80; 8:45 am]

BILLING CODE 3510-08-M

National Technical Information Service

U.S. Government-Owned Inventions; Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, S.W., Washington, D.C. 20324

Patent application 6-085, 453: Windscreen Angular Deviation Measurement Device; filed Oct. 16, 1979.

Patent application 6-085,663: Near Millimeter Bistable Device; Filed October 17, 1979.

Patent application 6-090,383 Measurement of Windscreen Distortion Using Optical Diffraction. Filed November 1, 1979

Patent application 6-090,384 Waveguide Line Spread Function Analyzing Apparatus. Filed November 1, 1979.

Patent application 6-091,991 Feedback Display System for Microscopic Optical Instruments. Filed November 7, 1979.

Patent application 6-097,594 Laser Autoalingnment System. Filed November 26, 1979.

Patent application 6-100,578 Chemical-Biological Agent Protective Hood. Filed December 5, 1979.

Patent 4,181,435: Holographic Field Lens Detector; Filed June 29, 1973; patented January 1, 1980; not available NTIS.

Patent 4,181,774: Electromagnetic Interference Filter window; filed December 19, 1978; patented January 1, 1980; not available NTIS.

Patent 4,185,254: Annular Laser Having Adjustable and Interchangeable Laser Windows. Filed October 13, 1977, patented January 22, 1980; Not available NTIS.

Patent 4,185,919: Quadrant Detection System. Filed June 8, 1973, patented January 29, 1980; Not available NTIS

U.S. Department of Agriculture, Program Agreements and Patent Branch, Administration Service Division Federal Building, Science and Education Administration, Hyattsville, Md. 20782

Patent application 6-047,172: Process for Preservation of Stored Wood Chips; Filed June 8, 1979.

Patent application 6-080,735: Control of Winged Waterprimrose and Northern Jointvetch with Fungal Pathogens; filed October 1, 1979.

Patent 4,179,446: Sex Pheromone Produced by the Female Japanese Beetle: Specificity of Male Response to Enantiomers; Filed August 8, 1978; patented December 18, 1979; Not available NTIS.

U.S Department of the Interior, Branch of Patents, 18th and C Streets, 18th and C Streets N.W., Washington, D.C. 20240

Patent application 6-066,999: Extensometer Anchor; filed August 16, 1979.

Patent application 6–072,955: Electrodeposition of Lead; filed September 6, 1979.
Patent application 6–072,956: Electrolytic Stripping Cell: filed September 6, 1979.
Patent application 6–072,957: Removal of Impurities from Clay; filed September 6, 1979.
Patent application 6–080,824: Recovery of Alumina from Clay; filed October 1, 1979.
Patent application 6–081,505: Passive Explosion Barrier for Mines; Filed October 3, 1979.
Patent application 6–081,506: Dust Controlling Method Using A Coal Cutter Bit. Filed October 3, 1979.
Patent application 6–082,383: Improved Discriminating Circuit Breaker Protection System for Direct Current Power Distribution Systems; Filed October 5, 1979.
Patent 4,170,415: System for Producing Orthophotographs; filed July 15, 1977; patented October 9, 1979; Not available NTIS.
Patent 4,170,668: Method for Wood Precharring; filed September 15, 1978; patented October 9, 1979, not available NTIS.
Patent 4,172,255: HF Costal Current Mapping Radar System. Filed August 8, 1977, patented October 23, 1979, not available NTIS.
Patent 4,173,140: Trigger Device for Explosion Barrier. Filed February 3, 1978, patented November 6, 1979, Not available NTIS.
Patent 4,174,966: High Coercive Force Rare Earth Metal-Cobalt Magnets Containing Copper and Magnesium; Filed December 15, 1978, patented November 20, 1979, not available NTIS.
Patent 4,180,628: Resin for Sorption of Tungsten. Filed July 18, 1978, patented December 25, 1979, not available NTIS.
Patent 4,181,630: Catalyst for Synthesis of Methanol. Filed November 30, 1978, patented January 1, 1980, not available NTIS.
Patent 4,184,884: Process for Producing a Metastable Precusor Powder and for Producing Sialon from this Powder. Filed October 23, 1978, patented January 22, 1980, not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent application 6–072,820: Frustrated Total Internal Reflection Fiber-Optic Small-Motion Sensor for Hydrophone Use; filed September 4, 1979.
Patent application 6–087,270: Apparatus and Process for Determining the Composition of Fluid-Filled Cavities; filed October 22, 1979.
Patent 4,166,694: Method for Optically Distorting Readout Reticles. Filed March 28 1978, patented September 4, 1979, Not available NTIS.
Patent 4,176,339: Propagation Sampled Acoustic Line Array. Filed February 2, 1978, patented November 27, 1979, Not available NTIS.
Patent 4,176,919: Passive High-Speed Automatic Shutter for Imaging Devices. Filed January 31, 1978, patented December 4, 1979. Not available NTIS.
Patent 4,178,547: Low Frequency Hydrophone. Filed February 6, 1978, patented December 11, 1979, not available NTIS.

Tennessee Valley Authority, Division of Law, Muscle Shoals, Ala. 35660

Patent 4,180,545: Uranium Recovery from Wet-Process Phosphoric Acid: filed August 25, 1977; patented December 25, 1979; not available NTIS.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA CODE GP–2, Washington, D.C. 20546

Patent 4,040,940: Electrophoretic Fractional Elution Apparatus Employing a Rotational Seal Fraction Collector; filed December 21, 1976; patented August 9, 1977; not available NTIS.
Patent 4,158,775: High Resolution Threshold Photoelectron Spectroscopy by Electron Attachment; filed November 30, 1977; patented June 19, 1979; not available NTIS.
Patent 4,164,718: Electromagnetic Power Absorber. Filed September 15, 1977, patented August 14, 1979, not available NTIS.
Patent 4,172,883: Method of Purifying Metallurgical Grade Silicon Employing Reduced Pressure Atomoshperic Control. Filed June 23, 1978, patented October 30, 1979, not available NTIS.
Patent 4,176,360: Antenna Deployment Mechanism for Use with a Spacecraft. Filed September 18, 1978, patented November 27, 1979, not available NTIS.

[FR Doc. 80–18140 Filed 6–16–80; 8:45 am]
BILLING CODE 3510–04–M

Government-Owned Invention; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, SW., Washington, DC 20324

Patent application 6–082,355: Circuit for the Adaptive Suppression of Narrow Band Interference; filed October 5, 1979.
Patent application 6–088,504: Acetylene Terminated Matrix and Adhesive Oligomeric Compositions; filed October 26, 1979.
Patent application 6–088,505: Reactive Diluents for Acetylene Terminated Matrix and Adhesive Resins; filed October 26, 1979.
Patent application 6–090,385: Simplified Electrical Feedthrough System for Pressurized Containers; filed November 1, 1979.
Patent application 6–092,817: Slot Chevron Element for Periodic Antennas and Radomes; filed November 9, 1979.
Patent application 6–097,778: Phenylmethylpolysilane Polymers and Process for Their Preparation; filed November 27, 1979.
Patent application 6–100,179. Grease Compositions; filed December 4, 1979.
Patent application 6–100,180. Grease Compositions Based on Fluorinated polysiloxanes; filed December 4, 1979.
Patent application 6–100,301: Fluorine-Containing Benzimidazoles; filed December 4, 1979.
Patent application 6–100,319: Depositing Optical Films of Controlled Composition; filed December 5, 1979.
Patent application 6–100,327: Purification of Acetylene-Terminated Polyimide Oligomers; filed December 5, 1979.
Patent 4,181,678: Symmetrical Perfluoroalkylene Oxide Alpha, Omega-Diacyl Fluorides; filed September 15, 1978, patented January 1, 1980, not available NTIS.
Patent 4,181,679: Omega-Iodoperfluoroalkylene Oxide Acyl Fluorides; filed October 24, 1978, patented January 1, 1980, not available NTIS.
Patent 4,181,681: 2-Amino-4-Ethynylphenol; filed July 19, 1978, patented January 1, 1980, not available NTIS.
Patent 4,184,125: Analog Tuning Voltage Circuit with Analog Signal Multiplexing; filed July 7, 1978, patented January 15, 1980, not available NTIS.
Patent 4,185,031: Fluorinated Phosphinic Acids; filed September 27, 1978, patented January 22, 1980, not available NTIS.
Patent 4,185,041: Channel Sealant Compositions; filed September 2, 1977, patented January 22, 1980, not available NTIS.
Patent 4,185,081: Procedure for the Synthesis of Stoichiometric Proportioned Indium Phosphide; filed July 31, 1978, patented January 22, 1980, not available NTIS.
Patent 4,185,247: Means for Reducing Spurious Frequencies in a Direct Frequency

Synthesizer; filed January 3, 1978, patented January 22, 1980, not available NTIS.
Patent 4,185,858: Secondary Seal for Tubing Joined Via V-Band Couplings; filed June 28, 1978, patented January 29, 1980, not available NTIS.

U.S. Department of Agriculture, Program Agreements and Patent Branch, Administrative Services Division, Federal Building, Science and Education Administration, Hyattsville, MD 20782

Patent application 6-050,896: Polybutylbenzylphenols and Benzyl-3,4-methylenedioxybenzenes in Insect Population Control; filed June 21, 1979.
Patent application 6-088,665: Method and Apparatus for Background Corrected Simultaneous Multielement Atomic Absorption Analysis; filed October 26, 1979.
Patent application 6-099,813: Automatic Moisture Control for Roller Applicator; filed December 3, 1979.
Patent application 6-101,983: Device for Collecting and Transferring Particulate Material; filed December 10, 1979.
Patent 4,168,422: Shrink-Resistant Textiles Containing Polypropylene Proteinous Fiber Blend Produced by Immersing Textile in an Inert Liquid at High Temperature; filed September 30, 1977, patented February 12, 1980, not available NTIS.
Patent 4,189,303: Method of Shrinkproofing Animal Fibers with Ozone; filed May 10, 1978, patented February 19, 1980, not available NTIS.

U.S. Department of Energy, Assistant General Council for Patents, Washington, DC 20545

Patent 4,148,663: Refractory Concretes; filed June 21, 1977, patented April 10, 1979, not available NTIS.
Patent 4,151,438: Distributed Electrical Leads for Thermionic Converter; filed August 17, 1977, patented April 24, 1979, not available NTIS.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets NW., Washington, DC 20240

Patent application 6-075,385: Open Surface Flotation Method; filed September 13, 1979.
Patent application 6-085,449: Copper Electrowinning and Cr^{-6} Reduction in Spent Etchants Using Porous Fixed Bed Coke Electrodes; filed October 16, 1979.
Patent application 6-085,452: Fly Ash—Based Cement. Filed October 16, 1979.
Patent application 6-085,569: Self-Contained Closed Circuit Breathing Apparatus Having a Balanced Breathing Resistance System. Filed October 17, 1979.
Patent application 6-087,852: Selective Removal of Mercury From Cyanide Solutions. Filed October 24, 1979.
Patent application 6-090,786: Leaching Uranim Ores. Filed November 2, 1979.
Patent application 6-097,751: Molybdenite Flotation. Filed November 27, 1979.
Patent application 6-097,756: Siliceous Adsorbent for Heavy Metals. Filed November 27, 1979.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217.

Patent application 6-056,769: MHD Pinch Interrupting Switch for High Currents; filed July 2, 1979.
Patent application 6-078,402: Mono-Substituted Phthalonitriles and Phthalocyanines. Filed September 24, 1979.
Patent application 6-087,269: A Method to Determine the Shear Absorption of a Rubberlike Material. Filed October 22, 1979.
Patent application 587,515: Inflatable Roadway; filed June 16, 1975.
Patent application 652,035: A Parachute Attachment Swivel; filed January 26, 1976.
Patent application 660,308: Autopilot Hardover Failure Protection System; filed February 23, 1976.
Patent application 660,604: Timed Missile Flight Termination System; filed February 23, 1976.
Patent application 664,714: Deployable Rotor; filed March 8, 1976.
Patent application 672,195: An Acousto-Optic Q-Switch; filed March 31, 1975.
Patent application 673,180: Acousto-Optical Transducer; filed April 2, 1976.
Patent application 673,339: Method for Making Beam Leads for Ceramic Substrates; filed April 2, 1976.
Patent application 674,716: Adaptive Direction of Arrival Antennae System; filed April 8, 1976.
Patent application 674,999: Determination of Thermal Impedances of Bonding Layers in Infrared Photoconductors; filed April 8, 1976.
Patent application 676,018: Projectile Power Generator; filed April 12, 1976.
Patent application 677,182: A Method for Closing Elastomeric Tubes in the Walls of Fluid-Filled Vessels; filed April 15, 1976.
Patent application 677,191: An Electronically Variable Surface Acoustic Wave Phase Shifter; filed April 15, 1976.
Patent application 677,198: Gas Laser Starting; filed April 15, 1976.
Patent application 678,264: Improved Metal Vapor Laser Tube; filed April 19, 1976.
Patent application 678,572: Soluble Binders for Plastic Bonded Explosives and Propellants; filed April 20, 1976.
Patent application 679,310: Fiber Optics Grinding and Polishing Disc; filed April 22, 1976.
Patent application 681,665: Solid State Step Transmitter; filed April 27, 1976.
Patent application 681,864: Capacitiance Transducer for the Measurement of Bending Strains at Elevated Temperatures; filed April 30, 1976.
Patent application 953,510: Electronic Breathing Mixture Control; filed October 23, 1979.
Patent 4,153,808: Novel Prostaglandin Derivatives. Certain in vivo and in vitro Effects Thereof and Processes for the Preparation of Same; filed November 28, 1975, patented May 8, 1979. Not available NTIS.
Patent 4,170,706: Method for Preparing the Bispicrate Salt of 2,3,7,8-Tetraazaspiro(4-4)Nonane; filed August 28, 1976, patented October 9, 1979. Not available NTIS.
Patent 4,173,591: Process for the Preparation of 1,3,5-Trifluoro-2,4,6-Trinitrobenzene; filed August 28, 1978, patented November 6, 1979. Not available NTIS.

[FR Doc. 80-18155 Filed 6-16-80; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Air Force

New System of Records

AGENCY: Department of the Air Force.

ACTION: Notice of a new system of records.

SUMMARY: The Air Force proposes to establish a new system of records subject to the Privacy Act of 1974. The system notice for this new system of records is published below.

DATES: This system shall be effective as proposed without further notice on July 17, 1980, unless comments are received on or before July 18, 1980, which would result in a contrary determination.

ADDRESS: Any comments including written data, views or arguments concerning the proposed system should be addressed to the system manager identified in the notice.

FOR FURTHER INFORMATION CONTACT: Mr. Jon E. Updike, HQ USAF/DAAD(S), Room 4A-1088, The Pentagon, Washington, D.C. 20330, Telephone: (202) 694-3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records notices inventory subject to the Privacy Act of 1974 (5 U.S.C. 522a) Pub. L. 93-579 have been published to date in the **Federal Register** at:

FR Doc 79-37052 (44 FR 74145) December 17, 1979
FR Doc 80-2008 (45 FR 5514) January 23, 1979
FR Doc 80-6232 (45 FR 13181) February 28, 1980
FR Doc 80-8307 (45 FR 17627) March 19, 1980
FR Doc 80-17287 (45 FR 38098) June 6, 1980.

The Department of the Air Force has submitted a new system report dated April 28, 1980 for this new system report under the provisions of 5 U.S.C. 552a(o) as implemented by Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975 and May 17, 1976 respectively. The OMB guidance was set forth in the **Federal**

Register (40 FR 45877) on October 3, 1975.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.
June 12, 1980.

F01102 SAC A

SYSTEM NAME:

Logistic Personnel Management System.

SYSTEM LOCATION:

Deputy Commander for Maintenance or Deputy Commander for Resources (at Air Force installations) within the Strategic Air Command (SAC) and Deputy Chief of Staff for Logistics at Strategic Air Command Headquarters. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Strategic Air Command personnel assigned to logistics or maintenance duties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files related to qualifications, experience, eduation, and degree of security clearance of logistics and maintenance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Power and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To develop a record source on logistics personnel at unit level in order to determine overall job qualifications, capabilities, and historical data for analysis by unit and MAJCOM. Files will provide a souce of data to help determine future training requirements, protection capabilities, and balance experience factors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manually manipulated file folders.

RETRIEVABILITY:

Retrieved by name, or weapon system to which individual is assigned.

SAFEGUARDS:

Records are accessed by custodian of unit files and by personnel responsible for servicing the record system in performance of officals duties. File folders are stored in locked rooms or drawers.

RETENTION AND DISPOSAL:

Files are destroyed when superseded, or on reassignment from Strategic Air Command or separation of the individual.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, Logistics, Headquarters Strategic Air Command and Deputy Commander Maintenance or Deputy Commander Resources, at Strategic Air Command base or organization.

NOTIFICATION PROCEDURE:

Deputy Chief of Staff Logistics, Deputy Commander Maintenance, or Deputy Commander Resources. Requests to determine existence of record should include full name, grade and approximate dates individual was assigned to Strategic Air Command logistics or maintenance organization after 1 July 1980.

RECORD ACCESS PROCEDURES:

Access to manual files is controlled by Deputy Chief of Staff, Logistics, at Headquarters Strategic Air Command and by Deputy Commander Maintenance or Deputy Commander Resources at each Strategic Air Command organization.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determination by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from individual.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-18213 Filed 6-16-80; 8:45 am]
BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Compliance With the National Environmental Policy Act; Regional Impact Statement for the Northeastern United States

AGENCY: Department of Energy

ACTION: Notice of intent to preapare an environmental impact statement and notice of public scoping meetings.

SUMMARY: The Department of Energy announces its intent to prepare an Environmental Impact Statement (EIS), in accordance with the National Environmental Policy Act of 1969 (NEPA), to analyze the impacts associated with its proposal to prohibit the burning of petroleum or natural gas in up to 42 facilities (Listed in Attachment A) in the Northeast Region of the United States under the authority granted the Secretary of the Department of Energy in the Powerplant and Industrial Fuel Use Act of 1978 (FUA).

The purpose of the document is to assess regional cumulative (synergistic and additive) and subregional interactive environmental impacts likely to result from a number of site specific DOE actions. DOE also intends to pursue site specific NEPA evaluations for each proposed coal conversion. The Regional EIS will aid DOE in the selection of the conversions to pursue, by providing a wider geographic scope for the environmental analysis which will complement the analysis for NEPA compliance at the site specific level.

The public is invited to attend one of the following meetings in order to express its views on the substantive scope of the regional EIS and on the significant environmental issues which the document should address.

DATES OF SCOPING MEETINGS: July 14 (New York), July 15 (Boston), July 16 (Philadelphia), July 17 (Baltimore),

LOCATIONS:

(1) Federal Building, 26 Federal Plaza, New York, NY 10007, Room 305C.
(2) John W. McCormack Post Office & Court House, Post Office Square, Boston, MA 02109, Conf. Room 208.
(3) Federal Building, 1421 Cherry St., Philadelphia, PA 19102, 11th Floor, Conf. Room A.
(4) George A. Fallon Federal Building, 31 Hopkins Plaza, Baltimore, MD 21201, Room G-30.

TIME: 10:00 a.m.

NOTIFICATION TO ATTEND AND SUBMISSION OF COMMENTS:
Those individuals planning to attend one of the scoping meetings should contact Mr. Steven E. Ferguson at the address printed below. Written comments or suggestions for consideration in connection with the preparation of this EIS should be transmitted to Mr. Ferguson by August 17, 1980.

FOR FURTHER INFORMATION CONTRACT:

Steven E. Ferguson, Chief, Environmental Analysis Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3322-D, Washington, DC 20461. (202)653-3684.
Robert J. Stern, Director, Division of NEPA Affairs, Department of Energy,

Forrestal, Building, 1000 Independance Avenue, S.W., Washington, DC 20585. (202) 252–4600.

SUPPLEMENTARY INFORMATION: The Department of Energy is preparing a Regional ESI to analyze the potential environmental impacts associated with the proposed conversions. This approach is being taken because the geographic relationship of these plants to each other (Attachment B) indicates that certain individual impacts, rather than being viewed as isolated occurrences, should be viewed collectively in order to identify any cummulative or interactive effects.

This is in accordance with Section 1508.7 and 1508.25 of the Counicl on Environmental Quality (CEQ) NEPA regulations. Cumulative impacts are defined therein as those which result from the incemental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.

The Regional EIS will also serve as a logical extension to the broader analysis that has already been provided in the Final Environmental Impact Statement for the Fuel Use Act (published by the Department of Energy in April 1979). Analysis at the regional level provides a middle level of impact assessment between the Programmatic EIS and the site specific EISs, as suggested in § 1502.20 of the CEQ regulations. That section states that "agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for discussion at each level of environmental review. Tiering is further defined in § 1508.28, "as the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analysis (such as regional or basinwide program statements or ultimately site-specific statements) incorporating by reference in the general discussion and concentrating solely on the issues specific to the statement subsequently prepared."

I. Details on Site Selection

The 42 northeast powerplants (Attachment A) included in the environmental impact analysis are located in a geographic region extending from Maryland to Maine and including ten states. These 42 plants are part of a larger list of 62 powerplants which DOE has identified as potential recipients of proposed prohibition orders under FUA. The list of 62 plants, which includes the 42 Northeast sites, were selected by DOE from a list of 117 coal capable plants developed by the President's Commission on Coal.

Initially 68 of the 117 powerplants were selected based on a screening of the Coal Commission list in order to identify all units that were 25 megawatts and larger and that went into service in 1953 or later. These two criteria, of age and size, bear heavily on the quantity and length of time oil and natural gas usage can be deferred in each of the candidate powerplants and therefore on the reasonableness of pursuing these plants. The list of 68 plants was later revised to 62 after a review of available technical and environmental data with the Environmental Protection Agency indicated that certain powerplants were not desirable conversion candidates.

II. Purpose of Environmental Impact Statement

The purpose of this Regional EIS is to assess the impacts of proposed conversions through the analysis of the cumulative and interactive effects within the defined region and within and between the Boston, New York City, Philadelphia and Baltimore subregions. Toward this end the EIS will identify those environmental issues which are of concern to the region. Currently, impacts on or related to air quality (including long range transport of sulfates and acid rain), transportation of fuel and solid waste, solid waste disposal, fuel availability, economic growth and health effects have been identified as being regional in scope and will therefore be addressed in the analysis. Other impacts determined during the public scoping process as being potentially of regional significance will also be addressed. In addition, the EIS will analyze localized effects where interaction between two or more plants proposed for conversion raises questions regarding compliance with applicable environmental standards. Subsequent EISs on proposed individual conversions will analyze site specific impacts.

The Fuel Use Act mandates that all facilities undergoing conversion meet all applicable environmental requirements. The impacts of the proposed plant conversions that are in proximity to each other may be interactive and their impacts must be considered collectively when assessing compliance with environmental standards. One major criterion for assessing the reasonableness of proposed subsets of conversions are the provisions of the Clean Air Act (CAA). Because under the CAA the states (with EPA approval) retain control of the emission levels produced by the powerplants under discussion, DOE must make assumptions about the actions which the states will take in permitting future coal conversions. Since most states allow for different emissions limitations for the burning of oil and the burning of coal, and since the State Implementation Plan limits are generally less restrictive for coal than for oil, DOE intends to begin its analysis using these existing emission limitations as the bounds of its air quality scenarios.

It should be noted that compliance with the two emission scenarios implies the use of different types of coals and different types of pollution control technologies. The environmental impacts associated with these alternative combinations will be considered in the impact statement. The public is encouraged to recommend other air quality scenarios that it feels should be assessed.

The analysis of the scenarios discussed above (or others that DOE may analyze) may show that stations located in proximity to one another would result in "hot spots", that is areas where combined emissions may exceed applicable limits on a sub-regional basis. In these cases further analysis/discussion will be provided with respect to the stringency of environmental controls necessary, and/or possible combinations of plants that may be converted. Other constraints and limiting factors to be considered under each alternative scenario are the impacts on long term transport of air pollutants and acid rain, transportation of fuel and solid waste disposal, fuel availability, economic growth, and public health.

The public is encouraged to recommend methodologies for establishing reasonable "subsets" of alternatives among plants so affected. The air quality scenarios associated with the regional EIS will only examine the use of coal, since from an environmental perspective the use of this fuel represents a worst case. Other fuels (such as refuse derived fuel) can only be assessed realistically at the site specific level, and will be addressed in detail in site specific NEPA documents. However, the use of other alternate fuels will be addressed at the regional scale on a qualitative basis, and constraints on their use at this scale will be identified. Other alternatives beyond the immediate program authorities of FUA (e.g., conservation) which could help achieve the goal of reduced oil usage will also be addressed in the Regional

EIS. The public is encouraged to comment on the nature and scope of such alternatives.

The EIS will be prepared in accordance with section 102(2)(C) of the National Environmental Policy Act (NEPA). Upon completion of the draft EIS its availability will be announced in the **Federal Register** at which time comments will be solicited.

III. Purpose of Scoping Meeting

DOE desires to know what the public considers to be the major environmental issues associated with the potential conversion of up to 42 powerplants in the northeast from oil to coal. The meetings in New York, Boston, Philadelphia and Baltimore, will be held to receive comments on the structure of the EIS, anticipated energy/environmental problems, actions that might be taken to address them, and reasonable alternatives that should be considered. The meetings are not designed to be a forum for discussing the feasibility of converting the specific sites that are on the list.

The administrative process which DOE shall follow in reaching a decision on specific orders will provide ample opportunity for public discussion and comment on those decisions. Such comments are not appropriate for this meeting and should be reserved for the forum provided by the administrative process.

The meetings are scheduled to begin at 10:00 a.m. and will continue until all persons wishing to speak have had an opportunity to do so.

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 advance submission of written material. Attendees at the meeting will be asked to register. All comments or suggestions made at the meeting, as well as written material submitted until August 17, 1980, will be carefully considered during the preparation of the draft EIS.

Questions regarding the meeting should be addressed to Mr. Ferguson in writing or to Marsha Goldberg at (202) 653-3684.

Issued in Washington, D.C.

Dated: June 9, 1980.

Ruth C. Clusen,

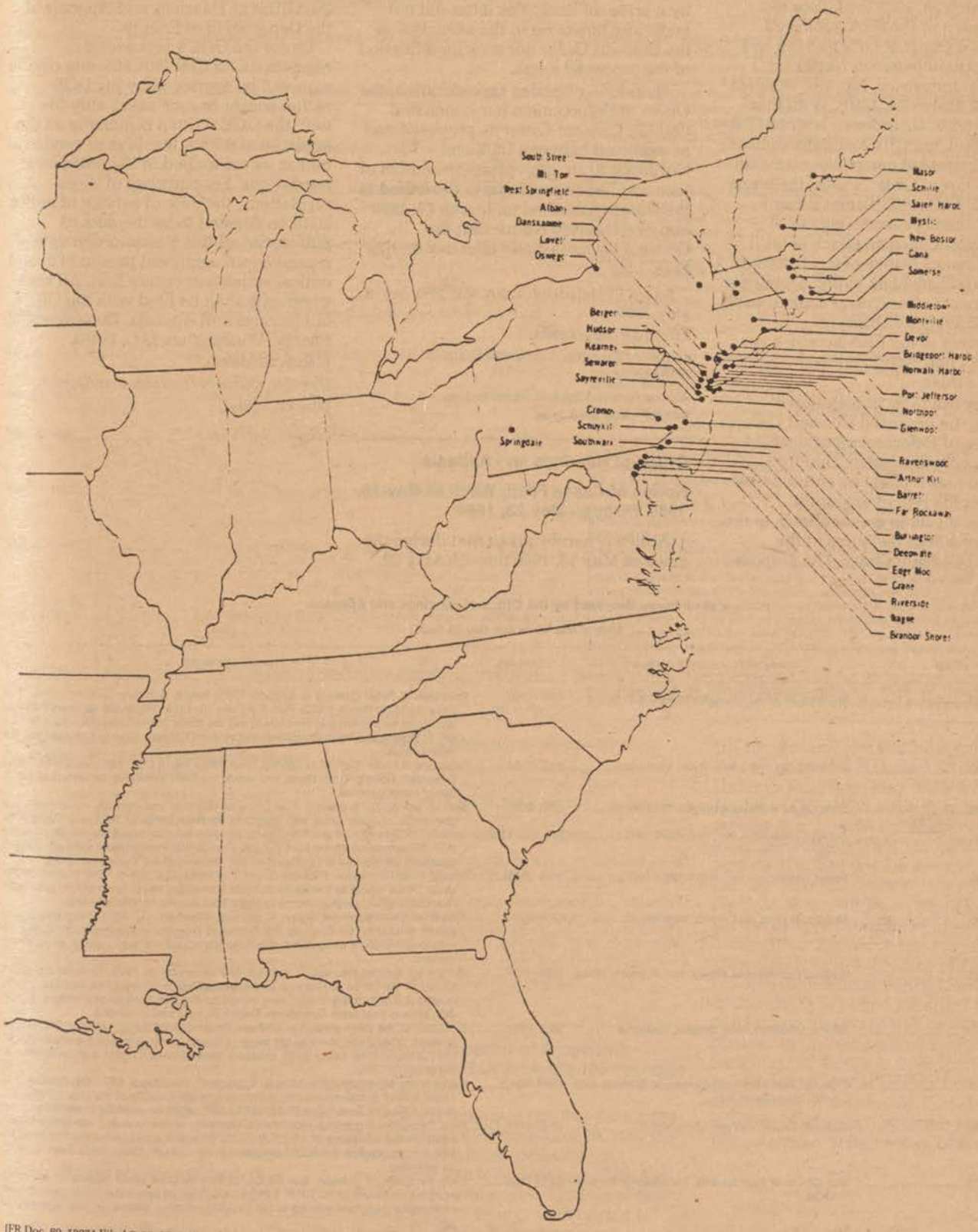
Assistant Secretary for Environment.

Attachment A—Facilities Included in the Regional Study

	Number
Connecticut:	
Bridgeport Harbor	3.
Devon	7, 8.
Norwalk Harbor	1, 2.
Montville	5.
Middletown	1, 2, 3.
Delaware: Edgemoor	1, 2, 3, 4.
Maine: Mason	1, 2, 3, 4, 5.
Maryland:	
Brandon Shores	1, 2.
Riverside	4, 5.
Wagner	1, 2.
Crane	1, 2.
Massachusetts:	
New Boston	1, 2.
Mystic	4, 5, 6.
Canal	1.
Mt. Tom	1.
Salem Harbor	1, 2, 3.
Somerset	6.
West Springfield	3.
New Hampshire: Schiller	4, 5, 6.
New Jersey:	
Deepwater	7, 8, 9.
Sayreville	4, 5.
Bergen	1, 2.
Kearney	7, 8.
Sewaren	1, 2, 3, 4.
Hudson	1.
Burlington	7.
New York:	
Danskammer	1, 2, 3, 4.
Arthur Kill	2, 3.
Ravenswood	3.
Barrett	1, 2.
Northport	1, 2, 3, 4.
Far Rockaway	4.
Glenwood	4, 5.
Port Jefferson	1, 2, 3, 4.
Albany	1, 2, 3, 4.
Lovett	3, 4, 5.
Oswego	1, 2, 3, 4.
Pennsylvania:	
Cromby	2.
Schuykill	1.
Southwalk	1, 2.
Springdale	7, 8.
Rhode Island: South Street	12.

BILLING CODE 6450-01-M

ATTACHMENT B.



[FR Doc. 80-18074 Filed 6-16-80; 8:45 am]

BILLING CODE 6450-01-C

Northeast Industries, Inc.; Final Action on Consent Order

On March 24, 1980 the Office of Enforcement of the ERA published Notice of a Consent Order which had been executed between Northeast Petroleum Industries, Inc. and DOE (45 FR 19024, March 24, 1980). With that Notice, and in accordance with 10 CFR S205.199J(c), the Office of Enforcement invited interested persons to comment on the Consent Order. Under the terms of 10 CFR S205.199J(b), no Consent Order involving sums in excess of $500,000 shall become effective until DOE publishes Notice of its execution solicits and considers public comments with respect to its terms. Pursuant to 10 CFR S205.199J, the Office of Enforcement of the ERA hereby gives Notice of Final Action taken on the Consent Order.

In response to its publication of Notice of the proposed Consent Order, the Office of Enforcement of the ERA received only one letter. That firm indicated that it might be entitled to a portion of the refund amount if Northeast elects to make refunds to the DOE pursuant to the terms of the proposed Consent Order. The proposed Consent Order gives Northeast the option of either making payments to the DOE or refunding money to the market by a price rollback. The letter did not make any objection to the execution of the Consent Order nor seek modification of the proposed terms.

Therefore, after due consideration, the Office of Enforcement has concluded that the Consent Order as proposed and as executed between DOE and Northeast is an appropriate resolution of the compliance proceedings described in the Notice published on March 24, 1980 and hereby gives Notice that the Consent Order is made effective on this date.

Issued in Philadelphia, PA, this 27th day of May, 1980.

Edward F. Momorella,

District Manager, Northeast District Enforcement.

[FR Doc. 80-18116 Filed 6-16-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Notice of Cases Filed; Week of May 16, 1980 Through May 23, 1980

Notice is hereby given that during the week of May 16, 1980 through May 23, 1980, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

June 11, 1980.

List of Cases Received by the Office of Hearings and Appeals

[Week of May 16 through May 23, 1980]

Date	Name and Location of Applicant	Case No.	Type of submission
May 16, 1980	Asamera Oil (U.S.) Inc., Denver, Colorado	BXE-1160, 1161, 1162	Extension of Relief Granted in Asamera Oil/A Knight, Asamera Oil/K.W. Carrell, Asamera Oil/Myrin Ranch 5 DOE Par. (February 13, 1980.) If granted: Asamera Oil (U.S.) Inc. would be permitted to continue to sell the crude oil produced from the K.W. Carrell, A. Knight, and Myrin Ranch wells located in Duchesne County, Utah, at upper tier ceiling prices.
May 16, 1980	Colstrip Town Pump, Inc., Butte, Montana	BXE-1158	Extension of Relief Granted in Colstrip Town Pump, Inc. 5 DOE Par. (January 24, 1980.) If granted: Colstrip Town Pump, Inc. would continue to receive an increased allocation of motor gasoline.
May 16, 1980	Louis Cress, Hasbrouck Heights, New Jersey	BSG-0023	Special Grievance. If granted: The Office of Hearings and Appeals would review the grievances of Louis Cress with regard to his relationship to the Exxon Corporation.
May 19, 1980	Energy Cooperative, Inc., Rosemont, Illinois	BIE, BIL-1156	Import Fee Exception. If granted: Energy Cooperative, Inc. would receive an exception from the provisions of the April 2, 1980 Presidential Proclamation 4474 and the firm would not be required to post bond for the payment of the import license fee.
May 19, 1980	Foster Associates, Inc., Washington, D.C	BFA-0358	Appeal of an Information Request Denial. If granted: The May 8, 1980 Information Request Denial issued by the Office of Fuels Conversion would be rescinded and Foster Associates would receive access to Major Fuel Burning Installations data.
May 19, 1980	Murphy Oil Corp., El Dorado, Arkansas	BEA-0360	Appeal of an Assignment Order. If granted: The April 15, 1980 Assignment Order issued to Murphy Oil Corp. by the Economic Regulatory Administration, Region IV, regarding Murphy's assignment of a base period volume and supplier would be rescinded.
May 19, 1980	National Convenience Stores, Inc., Houston, Texas.	BSG-0022	Petition for Special Redress. If granted: The December 6, 1979, Decision and Order issued by the Office of Hearings and Appeals, Region IV, would be modified and the August 2, 1979, Assignment Order issued to National Convenience Stores, Inc. by the Office of Petroleum Operations, Region IV, would be remanded.
May 19, 1980	O'Meara Brothers, New Orleans, Louisiana	BXE-1081	Extension of the relief granted in O'Meara Brothers 5 DOE Par. (January 24, 1980.) If granted: O'Meara Brothers would be permitted to continue to sell the crude oil from the Louisiana State Lease 2192 located in New Orleans, Louisiana at upper tier ceiling prices.
May 19, 1980	Office of Procurement (International Biomass Institute), Washington, D.C..	BMR-0043	Request for Modification/Rescission. If granted: The March 12, 1980 Decision and Order issued to International Biomass Institute (BFA-0202) or the May 1, 1980 Dismissal issued to Janis Tabor Fritts (BMR-0033) would be modified or rescinded.
May 19, 1980	Richards Oil Co., Savage, Minnesota	BEE-1157	Price Exception. If granted: Richards Oil Company would receive a retroactive exception from the provisions of 10 C.F.R., § 212.93 which would permit the firm to be relieved of a portion of the refund obligation in the Consent Order dated June 15, 1979, as amended.
May 19, 1980	Sun Oil Co. of Pennsylvania, Philadelphia, Pennsylvania.	BEE-1159	Price Exception. If granted: Sun Oil Co. of Pennsylvania would receive an exception from the provisions of 10 C.F.R. § 212.83 which would permit the firm to pass through incremental expenses relating to the blending, storage, distribution and marketing of gasohol.
May 19, 1980	Terrace Mobil, Binghamton, New York	BEH-1161	Request for Evidentiary Hearing. If granted: An evidentiary hearing would be convened in connection with the Statement of Objections submitted in response to the December 12, 1979 Proposed Remedial Order issued to Terrace Mobil by the Northeast District of the Economic Regulatory Administration.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of May 16 through May 23, 1980]

Date	Name and Location of Applicant	Case No.	Type of submission
May 19, 1980	The University of Iowa (Grady), Iowa City, Iowa	BFA-0359	Appeal of an Information Request Denial. If granted: The May 1, 1980 Information Request Denial issued by the Department of Energy would be rescinded and The University of Iowa would receive access to records relating to the three Gasoline Rationing Plans developed by the Department of Energy.
May 20, 1980	United Refining Co., Warren, Pennsylvania	BEA, BES-0361	Appeal of the Buy/Sell Program & Request for Stay. If granted: The April 30, 1980 Decision and Order issued to United Refining Company by the Economic Regulatory Administration, regarding the firm's Buy/Sell obligations would be rescinded and the firm would receive a stay of the order pending a final determination on its Appeal.
May 21, 1980	Indiana Refining, Inc., Washington, D.C.	BEL-1165; BEE-1165.	Allocation Exception. If granted: Indiana Refining, Inc. would receive an exception from the provisions of 10 C.F.R. § 211.65, regarding its participation in the Buy/Sell program.
May 21, 1980	Midwest Solvents Co., Inc., Atchison, Kansas	BEA-0362	Appeal of an Assignment Order. If granted: The April 22, 1980 Assignment Order issued to Midwest Solvents Co., Inc. by the Economic Regulatory Administration, Region VII, regarding Total Petroleum, Inc.'s supply obligations to Midwest Solvent Co., Inc. would be rescinded.
May 21, 1980	National Oil Jobbers Council, Washington, D.C.	BFA-0363	Appeal of an Information Request Denial. If granted: The April 22, 1980, Information Request Denial issued by the Economic Regulatory Administration would be rescinded and the National Oil Jobbers Council would receive access to each Special Report Order issued after December 31, 1977, by the Product Reseller Branch of the Economic Regulatory Administration.
May 21, 1980	Superior Oil Co. (S. Croton Creek), Houston, Texas	BEE-1152	Price Exception. If granted: Superior Oil Co. would be permitted to sell the crude oil produced from the South Croton Creek field located in Dickern County, Texas, at market prices.
May 21, 1980	Thriftway Co., Bloomingfield, New Mexico	BES-0072; BST-0076.	Request for Stay and Temporary Stay. If granted: Thriftway Co. would receive a stay and temporary stay from the provisions of 10 C.F.R., § 211.67 which would modify its entitlements purchase obligations.
May 21, 1980	Weber's Chevron Services, et al., San Francisco, California.	BEX-0058	Supplemental Order. If granted: A supplemental order would be issued to Weber's Chevron Service, et al. which would consolidate the proceedings regarding the Statements of Objection filed by the firms.
May 22, 1980	Charles Varon, San Francisco, California	BFA-0364	Appeal of an Information Request Denial. If granted: The April 15, 1980, Information Request Denial issued by the Freedom of Information Office, Region IX, would be rescinded, and Charles Varon would receive access to certain information concerning the organization "Abalone Alliance."
May 22, 1980	Clark Oil and Refining Corp., Milwaukee, Wisconsin.	BEE-1166	Price Exception. If granted: Clark Oil and Refining Corp. would receive an exception from the provisions of 10 C.F.R., § 212.83 which would permit the firm to pass through incremental expenses relating to the blending, storage, distribution and marketing of gasohol.
May 22, 1980	Cotten, Day and Doyle, Washington, D.C.	BFA-0366	Appeal of an Information Request Denial. If granted: The April 23, 1980 Information Request Denial issued by the Office of General Counsel, Special Investigations Division, would be rescinded and Cotten, Day and Doyle would receive access to a detailed index of documentation of enforcement proceedings concerning C&H Refinery, Inc., United Independent Oil Co., Caribou Four Corners, Inc. and Thriftway Oil Co.
May 22, 1980	New Yorker Steel Boiler Co. Inc., Colmar, Pennsylvania.	BEE-1169	Exception from the energy efficiency testing procedures specified by 10 C.F.R., Part 430. If granted: New Yorker Steel Boiler Co. Inc. would not be required to test in accordance with Appendix N of 10 C.F.R., Part 430 any add-on wood or coal fired boiler.
May 22, 1980	Powerine Oil Company, Los Angeles, California	BMR-0044	Request for Modification and Recission. If granted: The November 8, 1979, Decision and Order (Case No. DEA-0360) issued to Thos. P. Reidy, Inc. regarding Powerine Oil Company's Supply obligations to Thos. P. Reidy, Inc. would be modified.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

[Week of May 16, 1980 to May 23, 1980]

If granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline.

Name	Case No. and date	State
Marple Newton Schools	BEE-1154, 5/16/80	Pa.
Hatsboro-Horsham Schools	BEE-1153, 5/16/80	Pa.
Ron's Roosevelt Chevron	BEE-1155, 5/19/80	Utah
Drug Abuse Prevention Center.	BEL-0050, 5/19/80	Calif.
J&B Automotive	BEN-0828, 5/21/80	N.Y.
School Board of Seminole County.	BEE-1163, 5/21/80	Fla.
Rhea County Exec	BEE-1164, 5/21/80	Tenn.
Absco Distributing	BEE-1167, 5/22/80	Calif.
Greenwood Oil Co	BEE-1175, 5/23/80	Pa.
Perkins Oil Co	BEE-1173, 5/23/80	Wyo.
Dan's Lakeside Service	BEE-1172, 5/23/80	Minn.
Dean Oil Co	BEE-1170, 5/23/80	Ala.
Sampson Brothers Marina	BEE-1171, 5/23/80	Md.
Adams-Burch, Inc	BEE-1168, 5/23/80	Md.
Lemon City Service, Inc	BEN-0051, 5/22/80	Fla.

Notices of Objection Received

[Week of May 16, 1980, to May 23, 1980]

Date	Name and location of applicant	Case No.
5/19/80	CIA Petrolera del Caribe, Inc., P.R	DEE-4214
5/20/80	Warrior Asphalt Co. of Alabama, Washington, D.C.	DEX-0093

Notices of Objection Received—Continued

[Week of May 16, 1980, to May 23, 1980]

Date	Name and location of applicant	Case No.
5/20/80	Huntway Refining, Los Angeles, Calif.	BEE-0392
5/16/80	Valley Patrol Guard, Van Nuys, Calif	BEO-1219
5/21/80	Murray Oil Company, Ash Grove, Mo.	DXE-5898
5/23/80	Par Mar Oil Co., Washington, D.C	DEE-5047
5/23/80	Start Oil Co., Fair Oaks, Calif	BEE-0780
5/22/80	Manor 66, Norbeck, Md	DEE-6664
5/21/80	Heath Oil Co., Winchester, Tenn	BEE-0733

[FR Doc. 80-18114 Filed 6-16-80: 8:45 am]

BILLING CODE 6450-01

Notice of Issuance of Proposed Decisions and Orders; May 26 Through May 30, 1980

Notice is hereby given that during the period May 26 through May 30, 1980 the Proposed Decisions and Orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception.

Under the procedures governing the filing and consideration of exception applications (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those procedural regulations, the date of service of notice will be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The procedural regulations also specify that if a Notice of Objection is not received from an aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections

within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

June 11, 1980.

Proposed Decisions and Orders

Associated Master Barbers and Beauticians, Charlotte, N.C., BEE–0372, temperature restrictions

Associated Master Barbers and Beauticians (AMBB) filed an Application for Exception from the provisions of 10 CFR Part 490. The exception request, if granted, would permit AMBB's members to raise the maximum heating temperature in their facilities above 65°F. On May 28, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Dickerson Petroleum, Inc., Belleville, Ill., BEE–0588, gasohol

Dickerson Petroleum, Inc., filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit Dickerson to receive an increased allocation of motor gasoline to produce gasohol. On May 27, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Newhall Refining Company, Inc., Newhall, Calif., DEX–0011, crude oil

In accordance with a Decision and Order issued to Newhall Refining Company, Inc. that granted the firm exception relief from the provisions of 10 CFR, Part 211.67 (the Entitlements Program) the firm submitted actual financial data for its 1977 fiscal year ended August 31, 1977. On May 29, 1980, after reviewing the level of exception relief granted to Newhall under the applicable standards, the DOE issued a Proposed Decision and Order which determined that Newhall received the correct amount of Entitlement relief. Therefore, no adjustment should be made to the exception relief which was granted to Newhall Refining Company, Inc. for the firm's 1977 fiscal year.

Riverside Oil, Inc., Evansville, Ind., BEE–0476, gasohol

Riverside Oil, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit Riverside to receive an increased allocation of unleaded motor gasoline to produce gasohol. On May 27, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Summit Transportation Co., Washington, D.C., BEE–0991, reporting requirement

Summit Transportation Company filed an Application for Exception from the provisions of 10 CFR §§ 212.126(b), 212.187(b). The exception request, if granted, would permit Summit to file reporting forms FEA–P–124–M–O and FEA–P–124–M–1 for its crude oil reselling activities between January 1976 and April 1978 after certain criminal proceedings involving the firm are completed. The forms were required to be filed on a monthly basis during the reporting period. On May 29, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception request, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

Hill's Chevron Sta., DEE–6510, Louisville, MS.
Vernon Auto Wash, Inc., DEE–7447, Manchester, CT.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception request, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case Number, and Location

Allen Oil Co., DEE–5489, Wash., DC.
Amerada Hess Corp., BEE–1098, New York, NY.
Atkins Gulf Svc., DEE–6590, Lexington, KY.
Budget Rent-a-Car of Oakland, DEE–6666, Oakland, CA.
Carriage Square Mobil Svc., DEE–6647, Oxnard, CA.
Center Market, Inc., DEE–7202, Boston, MA.
Meridian Oil co., BEE–0933, Gothenburg, NE.
Ray Peppelman, Inc., DEE–5584, Lansdowne, Pa.
Village Food Stores, DEE–6779, W. Acton, MA.

[FR Doc. 80–18115 Filed 6–16–80; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1517–2]

Approval of PSD Permit to Houston Lighting & Power Co.

Notice is hereby given that on April 1, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, number PSD–TX–234, to the Houston Lighting and Power Company for approval to construct a 550 MW design capacity coal fired steam electric generating unit at the W. A. Parish Generating Station, three miles southwest of Thompsons, Fort Bend County, Texas off Robbs Prairie Road. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Court of Appeals for the Fifth Circuit. A petition for review must be filed on or before August 18, 1980.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the Mayor, City Hall, P.O. Box 24, Thompson, Texas 77481.

Dated: May 28, 1980.

Diana Dutton,

Acting Regional Administrator, Region 6.

[FR Doc. 80–18128 Filed 6–16–80; 8:45 am]

BILLING CODE 6560–01–M

[OPTS–59026, FRL 1516–2]

Certain Company; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes.

Section 5(h)(6) requires EPA issue a notice of receipt of any such application for publication in the **Federal Register.** This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATE: The Agency must either approve or deny this application by July 6, 1980. Persons should submit written comments on the application no later that July 2, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460, 202/755–8050

FOR FURTHER INFORMATION CONTACT: Ms. Ann Radosevich, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460, (202/426–2601).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorized EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register.**

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the **Federal Register** of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) **Federal Register** notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the **Federal Register**of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Interested persons may, on or before July 2, 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. 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–59026]". Comments received may be seen in the above office between 9:00 a.m. and 4:00 p.m., Monday through Friday excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: June 6, 1980.

Warren R. Muir,

Acting Deputy Assistant Administrator for Chemical Control.

TM 80–26.

Close of Review Period: July 6, 1980.

Manufacturer's Identity: Claimed confidential.

Specific Chemical Identity. Bis (2-(dimethylamino ethyl) ether monoformate salt.

The following summary is taken from data submitted by the manufacturer made in the test marketing exemption application.

Use. Claimed confidential. Generic use: catalyst.

Physical/Chemical Properties of Mixture Containing the New Substance as Proposed for Marketing.

Boiling point at 92 mm Hg—96°C
Vapor pressure at 25°C—13 mm Hg
Solubility In Water—Miscible
Specific gravity ($H_2O=1$)—1.013
Evaporation rate (butyl acetate=1)—<<1
pH at 3% H_2O—9.0
Flash point °F Seta—42°

Toxicity Data. An acute toxicity profile has been run on the total mixture of which this substance is part. Acute oral toxicity LD_{50} (rat): 2,800 mg/kg with limits of 1.9 and 4.2.

Acute dermal toxicity LD_{50} (rabbit): 1,000 mg/kg.

Acute inhalation toxicity LC_{50} (rat): 20.1 mg/1.

Characteristic of these types of amines and amino salts—the substance is a severe primary skin irritant and is corrosive to the skin of rabbits. The material is a severe occular irritant.

Cautionary labeling in accord with ANSI standards and the DOT "corrosive" designation will be applied to containers.

Exposure/Disposal.

Manufacturer's site.

Occupational exposure

Activity	Route of exposure	Number employees	Maximum duration of exposure
Manufacturing, drumming and quality control.	Inhalation..... Dermal..... Eye.....	3–5	Periodic. 4–6 days/yr.

The raw material for this substance will be pumped from drums into a closed reaction vessel. Plant workers will be protected with plastic or rubber gloves and goggles and boots. After several hours of mixing, the product will be transferred into drums. There are no byproducts or waste products. The reaction vessel will be washed with an

appropriate solvent or wash and incinerated in accordance with local regulations.

Activity	Route of exposure	Number of employees exposure	Maximum duration of exposure
User, quality control, mixing.	Inhalation..... Skin..... Eye.....	8–10	Periodic.

[FR Doc. 80-18120 Filed 6-16-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-51070; FRL 1515-8]

Certain Companies; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of four PMN's and provides a summary of each.

DATES: Written comments by:

PMN 80–103—July 18, 1980.

PMN 80–105, 106, and 107—July 20, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT:

Notice Manager, PMN No. and Telephone

Ms. Paige Beville, 80–103 and 426–8815

Mr. George Bagley, 80–105, 106, 107, 426–3936

Mail address for Notice Managers: Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentially claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1) The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determined that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the date shown under "DATES" for each specific PMN, submit to the Document Control Officer (TS–793), Rm. E–447, Office of the Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. 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–51070]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: June 6, 1980.

Warren R. Muir,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–103

Close of Review Period. August 17, 1980.

Manufacturer's Identity. Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166.

Specific Chemical Identity. Styrene-maleic anhydridemethyl methacrylate polymer.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Solid pellets for injection molding, extrusion, and thermoforming into functional parts, primarily in automotive interior and exterior components.

Production Estimates. Claimed confidential.

Physical/Chemical Properties.

Tensile strength at failure—4,000–7,000 psi.

Tensile elongation—0.5–5 percent.

Tensile modulus—300,000 to 600,000 psi.

Heat distortion temperature under load (DTUL) at 264 psi—125–145°C.

Notched Izod impact—0.2 to 0.5 ft-lb./in.

Specific gravity (23°C)—1.08–1.1.

Melt temperature, °C—160–170.

Molecular weight:

Weight average MW—100,000–200,000.

Number average MW—50,000–100,000.

Intrinsic viscosity—0.3–0.5.

Toxicity Data

Single oral LD_{50} (rat)—>5,000 mg/kg.

Single dermal LD_{50} (rabbit)—>5,000 mg/kg.

Skin irritation (rabbit)—Non-irritating. (Irritation Score of 0 in a scale of 8.)

Eye irritation (rabbit)—Non-irritating when introduced into the conjunctival sac of the rabbit eye. (Score of 0 on a scale of 110.)

Exposure

Activity	Exposure route	Max. No. exposed	Max. duration Hr/Da	Max. duration Da/Yr
Occupational-Manufacturer's site:				
Indian Orchard, MA.	Infrequent dermal exposure to PMN substance.	8	4	125
Addyston, OH.	Infrequent dermal exposure to PMN substance.	8	8	125

The potential for exposure to the styrene-maleic anhydride-methyl methacrylate polymer is limited to occasional contact with the material as a solid. The new material is not expectd to present any hazard during in-plant handling and packaging.

Activity	Exposure route	Max. No. exposed	Max. duration Hr/Da	Max. duration Da/Yr
Occupational-Processor's site.				
Molders, extruders and fabricators of plastic materials and finished parts.	Infrequent dermal exposure to PMN substance.	100	8	100

Disposal

Manufacturer's site. There will be no on-site disposal of the new polymer at the manufacturing plants. Any waste polymer will be reprocessed or disposed of by landfill at an approved off-site waste disposal facility. No byproducts are geneated during the manufacture of the chemical substance.

Users' sites. Ultimate disposal of the solid waste polymer or molded articles will be by reprocessing into finished articles, disposal by landfill, or incineration. Incineration could be in a powerplant designed for energy recovery and power generation, or in an incinerator designed to burn solid wastes.

PMN 80–105

Close of Review Period. August 19, 1980.

Manufacturer's Identity. Amchem Products, Inc., Brookside Ave., Ambler, PA 19002.

Specific Chemical Identity. Monoethanolamine salt of 1-hydroxyethylidene-1,1-diphosphonic acid.

The following summary is taken from data and submitted by the manufacturer in the PMN.

Use. The substance will be used to clean machined metal parts.

Production estimates	Kilograms per year Minimum	Kilograms per year Maximum
September 1980 to August 1981	116	542
September 1981 to August 1982	225	1,138
September 1982 to August 1983	341	3,971

Physical/Chemical Properties.

No data submitted.

Toxicity Data

Oral ingestion—The acid precursor has an LD_{50} of 2,400 mg/kg, (slightly toxic). A 90-day "no effect" level in rats or dogs = 10,000 ppm (sodium salt).

Skin absorption—The acid showed > 7,940 mg/kg on rabbits; rated practically non-toxic; moderately irritating.

Eye irritation—Undiluted acid rated as corrosive to eyes.

Ames Test—No mutagenic activity at six dose levels by both non-activation and rat liver microsome activation.

Salmonella typhimurium.

Occupational Exposure

Activity	Exposure route	Max. No. exposed	Max. duration Hr/Da	Max. duration Da/Yr	Concentration Average (ppm)	Concentration Peak (ppm)
Manufacturer's sites:						
Ambler, PA	Dermal	1	1	21	0–1	0–1
Waren, MI	Dermal	1	1	16	0–1	0–1
Freemont, CA	Dermal	1	1	6	0–1	0–1

Workers will not be exposed except in case of spill. Physical state of substance to which workers may be exposed: Liquid. *Environmental Release/Disposal.* There will be no release of the substance to air, land, or water except in case of a spill. A negative air system to a scrubber will be used during manufacture. Equipment will be washed after manufacture and washings discharged to an inplant water treatment system and then to a designated publicly owned treatment works.

PMN 80–106

Close of review Period: August 19, 1980.

Manufacturer's Identity: Amchem Products, Inc., Brookside Ave., Ambler, PA 19002.

Specific Chemical Identity. Diethanolamine salt of 1-hydroxyethylidene-1,1-diphosphonic acid.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. The substance will be used to clean machined metal parts.

Production estimates	Kilograms per year Minimum	Kilograms per year Maximum
September 1980–August 1981	182	847
September 1981–August 19821144351		1,779
September 1982–August 1983	532	6,027

Physical/Chemical Properties

No data submitted.

Toxicity Data

oral ingestion—The acid precursor has an LD_{50} of 2,400 mg/kh. A 90-day "no effect" level in rats or dogs = 10,000 ppm (sodium salt).

Skin absorption—The acid showed > 7,940 mg/kg on rabbits; rated practically non-toxic; moderately irritating.

Eye irritation—Undiluted acid rated as corrosive to eyes.

Ames Test—No mutagenic activity at six dose levels by both non-activation and rat liver microsome activation.

Salmonella typhimurium.

Occupational Exposure

Activity	Exposure route	Max. No. exposed	Max. duration		Concentration	
			Hr/Da	Da/Yr	Average (ppm)	Peak (ppm)
Manufacturer's sites:						
Ambler, PA	Dermal	1	1	12	0–1	0–1
Warren, MI	Dermal	1	1	9	0–1	0–1
Freemont, CA	Dermal	1	1	3	0–1	0–1

Workers will not be exposed except in case of spill. Physical state of substance to which workers may be exposed: Liquid. *Environmental Release/ Disposal.* There will be no release of the substance to air, land, or water except in case of spill. A negetive air system to a scrubber will be used during manufacture. Equipment will be washed after manufacture and washings discharged to an inplant water treatment then to a designated publicly owned treatment works.

PMN 80–107

Close of Review Period. August 19, 1980.

Manufacturer's Identity. Amchem Products Inc., Brookside Ave., Ambler, PA 19002.

Specific Chemical Identity. Triethanolamine salt of 1-hydroxyethylidene-1,1-diphosphonic acid.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. The substance will be used to clean machined metal parts.

Production estimates.	Kilograms per year	
	Minimum	Maximum
September 1980–August 1981	345	1,608
September 1981–August 1982	666	3,377
September 1982–August 1983	1,276	11,784

Physical/Chemical Properties.

No data submitted.

Toxicity Data

Oral ingestion—The acid precursor has an LD_{50} of 2,400 mg/kg. A 90-day "no effect" level in rats or dogs = 10,000 ppm (sodium salt).

Skin absorption—The acid showed > 7,940 mg/kg on rabbits; rated practically non-toxic; moderately irritating.

Eye irritation—Undiluted acid rated as corrosive to eyes.

Ames Test—No mutagenic activity at six dose levels by both non-activation and rat liver microsome activation.

Salmonella typhimurium.

Occupational Exposure

Activity	Exposure route	Max. No. exposed	Max. duration		Concentration	
			Hr/Da	Da/Yr	Average (ppm)	Peak (ppm)
Manufacturer's sites:						
Ambler, PA	Dermal	1	1	32	0–1	0–1
Warren, MI	Dermal	1	1	24	0–1	0–1
Freemont, CA	Dermal	1	1	8	0–1	0–1

Workers will not be exposed except in case of spill. Physical state of substance to which workers may be exposed: Liquid. *Environmental Release/ Disposal.* There will be no release of the substance to air, land, or water except in case of spill. A negative air system to a scrubber will be used during manufacture. Equipment will be washed after manufacture and washings discharged to an inplant water treatment then to a designated publicly owned treatment works.

[FR Doc. 80–18122 Filed 6–16–80: 8:45 am]

BILLING CODE 6560–01–M

[OPTS–51071; FRL 1516–1]

Certain Company; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by July 21, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Mr. David Dull, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202–426–2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use

description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determined that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN is published herein.

Interested persons may, on or before July 21, 1980, submit to the Document Control Officer (TS–793), Room E–447, Office of Pesticides and Toxic Substances, 401 M Street SW., Washington, D.C. 20460, written comments regarding these notices. 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–51071]" and the PMN number "[PMN 80–108]". Comments received may be seen in the above office between 8 a.m. and 4 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: June 6, 1980.

Warren R. Muir,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–108

Close of Review Period: August 20, 1980

Manufacturer's Identity: Reichhold Chemicals, Inc., RCI Bldg., White Plains, NY 10603.

Specific Chemical Identity. Hydrogenated petroleum hydrocarbon resin.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Tackifier resin for adhesive systems.

Production estimates	Kilogram per year	
	Minimum	Maximum
First year	1,500,000	3,000,000
Second year	5,000,000	10,000,000
Third year	10,000,000	15,000,000

Physical/Chemical Properties

Softening point, (Ball & Ring) °C—97°C—103°C

Color, (Gardner 50% toluene)—1 max.

Viscosity, 70° in toluene—F–G

Solubility @ 50% NV in Rule 66 M.S.—Soluble

N.V.=100.

MW=560.

MN=226.

Toxicity Data. The submitter states that the PMN product appears to have a very low order of toxicity and that human contact is expected to be minimal. No other data submitted with the PMN.

Occupational Exposure

Activity	Exposure route	Max. No. exposed	Max. Duration		Concentration	
			Hr/Da	Da/Yr	Average	Peak
Manufacture	Inhalation, dermal dust.	2	2	240	0–1 mg/m³	0–1 mg/m³

Physical states of the PMN substance to which workers may be exposed: Solid and powder.

Potential occupational exposure would occur during flaking and bagging operation of the finished resin.

Airborne concentrations of resin dust in the work atmosphere are less than 10 milligrams per cubic meter of air. If this value is exceeded, employees are required to wear respirators. Workers are not expected to be exposed to the molten product. Ventilation is provided at the flaking and bagging operations.

Environmental Release/Disposal.

Manufacturer's Site:

Media—Amount/Duration of Chemical Release (kg/yr)

Air—100–1,000. 2 hr/da; 240 da/yr. After charcoal absorption unit. Volatile organics <1 ppm average. Volatile organics <10 ppm peak. Particle recycled into finished products.

Water—Some low molecular weight organics that are slightly soluble in water could be present in flow to onsite water pollution abatement system. After processing final effluent is analyzed, waste is released into Gulf of Mexico (NPDES permit MS0001520).

Land—No release normally expected.

[FR Doc. 80–18121 Filed 6–16–80; 8:45 am]

BILLING CODE 6560–01–M

[OPTS–50008; FRL 1516–5]

Office of Pesticides and Toxic Substances; Notice of Data Transfer

AGENCY: Environmental Protection Agency, Office of Pesticides and Toxic Substances.

ACTION: Notice of Data Transfer.

SUMMARY: The Environment Protection Agency (EPA) will transfer chemical substance identities, manufacturers identities, and chemical use informatioin submitted by manufacturers and importers under Section 5 of the Toxic Substances Control Act (TSCA) to its contractor, SRI International of Menlo Park, California. The data transferred may or may not have been claimed confidential by the submitter. SRI International will utilize the data transferred to perform literature searches on chemicals that have identical or similar uses to the reported chemical so that EPA can conduct premanufacture notification (PMN) review activities, such as non-risk analysis and direct exposure and release assessments.

DATE: The transfer of any information claimed confidential will occur no sooner than July 1, 1980 and will continue in controlled stages.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office, Office of Pesticides and Toxic Substances (TS–788), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. The toll-free telephone number is 800–424–9065. In Washington, D.C., please call 554–1404.

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA, manufacturers and

importers of chemical substances have reported and will continue to report information concerning new chemical substances which are not included in the Master Inventory File of Chemical Substances and which they intend to manufacture or import. To assist the Administrator in carrying out his statutory responsibilities of regulating chemical substances under Section 5, it is necessary to obtain use information on chemicals similar to the reported chemical so that such PMN review activities as non-risk analysis and direct exposure and release assessments can be conducted by the agency. The contractor will identify chemicals that have the same use(s) as the reported chemical and furnish EPA with the following information on the identified chemicals: (1) manufacturer(s), (2) production ranges, (3) processing methods, (4) disposal methods, (5) worker exposure. SRI International of Menlo Park, California has been selected to perform this work (Contract No. 68–01–6016) because EPA does not have the in-house resources to do the work.

The data furnished to the contractor to perform the required work may consist of: (1) chemical identities, (2) Chemical Abstracts Service (CAS) Registry Numbers, where available, (3) manufacturers' identities, and (4) specific use information.

Pursuant to 40 CFR 2.306(j), it has been determined that it is necessary for SRI International to be furnished the information to satisfactorily perform its contract.

SRI International is legally required under the terms of its contract not to reveal the fact that EPA has requested a particular information search to any third party and to take appropriate measures to safeguard the information collected during searches to prevent its unauthorized disclosure. The contractor is prohibited under the terms of its contract from disclosing any information collected under this contract to any third party in any form without written authorizaton from EPA. Furthermore, the contractor is prohibited under the terms of this contract from contacting chemical manufacturers, importers, processors, trade associations and the like when collecting information in support of a premanufacture notice review as described in this notice. Such contacts can only be made when the contractor receives written authorization from EPA, after EPA has determined that such contacts will not in any way directly or indirectly reveal confidential business information to a third party.

Pursuant to the EPA/TSCA Confidential Business Information Security Manual, SRI International has been authorized to have access to this information. EPA's Security and Inspection Division has approved SRI International's Security Plan and has conducted the required inspection of the SRI International facilities and found them to be in compliance with the requirements of the TSCA Confidential Business Information Security Manual. SRI International is required to treat all EPA task orders which identify confidential business information in accordance with EPA's TSCA Confidential Business Information Security Manual.

Dated: June 10, 1980.

Marilyn C. Bracken,

Deputy Assistant Administrator for Program Integration and Information.

[FR Doc. 80–18119 Filed 6–16–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–18043; FRL 1516–3]

Oregon Department of Agriculture; Issuance of Specific Exemption To Use Oxamyl on Peppermint To Control Mint Nematode

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use 7,000 pounds of oxamyl on 1,300 acres of peppermint to control the mint nematode in six counties in Oregon. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Registration Division (TS–767), Room: E–124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202/426–0223.

SUPPLEMENTARY INFORMATION: The mint nematode *(Longidorus elongatus)* attacks the root system of peppermint causing stand reduction and serious yield losses. The flood plain soils of the Santiam and Willamette Rivers are of a coarse texture which provides an excellent medium for the mint nematode.

Soil fumigants such as D–D, Telone, Vorlex, and methly bromide, are the standard treatment. Such fumigation effectively reduces the nematode population but does not eliminate it. Fumigation can take place prior to planting the peppermint. Thus, by the second and succeeding years the nematode population has reached pretreatment levels or higher and causes serious damage to the peppermint plants. According to the Applicant, this is a critical situation in that positive economic returns from a mint planting do not usually begin until the second production year. Beyond preplant fumigation there is no cultural practice, no nematode-resistant-mint variety, nor any nematocide registered for use on established mint stands to help growers combat nematode problems for the remainder of the life of the mint stand (5 years). According to the Applicant, mint growers in the Santiam and Willamette Rivers areas may lose as much as $1.9 million due to the mint nematode this year, without an effective program.

The Applicant proposed to treat approximately 4,000 acres of peppermint in Benton, Jackson, Josephine, Lane, Linn, and Marion Counties at a rate of two pounds of the active ingredient per acre using ground equipment. A pre-harvest interval of thirty days is imposed.

EPA has determined that the proposed use of oxamyl should not result in residues exceeding 1.0 part per million (ppm) in mint oil. This level has been judged adequate to protect the public health. Spent mint hay is not generally a feed item. This use of oxamyl is not expected to pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 31, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Vydate L (EPA Reg. No. 352–372) may be applied;

2. Application rate will be two pounds of active ingredient in 20–30 gallons of water per acre, by ground equipment;

3. No more than two applications per year may be made and a thirty-day pre-harvest interval is imposed;

4. A total of 16,000 pounds of oxamyl is authorized to treat up to 4,000 acres of peppermint in the counties named above;

5. Applications will be made by State-certified private applicators or by State-licensed commercial applicators;

6. Only fields containing three hundred or more mint nematodes per quart of soil may be treated;

7. All applicable directions and precautions on the EPA-registered label must be observed;

8. Spent mint hay may not be grazed or cut for feed;

9. Peppermint treated in accordance with the above provisions should not have residues in excess of 1.0 ppm oxamyl in mint oil. Peppermint oil with residues of oxamyl not exceeding this level may be shipped in interstate commerce. Spent hay may not be shipped in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been notified of this action;

10. The EPA will be immediately informed of any adverse effects resulting from the use of oxamyl in connection with this exemption; and

11. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by March 31, 1981.

(Sec. 18, as amended, (92 Stat. 819, 7 U.S.C. 136))

Dated: June 9, 1980.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-18126 Filed 6-16-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-51072 FRL 1516-8]

3-(1-Amino-2-Sulfo-4-Anthraquinonylamino)-Benezene Sulfon-3-Substituted Anilide; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATES: Written comments by July 26, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Smith, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460, 202-426-3980.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determined that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN is published herein.

Interested persons may, on or before July 26, 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 these notices. 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-51072]" and the PMN number "PMN 80-109". Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: June 10, 1980.

Warren R. Muir,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80-109

Close of Review Period: August 25, 1980.

Manufacturer's Indentity: Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: 3-(1-Amino-2-sulfo-4-anthraquinonylamino)-benzene sulfon-3-substituted anilide.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Dye.

Production Estimates. Claimed confidential.

Physical/Chemical Properties:

Solubility: 10% in water (ambient temperature).

Appearance: Aqueous solution.

Specific gravity: 1.02.

Toxicity Data:

Acute oral LD_{50} (rat): 5.0 g/kg body weight (bw).

Primary dermal irritation (rabbit): Negative.

Eye irritation (rabbit): Negative.

Occupational exposure. Manufacture's site. The manufacturing operation will require one worker per shift. Exposure will not exceed 48 man-hours per year during the first three years of manufacture.

User's site. Up to 9 customers are expected to purchase subject chemical. Workers are expected to be exposed 2–3 hours per day during a typical dyeing operation. Subject chemical is projected to be used by customers on an average of two days per week.

Consumer's Exposure. Fiber reactive dyestuffs, by the nature of their chemistry, form a covalent bond with the cellulose fiber making the color an integral part of the fiber (fibric). A "soap-off" procedure removes any dyestuff not fixed to the fabric during the dyeing operation. Exposure of consumers to free dyestuff is nil.

Environmental Release/Disposal. Manufacture's Site. The raw materials are completely reacted and there are no byproduct produced. After standardization, the aqueous solution is packaged. Small quantities of wash water would be sent to a waste water treatment plant as a result of clean-up operations after a batch is made. There is nothing released to the atmosphere or sent to solid waste dumps.

User's site. During dyeing operations, the cloth is mechanically handled so workers do not come in direct contact with the substance. This dye does not vaporize during drying operations and so is not released to the atmosphere. Water used in washing operations is released to the sewer.

[FR Doc. 80-18123 Filed 6-16-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-51074; FRL 1516-7]

Salt Form of Acrylic Acid-Acrylate Copolymer; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by July 27, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Green, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determined that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN is published herein.

Interested persons may, on or before July 27, 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 these notices. 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–51074]" and the PMN number "PMN 80–117". Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: June 10, 1980.

Warren R. Muir,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–117

Close of Review Period: August 26, 1980.

Manufacturer's Identity: BF Goodrich Co., 6100 Oak Tree Blvd., Cleveland, OH 44131.

Specific Chemical Identity. Claimed confidential. Generic name provided: Salt form of acrylic acid-acrylate copolymer.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Absorbent for body fluids.

Production Estimates. (Kilograms):

First year—5,000.

Second year—70,000.

Third year—230,000.

Physical/Chemical Properties:

Purity (estimated %): 95.6–98.5.

Physical appearance: White fluffy powder.

Toxicity Data:

Primary skin irritation (rabbits): Nonirritating.

Primary eye irritation (rabbits): Nonirritating.

Skin sensitization (guinea pig): Nonsensitizing.

Occupational exposure.

Manufacturer's site. Potential exposure to five employees through skin contact exists. This material is made by a self-sustaining automatic process. The final form of the product will be a roll of film. The only exposure (about a minute) will be during the process of changing rolls.

User's site. No exposure is expected at any site since the film is surrounded by bound layers of tissue paper or confining laminant to the film. No significant occupational exposure to the substance is expected when it is manufactured in the flake form.

Disposal. Manufacturer's site. Waste material will be landfilled at Browning Ferries Industries in Oberlin, Ohio. Amount of material to be landfilled is expected to be negligible.

User's site. Disposal will be by landfill or incineration. Amount to be disposed is expected to be minimal.

[FR Doc. 80–18124 Filed 6–16–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–180441; FRL 1516–4]

Guam Department of Environmental Protection; Issuance of Specific Exemption to Use Picloram To Eradicate Bunchy Top Infected Bananas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Guam Department of Environmental Protection (hereafter referred to as the "Applicant") to use picloram to eradicate banana plants infected with a viral disease known as "Bunchy-Top." The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on February 15, 1981.

FOR FURTHER INFORMATION CONTACT: Donald Rodier, Registration Division (TS–757), Room: E–124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, 202/426–0223.

SUPPLEMENTARY INFORMATION: Bunchy Top disease is a virus disease vectored by aphids; both wild and cultivated bananas can harbor the virus. In 1978, Guam reported that over 50% of the banana plants were infected with Bunchy Top disease. The Applicant believes that removal of infected plants is the most viable method of halting the spread of the causative virus. There are no herbicides registered for that purpose.

According to the Applicant, mechanical removal of infected plants may not remove the entire root system and both hand and mechanical removal are cost prohibitive since the plants occur not only in cultivated fields but also in dense jungles and hilly terrain. The use of 2,4–D has been suggested, but the Applicant stated that 2,4–D has not been tested on banana plants and, therefore, its effectiveness is not known. Further, 2,4–D would have to be mixed and bulky injection equipment would have to be transported. This procedure would not be practicial on Guam's terrain, the Applicant claimed. According to the Applicant, the disease threatens to end banana production on Guam, an important element in the island's economy. The Applicant proposed to use K-Pin, a Japanese product not registered with EPA. K-Pin is a tooth pick impregnated with picloram. The Applicant claimed that four to six K-Pins inserted into the base of an infected banana plant will kill it. The Applicant also stated that because of the compactness of the product, personnel could treat and do necessary follow-up easily and quickly. Since the proposed use is essentially a non-food use, (infected plants do not normally produce fruit) EPA has determined that this use of picloram presents little or no hazard to man. Any fruit that may have developed will be removed before treatment. EPA has also concluded that the proposed use pattern should present no environmental problem.

After reviewing the application and other available exemption information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until February 15, 1981. The specific exemption is also subject to the following conditions:

1. Picloram applications are limited to banana plants infected with the viral disease known as "Bunchy-Top";

2. The dosage rate may not exceed six K-Pins per banana plant;

3. The total number of K-Pins authorized is 30,000;

4. Plants bearing bananas must be harvested prior to treatment or the fruit must be destroyed;

5. Application must be carried out by trained Department of Agriculture personnel who will be under the supervision of applicators certified by the Territory of Guam;

6. The following message, in English, must be stamped on a blank 1½ by 6 inch space inside the cover on the face of the cardboard pin holder:

K-Pin
Warning—Keep out of reach of children.
Herbicide treated pins for use only in the eradication of bunchy top diseased banana plants.
Directions for use—Insert pin into base of stem on plant to be eradicated to depth of colored ring on pin.
Pin contains picloram; 50 pins per box.
Not for internal use.

7. All K-Pins will be signed out daily, recording the user, date, and amount;

8. A standardized daily field protocol will be required of each user indicating where and when the material is applied;

9. All K-Pins not used at the end of the day will be returned and signed in to the supervisor with the field protocol;

10. The field protocols and supply records will be reviewed by the program leaders to confirm proper use;

11. During the extended follow-up period, the sign-out of K-Pins and the field protocols will be on a weekly basis instead of daily;

12. Measures should be taken to place K-Pins in areas not readily accessible to view;

13. The Applicant is responsible for assuring that the restrictions pursuant to this specific exemption are met and must submit a report summarizing the results of this program by the end of September 1981; and

14. The EPA shall be immediately informed of any adverse effects resulting from the use of picloram in connection with this exemption.

(Sec. 18, as amended (92 Stat. 819; 7 U.S.C. 136))

Dated: June 9, 1980.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-18125 Filed 6-16-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL RESERVE SYSTEM

American Bancorporation; Formation of Bank Holding Company

American Bancorporation, Longview, 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 of American Bank, Longview, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later that July 11, 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 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-18161 Filed 6-16-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 11, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045.

The Bank of New York Company, Inc., New York, New York (leasing activities; United States): to engage through its subsidiary, BNYCO Leasing Inc., in making leases of personal and real property in accordance with the Board's Regulation Y. These activities would be conducted from an office in New York, New York serving customers in the United States.

B. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

Southern Bancorporation, Inc., Greenville, South Caorlina (financing and insurance activities): to engage, through its subsidiary, World Acceptance Corporation, in making extensions of credit as a licensed consumer finance lender and acting as agent for the sale of life, accident and disability insurance and property insurance directly realted to its extensions of credit. These activities would be conducted from offices in Hartsville and Marion, South Carolina, serving the towns of Hartsville and Marion, South Caroline, serving the towns of Hartsville, Marion and Cheraw, South Carolina.

C. *Federal Reserve Bank of Minneapolis* (Lester G. Gable, Vice President) 250 Marquestte Avenue, Minneaplois, Minnesota 55480:

Wessington Bankshares, Inc., Wessington, South Dakota (lending activities; South Dakota): to engage for its own account in lending activities only to the extent of administering and collecting one loan. This activity will be carried on from the office of Applicant in Wessington, South Dakota.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, June 11, 1980.

Cathy L. Petryshysn,

Assistant Secretary of the Board.

[FR Doc. 80-18162 Filed 6-16-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest,

or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 9, 1980.

A. *Federal Reserve Bank of Atlanta* (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

Barnett Banks of Florida, Inc., Jacksonville, Florida (check verification services; North Carolina and South Carolina): to engage, through its subsidiary, Verifications, Inc., in offering from an additional office, check verification services, including authorizing subscribing merchants to accept certain personal purchase money checks and obligating Verifications, Inc. to purchase properly verified checks which are subsequently dishonored. These activities would be conducted from an office located at No. 201, 5600 Executive Center Drive, Charlotte, North Carolina as well as from the principal office of Verifications, Inc., located at 4160 Woodcock Drive, Suite 100, Jacksonville, Florida 32216, and would be offered throughout the States of North Carolina and South Carolina.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Bankamerica Corporation, San Francisco, California (financing, servicing, and insurance activities; Virginia and West Virginia): to continue to engage, through its indirect subsidiaries, FinanceAmerica Corporation and FinanceAmerica Mortgage Services Company, Virginia corporations, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company, and servicing loans and other extensions of credit. The activities of FinanceAmerica Corporation will include but not be limited to making loans and other extensions of credit to consumers as well as small businesses and purchasing installment sales finance contracts. The activities of FinanceAmerica Mortgage Services Company will include but not be limited to making loans and other extensions of credit to small businesses and making loans secured by real property. Both FinanceAmerica Corporation and FinanceAmerica Mortgage Services Company will offer credit related life and credit related accident and disability insurance in connection with the extensions of credit made or acquired by said corporations. This application is to expand the geographic service area of an existing office in Winchester, Virginia, from the Virginia counties of Clark and Frederick, the entire State of Virginia and the State of West Virginia.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, June 9, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-18166 Filed 6-16-80; 8:45 am]

BILLING CODE 6210-01-M

Chemical Bank International of San Francisco; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Chemical Bank International of San Francisco, San Francisco, California, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in Los Angeles, California. Chemical Bank International of San Francisco operates as a subsidiary of Chemical Bank, New York, New York.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 9, 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, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 9, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-18164 Filed 6-16-80 8:45 am]

BILLING CODE 6210-01-M

Everman Bank Shares, Inc.; Formation of Bank Holding Company

Everman Bank Shares, Inc., Fort Worth, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Everman National Bank of Fort Worth, Fort Worth, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 11, 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 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 18163 Filed 6-16-80; 8:45 am]

BILLING CODE 6210-01-M

Florence Bancorporation, Inc.; Formation of Bank Holding Company

Florence Bancorporation, Inc., Florence, 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 81.6 per cent or more of the voting shares of State Bank of Florence, Florence, 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

11, 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 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-18169 Filed 6-16-80; 8:45 am]

BILLING CODE 6210-01-M

Jasper Bancshares, Inc.; Formation of Bank Holding Company

Jasper Bancshares, Inc., Jasper, Missouri, 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 95 per cent of more of the voting shares of Bank of Jasper, Jasper, Missouri. 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)).

Jasper Bancshares, Inc., Jasper, Missouri, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the sale of joint credit life insurance, reducing term credit life, credit accident and health and level term credit life insurance directly related to extensions of credit by Bank of Jasper, Jasper, Missouri; provided, however, that level term credit life insurance will only be sold in connection with single payment loans. These activities would be performed from offices of Applicant's subsidiary in Jasper, Missouri, and the geographic areas to be served are portions of Jasper and Barton Counties, Missouri. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individul proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 11, 1980.

Board of Governors of the Federal Reserve System, June 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-18167 Filed 6-16-80; 8:45 am]

BILLING CODE 6210-01-M

Midland Financial Corp.; Acquisition of Bank

Midland Financial Corporation, Casper, Wyoming, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Mountain Plaza National Bank, Casper, Wyoming. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than July 9, 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 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-18165 Filed 6-16-80; 8:45 a.m.]

BILLING CODE 6210-01-M

South Ridge Bancshares, Inc., Formation of Bank Holding Company

South Ridge Bancshares, Inc., Lincoln, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of South Ridge Bank, Lincoln, Nebraska. The factors that are considered in acting on the application are set forth in section 3(a) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 11, 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 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-18168 Filed 6-16-80; 8:45 am]

BILLING CODE 6201-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76-0002]

Diethystilbestrol (DES); Food Use of Cattle Illegally Implanted With DES

Correction

In the correction to FR Doc. 80-12237 appearing on page 29413, in the issue of Friday, May 2, 1980, in Table 1, under the column "Study", the first line reads "Ref. 2³" should be corrected to read "Ref. 2²".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C.

App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name. 1. Microbiology Section of the Immunology and Microbiology Devices Panel.

Date, time, and place. July 7 and 8, 9 a.m., Rm. 425, 8757 Georgia Ave., Silver Spring, MD.

Type of meeting and contact person. Open public hearing, July 7, 9 a.m. to 10 a.m.; open committee discussion, July 7, 10 a.m. to 5 p.m., July 8, 9 a.m. to 12 m.; Thomas M. Tsakeris (HFK–440), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes appropriate recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the microbiology diagnostic devices. Those desiring to make formal presentations should notify Thomas Tsakeris by June 25, 1980, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will review a premarket approval application for an antimicrobial susceptibility device. In order to complete this discussion, a second day (July 8) may be necessary.

Applications for reimbursement. Must be received by June 27, 1980.

Committee name. 2. Antimicrobial Panel.

Date, time, and place. July 18 and 19, 9 a.m., Conference Rm. M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD (July 18), Holiday Inn, Bethesda, MD (July 19).

Type of meeting and contact person. Open public hearing, July 18, 9 a.m. to 10 a.m.; open committee discussion, July 18, 10 a.m. to 4:30 p.m., July 19, 9 a.m. to 4:30 p.m.; Lee Geismar (HFD–512), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6057.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before July 14, 1980, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required for their presentation.

Open committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will review, vote upon, and modify the content of summary minutes and categorization of ingredients and claims.

Application for reimbursement. Must be by July, 2, 1980.

Committee name. 3. Device Good Manufacturing Practice Advisory Committee.

Date, time, and place. July 22, 9 a.m., Plaza Ball Room, Holiday Inn, 8777 Georigia, Ave., Silver Spring, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 11 a.m.; open committee discussion, 11 a.m. to 4:30 p.m.; Lincoln Gluscevitch (HFK–132), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7194.

General function of the Committee. The Committee reviews proposed regulations for good manufacturing practices governing the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of devices, and make recommendations on the feasibility and reasonableness of the proposed regulations.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the critical device list and/or those additional devices recommended for the critical device list during the meeting of this committee on November 8 and 9, 1979. Those desiring to make formal presentations should notify Lincoln Gluscevitch by July 7, 1980, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any daa to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will hear presentations by Bureau of Medical Devices staff on the critical device definition and the evaluation of the good manufacturing practice compliance program, and will discuss development of sterilization guidelines and critical status of several medical devices.

Applications for reimbursement. Must be rceived by July 7, 1980.

Committee name. 4. Drug Abuse Advisory Committee.

Date, time, and place. July 24 and 25, 9 a.m., Conference Rm. G, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, July 24, 9 a.m. to 10 a.m.; open committee discussion, July 24, 10 a.m. to 4:30 p.m., July 25, 9 a.m. to 4:30 p.m.; Robert C. Nelson (HFD–120), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3504.

General function of the Committee. The Committee advises on the scientific and medical evaluation of information gathered by the Department of Health and Human Service and the Department of Justice on the safety, efficacy, and abuse potential of drugs and recommends actions to be taken on the marketing, investigation, and control of such drugs.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss the final report of the Subcommittee on Development of Clinical Guidelines for the Evaluation of Endogenous Peptides and their Analogues, class reviews, the Psychotropic Convention and its ramifications, and reevaluation of the control status of paragoric.

The Committee's discussion and conclusions regarding paragoric U.S.P. will be considered by the agency in its preparation of a tentative final monograph on OTC antidiarrheal drugs. Such a monograph is being developed as part of the OTC Drug Review proceeding on OTC laxative, antidiarrheal, emetic, and antiemetic products. The proposed monograph for those products was published in the **Federal Register** of March 21, 1975 (40 FR 12902).

Applications for reimbursement. Must be received by July 7, 1980.

Committee name. 5. Cardiovascular and Renal Drugs Advisory Committee.

Date, time, and place. July 31 and August 1, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, July 31, 9 a.m. to 10 a.m.; open committee discussion, July 31, 10 a.m. to 5 p.m., August 1, 9 a.m. to 5 p.m.; Joan C. Standaert (HFD–110), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4730.

Agenda—Open public hearing. Any interested person may present data,

information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss Captopril (Capoten) (NDA 18–343), Bethanidine (Tenathan) (NDA 17–675), Guanadrel (Hylorel) (NDA 18–104), and draft guidelines for anti-hypertensive agents.

Applications for reimbursement. Must be received by July 9, 1980.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain form the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested form the Freedom of Information Staff (HFI–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Applications for reimbursement for participation in the meeting(s) listed above should be sent to Ronald Wylie (HFE–90), Office of Consumer Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, rather than to the Hearing Clerk as prescribed in § 10.210 of the regulations (21 CFR 10.210). If you wish to submit an application or wish more information regarding the reimbursement program, please call Ronald Wylie at 301–443–2932.

FDA has established expedited procedures for review of any application for reimbursement for participation in the meeting(s) announced in this notice. The Office of Consumer Affairs, FDA, will file any application for reimbursement for participation in the meetings announced in this notice in the docket for this notice.

Dated: June 9, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–17969 Filed 6–16–80; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF HEALTH, AND HUMAN SERVICES

[Docket No. 80N–0074; DESI 9149 and 11127]

Chlorpromazine Hydrochloride; Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces the conditions for marketing chlorpromazine hydrochloride for the indications for which it is now regarded as effective and offers an opportunity for a hearing concerning indications reclassified to lacking substantial evidence of effectiveness. The drug is used as a tranquilizer and an antiemetic.

DATES: Hearing requests due on or before July 17, 1980; supplements to approved new drug applications due on or before August 18, 1980.

ADDRESSES: Communications in response to this notice should be identified with reference numbers DESI 9149 and DESI 11127, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Neuropharmacological Drug Products (HFD–120), Rm. 10B–34, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Requests for hearing (identify with the Docket number appearing in the heading of this notice): Hearing Clerk (HFA–305), Rm. 4–62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: John H. Hazard, Jr., Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration announced its conclusions concerning the effectiveness of chlorpromazine drug products in the following notices: (1) For oral and parenteral forms: DESI 9149, Docket No. FDC–D–334 (now Docket No. 80N–0074), published the **Federal Register** of April 3, 1971 (36 FR 6447), as amended on November 2, 1971 (36 FR 20997) and July 27, 1973 (38 FR 20114); and (2) for rectal suppositories: DESI 11127, Docket No. FDC–D–499 (also now Docket No. 80N–0074), published in the **Federal Register** of July 27, 1972 (37 FR 15038). A notice (Docket No. 77N–0437) published in the **Federal Register** of May 16, 1978 (43 FR 21051) and amended August 18, 1978 (43 FR 36696) proposed that physician labeling for antipsychotic drugs, including chlorpromazine, contain a precaution statement concerning the chronic administration of these drugs.

In summary, the agency's conclusions were that the oral, parentral, and rectal suppository forms of the drug, described below, are (1) effective in the management of the manifestations of psychotic disorders; to control nausea and vomiting; for the relief of restlessness and apprehension before surgery; for acute intermittent porphyria; as an adjunct in the treatment of tetanus; to control the manifestations of the manic type of manic depressive illness; and for the relief of intractable hiccups; (2) probably effective for reducing agitation and tension associated with mild alcoholic withdrawal symtoms in patients under close supervision; and for the control of

moderate to severe agitation, hyperactivity, or aggressiveness in disturbed children; (3) lacking subtsantial evidence of effectiveness for use in somatic conditions with emotional stress, e.g., arthritis, neurodermatitis, and severe asthma; acute and chronic alcoholism and agitation; delirium tremens; severe personality disorders; and for control of degenerative states; and (4) possibly effective for their other labeled indications. (The rectal form was inadvertently omitted from July 27, 1973 notice that reclassified two indications.)

The notice that follows does not pertain to the indications described in the April 3, 1971, and July 27, 1972, notices as lacking substantial evidence of effectiveness. No person requested a hearing concerning them, and they are no longer allowable in the labeling. Any such product labeled for those indications is subject to regulatory action.

1. NDA 9–149; Thorazine Tablets, containing 10, 25, 50, 100, and 200 miligrams; Syrup, containing 10 milligrams per 5 milliliters; Concentrated Solution, containing 30 milligrams per milliliter; Injectable Solution, containing 25 milligrams per milliliter; and Suppositories containing 25 and 100 milligrams; and

2. NDA 11–120; Thorazine Spansules, containing 10, 30, 75, 150, and 200 milligrams; SmithKline Corp., 1500 Spring Garden St., Philadelphia, PA 19101.

The firm submitted clinical studies intended to demonstrate the effectiveness of the drug for the following indications.

Agitation and tension associated with mild alcoholic withdrawal in patients under close supervision. For this indication two placebo-controlled, double-blind studies (Knott; Goldberg) following similar protocols were submitted. Both studies called for a total of 40 patients of either sex, 20 in each group, and hospitalized suffering from either "Stage I" acute withdrawal from alcohol (psychomotor agitation, autonomic hyperactivity, anorexia, insomnia) or having two or more of the key symptoms of anxiety, tension, agitation, apprehension, or tremulousness.

The Knott study required that the patients have a history of daily alcohol ingestion for at least 7 days before admission. Patients on other drugs in addition to alcohol were excluded, and urine screens were done for this purpose. Also excluded were patients with seizures, serious liver, cardiac, or renal disease, pregnant females, psychotic patients or those receiving concomitent psychotherapeutic medication, and patients with severe alcohol withdrawal symptoms. Informed consent was obtained.

As part of each patient's general evaluation, a physical examination, blood count, urinalysis, EKG, liver battery, and vital signs were obtained. Only the blood pressure data were analyzed. Psychological and behavioral changes were measured by six procedures: (1) Alcohol Withdrawal Symptom Scale (Gross), (2) Profile of Mood States Rating Scale (POMS), a self-rating instrument, (3) Memory for Design (MFD), (4) Design Observation Test-Standard (DOT–S), (5) Multiple Adjective Affect Checklist (MAACL), and (6) Four-Point Clinical Global Judgment. The Gobal evaluation was made at the end of the study period. As for the others, they were made at baseline and daily thereafter, including a posttreatment day when possible. However, only the Gross and POMS scales were actually actually analyzed.

The Goldberg study utilized essentially the same criteria, but measured changes using only the Gross and POMS scales.

Since mild alcoholic withdrawal symptoms are self-limiting and the patients were admitted to alcoholic treatment in a hospital setting under close supervision, the most important difference between Thorazine and placebo was expected to be the speed of relief each patient might experience.

The Knott study appears to have been reasonably adequate and well controlled. On the Gross scale, total morbidity score averages showed a statistically significant difference ($p > .05$) in favor of Thorazine on treatment day two. The patient groups were comparable at pretreatment, and their scores were essentially the same on day four. This supports the contention that rapid resolution of their chief symptoms would occur in all patients regardless of medication. Where the morbidity score on the Gross scale was analyzed for the eight most sensitive symptoms, again the patients receiving Thorazine showed, by day two, a similar statistically significant advantage.

A rather elaborate analysis of the POMS scale was conducted, with a few significant differences found. These and some trends did favor Thorazine. Global efficiency tests also showed slight trends in favor of Thorazine. Blood pressure readings showed mild dropping in Thorazine patients compared to those on placebo. All of these reactions were mild, and no special treatment was required. Psychological performance tests showed a difference favoring placebo that was statistically significant on psychomotor agitation. On balance, this study furnished some evidence that patients receiving Thorazine have faster relief from symptoms of alcohol withdrawal than those who received placebo.

Because the investigator was able to enroll only 33 instead of the 40 patients required by the protocol, the Goldberg study was not as successful. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*). The total morbidity score (Gross) and the morbidity score averages for eight selected symptoms showed no suggestion of a desirable drug action and no statistical difference between the two groups. The scores derived from the POMS scale revealed no suggestions of differences between Thorazine and placebo on any of the symptom complexes or total morbidity score. Though not statistically significant, only in global efficiency tests was there an indication that the Thorazine group did better; 94 percent of the patients showed fair to excellent response, compared to 81 percent in the placebo group. There were no side effects reported for the Thorazine patients, whereas six of the placebo group reported several different mild symptoms. The sponsor's own analysis concluded that this study failed to demonstrate the superiority of Thorazine over placebo providing a faster onset of relief of the symptoms of alcohol withdrawal.

A statistical review of both studies notes that the sponsor has not presented any statistical analysis of basic data to determine if the drug groups in each study are comparable. In addition the submission lacks the details of the statistical analyses used to determine their conclusions on the raw and adjusted means of the total morbidity scores reached by each study. 21 CFR 314.111(a)(5)(ii)(*a*)(*5*). As a result the validity of the firm's statistical analyses cannot be evaluated. Due to the lack of such information, these studies do not provide substantial evidence of effectiveness, and the drug is reclassified to lacking substantial evidence of effectiveness for the indication "agitation and tension associated with mild alcoholic wihdrawal in patients under close supervision." In order to provide substantial evidence of effectiveness for this indication at least two adequate and well-controlled studies are needed. They should present sufficient statistical detail to permit a full evaluation of the validity of the analyses and the acceptability of the results.

Moderate to Severe Agitation, Hyperactivity, or Aggressiveness in

Disturbed Children. The studies submitted for this indication were reviewed by the Pediatric Advisory Subcommittee of the FDA Psychopharmacological Agents Advisory Committee and determined not to provide substantial evidence of effectiveness. In reviewing all available literature, however, the subcommittee found that if certain language modifications were made to the indication, sufficient well-controlled studies exist that provide substantial evidence of effectiveness. Therefore, the indication has been reworded to read as follows: "For the treatment of severe behavior problems in children marked by combativeness and/or explosive hyperexitable behavior (out of proportion to immediate provocations), and in the short-term treatment of hyperactive children who show excessive motor activity with accompanying conduct disorders consisting of some or all of the following symptoms: impulsivity, difficulty sustaining attention, aggressivity, mood lability, and poor frustration tolerance."

For control of agitation, anxiety, tension, confusion, and related symptoms seen in neuroses. For this indication two submissions were reviewed. The earlier submission contained a reanalysis of three older studies (Haskell, Yamamoto, Woodward).

The first two were analyzed by the firm using a psychometric scale, Brief Psychiatric Rating Scale (BPRS) as the sole outcome measure, an instrument quite insensitive to outpatient pathology (by the firm's own admission). The third study was analyzed by the firm through some extensive statistical manipulation. The results show only that it is possible that chlorpromazine and chlordiazepoxide could have similar improvement profiles with psychiatric outpatients.

The second submission contained the final reports on two clinical trials. The first, by Bercel, was a double-blind, 4-week trial of chlorpromazine, 75 to 150 milligrams per day, compared with placebo, in 81 patients with nonpsychotic anxiety. The results were analyzed using global efficacy, Hamilton scores, and the "New Physicians Rating List" (NPRL) scores, as well as changes in tension/anxiety factors of the POMS. Although the results would support the effectiveness of chlorpromazine in the treatment of anxiety, there are certain inconsistencies in the methods of reporting the results that without clarification, make it unacceptable as an adequate and well-controlled study. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*).

In addition, there was a noteworthy absence of adverse effects using chlorpromazine, a fact that was inconsistent with the number and type of side effects observed in the second trial submitted described in the following study. The dosages in Bercel's study was relatively low, however, with 30 patients receiving 75 milligrams or less per day.

The second study by Rickels was intended to be a 6-week comparison of up to 150 milligrams of chlorpromazine per day and placebo in 30 anxious outpatients; however, the number of patients actually studied and analyzed varied depending upon the portion of the submission that one reads. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*).

While the results support the effectiveness of chlorpromazine in obsessive compulsive traits and schizoid tendency, anxiety itself was not influenced in a statistically significant way, and these findings do not replicate the results of the Bercel study. In addition, instead of using a two-tailed test of significance, only a one-tailed test was used. 21 CFR 314.111(a)(5)(ii)(*a*)(*5*).

While the results were less than clear that chlorpromazine will be useful in anxious patients, clinical experience also shows that many patients find chloropromazine produces dysphoric or unpleasant effects and feel worse on the drug than they did before. Finally, although average treatment dose is not reported, many more adverse reactions were reported in this second study compared with placebo than in the first study. This is as one would expect from a neuroleptic drug, and though relatively acceptable for certain patients, the safety of chlorpromazine appears to be less than that usually associated with the use of minor tranquilizers. Thus it would be important to define in a way which the sponsor has not done the sort of patient in whom these risks would be acceptable. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*).

The Bercel study is not considered adequate and well-controlled; but even if it were, no other study corroborated its findings, for the Rickels study failed to show Thorazine as having significant superiority over placebo. Therefore, the drug is reclassified to lacking substantial evidence of effectiveness for the indication "control of agitation, anxiety, tension, confusion, and related symptons seen in neuroses."

In cancer and severe pain, to reduce apprehension and suffering and reduce narcotic requirements. A double-blind, placebo-controlled, randomized study was started by the firm to evaluate the effect of Thorazine on pain in 50 hospitalized cancer patients with severe pain. After nearly 5 years of attempting to complete the study, the firm concedes that quantitative data might be another 2 or 3 years in coming. Instead it favors rewording the claim to "concomitant use with narcotics requires dosage adjustment of narcotics," but this is inappropriate as this is a precaution, not an indication. As no data were submitted for the indication that was under study, it is reclassified to lacking substantial evidence of effectiveness.

Accordingly, the April 3, 1971, and July 27, 1972, notices are amended to read as follows as they pertain to chlorpromazine hydrochloride drug products. Other products included in those notices are not affected by this notice.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the products specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to a product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is a responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufacturers or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (HFD–310), (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications listed in the labling conditions below. The drug lacks substantial evidence of effectiveness for its other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in tablet, sustained-release capsule, syrup, or concentrate from suitable for oral administration, in sterile aqueous solution form for parenteral administration, or in suppository form for rectal administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

For the management of manifestations of psychotic disorders.

To control nausea and vomiting.

For relief of restlessness and apprehension before surgery.

For acute intermittent porphyria.

As an adjunct in the treatment of tetanus.

To control the manifestations of the manic type of manic depressive illness.

For relief of intractable hiccups.

For the treatment of severe behavioral problems in children marked by combativeness and/or explosive hyperexcitable behavior (out of proportion to immediate provocations), and in the short-term treatment of hyperactive children who show excessive motor activity with accompanying conduct disorders consisting of some or all of the following symptoms: impulsivity, difficulty sustaining attention, aggressivity, mood lability, and poor frustration tolerance.

3. *Marketing Status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before August 18, 1980, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) containing full information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) must be obtained before marketing such products. The bioavailability regulations (21 CFR 320.21) require any person submitting a full or abbreviated new drug application after July 7, 1977, to include either evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. However, 21 CFR 320.22 describes certain drugs for which a waiver will not be granted; these include chlorpromazine tablets and chlorpromazine in controlled released dosage form. Marketing before approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosemetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice.

Notice is given to the holder of the new drug applications, and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications and all amendments and supplements thereto providing for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him at the time the applications were approved, shows there is a lack of substantial evidence that the drug products will have all the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application supplemented, in accord with this notice, to delete the claims lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, contained in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962 or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

An applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before July 17, 1980, a written notice of appearance and request for hearing, and (2) on or before August 18, 1980, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice under 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product labeled for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing

that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the requred analyses, the Commissioner of Food and Drug will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate. Such submissions except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)), and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: May 28, 1980.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 80-17990 Filed 6-16-80; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

National Professional Standards Review Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 USC App. I), announcement is made of the following Council meeting:

Name: National Professional Standards Review Council

Date and Time: July 14, 1980 (10:00 a.m. to 5:00 p.m.); July 15, 1980 (9:00 a.m. to 1:00 p.m.)

Place: Auditorium (first floor), HHS North Building 330 Independence avenue, S.W., Washington, D.C.

Purpose of Meeting: The Council was established to advise the Secretary of Health and Human Services on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program. On June 30, 1980, a tentative agenda will be available to the public.

Meeting of the Council is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Chairperson will allow public presentation or oral statements at the meeting.

All communications regarding this Council should be addressed to Cleo E. Hancock, Jr., Staff Director, National Professional Standards Review Council, Health Standards and Quality Bureau, Room 4524, Health and Human Services Building, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 245–6097.

Dated: June 11, 1980.

Cleo E. Hancock, Jr.,

Staff Director, National Professional Standards Review Council.

[FR Doc. 80-18111 Filed 6-16-80; 8:45 am]

BILLING CODE 4110-35-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on the Flathead Irrigation Project, Montana

This notice of operation and maintenance rates and related information is published under the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in 209 DM8 and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10 BIAM 3, and by authority delegated to the Project Engineer and to the Superintendents by the Area Director in 10 BIAM 7.0, Sections 2.70–2.75. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and also under 25 CFR 191.1(e).

Pursuant to final rule published on June 14, 1977, in 42 FR 30361, this notice sets forth changes to the operation and maintenance charges and related information applicable to the Flathead Irrigation Project, St. Ignatius, Montana. These charges were proposed pursuant to the authority contained in the Acts of August 1, 1914, and March 7, 1928, (38 Stat. 583, 25 U.S.C. 385; 45 Stat. 210, 25 U.S.C. 387).

Interested persons were given 30 days in which to submit written comments, views or arguments regarding the proposed rates and related provision. No comments were received during the 30-day comment period.

In compliance with the above, the operation and maintenance charges for the lands under the Flathead Irrigation Project, Montana, for the season of 1980 and 1981 and subsequent years until further notice, are hereby fixed as follows:

For the season of 1980 for lands not included in an Irrigation District but including lands held in trust for Indians, the rate per acre for the various divisions are as follows:

	Acre
Jocko	$7.40
Mission Valley	7.84
Camas	7.53

For the season of 1981 for lands included in an Irrigation District, the Project charge per acre is as follows:

	Acre
Jocko Valley Irrigation District	$6.41
Mission Irrigation District	8.02
Flathead Irrigation District	7.71

George L. Moon,

Project Engineer, Flathead Irrigation Project.

[FR Doc. 80-18133 Filed 6-16-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Public Land, Wilderness Inventory Completion Date

AGENCY: Bureau of Land Management, Interior.

ACTION: Change in inventory completion date.

SUMMARY: This notice extends the deadline from September 30, 1980, to November 15, 1980, for announcing the statewide Bureau of Land Management final wilderness inventory decisions in the contiguous Western States. The extension is necessary to assure adequate funds from FY 1981 appropriations for printing and distributing inventory decision documents to the public. Fiscal Year 1981 begins October 1.

Congress provided in the Federal Land Policy and Management Act that wilderness study areas are to be managed so as not to impair their wilderness suitability until Congress decides whether to designate the areas as wilderness. The intensive inventory decisions, supporting documents and maps showing the precise location of wilderness study areas are essential to public land users since interim management guidelines affect how these lands will be managed until Congress acts.

The various statewide final wilderness inventory decisions—the identification of wilderness study

areas—will be announced by individual BLM State Directors. Each State Office of BLM has announced proposed decisions on the identification of wilderness study areas. Comments on the proposed final intensive inventory decisions should continue to be addressed to the individual State Offices in those States where the 90-day comment period is still open.

Dated: June 11, 1980.

Ed Hostey,

Associate Director.

[FR Doc. 80-18129 Filed 6-16-80; 8:45 am]

BILLING CODE 4310-84-M

Status of Wilderness Review of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of status of wilderness review of public lands.

SUMMARY This notice summarizes the present status of the wilderness review of roadless public lands and islands required by the Federal Land Policy and Management Act (FLPMA), section 603(a). The purposes of this notice and calendar of events are to provide (1) one source of information summarizing current wilderness review activities, and (2) advance notice of upcoming decisions, and public review periods.

DATE: All information in this notice is current through June 3, 1980.

FOR FURTHER INFORMATION CONTACT: Gary G. Marsh, Bureau of Land Management, Division of Wilderness and Environmental Areas, 18th and C Streets, N.W., Washington, D.C. 20240. Telephone: (202) 343-6064.

SUPPLEMENTARY INFORMATION: This calendar of events is the fifth of serious whose last notice appeared in the Federal Register May 13, 1980 (p. 31501). The calendar of events focuses only on the current status of all ongoing wilderness review activities. Those inventories whose final decisions are in effect, as well as studies or reports not yet initiated, are not reported in this notice. For detailed information regarding each specific activity, reference is made either to the appropriate notice previously appearing in the Federal Register, or to notices which are anticipated to be published in the upcoming 30 days. It must be noted that "anticipated" dates are projected only, and thus are subject to change.

The Bureau of Land Management wilderness review includes (1) an inventory of public lands to identify roadless lands and islands having wilderness characteristics; (2) a study of those areas found to have wilderness characteristics (wilderness study areas or "WSA's"); and (3) a report from the Secretary of the Interior to the President as to whether each WSA is more suitable for wilderness or other resource uses. The President will send his recommendations to Congress. Only Congress can actually designate an area as wilderness.

The inventory process has two stages: (1) an initial inventory designed to quickly identify and release from wilderness review those lands which clearly and obvioulsy lack wilderness characteristics; and (2) an intensive inventory for those lands which may possess wilderness characteristics. The initial inventory process was completed in the contiguous Western States by October 1, 1979. In instances where important resource use decisions are pending, the inventory process may be accelerated in order to reach final decisions as quickly as possible. Such inventories are referred to as "special project inventories" or "accelerated intensive inventories."

The FLPMA also requires early study of 55 natural and primitive areas which were formally identified by the Secretary of the Interior prior to November 1, 1975. By July 1, 1980, the Secretary will report to the President on these areas. They are referred to as "instant study areas" (ISA's).

The statistical summary table reflects both proposed and final intensive inventory decisions in the contiguous Western States and Minnesota. Other Eastern States will be listed in future statistical summaries as decisions are announced. All acreages are presented by State political boundaries and not BLM administrative boundaries. Some final decisions listed under the "inventory completed" column may be under protest or appeal. In those instances, decisions are not yet in effect. Decision can be appealed under the procedures outlined in 43 CFR Part 4. This regulation identifies the Interior Board of Land Appeals as the Office to hear such appeals.

Dated: June 12, 1980.

Ed Hastey,

Associate Director.

Calendar of Events

Alaska

Accelerated Nonwilderness Assessment

—Alaskan section of Alaska Natural Gas Transportation System proposed decision on nonwilderness assessment within existing utility and transportation corridors announced in Federal Register April 4, 1980 (p. 23071); public comment period ended May 5, 1980; final decision announced in Federal Register June 2, 1980 (p. 37304). Of the 2,482,000 acres of public lands subjected to assessment, 1,474,000 acres were removed from further wilderness review and interim management policy requirements, while 1,008,000 acres are subject to further inventory at a later date.

Arizona

Statewide Intensive Inventory

—Proposed decision announced in Federal Register May 30, 1980 (p. 36525), 90-day public comment period ends August 28, 1980.

Accelerated Intensive Inventory

—Hualapai-Aquarius proposed decision announced in Federal Register September 7, 1979 (p. 52340); comment period ended December 12, 1979; final decision anticipated June 1980. Affects units 2-37, 2-43, 2-46, 2-48, 2-50, 2-51 to 2-54, 2-56 to 2-63, 2-65, 2-67.

—Overthrust Belt final decision announced in Federal Register February 22, 1980 (p. 11919); protest period ended March 26, 1980, with protests; State Director's announcement of decision on protests anticipated June 1980. Affects units: 1-105 to 1-109, 1-112 to 1-115, 1-119 to 1-124, 1-127 to 1-130, 1-134, 1-135.

—Safford District units contiguous to Coronado National Forest proposed decision announced in Federal Register April 30, 1980 (p. 28822); public comment period ended June 9, 1980. Affects units 4-66, 4-70, 4-72, 4-73, 4-79, 4-80, 4-81.

Study/Reporting

—Aravaipa Canyon Instant Study Area final environmental impact statement and suitability report complete; under Secretarial review.

—Paiute, Paria, and Vermillion Cliffs ISA's draft suitability report and draft environmental impact statement availability announced in Federal Register April 22, 1980 (p. 27022); public comment period extended until 30 days after the U.S. Geological Survey and Bureau of Mines report is made available to the public as announced in Federal Register May 8, 1980 (p. 30547). Anticipated date of release is July 1, 1980.

California

Statewide Intensive Inventory

—Final decision announced in Federal Register January 7, 1980, (p. 1457); protest period ended February 5, 1980; 93 units under protest as announced in Federal Register April 3, 1980 (p. 22198); State Director's announcement of

decision on protests anticipated in June or July.

—Proposed decision for Oregon-California interstate units announced in **Federal Register** April 3, 1980 (p. 22198); began 90-day public comment period which ends June 25, 1980.

—proposed decision for Nevada-California interstate units announced in **Federal Register** April 3, 1980 (p. 22198); began 90-day public comment period which ends June 30, 1980.

Units Under Formal Appeal to IBLA

—Notice of appeal announced in **Federal Register** January 7, 1980, (p. 1456). Affects CDCA intensive inventory units: 117, 131, 136, 137–A, 143, 150, 156, 158, 172, 207, 217, 221, 222, 227, 242, 251, 251A, 263, 264, 265, 266, 271, 299, 305, 321, 325, 334, 343, 348, 376.

—Notice of appeal announced in **Federal Register** January 7, 1980, (p. 1457). Affects non-CDCA initial inventory units: CA–010–031, 033, 047, 069, 087, 101; CA–020–701, 901, 1001; CA–030–300, 400, and 500.

Study/Reporting

—CDCA draft Plan Alternatives and Environmental Impact Statement released February 15, 1980; 90-day public comment period ended May 15, 1980. Proposed plan expected to be released September 30, 1980.

Colorado

Statewide Intensive Inventory

—proposed decision announced in **Federal Register** February 1, 1980 (p. 7312); 90-day public comment period ended April 30, 1980.

Units under Formal Appeal to IBLA

—Notice of appeal filed with IBLA January 21, 1980. Affects initial inventory unit 070–031.

Study/Reporting

—Powderhorn ISA draft environmental impact statement and draft suitability report availability announced in **Federal Register** May 7, 1980 (p. 30141); began public comment period which ends July 1, 1980.

Eastern States

Statewide Intensive Inventory (Minnesota Only)

—proposed decision announced in **Federal Register** May 20, 1980 (p. 33730); began 90-day public comment period which ends August 18, 1980.

Idaho

Statewide Initial Inventory

—amended decision announced in **Federal Register** February 8, 1980 (p. 8732) after State Director requested IBLA to remand an earlier appealed decision for reconsideration; protests received; State Director's decision on protest regarding unit 23–1 announced in **Federal Register** April 22, 1980 (p. 27023) initiating 30-day appeal period; announcement of State Director's decision on protests regarding following three units anticipated mid-June 1980: 35–3, 35–4, 35–5.

Statewide Intensive Inventory

—proposed decision announced in **Federal Register** April 3, 1980 (p. 22195); 90-day public comment period ends July 3, 1980.

Accelerated Intensive Inventory

—Owyhee Planning Area final decision announced in **Federal Register** January 16, 1980 (p. 3114); protest period ended February 15, 1980; protests received as announced in **Federal Register** April 17, 1980 (p. 26140); State Director's announcement of decision on protests anticipated late June 1980. Affects units 16–26, 16–28, 16–36, 16–40 to 16–42, 16–44, 16–45, 16–47, 16–49 a, b, d, e, and 16–52.

Study/Reporting

—Great Rift (Grassland Kipuka) ISA draft environmental impact statement availability announced in **Federal Register** March 5, 1980 (p. 14251); public comment period ended May 27, 1980; under administrative review.

Units Under Formal Appeal to IBLA

—Notice of Appeal filed with IBLA April 11, 1980, affecting stateline initial inventory units 16–48a, b, and c, 16–53, 16–56a, 16–59, 16–70e, 17–19, 17–21, 17–26, 22–1.

—Two Notices of Appeal filed with IBLA April 11, 1980, affecting Challis Planning Area intensive inventory units 46–11, 46–13, 46–14, 46–14a.

Montana

Statewide Intensive Inventory

—proposed decision announced in **Federal Register** March 28, 1980 (p. 20570); public comment period ends August 30, 1980.

Accelerated Intensive Inventory

—Bitter Creek (unit 064–356) as affected by proposed Alaska Natural Gas Transportation System final decision announced in **Federal Register** April 9, 1980 (p. 24254); protest period ended May 9, 1980; protests received.

—Overthrust Belt final decision announced in **Federal Register** February 22, 1980 (p. 11920); protest period announced in **Federal Register** March 28, 1980 (p. 20570); protest period ended April 30, 1980, with protests as announced in **Federal Register** May 22, 1980 (p. 34429). No protests received on 14 units, final decision in effect for the following units: 075–124 to 126, 075–134, 076–004, 076–009, 076–010, 076–024, 076–031, 076–042, 076–047, 076–051, 076–054, 076–071. State Director's announcement of decision on protests anticipated late June 1980. Affects units 074–151a and b, 074–155, 075–102, 075–105 to 107, 075–110, 075–114, 075–115, 075–123, 075–133, 075–138, 076–001 to 003, 076–006 to 008, 076–011, 076–015, 076–022, 076–025, 076–026, 076–028, 076–029, 076–033, 076–034, 076–059, 076–063, 076–069, 076–070, 076–079.

Study/Reporting

—Humbug Spires and Bear Trap Canyon ISA's draft environmental impact statements and draft suitability reports availability announced in **Federal Register** April 18, 1980 (p. 26477) and April 30, 1980 (p. 28823); public comment period ends June 17, 1980.

Nevada

Statewide Intensive Inventory

—proposed decision announced in **Federal Register** April 1, 1980 (p. 21356); 90-day public comment period ends June 30, 1980.

Accelerated Intensive Inventory

—Overthrust Belt final decision announced in **Federal Register** February 8, 1980 (p. 8731); protest period ended March 17, 1980, with protests as announced in **Federal Register** April 9, 1980; State Director's announcement of decision on protests anticipated mid-June 1980. Affects units 0161, 0231 to 0233, 0235, 0236, 0238, 0411, 0412, 0423, 04R–15, 0438.

New Mexico

Statewide Intensive Inventory

—proposed decision announced in **Federal Register** March 28, 1980 (p. 20572); corrections announced in **Federal Register** May 2, 1980 (p. 29417).

Oregon

Statewide Intensive Inventory (includes Washington)

—proposed decision announced in **Federal Register** March 27, 1980 (p. 20167); 90-day public comment period ends June 25, 1980.

Accelerated Intensive Inventory

—Thirty selected units final decision announced in **Federal Register** March 27, 1980 (p. 20166); protest period ended April 28, 1980 with protests as announced in **Federal Register** May 21, 1980 (p. 31075); State Director's

announcement of decision on protests anticipated July 1980. Affects units: 1–76, 1–77, 1–105, 2–1, 2–11, 2–23E, 2–26, 2–74E, 2–74N, 2–81L, 2–82H, 3–154, 5–14.

Units Under Formal Appeal to IBLA

—Notice of appeal announced in **Federal Register** November 29, 1979 (p. 68526); affects initial inventory unit 11–6.

Utah

Statewide Intensive Inventory

—Proposed decision announced in **Federal Register** March 28, 1980 (p. 20576); unit-by-unit supplement announced in **Federal Register** April 24, 1980 (p. 27831); 90-day public comment period ends June 30, 1980.

Accelerated Intensive Inventory

—Dirty Devil (unit 050–236) final decision announced in **Federal Register** February 15, 1980 (p. 10462); protest period ended March 17, 1980, with protests as announced in **Federal Register** March 28, 1980 (p. 20576); State Director's announcement of decision on protests anticipated June 1980.

—Devil's Garden, Joshua Tree, Book Cliffs, and Link Flats ISA's final intensive inventory decision announced in **Federal Register** May 5, 1980 (p. 29643); protest period ended June 4, 1980 with protests.

Units Under Formal Appeal to IBLA

—Notice of appeal filed with IBLA January 24, 1980. Affects accelerated intensive inventory units 060–007, 060–011, 060–012, 050–233.

Wyoming

Statewide Intensive Inventory

—Proposed decision announced in **Federal Register** April 4, 1980 (p. 23073); 90-day public comment period ends August 19, 1980.

Units Under Formal Appeal to IBLA

—Three Notices of Appeal filed with IBLA April 14, 1980. Affects accelerated intensive inventory units 040–110, 040–221, 040–222, and 040–223.

BILLING CODE 4310–84–M

STATISTICAL SUMMARY TABLE
BLM Wilderness Inventory Results (Shown in Acres) as of May 30, 1980

1. Contiguous Western States

State	Public lands subject to wilderness inventory	Proposed Intensive Inventory Decisions			Inventory Completed Final Decisions Announced	
		Not yet announced	Announced Subject to Public Review			
			Lacking wilderness characteristics	With wilderness characteristics	Lacking wilderness characteristics	Wilderness study areas
AZ	12,596,000	0	2,705,000	2,164,000	7,210,000	517,000
CA	16,585,000	0	120,000	9,000	10,118,000	6,338,000
CO	7,996,000	0	491,000	765,000	6,690,000	50,000
ID	11,949,000	252,000	1,090,000	804,000	8,983,000	820,000
MT	8,140,000	0	1,357,000	475,000	6,000,000	308,000
NV	49,118,000	17,000	11,319,000	3,079,000	33,077,000	1,626,000
NM	12,847,000	0	1,327,000	886,000	10,486,000	148,000
ND	68,000	0	0	0	68,000	0
OK	7,000	0	0	0	7,000	0
OR	13,965,000*	0	4,192,000	1,750,000	7,584,000	439,000
SD	277,000	0	5,000	0	272,000	0
UT	22,076,000	0	3,190,000	1,752,000	16,707,000	427,000
WA	310,000	0	14,000	15	296,000	0
WY	17,793,000	0	562,000	497,000	16,678,000	56,000
Totals	173,727,000	269,000	26,372,000	12,181,000	124,176,000	10,729,000

2. Eastern States

State	Public lands subject to wilderness inventory	Proposed Intensive Inventory Decisions			Inventory Completed Final Decisions Announced	
		Not yet announced	Announced Subject to Public Review			
			Lacking wilderness characteristics	With wilderness characteristics	Lacking wilderness characteristics	Wilderness study areas
MN	45,000**	0	44,299	0	701	0

*Does not include 1,759,200 acres of Oregon and California Grant lands which are exempt from wilderness review.
**Includes an estimated 2,000 acres of unsurveyed islands.

[FR Doc. 80-18130 Filed 6-16-80; 8:45 am]

BILLING CODE 4310-84-C

Surface Management of Public Lands Under U.S. Mining Laws; Proposed Procedure To Minimize Adverse Environmental Impacts; Availability of Draft Regulatory Analysis

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Draft Regulatory Analysis.

SUMMARY: As stated in the proposed rulemaking on Surface Management of Public Lands Under the U.S. Mining Laws; Proposed Procedure to Minimize Adverse Environmenatal Impacts, published in the **Federal Register** on March 3, 1980 (45 FR 13956), the Department of the Interior has determined that the proposed rulemaking was significant and required the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14, but did not specifically announce its availability. A draft regulatory analysis has been completed and is available to the public for review and comment. Copies of the draft regulatory analysis have been furnished to any member of the public who requested a copy.

DATE: Comments will be accepted and considered until July 16, 1980.

ADDRESS: Requests for copies of the draft regulatory analysis and comments should be addressed to: Director (520), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Bob Anderson, 202 343–8537.

or

Vincent Hecker, 202 343–8537.

Frank Gregg,

Director.

June 13, 1980.

[FR Doc. 80–18312 Filed 6–16–80; 8:45 am]

BILLING CODE 4310–84–M

Western Powder River Basin Management Framework Plan—Big Horn Coal Co.'s Emergency Lease Application

June 9, 1980.

This notice is to advise you that the Casper, Wyoming District Office of the Bureau of Land Management is reviewing and will amend portions of the Western Powder River Basin Management Framework Plan (MFP). The review and amendment are in response to an emergency federal coal lese application by Big Horn Coal Company operated by Peter Kiewit Sons Co., submitted under 43 CFR Subpart 3415.1–4 guidelines.

Background standards and procedures for this MFP review and amendment preparation are contained in the **Federal Register**, Vol. 44, No. 140, 42584–42652 of July 19, 1979; and Vol. 44, No. 153, 46386–46401 of August 7, 1979. The standards for this review are also discussed in a final environmental statement describing the Secretary of the Interior's preferred coal program and alternatives, released in April 1979.

The MFP amendment, planned for completion by January 1981, will incorporate the emergency coal lease application into the planning process for timely evaluation in relation to the Big Horn mining schedule. The amendment will be followed by activity planning which includes the evaluation of economic and environmental factors associated with the lease areas applied for and preparation of an environmental analysis to be prepared by Big Horn Coal Co.

The review area is part of the Powder River Coal Region, located six miles north of the City of Sheridan in Sheridan County, Wyoming. This includes the following described lands:

Sixth Principal Meridian, Wyoming

T. 57 N., R. 84 W.
Sec. 14, SW¼NE¼
Sec. 23, S½NE¼
Sec. 24, W½
Sec. 25, NW¼
Sec. 28, NE¼NW¼, E½SE¼NW¼, NW¼SE¼NW¼, NE¼NW¼NW¼, E½SE¼NW¼NW¼

This area includes the Dietz, Monarch, and Carney coal seams in the Ft. Union Formation which have high and moderate development potential.

An interdisciplinary team will complete the review and amendement. Disciplines to be represented include archeology, geology, hydrology, realty, recreation, socioeconomics, soils, and wildlife.

Public participation opportunities will be provided in the following ways: (1) A draft MFP amendment and EA will be distributed for public review in August 1980. Ninety days will be provided for public review and comment. (2) A public meeting in Sheridan, Wyoming, will be held during the 90–day review period.

Public comments will be considered in preparation for the final amendment which will be completed and made available to the public in January 1981.

Definite dates and locations for public meetings and hearings will be announced through local news media and correspondence mailed to interested members of the public.

For further information contact Don Whyde at the Bureau of Land Management, Casper District Office, 951 Union Boulevard, Casper, Wyoming 82601, phone (307) 265–5550, ext. 5101. Documents relevant to the planning process are also available at the above address.

Robert E. Wilber,

District Manager.

[FR Doc. 80–18095 Filed 6–16–80; 8:45 am]

BILLING CODE 4310–84–M

Utah; Notice of Invitation To Participate in Coal Exploration Program—Coal Search Corporation, U–45918

June 2, 1980.

Coal Search Corporation, a wholly-owned subsidiary of Energy Reserves Group, is inviting all qualified parties to participate in a program for the exploration of coal reserves on the Old Woman Plateau near Salina Canyon, Utah. The lands are located in Sevier County, Utah, and are described as follows:

T. 23 S., R. 4 E., SLM, Utah
Sec. 26, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 35, NE¼, E½NW¼, N½SE¼.
Containing 680 acres.

Any party electing to participate in this exploration program must send written notice of such election to the Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, and to Coal Search Corporation, P.O. Box V, Salina, Utah 84654. Such written notice must be received within 30 days after the publication in the **Federal Register.**

Any party wishing to participate in this exploration program must be qualified to hold a lease under the provisions of 43 CFR 3472.1 and must share all costs on a pro rata basis. A copy of the exploration plan, as submitted by Coal Search Corporation, is available for public review during normal business hours, in the following office, under Serial No. U–45918: Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Robert E. Anderson,

Chief, Division of Technical Services.

[FR Doc. 18092 Filed 6–16–80; 8:45 am]

BILLING CODE 4310–84–M

Multiple Use Advisory Council; Meeting

Notice is hereby given, in accordance with Pub. L. 94–579 and 43 CFR Part 1780, that a meeting of the Coeur d'Alene District Multiple Use Advisory Council will be held on Thursday, July 17, 1980, at 9 a.m., at the Bureau of Land Management Office, 1808 North Third Street, Coeur d'Alene, Idaho 83814.

Agenda for the meeting will include:

1. Introduction and biographical sketch of members;
2. Discussion of the function of the Council;
3. Briefing and discussions of Coeur d'Alene District programs by resource area, to include, but not be limited to, North Idaho Timber Environmental Statement, Wilderness Study Area proposals, and the District's management framework plans;
4. Presentation of Sagebrush Rebellion;
5. Establishment of committees;
6. Arrangements for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and 12 noon, or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by July 10, 1980. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: June 9, 1980.

Martin J. Zimmer,

District Manager.

[FR Doc. 80-18214 Filed 6-16-80; 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: Notice is hereby given that Mobil Oil Exploration & Producing Southeast Inc. has submitted a Development and Production Plan describing the activities its proposes to conduct on Leases OCS–G 2924, OCS–G 2925, OCS 071, and OCS–G 2917, Blocks 9, 10, 11, and 68, South Pelto/Ship Shoal Areas, offshore Louisiana.

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 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North 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 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 10, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-18131 Filed 6-16-80; 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 Notice is hereby given that Texaco Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1182, Block 11, South Marsh Island Area, offshore Louisiana.

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 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North 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, excutives of affected local governments, and other interested parties became effective 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 10, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-18132 Filed 6-16-80; 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 were received by the Heritage Conservation and Recreation Service before June 6, 1980. Pursuant to section 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, DC 20243. Written comments should be submitted by July 2, 1980.

Sarah G. Oldham,

Acting Chief, Registration Branch.

ARKANSAS

Pulaski County

Little Rock, *Dunbar Junior and Senior High School and Junior College*, Wright Ave. and Ringo St.

CALIFORNIA

Los Angeles County

Whittier, *Jordan, Orin, House*, 8310 S. Comstock Ave.

Tehama County

Red Bluff, *Old Bank of America Building*, 710 Main St.

FLORIDA

Orange County

Orando, *Tinker Building*, 16—18 W. Pine St.

Palm Beach County

North Palm Beach, *Palm Beach Winter Club*, U.S. 1

Pinellas County

Clearwater, *Cleveland Street Post Office*, 650 Cleveland St.

St. Petersburg, *Casa Coe da Sol*, 510 N. Park St.

St. Petersburg, *St. Petersburg Lawn Bowling Club*, 536 N. 4th Ave.

HAWAII

Honolulu County

Haleiwa, *Waialua School*, 66—505 Haleiwa Rd.
Honolulu, *McKinley High School*, 1039 S. King St.
Honolulu, *War Memorial Natatorium*, Kalakaua Ave.

MAINE

Washington County

Lubec vicinity, *West Quoddy Head Light Station*, SE of Lubec on West Quoddy Head.

MARYLAND

Prince George County

Greenbelt, *Greenbelt Historic District*, Off MD 193.

MASSACHUSETTS

Franklin County

South Deerfield, *Dedic Site.*

Middlesex County

Cambridge, *Sacred Heart Church, Rectory, School and Convent*, 39 and 49 6th St. and 163 Thorndike St.

Suffolk County

Boston, *United Shoe Machinery Corporation Building*, 138—164 Federal St.

MINNESOTA

Martin County

Fairmont, *Fairmont Opera House*, Downtown Plaza and Blue Earth Ave.

Olmsted County

Dover, *Bush, John G., House*, Center St.
Eyota, *Coan House*, 118 W. 5th St.
Eyota, *Eyota Farmers Cooperative Creamery Association*, 222 Washington Ave. S.
Oronoco, *Oronoco School*, Off U.S. 52
Rochester, *Mayo, Charles H., House (Red House)* 419 4th St., SW.
Rochester, *Pierce House*, 426 2nd Ave., SW.
Rochester, *Rochester Public Library*, 226 2nd St. SW.
Rochester, vicinity, *Frank's Ford Bridge*, NW. of Rochester.
Rochester, vicinity, *St. Mary's Hospital Dairy Farm*, E of Rochester on SR 104.

MISSISSIPPI

Hinds County

Jackson, *Welty House*, 741 N. Congress St.

Holmes County

Pickens, *Clark, Mollie, House*, 2221 Tazoo St.

Jackson County

Gautier vicinity, *Lewis, Col. Alfred E., House*, 1901 Watersedge Dr.
Hurley vicinity, *DeGroote Folk House*, NE of Hurley off MS 613.

Leflore County

Greenwood, *Marclare*, River Rd.

Lowndes County

Columbus, *Friendship Cemetery*, 1300 4th St. South.

Monroe County

Aberdeen vicinity, *Baker Mound.*
Aberdeen vicinity, *Word Mound.*
Amory vicinity, *Bloodworth Mound.*

Panola County

Sardis, *Kyle, Judge John William, Law Office*, 147 S. Main St.

Panola County

Sardis vicinity, *Well, The (Strickland Place)* E. of Sardis on Sardis-Union Rd.

Washington County

Greenville, *Leavenworth-Wasson-Carroll House*, 623 S. Washington Ave.
Greenville, *Old Delta Democrat Times Building*, 201—203 Main St.
Tribbet vicinity, *Hebe Plantation Site.*

MONTANA

Beaverhead County

Dillon, *Montana State Normal School*, 710 S. Atlantic St.

Cascade County

Great Falls, *Collins, Timothy Edwards, Mansion*, 1003—1017 2nd Ave. NW.

Chouteau County

Fort Benton, *Chouteau County Jail*, Washington and 14th St.
Fort Benton, *Fort Benton Bridge*, Spans Missouri River

Fergus County

Lewistown, *Culver Studio*, 212 5th Ave.
Lewistown, *Lewistown Carnegie Library*, 701 W. Main St.

Flathead County

Kalispell, *Dean, A. J., House*, 244 Woodland Ave.

Golden Valley County

Ryegate vicinity, *Sims-Garfield Ranch*, E of Ryegate

Granite County

Philipsburg, *Granite County Jail*, Kearney St.

Jefferson County

Boulder, *Jefferson County Courthouse*, 200 Centennial Ave.

Lewis and Clark County

Helena, *Kleinschmidt, T. H., House*, 1823 Highland Ave.
Helena vicinity, *Silver Creek School*, N of Helena on Sierra Rd.

McCone County

Circle, *Gladstone Hotel*, 101 Main St.

Phillips County

Malta, *Phillips County Carnegie Library*, S. 1st St. West

Toole County

Kevin, *Kevin Depot*, Central Ave. and 1st St.

Wheatland County

Harlowton, *Graves Hotel*, 106 S. Central Ave.

OHIO

Butler County

Hamilton, *Garver Barn* Oxford vicinity, *Hunting Lodge Farm (Glen Ellen)* NE of Oxford at 5349 Bonham Rd.
Reily, *Hidley, James P., Cottage*, 1820 Oxford-Reily Rd.

Crawford County

Bucyrus, *Harris, Stephen R., House (Rosedale Cottage)* 548 East St.

Cuyahoga County

Cleveland, *Root and McBridge-Bradley Building*, 1220–1230 W. 6th St.

Greene County

Xenia, *Hollencamp House*, 339 E. 2nd St.
Xenia, *Waterstreet Historic District*, Roughly bounded by Shawnee Creek, S. Detroit, S. Chruch and W. 2nd Sts.

Guernsey County

Cambridge vicinity, *Broom-Braden Stone House*, N of Cambridge at 66715 Reed Rd.

Hamilton County

Cincinnati, *Pilgrim Presbyterian Church*, 1222 Ida St.
Cincinnati, *St. Francis Xavier Church*, 607 Sycamore St.

Mahoning County

Lake Milton, *Vaughn, Daniel, Homestead*, 694 Pine Dr.

Monroe County

Woodsfield, *Monroe County Courthouse*, Main St.

Montgomery County

Dayton, *Newcom House*, 53 Sherman St.

Muskingum County

Duncan Falls, *Buckingham-Petty House*, Mound Rd.
Zanesville, *Lilienthal Building*, 44 S. 6th St.

Noble County

Fulda, *St. Mary's Church of the Immaculate Conception*, Off OH 546

Pickaway County

Circleville vicinity, *Horsey-Barthelmas Farm*, W of Circleville on OH 104

Summit County

Akron, *Portage Hotel*, 10 N. Main St.

Warren County

Franklin County, *Mackanaw Historic District*, Off OH 123

TENNESSEE

Davidson County

Nashville, *Rutledge Hill Historic District*, Roughly bounded by Middleton St., 2nd, Lea, and Hermitage Aves.

Grainger County

Blaine vicinity, *Poplar Hill*, NE of Blaine
Rutledge vicinity, *Cocke, William, House*, NE of Rutledge

Hamilton County

Chattanooga vicinity, *Cummings, Judge Will, House,* W of Chattanooga at 4025 Cummings Rd.

Knox County

Knoxville, *Fort Sanders Historic District,* Roughly bounded by White and Grand Aves., 11th and 19th St.
Knoxville, *Mechanicsville Historic District,* Off TN 62

Madison County

Jackson vicinity, *Deberry-Hurt House,* SW of Jackson

Montgomery County

Clarksville, *Oak Top,* 107 Madison Ter.
Clarksville vicinity, *Ringgold Mill Complex,* NW of Clarksville on Mill Rd.

Sevier County

Sevierville, *Andes, Riley H., House,* Douglas Dam Rd.

Shelby County

Memphis, *Libertyland Grand Carousel,* Libertyland Theme Park
Memphis, *Stephens-Cochran House,* 784 Popular Ave.

Trousdale County

Hartsville, *Hartsville Depot,* Broadway St.

Warren County

McMinnville, *Walling, Joseph Daniel, House,* River Cliff and Old Viola Rds.

Washington County

Johnson City vicinity, *Bashor Mill,* NE of Johnson City

Williamson County

Franklin, *Wyatt Hall,* U.S. 31

WASHINGTON

King County

Seattle, *De La Mar Apartments,* 115 W. Olympic Pl.
Seattle, *United Shopping Tower (Northwestern Mutual Insurance Building)* 217 Pine St.

Spokane County

Mica vicinity, *California Ranch,* E of Mica on Jackson and Belmont Rds.

Walla Walls County

Walla Walla, *Boyer, John F., House,* 204 Newell St.

VIRGINIA

Lynchburg (independent city)

Aviary, 402 Grove St.

Nelson County

Norwood vicinity, *Montezuma,* NE of Norwood on VA 626
Shipman vicinity, *Bon Aire,* E of Shipman on VA 626

Pittsylvania County

Cascade vicinity, *Windsor*

[FR Doc. 80-17839 Filed 6-12-80; 8:45 am]

BILLING CODE 4310-03-M

National Park Service

Availability of Environmental Assessment and Public Meetings on Visitor Use and General Development Plan, Big Cypress National Preserve and Shark Valley and Tamiami Development Concept Plan, Everglades National Park

An Environmental Assessment considering the direct and indirect impacts on the human environment of alternatives formulated for visitor use and development within Big Cypress National Preserve and for development at the Shark Valley and Tamiami areas of northern Everglades National Park is available for public review and comment. The assessment considers the resources of Big Cypress National Preserve and Everglades National Park and the impacts of the various alternatives on them.

In addition as part of the Service's program for public participation in planning, public meetings on the assessment will be held at the following locations and times:

July 14 at 7:30 p.m

Broward County Courthouse, room 250, 201 SE 6th Street, Fort Lauderdale, Florida.

July 16 at 7:30 p.m

Agricultural Center, 18710 SW 288th Street, (Redland Road at Biscayne Drive), Homestead, Florida.

July 18 at 7:30 p.m

Collier County Government Center, Room 311, East Tamiami Trail and Airport Road, Naples, Florida.

Public comments on the assessment and its alternatives are solicited. Written and oral comments on the assessment and its contents will be received for consideration at the meetings. In addition, written comments will be received at the Southeast Regional Office, National Park Service, 75 Spring Street, SW, Atlanta, Georgia 30303; or by the Project Manager, Big Cypress National Preserve, P.O. Box 1247, Naples, Florida 33939; or by the Superintendent, Everglades National Park, P.O. Box 279, Homestead, Florida 33030, until August 18.

Dated: June 9, 1980.

James L. Bainbridge,

Acting Regional Director, Southeast Region.

[FR Doc. 80-18142 Filed 6-16-80; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 261]

Motor Carrier Temporary Authority Applications

Corrections

In FR Doc. 80-4932, at page 10932, in the issue of Tuesday, February 19, 1980, on page 10949, in the middle column, first full paragraph (MC135111 (Sub-4TA)), the twelfth line correct "LA" to read "IA".

BILLING CODE 1505-01-M

[Permanent Authority Decisions Volume No. 198]

Decision-Notice

Decided: June 3, 1980.

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 on or before July 17, 1980. 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 requirements 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 administrative 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 applicant 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 on or before July 17, 1980 (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 on or before July 17, 1980, or the application shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

James H. Bayne,

Acting Secretary.

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 16903 (Sub-79F), filed March 18, 1980. Applicant: MOONFREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN 47401. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *ground limestone*, in bags, from the facilities of White pigment Corp., at New Haven, VT, to points in OH and MI. Hearing: Washington, DC.

MC 47583 (Sub-123F), filed March 17, 1980. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. Transporting *Chemicals* (except in bulk, in tank or hopper vehicles), from points in the U.S. (except AK, HI, and OK), to points in OK, restricted to traffic originating at the above named origins and destined to the indicated destinations. Hearing: Kansas City MO.

MC 52793 (Sub-60F), filed March 26, 1980. Applicant: BEKINS VAN LINES CO., a corporation, 3090 Via Mondo, Compton, CA 90221. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Avenue & 13th St., NW., Washington, DC 20004. Transporting *new furniture*, from points in NY, to points in WI, IN, IL, and MI.. Hearing: New York, NY, or Washington, DC.

MC 52793 (Sub-61F), filed March 26, 1980. Applicant: BEKINS VAN LINES CO., a corporation, 3090 Via Mondo, Compton, CA 90221. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Avenue & 13th St., NW., Washington, DC 20004. Transporting *such commodities* as are dealt in, used by, or sold by variety stores, retail stores, discount stores or drug stores (except commodities in bulk), from points in ME, VT, NH, MA, RI, CT, NY, PA, NJ, MD, DC, DE, WV, and VA, to points in MI and OH. Hearing: Detroit, MI, or Washington, DC.

MC 52793 (Sub-62F), filed March 26, 1980. Applicant: BEKINS VAN LINES CO., a corporation, 3090 Via Mondo, Compton, CA 90221. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Avenue & 13th St., NW., Washington, DC 20004. Transporting *furniture and fixtures*, from East Glastonbury, CT, to points in MI, IL, IN, WI, MN, IA, MO and AR. Hearing: Hartford, CT, or Washington, DC.

MC 61592 (Sub-491F), filed March 31, 1980. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. Transporting (1) *ice melting compounds, fertilizer and fertilizer ingredients, and insulation and insulation materials* (except commodities in bulk, in tank vehicles), between Kenosha, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *wollastonite* (except in bulk), from the facilities of NYCO, Division of PMI at Willsboro, NY, to those points in the U.S. north and east of MN, IA, MO, AR, and LA, (3) *charcoal briquettes and charcoal supplies* (except in bulk, in tank vehicles), from Lake City, SC, to points in AL, DE, DC, FL, GA, IN, KY, MD, MS, NJ, NY, NC, OH, PA, SC, TN, VA, and WV, and (4) *soaps, rust removing compounds, paint removing compounds, cleaning compounds,*

polishing compounds, defoaming compounds, disinfectant compounds and water treating compounds, oils and paint (except commodities in bulk, in tank vehicles), from the facilities of Oakite Products, Inc. at Metuchen, NJ, and Romulus, MI, to points in CA, CO, IL, IA, KS, KY, MN, MS, MO, OK, TN, TX, and WI. Hearing: Washington, DC.

MC 107012 (Sub-511F), filed March 13, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *such commodiites* as are used by hospitals, dental offices, and medical offices, from the facilities of Parke, Davis Co., Inc., at or near Greenwood, SC, to points in the U.S. (except AK and HI). Hearing: Atlanta, GA, or Washington, DC.

MC 107012 (Sub-512F), filed March 17, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting (1) *dried flower arrangements and decorations* used with dried flower arrangements, from the facilities of American Oak Preserving Company, Inc. at or near North Judson, IN, to points in the U.S. (except AK and HI). Hearing: Los Angeles, CA or Washington, DC.

MC 107012 (Sub-514F), filed March 20, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting (1) *plastic articles* and (2) *materials equipment and supplies* used in the manufacture and distribution of plastic articles (except commodities in bulk) between points in the U.S. restricted to traffic originating at or destined to the facilities of Mobil Chemical Co., Plastics Division. Hearing: Rochester, NY or Washington, DC.

MC 107403 (Sub-1327F), filed March 24, 1980. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Transporting *salt and salt products,* in bulk, in tank vehicles, from Weeks, LA, to points in AL, AR, FL, GA, MS, TN and TX. Hearing: Washington, DC.

MC 110683 (Sub-174F), filed March 25, 1980. Applicant: SMITH'S TRANSFER CORPORATION, Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St., NW., Washington, DC 20036. 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), (1) between Fredericksburg, VA, and Hagerstown, MD: from Fredericksburg over U.S. Hwy 17 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction U.S. Hwy 522, then over U.S. Hwy 522 to junction U.S. Hwy 40, then over U.S. Hwy 40 to Hagerstown, and return over the same route, (2) between Winchester, VA, and Cumberland, MD: from Winchester over U.S. Hwy 50 to junction WV Hwy 28, then over WV Hwy 28 to the Potomac River, then over the Potomac River Bridge to Cumberland, and return over the same route, (3) between Washington, DC, and Frederick, MD: from Washington over U.S. Hwy 29 to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction Interstate Hwy 270, then over Interstate Hwy 270 to Frederick, and return over the same route, (4) between Baltimore, MD, and Hagerstown, MD, over U.S. Hwy 40, (5) between Baltimore, MD, ane York, PA; over Interstate Hwy 83, (6) between Cumberland, MD, and Hanock, MD; over U.S. Hwy 40, (7) between Richmond, VA, and Wilmington, DE; from Richmond over U.S. Hwy 301 to junction U.S. Hwy 301N, then over U.S. Hwy 301N to junction U.S. Hwy 301, then over U.S. Hwy 301 to Wilmington, and return over the same route, serving all intermediate points in routes (1) through (7) above, and (8) serving points in Stafford, King George, Prince William, Culpeper, Fauquier, Fairfax, Loudon, Warren, Clarke, Frederick, Shenandoah, Page, Greene, Madison, Orange, Spotsylvania, Caroline, and Rappahannock Counties, VA; Jefferson, Berkeley, Morgan, Hampshire, Mineral, Grant, Hardy, Tucker, Randolph, Pendleton, and Pocohontas Counties, WV; Garrett, Allegany, Washington, Frederick, Carroll, Howard, Montgomery, Prince Georges, Charles, Ann Arundel, Baltimore, Harford, and Cecil Counties, MD; and Bedford, Fulton, Somerset, Franklin, Adams, and York Counties, PA, as intermediate or off-route points in connection with carrier's authorized regular routes. Conditions: (1) This regular route authority granted here shall not be severable, by sale or otherwise, from the underlying irregular authority. (2) Applicant must request, in writing, the imposition of restrictions on its underlying irregular-route authority precluding service between any two points authorized to be served here pursuant to regular route authority. Hearing: Washington, DC.

Notes.—(1) The purpose of this application is to convert a portion of applicant's existing irregular-route authority to regular route authority. (2) Applicant intends to tack and interline the regular route authority with its otherwise authorized regular and irregular routes.

MC 115092 (Sub-106F), filed March 20, 1980. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, UT. 84078. Representative: Walter Kobos, 1016 Kehoe Dr., St. Charles, IL 60174. Transporting (1) *construction materials* (except in bulk), and (2) *materials and supplies* used in the manufacture and distribution of contruction materials (except in bulk), between the facilities of The Celotex Corporation at or near Tracy, CA, on the one hand, and, on the other, those points in the U.S. in and west of MN, IA, MO, AR and LA. Hearing: Tampa, FL, or Washington, DC.

MC 118292 (Sub-40F), filed March 19, 1980. Applicant: BALLENTINE PRODUCE, INC., P.O. Box 454, Alma, AR 72921. Representative: Barry Roberts, 888 17th Street, N.W., Washington, DC 20006. Transporting *frozen foods* from Minneapolis, MN to points in MO, AR, OK, LA, and TX. Hearing: Washington, DC.

MC 119632 (Sub-117F), filed April 10, 1980. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: Wayne C. Pence (same address as applicant). Transporting *canned and preserved foodstuffs,* from the facilities of Heinz USA, at or near Holland, MI, to points in DE, MD, NJ, NY, VA, WV, DC, and those in PA, on and east of U.S. Hwy 220. Hearing: Pittsburgh, PA.

MC 128313 (Sub-11F), filed March 10, 1980. Applicant: TEMPO TRUCKING, INC., 2101 Kenskill Ave., R.F.D. #5, Washington C.H., OH 43160. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. *Contract carrier,* transporting (1) *meats, meat products, and meat byproducts,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 MCC 209 and 766, and *pork skins,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk) between Middlesboro, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) Cumberland Gap Provision Co., of Middlesboro, KY. Hearing: Washington, DC, or Columbus, OH.

MC 128343 (Sub-50F), filed February 29, 1980. Applicant: C-LINE, INC., Tourtellot Hill Rd., Chepachet, RI 02814.

Representative: Ronald N. Colbert, Suite 501, 1730 M St., Washington, DC 20036. *Contract carrier,* transporting *plastic granules,* from Madison, CT, to the facilities of The Tupperware Co., at or near North Smithfield, RI, Halls, TN, Hemingway, SC, Jerome, ID, and the ports of entry on the international boundary line between the United States and Canada, under continuing contract(s) with The Tupperware Co., of Woodsocket, RI. Hearing: Washington, DC, or Boston, MA.

Note.—Dual operations may be involved.

MC 128932 (Sub-11F), filed March 14, 1980. Applicant: COMMERCIAL STORAGE & DISTRIBUTION COMPANY, a corporation, 432 Richmond Rd., Texarkana, TX 75501. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006. Transporting (1) *household goods,* as defined by the Commission, between points in AL, AR, GA, LA, MS, OK, and TX; (2) *wooden pallets, wooden ammunition containers, and chicken coops,* from points in AR, LA, and TX, to points in AL, IA, IL, KS, and TN; (3) *cookies,* between points in AR, LA, and TX; and (4) *lumber,* from points in AL, AR, GA, LA, MO, MS, OK, and TN, to points in Bowie County, TX Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of any duplicating authority that may be issued in MC–128932 Sub 10, granted pursuant to MC–FC–77473.

MC 139312 (Sub-12F), filed March 3, 1980. Applicant: NORTHEAST TRUCK BROKERS OF TEXAS, INC., 2705 N. Cage, P.O. Box 826, Pharr, TX 78577. Representative: Thomas R. Kingsley, 10614 Amherst Ave., Silver Spring, MD 20902. Transporting (1) *floor coverings, accessories for floor coverings, and floor care products,* and (2) *materials, equipment, and supplies* used in the installation of the commodities in (1) above, from points, in NJ and GA to points in AR, LA, MS, OK, and TX. Hearing: Washington, DC.

MC 144442 (Sub-12F), filed April 10, 1980. Applicant: ESSEX EXPRESS, INC.,1200 Hammondville Road, Pompano, FL 33060. Representative: Don A. Allen, 2550 M St., NM, Washington, DC 20037. *Contract carrier* transporting *frozen citrus concentrate,* from points in Orange, Lake, Polk, Saint Lucia, Hillsboro and Indian River Counties, FL, to the Facilities of Nassau Suffolk Frozen Foods, at Bronx, NY, under continuing contract(s) with Nassau Suffolk Frozen Foods, of Great Neck, NY. Hearing: New York City, NY, or Washington, DC.

Note.—Dual operations may be involved.

MC 144452 (Sub-19F), filed April 2, 1980. Applicant: ARLEN LINDQUIT, d.b.a. ARLEN E. LINDQUIST TRUCKING, 3242 Old Highway 8, Minneapolis, MN 55415. Representative: William J. Gambucci, 400 Marquette Avenue, Suite M-20, Minneapolis, MN 55402. Transporting *flour,* (except in bulk, in tank vehicles), (1) from points in MN, to points in IL, IA, MO and WI and; (2) from points in WI, to points in IL, IA, MO and MN. Hearing: Minneapolis, MN.

MC 146643 (Sub-37F), filed March 27, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 South LaSalle St., Chicago, IL 60603. *Contract carrier,* transporting *garage door controls, parts and accessories* for garage door controls, *aluminum doors, aluminum windows, aluminum sashes, and aluminum frames,* from the facilities of Chamberlin Manufacturing Corporation, at or near Alsip, IL, to points in CT, MA, MD, NY, NJ, and RI, under continuing contract(s) with Chamberlin Manufacturing Corporation, of Elmhurst, IL. Hearing: Chicago, IL.

Note.—Dual operations may be involved.

MC 146643 (Sub-38F), filed March 31, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Contract carrier,* transporting *cans,* from Kansas City, KS, to Momence, IL, under continuing contract(s) with Strongheart Products, Inc., of Kansas City, KS. Hearing: Chicago, IL.

Note.—Dual operations may be involved.

MC 147632 (Sub-4F), filed April 1, 1980. Applicant: M & M FARM LINES, INC., Route 1, Bertrand, MO 63823. Representative: Thomas F. Kilroy, Suite 406, Executive Bldg., 6901 Old Keene Mill Road, Springfield, VA 22150. Transporting *fluorescent lighting fixtures, and parts and accesories* for fluorescent lighting fixtures, from the facilities of Keystone Lighting Corporation at Kingston, NY, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. Hearing: Philadelphia, PA, or Washington, DC.

MC 148043 (Sub-2F), filed March 20, 1980. Applicant: LEE DAMRON, Route 1, Counce, TN 38326. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Transporting *limestone, gravel, rock, clay, sand, slag, and coal cinders,* in bulk, in dump vehicles, (1) from points in McNairy and Hardin Counties, TN, to points in MS and AL, and (2) from points in Lauderdale and Colbert Counties, AL, to (a) points in Hardin and Wayne Counties, TN, and those points in TN on and west of the Tennessee River, and (b) those points in MS on and north of U.S. Hwy 82. Hearing: Memphis, TN.

MC 148183 (Sub-21F), filed March 25, 1980. Applicant: ARROW TRUCK LINES, INC., Post Office Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348, Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Transporting *malt beverages and empty beverage containers,* from the facilities of Stroh Brewery Company, at or near Toledo, OH, to points in GA and Aiken, SC and its commercial zone. (Hearing sites: Washington, DC or Atlanta, GA.)

MC 148573 (Sub-3F), filed February 26, 1980. Applicant: SHEA/RUSTIN TRANSPORT CO., a corporation, P.O. Box 93567, Martech Station, Atlanta, GA 30318. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting *foodstuffs,* from Winchester and Timberville, VA, Martinsburg, WV, and Lincolnton, NC, to those points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Hearing: Washington, DC.

Note.—Dual operations may be involved.

MC 149313 (Sub-1F), filed January 22, 1980. Applicant: BESTWAY CARTAGE, INC., P.O. Box 2157, Memphis, TN 38101. Representative: Ronald N. Cobert, 1730 M Street NW., Suite 501, Washington, DC 20036. 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 Memphis, TN, on the one hand, and, on the other, points in AR, those in Bibb, Blount, Colbert, Cullman, Fayette, Franklin, Greene, Hale, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Pickens, St. Clair, Shelby, Sumter, Tuscaloosa, Walker, and Winston Counties, AL, those in Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Saline, Union, White, and Williamson Counties, IL, those in Posey and Vanderbaugh Counties, IN, those in Ballard in Butler, Caldwell, Calloway, Carlisle, Christian, Crittenden, Daviess, Fulton, Graves, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, McCracken, McLean, Marshall, Muhlenberg, Ohio, Simpson, Todd, Trigg, Union, Warren, and Webster Counties, KY, those in Carroll, Claiborne, East Carroll, Franklin, Lincoln, Madison, Morehouse,

Ouachita, Richland, Tensas, and Union Parishes, LA, those in MS in and north of Claiborne, Copiah, Simpson, Smith, Jasper, and Clarke Counties, MS, those in Bollinger, Butler, Cape Girardeau, Carter, Christian, Crawford, Dent, Douglas, Dunklin, Howell, Iron, Jefferson, Madison, Mississippi, New Madrid, Oregon, Ozark, Pemiscott, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Channon, Stoddard, Stone, Taney, Texas, Washington, Wayne, and Wright Counties, MO, and those in TN in and west of Sumner, Wilson, Rutherford, Bedford, and Lincoln Counties, TN, restricted to traffic having a prior or subsequent movement by rail. Hearing: Memphis, TN, or Washinton, DC.

MC 149313 (Sub-2F), filed January 22, 1980. Applicant: BESTWAY CARTAGE, INC., P.O. Box 2157, Memphis, TN 38101. Representative: Ronald N. Cobert, 1730 M Street, NW., Suite 501, Washington, DC 20036. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dallas, TX, on the one hand, and, on the other, points in Clark, Columbia, Hempstead, Howard, Lafayette, Little River, Miller, Nevada, Ouachita, Pike, Polk, Sevier, and Union Counties, AR, Bienville, Bossier, Caddo, Claiborne, De Soto, Lincoln, Natchitoches, Red River, Sabine, Vernon, and Webster Parishes, LA, Atoka, Blaine, Bryan, Caddo, Canadian, Carter, Choctaw, Cleveland, Coal, Comanche, Cotton, Creek, Custer, Garvin, Grady, Greer, Harmon, Haskel, Hughes, Jackson, Jefferson, Johnston, Kingfisher, Kiowa, Latimer, Le Flore, Lincoln, Logan, Love, McClain, McCurtain, McIntosh, Marshall, Murray, Muskogee, Okfuskee, Oklahoma, Okmulgee, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Seminole, Sequoyah, Stephens, Tillman, Tulsa, Wagoner, and Washita Counties, OK, and those in Anderson, Angelina Archer, Austin, Bastrop, Baylor, Bell, Blanco, Bosque, Bowie, Brazos, Brown, Burleson, Burnet, Caldwell, Callahan, Camp, Cass, Cherokee, Childress, Clay, Coke, Coleman, Collin, Colorado, Comal, Comanche, Cooke, Concho, Coryell, Cottle, Delta, Denton, Eastland, Ellis, Erath, Falls, Fannin, Fayette, Fisher, Foard, Franklin, Freestone, Gillespie, Grayson, Gregg, Grimes, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hill, Hood, Hopkins, Houston, Hunt, Jack, Jasper, Johnson, Jones, Kaufman, Kendall, Kent, King, Knox, Lamar, Lampasas, Lee, Leon, Liberty, Limestone, Llano, McCullough, McLennan, Madison, Marion, Mason, Menard, Milam, Mills, Montague, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nolan, Palo Pinto, Panola, Parker, Polk, Rains, Red River, Robertson, Rockwall, Runnels, Rusk, San Augustine, San Jacinto, San Saba, Shackelford, Shelby, Smith, Somervell, Stephens, Stonewall, Tarrant, Taylor, Thockmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Van Zandt, Walker, Waller, Washington, Wichita, Wilbarger, Williamson, Wise, Wood, and Young Counties, TX; and (2) between San Antonio, TX, on the one hand, and, on the other, points in Aransas, Atacosa, Austin, Bandera, Bastrop, Bee, Bell, Bexar, Blanco, Bosque, Brazoria, Brozos, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Chambers, Coke, Coleman, Colorado, Comal, Comanche, Concho, Crockett, Dewitt, Dimmit, Duval, Eastland, Edwards, Ellis, Erath, Falls, Fayette, Fort Bend, Freestone, Frio, Galveston, Gillespie, Goliad, Gonzales, Grimes, Guadalupe, Hamilton, Harris, Hays, Hidalgo, Hill, Hood, Houston, Irion, Jackson, Jim Hogg, Jim Wells, Johnson, Karnes, Kendall, Kenedy, Kerr, Kimble, Kinney, Kleberg, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Llano, McCullough, McLennan, McMullen, Madison, Mason, Matagorda, Maverick, Median, Menard, Milam, Montgomery, Navarro, Nolan, Nueces, Parker, Palo Pinto, Reagan, Real, Refugio, Robertson, Runnels, San Jacinto, San Patricio, San Saba, Schleicher, Sheckelford, Somervell, Starr, Stephens, Sterling, Sutton, Taylor, Terrell, Tom Green, Travis, Trinity, Uvalde, Val Verde, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Zavala, and Zapata Counties, TX, restricted in (1) and (2) above to traffic having a prioir or subsequent movement by rail. (Hearing site: Dallas, TX, or Washington, DC)

MC 150423F, filed March 27, 1980. Applicant: SOUTHERN CONTAINER TRANSPORT, INC., 3306 Palm Island Road, Jacksonville, FL 32250. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Contract carrier,* transporting *beer, empty barrels, drums, kegs, bottles, cans, and pallets,* between Jacksonville, FL, on the one hand, and, on the other, Atlanta and Doraville, GA, under continuing contract(s) with Atlantic Beverage Company, of Atlanta, GA. Hearing: Atlanta, GA, or Jacksonville, FL

MC 150432F, filed March 27, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. 42 and 70, London, OH 43140. Representative: Owen B. Katzman, 1800 M Street, NW., Suite 800, Washington, DC 20036. *Contract carrier,* transporting *iron and steel articles,* between Columbus and West Jefferson, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Capitol Manufacturing Company of Columbus, OH, a division of Harsco. (Hearing site: Columbus, OH)

[FR Doc. 80-17997 Filed 6-16-80; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 134.1]

Redelegation of Authority To Register Foreign Private and Voluntary Organizations

1. Pursuant to the authority delegated from the Administrator of A.I.D. to me as Assistant Administrator for Private Development Cooperation under Delegation of Authority No. 134, I hereby redelegate the authority to register regional and indigenous foreign private and voluntary organizations (exclusive of third country and international private voluntary organizations) for purposes of Sections 607(a) and 635(c) of the Foreign Assistance Act of 1961, as amended, and Sections 104(f) and 202(a) of the Agricultural Trade Development and Assistance Act of 1954 and for such other purposes as may be necessary as follows:

A. To the Assistant Administrator for Latin America and Carribean, to the Assistant Administrator for Near East, to the Assistant Administration for Asia and to the Assistant Administrator for Africa, for the countries or areas within their respective responsibilities, the authority to register regional foreign private and voluntary organizations.

B. To the principal A.I.D. officer in each developing foreign country or, if there is none in such a country, to an officer of the United States Embassy in such country designated to perform this responsibility by the Ambassador, the authority to register indigenous private and voluntary organizations.

2. For purposes of this Redelegation of Authority:

A. An indigenous private voluntary organization is one which is established and organized under the laws of the developing country in which it seeks registration for the conduct of operations therein.

B. A regional private voluntary organization is a foreign private voluntary organization that conducts operations in more than one country within an A.I.D. Geographic Region but not in more than one A.I.D. Geographic Region.

C. A third country private voluntary organization is one which is organized under the laws of a foreign country other than the developing country for which it seeks registration for the conduct of operations.

D. An international private voluntary organization is a foreign private voluntary organization that conducts operations in more than one A.I.D. Geographic Region.

3. The authority redelegated in paragraph 1 herein shall be exercised in accordance with guidance for eligibility of non-U.S. private and voluntary organizations for participation in A.I.D.-supported programs approved by the Deputy Administrator on March 15, 1978, and A.I.D. Handbooks, policies, regulations (published or otherwise) and procedures as they may be amended, supplemented or superseded from time to time.

4. The authorities hereby redelegated may not be redelegated further, unless specifically authorized by me.

5. I retain for myself the authority to register third country and international private voluntary organizations. I also retain concurrent authority to exercise the functions redelegated in paragraph 1, and such authority shall be exercised subject to instructions otherwise by me or my designee.

6. This Redelegation of Authority is effective immediately.

Dated: May 9, 1980.

Calvin Raullerson,

Assistant Administrator, Private and Development Cooperation.

[FR Doc. 80-18139 Filed 6-16-80; 8:45 am]

BILLING CODE 4710-02-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-76]

Certain Food Slicers and Components Thereof; Commission Determination To Amend the Complaint and Notice of Investigation, and To Designate the Investigation "More Complicated"

Background

On December 13, 1979, the Commission instituted an investigation (44 FR 75738) to determine whether there is a violation of section 337 in the unlawful importation of certain food slicers and components thereof into the United States or in their sale because of the alleged infringement by such food slicers of claim 7 of U.S. Letters Patent No. 3,766,817, the effect or tendency of which is to destroy or substantially injure an industry efficiently and economically operated in the United States. On April 1, 1980, complainant, Prodyne Enterprises, Inc., filed a motion (Motion No. 76-2) to expand the investigation to include the alleged infringement of claim 1 of the '817 patent, as well as claim 7. Complainant alleges that Crest Industries, one of the respondents, has allegedly modified and redesigned its food slicer device. Complainant asserts that, while there may be some question as to the infringement of claim 7 by the new device, there is infringement of claim 1. On April 8, 1980, the Commission investigative attorney supported complainant's Motion 76-2. On April 14, 1980, complainant filed a motion to amend the complaint (Motion No. 76-4), which amends and expands Motion 76-2, requesting that the complaint and notice of investigation be amended to include claims 1 and 6 of the '817 patent, as well as claim 7. On April 17, 1980, respondent Crest Industries, opposed both motions 76-2 and 76-4. Crest raised two points in its opposition to the amended complaint. First, the proposed amendment to the complaint is unclear, and second, that there is not enough time left to complete discovery on the new issues.

On April 22, 1980, the ALJ made her recommendation, which was certified to the Commission, to expand the scope of the investigation and designate the investigation "more complicated."

Commission Determination

Having considered the recommendation of the presiding officer and the submissions of the parties, the Commission Determines that complainant's Motions (Motion No. 76-2 and No. 76-4) to amend the complaint and notice of investigation are granted to include that claim 1 of the '817 patent is allegedly infringed by respondent Crest Industries, Corp. and that claims 6 and 7 are allegedly infringed by all of the respondents.

Since the Commission has determined to expand the investigation, the Commission Determines that the investigation be designated "more complicated" to allow the parties the additional time needed for discovery on the new issues.

A copy of the Commission's memorandum opinion is available from the Office of the Secretary of the Commission.

Issued: June 9, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-18096 Filed 6-16-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Consent Decree To Enforce Compliance With Terms of Indiana State Implementation Plan

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree to enforce the terms of the Indiana State Implementation Plan in *United States* v. *Chrysler Corporation* has been approved and will be lodged with the United States District Court for the Southern District of Indiana. The decree imposes on defendant certain hydrocarbon emission limitation and compliance dates with respect to the operation of its varnish coating processes at its Shadeland Avenue, Indianapolis facility.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice (July 17, 1980), written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Chrysler Corporation*, D.J. Ref. 90-5-2-3-837.

The proposed order may be examined at the office of the United States Attorney, Southern District of Indiana, 274 U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204, at the Region V office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, and the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2644, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed order may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-18138 Filed 6-16-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Amendment to ETA/OPER Grant Solicitation 8009; Grants for Research on Social and Institutional Processes Affecting Hispanic American Employment Outcomes

The U.S. Department of Labor, Employment and Training Administration, Office of Policy, Evaluation and Research, announces Amendment No. 1 to grant Solicitation 8009. This amendment changes the closing date for receipt of grant applications from June 30, 1980 to July 22, 1980.

Potential applicants should also note a typographical error that appeared in the grant announcement published in FR Doc. 80-14366 appearing at page 30733 in the **Federal Register** of May 9, 1980. In paragraph 2, line 3, of the announcement, the word "nonprivate" is corrected to read "nonprofit" immediately after the words "and public or private."

Dated: June 5, 1980.

Arvon W. Jordan,

Chief, Central Procurement Staff.

[FR Doc. 80-18187 Filed 6-16-80; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 80-36; Exemption Application No. D-1821]

Exemption From the Prohibitions for Certain Transactions Involving the CPI Group, Inc., ADP Pension Services, Inc., International Trust Corp., International Central Bank and Other Subsidiaries of the CPI Group, Inc. Located in Newport Beach, Calif.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the transfer of certain plan assets to passbook savings accounts in the banking department of International Trust Corporation (ITC) or any other banking affiliate of the CPI Group Incorporated (CPI). CPI, ITC and ADP Pension Services, Inc. are fiduciaries and/or parties in interest with respect to certain employee benefit plans, individual retirement accounts and plans for self-employed individuals (Plans).

FOR FURTHER INFORMATION CONTACT: Carol D. Gold of 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, (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 4, 1980, notice was published in the **Federal Register** (45 FR 23087) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (F) of the Code, for transactions described in an application filed by CPI on behalf of itself and its affiliates. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency.

Four comments were received by the Department regarding the proposed exemption. Two of the comments dealt with issues that are not relevant to the substance of the exemption. The third letter suggested that the exempted transactions could lead to a conflict of interest in that the profitability to CPI of the deposit of undirected funds in CPI's banking affiliate "could hamper the process of investing the funds elsewhere". The Department was aware of this possibility in proposing the exemption and conditioned the exemption on the immediate availability of funds deposited in passbook savings accounts if their investment is directed elsewhere. A fourth comment proposed that Plan participants "have a choice in the matter" of whether undirected Plan funds are deposited in banking affiliates of CPI. Individual Plan participants will continue to exercise the same degree of control over Plan assets as they had before the exemption. Only undirected funds will be deposited in passbook savings accounts, and according to the description in paragraph 14 of the Facts and Representations Section of the Notice of Proposed Exemption, the proposed passbook savings accounts in the banking subsidiaries of CPI will be comparable in all material respects to those now maintained in unaffilated banks. In view of this comment, however, the Department has added condition (8) to the exemption to insure that the deposits in banking subsidiaries of CPI will enjoy the same protections and benefits as deposits in unaffiliated banks. No requests for a hearing were received by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with 404(a)(1)(B) of the Act; nor does the fact that the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (49 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406 of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) of the Code shall not apply to the deposit of Plan assets held by any trust company that is a subsidiary of CPI, and as to which no investment directions have been received, in passbook savings accounts maintained with the banking department of any trust company that is a subsidiary of CPI or any other banking subsidiary of CPI, subject to the following conditions:

(1) That any trust company that is a subsidiary of CPI will not charge any variable trust fee or other management fee for deposits maintained in passbook savings accounts in the banking department of any trust company that is a subsidiary of CPI or any other banking subsidiary of CPI;

(2) That the other components of the fee structure charged by the applicants with respect to the administration of the Plans and trust accounts that are the subject of this exemption will not be changed or increased to compensate for the absence of the variable trust fee for deposits maintained in passbook savings accounts;

(3) That any future changes in the fee structure charged by the applicants with respect to the administration of the Plans and trust accounts that are the subject of this exemption will be made solely by reference to normal cost and market considerations;

(That the applicants will not use the elimination of or nonexistence of a variable trust fee for passbook savings accounts to encourage Plan participants or investment managers to leave deposits in passbook savings accounts;

(5) That all Plan literature concerning fee structures charged by the applicants for Plan or trust administration must include this statement:

> Although no variable trust fee is charged for assets maintained in ICB passbook savings accounts, participants and investment managers are encouraged to direct the investment of these funds in accordance with their individual investment objectives;

(6) That funds deposited in passbook savings accounts continue to be immediately available if their investment is directed elsewhere;

(7) That any change in the investment options of the banking department of banking subsidiaries of CPI, as described in paragraph 15 of the Facts and Representations Section of The Notice of Proposed Exemption be reported to the Department; and

(8) That the Plan deposits in passbook savings accounts in banking subsidiaries of CPI be fully insured by FDIC and that the deposits earn interest at the prevailing rate paid on such accounts by banks in the state of incorporation.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 10th day of June, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Service Administration, U.S. Department of Labor.

[FR Doc. 80-18109 Filed 6-16-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-37; Exemption Application No. D-1467]

Exemption From the Prohibitions for Certain Transactions Involving the Pension Trust Fund for Operating Engineers Local of Northern California Located in San Francisco, Calif.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the issuance by the Pension Trust Fund for Operating Engineers Local of Northern California (the Plan) of commitments, in accordance with the guidelines and procedures set forth in the application, obligating the Plan to purchase mortgage loans on single-family dwelling units from financial institutions, when construction of such dwelling units is by persons who are parties in interest or disqualified persons with respect to the Plan, and shall not apply to the purchase of mortgage loans which meet the criteria of the guidelines and procedures set forth in the application, from financial institutions which are parties in interest or disqualified persons with respect to the Plan solely by reason of servicing mortgages which they previously have sold to the Plan.

FOR FURTHER INFORMATION CONTACT: Richard Small of 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 (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 7, 1979, notice was published in the **Federal Register** (44 FR 70600) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code, for the issuance by the Plan of commitments, in accordance with the guidelines and procedures set forth in the application, obligating the Plan to purchase mortgage loans on single-family dwelling units from financial institutions, when construction of such dwelling units is by persons who are parties in interest or disqualified persons with respect to the Plan, and shall not apply to the purchase of mortgage loans which meet the criteria of the guidelines and procedures set forth in the application, from financial institutions which are parties in interest or disqualified persons with respect to the Plan solely by reason of servicing mortgages which they previously have sold to the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that the notice provisions as set forth in the notice of pendency have been fully complied with. No public comments were received by the Department.

Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the

exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a) 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 (D) of the Code shall not apply to issuance by the Plan of commitments, in accordance with the guidelines and procedures set forth in the application, obligating the Plan to purchase mortgage loans on single-family dwelling units from financial institutions, when construction of such dwelling units is by persons who are parties in interest or disqualified persons with respect to the Plan, and shall not apply to the purchase of mortgage loans which meet the criteria of the guidelines and procedures set forth in the application, from financial institutions which are parties in interest or disqualified persons with respect to the Plan solely by reason of servicing mortgages which they previously have sold to the Plan. The foregoing exemption will be applicable subject to the conditions as set forth in the notice of pendency.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 10th day of June 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-18108 Filed 6-16-80; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-1059 and D-1238]

Proposed Exemption for Certain Transactions Involving the Angus, Ltd., Employee Benefit and Profit Sharing Plan and the Creative Dining Food Systems, Inc., Employee Benefit and Profit Sharing Plan Located in Raleigh, N.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 sales of certain parcels of real property by the Angus, Ltd., Employee Benefit and Profit Sharing Plan (Angus Plan) to D-E-W Foods Corporation (DEW), a party in interest, and by the Creative Dining Food Systems, Inc. Employee Benefit and Profit Sharing Plan (CDFS Plan), which is the successor to the Angus Plan, to Cutown (Curacao), Inc. (Cutown), an unrelated party, followed by a leasing of the real property by Cutown to Creative Dining Food Systems, Inc. (CDFS). The proposed exemption, if granted, would affect CDFS, its predecessor corporation DEW, and participants and beneficiaries of the CDFS Plan and the Angus Plan.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before August 1, 1980.

EFFECTIVE DATE: October 1, 1976, as to the sale by the Angus Plan to DEW; January 13, 1978, as to the sale by the CDFS Plan to Cutown.

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 Nos. D-1059 and 1238. The applications 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: Gary H. Lefkowitz, of the Department of Labor, telephone (202) 523-8881. (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), 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 applications filed on behalf of CDFS, 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 applications were 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 applications contain representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the applications on file with the Department for the complete representations of the applicants.

1. Prior to June 30, 1977, DEW, The Angus, Ltd. (Angus) and Bartondare Foods Corporation (BFC) were three corporations under common ownership. On July 1, 1977, Angus and BFC were merged into DEW, and the name of the surviving corporation was changed to CDFS. The profit sharing plans of the

three corporations were similarly merged.

2. Thomas W. Steed, Jr. is the trustee for the CDFS Plan and was also the trustee for the predecessor plans. All investment decisions for the CDFS Plan are made by the members of the Investment Committee. The members are Charles M. Winston, Thad Eure, Jr., and Darryl B. Davis, who are all officers of CDFS. In addition, these three men, together with their wives, own 100 percent of the stock of CDFS. They had also been officers and 100 percent stockholders (with their wives) of the predecessor corporations, as well as the members of the Investment Committees for the three predecessor profit sharing plans.

3. On December 19, 1973, the Angus Plan acquired a 1.11 acre parcel of land in Winston-Salem, N.C. (Parcel One) from Mr. and Mrs. Y. R. Yarborough, unrelated parties, for $75,500. On January 2, 1974, the Angus Plan acquired a .97 acre tract (Parcel Two) and a 1.03 acre tract (Parcel Three) of land adjoining Parcel One from DEW for a total of $60,000, of which $15,000 was allocable to Parcel Two. The applicant represents that the purchase price of $60,000 was at arm's-length and for fair market value as DEW had purchased Parcels Two and Three for fair market value from unrelated parties several months before, then resold both tracts to the Angus Plan for the same price. Approximately 40 percent of the Angus Plan's assets were invested in real estate as of June 30, 1976.

4. On October 1, 1976, the Angus Plan sold Parcels One and Two to DEW for $90,000 and $40,000 respectively. The sales prices were based on an appraisal of the two tracts dated October 17, 1975, by Mr. R. L. Harlan, an independent appraiser in Winston-Salem, N.C. On January 13, 1978, the CDFS Plan sold Parcel Three to an unrelated party, Cutown, a Netherlands Antilles Corporation, for $65,000. That amount was established through arm's-length negotiations between the CDFS Plan and Cutown. The sale of Parcel Three occurred simultaneously with the sale of Parcels One and Two by CDFS to Cutown. After purchasing all three parcels, Cutown leased Parcels One and Two, with improvements thereon, and Parcel Three to CDFS. The improvements on Parcels One and Two consist of a restaurant built by CDFS after the October 1, 1976, sale of the parcels by the Angus Plan.

5. On August 4, 1978, Mr. Harlan updated his independent appraisal to estimate the fair market value of the property for the October 1, 1976, sale. Mr. Harland concluded that due to the depressed real estate market in that section of Winston-Salem, the land value shown in his appraisal of October 17, 1975, would have been the maximum value of the tract as late as August 3, 1978.

6. An independent realtor in Winston-Salem, Ms. Susanna R. Gwyn, stated in a letter dated August 3, 1978, that in her belief the amounts received by the Angus Plan on October 1, 1976 and the CDFS Plan on January 13, 1978, were equal to or in excess of the fair market values of the property at the time of the sales. Ms. Gwyn based this belief on the depressed commercial real estate market in the area. With regard to Parcel Three, Ms. Gwyn pointed out that a large portion of the tract consisted of unusable land, and that the parcel would have little real value except to the owner of the adjacent property. Accordingly, the CDFS Plan would not have received more for Parcel Three from a purchaser other than Cutown.

7. Ms. Gwym also states that prior to the October 1, 1976, sale of Parcels One and Two, Messrs. Winston and Eure of the Angus Plan's Investment Committee contacted her and Mr. Y. R. Yarborough, another local realtor, every few months with regard to selling the three parcels held by the Angus Plan. Ms. Gwyn and Mr. Yarborough stated that their reply to each of these inquiries was that there was absolutely no market for the property.

8. In summary, the applicant represents that the sales transactions meet the criteria for an exemption under section 408(a) of the Act because (1) the sales were for cash, and no commissions were paid on the sales, (2) all three parcels, which had been non-income-producing, were sold at a very large profit, (3) independent appraisers have stated that the Angus Plan received the highest price possible for Parcels One and Two, and the CDFS Plan received the highest price possible for Parcel Three, (4) the Angus Plan attempted to sell all three parcels to unrelated buyers, but without success, and (5) the trustee of the Angus Plan and the CDFS Plan determined that the transactions were appropriate for the Plans and in the best interests of the Plans' participants and beneficiaries.

Notice to Interested Persons

All employees of CDFS and all former employees and beneficiaries of former employees still having any interest in the trust assets will be notified on or before June 27, 1980. The current employees will be notified by posting a notice at each of the locations used by the employer for notices to the employees. The former employees and beneficiaries will be contacted by mail. Notification shall include a copy of this notice of proposed exemption and shall inform all interested persons of their right to comment and their right to request a hearing within the period set forth in the notice.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exmption 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 the participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, an 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 applications for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the applications, 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), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reasons of section 4975(c)(1)(A) through (E) of the Code shall not apply to the October 1, 1976 sale by the Angus Plan to DEW of Parcel One for $90,000 and Parcel Two for $40,000, and to the January 13, 1978 sale by the CDFS Plan to Cutown of Parcel Three for $65,000, provided that such amounts were not less than the fair market values of the parcels at the time of the sales.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the applications are true and complete, and that the applications accurately describe all material terms of the transactions which are the subject of this proposed exemption.

Signed at Washington, D.C., this 10th day of June 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–18106 Filed 6–16–80; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–1191]

Proposed Exemption for a Certain Transaction Involving the Figure World Profit Sharing Trust Located in San Antonio, Tex.

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 the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of real property by the Figure World Profit Sharing Trust (the Plan) to Figure World, Inc. (the Employer). The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the Employer, 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 August 2, 1980.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective May 15, 1977.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fidiciary 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–1191. 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: Ms. Linda Hamilton, of the Department of Labor, telephone (202) 523–7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendancy before the Department of an application for exemptions from the restrictions of section 406(a) and 406(b)(1) and (2) of the Act and from the sanctions resulting from the application of section 4975 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 Employer, 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 facts and 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 defined contribution plan adopted in 1977. The Plan is funded entirely by Employer contributions and had total assets of $61,082 as of February 28, 1977. The trustees of the Plan were responsible for all investment decisions. These trustees, Lisa Ferrerira and Carla Graham, were employees of the Employer.

2. On March 17, 1977, the Plan purchased a tract of unimproved land (the Property) for $40,000 from an unrelated party. The Plan intended to construct a building on this Property to be leased to the Employer for use as its business premises. The trustees of the Plan believed such a lease arrangement would be an excellent investment for the Plan and would provide a favorable rate of return. The applicant represents that it was not aware at this time that the proposed lease arrangement between the Plan and the Employer was prohibited by the Act. When the Plan became aware of the prohibition, it abandoned its plans to improve the Property for lease to the Employer.

4. On May 15, 1977, the Plan sold the Property to the Employer for $43,000 in cash, realizing a $3,000 profit. This sales price was based upon an offer made by the officers of the Employer to the trustees of the Plan. The trustees of the Plan determined $43,000 was at least fair market value and was likely in excess of fair market value. Their determination was based upon the $40,000 price paid by the Plan to unrelated parties less than two months earlier. A subsequent appraisal by Rafael C. Luebbert, SRA, states that the fair maket value of the Property was $39,375 as of May 15, 1977. The applicant represents that at the time of the sale of the Property by the Plan to the Employer it was unaware that this transaction was also prohibited by the Act.

5. After the Employer purchased the Property from the Plan, it constructed a building on the property to meet its specific needs and now uses the Property for its business premises.

6. In summary, the applicant represents that the criteria of section 408(a) of the Act were satisfied by the sale because:

(1) the sale of the Property by the Plan to the Employer has already been completed and can be easily verified;

(2) the Property was conveyed by a warranty deed and the purchase price was paid in cash;

(3) the sale permitted the Plan to divest itself quickly of a non-income producing asset which represented approximately 65% of total Plan assets;

(4) the Plan was able to dispose of the Property at a profit, without incurring any additional expenses;

(5) the trustees of the Plan had determined that the transaction was appropriate for the Plan and in the best interests of its participants and beneficiaries.

Tax Consequences of Transaction

The Internal Revenue Service has determined that payment of amounts in excess of fair market value to a plan constitutes a contribution to the plan to the extent of such excess and therefore must be examined under Code sections 401(a)(4), 404, and 415.

Notice to Interested Persons

All Plan participants, the trustees of the Plan, and the Employer will receive a copy of the notice of pendency as published in the **Federal Register**, advising them of their rights to comment and/or request a hearing within the period specified above. This notice will be delivered to Plan participants by including it in the pay envelope of each participant not later than July 2, 1980. A copy will be delivered to the trustees and to the legal representative of the Employer. In addition, a copy of the notice of pendency will be posted on the employees' bulletin board for a 30-day period commencing no later than July 2, 1980.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, effective May 15, 1977, the restrictions of section 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of real property located at 8103 Cross Creek, San Antonio, Texas, by the Plan to the Employer for the amount of $43,000, providing that amount was not less than the fair market value of the Property at the time of the sale. To the extent that the acquisition of the Property was a prohibited transaction, no exemptive relief is being provided.

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 consummated pursuant to the exemption.

Signed at Washington, D.C., this 10th 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. 80-18107 Filed 6-16-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1020]

Proposed Exemption for Certain Transactions Involving the Southern California Retail Clerks Union and Drug Employer Pension Fund, Los Angeles, Calif., and the General Sales Employer—Retail Clerks Union Pension Fund, Los Angeles, 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 from the restrictions of sections 406(a) and 406(b)(2) of the Act and sections 4975(c)(1)(A) through (D) of the Code the sale by the Southern California Retail Clerks Union and Drug Employer Pension Fund (the Drug Fund) to the General Sales Employer—Retail Clerks Union Pension Fund (the Sales Fund) of an undivided forty percent (40%) ownership interest (the Undivided Interest) in certain improved real property located at 2220 Hyperion Avenue, Los Angeles, California (the Property) owned by the Drug Fund. The proposed exemption, if granted, would affect the Drug Fund and the Sales Fund (referred to herein collectively as the Funds), the participants and beneficiaries of the Funds 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 August 18, 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, NW., Washington, D.C. 20216, Attention: Application No.

D–1020. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216

FOR FURTHER INFORMATION CONTACT: R. F. Nuissl, of the Department of Labor, telephone (202) 523–6916. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of sections 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed on behalf of the Funds and their trustees pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). 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. The Funds are employee pension benefit plans administered by joint labor-management boards of trustees (the Trustees) in accordance with section 302(c)(5) of the Labor-Management Relations Act of 1947. Three Trustees serve concurrently on the boards of both Funds. The Drug Fund, which had approximately 13,000 participants in 1978, is maintained pursuant to collective bargaining agreements between nine locals of the Southern California Retail Clerks Union and various retail drug employers in Southern California. The Sales Fund, which had approximately 7,000 participants in 1978, is maintained pursuant to collective bargaining agreements between nine locals of the General Sales Employers—Retail Clerks Union and employers in the general sales industry in the same geographical area.

2. The Drug Fund employs a salaried administrator and staff. Since 1969, the Drug Fund administrator and staff have provided all administrative services to the Sales Fund and various related welfare benefit plans (the Welfare Plans). The Sales Fund and the Welfare Plans reimburse the Drug Fund for the cost of these services. Until April 1976, the Drug Fund occupied leased office space. An allocation of rent based on space utilization was made and a portion of the rent for the leased property was collected by the Drug Fund from the Sales Fund and the Welfare Plans.

3. In April 1976, the Drug Fund acquired fee title to the Property. These premises now house the Drug Fund administrative staff, which continues to provide administrative services for the Sales Fund and the Welfare Plans for a fee which includes reimbursement for the use of the office space involved in providing such services. The Trustees have determined that it would be mutually advantageous for each Fund for the Sales Fund to purchase the Undivided Interest from the Drug Fund at a purchase price representing the fair market value of the Undivided Interest on the date of the consummation of the transaction. Approximately forty percent of the Property's total office space is utilized by the Drug Fund to provide services to the Sales Fund. In the event that the transaction is consummated, the Funds will share operating expenses related to the Property on the basis of their respective *pro rata* ownership interests in the Property.

4. An independent professional real estate appraiser has submitted a written appraisal estimating that the fair market value of the entire Property as of November 1, 1979 was $580,000 and that the fair market value of the Undivided Interest as of the same date was $232,000. Approximately 2 percent of the total assets of each Fund would be involved in the transaction.

5. The Property was acquired by the Drug Fund with the intention of occupying it for at least fifteen years rather than for investment purposes. Moreover, the Trustees believe that it is not feasible to convert the Property to a commercial investment property. The Trustees have determined that no entity other than the Sales Fund desires to acquire a fractional ownership in the Property. If the requested exemption is granted, the Drug Fund will be able to increase its resources available for diversified investments, thereby generating additional income available for the payment of pension benefits. In addition, if the requested exemption is granted, the Sales Fund will be able to acquire an equity interest in the Property, thereby stabilizing its expenses for office space and increasing its assets available for investment and the payment of pension benefits.

6. In summary, the applicants represent that the proposed exemption will satisfy the criteria of section 408(a) of the Act because:

(1) the sale of the Undivided Interest from the Drug Fund to the Sales Fund will be a one-time cash transaction and will involve a relatively small percentage of the assets of each Fund;

(2) the Undivided Interest will be sold for a purchase price equal to its fair market value on the date of the transaction; and

(3) the transaction will provide increased liquidity and diversification for the Drug Fund's investment portfolio and enable the Sales Fund to stabilize its overhead expenses.

Notice to Interested Persons

Timely notice of the pendency of this proposed exemption will be provided to interested persons, including Fund participants, employers whose employees are covered by the Funds, employee organizations whose members are participants in the Funds, and the fiduciaries of the Funds. Within twenty-one days after its publication in the **Federal Register**, a copy of the notice of the pendency of this proposed exemption will be published in the Los Angeles Times, the San Diego Union and other newspapers of general circulation in each of the counties of Southern California where participants of the Funds are employed. In addition, a copy of the notice of pendency will be posted promptly after its publication in the **Federal Register** in the customary places used to post notices to union members. A copy of the notice of pendency will also be furnished promptly to each contributing employer and to each employee organization which represents the participants in dealing with employers concerning the Funds.

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 interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does 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)(1) and 406(b)(3) of the Act and section 4975(c)(1) (E) and (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 reasosns for the writer's 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)(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 (D) of the Code shall not apply to the sale of the Undivided Interest by the Drug Fund to the Sales Fund, provided that the purchase price represents the fair market value of the Undivided Interest at the time of the consummation of the tranaction.

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 10th day of June 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-18105 Filed 6-16-80; 8:45 am]

BILLING CODE 4510-29-M

LEGAL SERVICES CORPORATION

Grants and Contracts

June 12, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Services, Inc., in Carlisle, Pennsylvania, to serve Fulton County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Philadelphia Regional Office, 101 North 33d Street, Suite 404, Philadelphia, Pa. 19104.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 80-18112 Filed 6-16-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

June 12, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996l, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid Society of Alameda County in Oakland, California, to serve the City of Berkeley in Alameda County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, San Francisco Regional Office, 177 Post Street, Suite 890, San Francisco, CA 94104.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 80-18113 Filed 6-16-80; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL COMMISSION ON SOCIAL SECURITY

Amendment to Notice of Meeting

June 10, 1980.

The location of the July 11 and 12, 1980 meetings of the National Commission on Social Security has been changed to the Military Room of the Washington Hilton at 1919 Connecticut Avenue, N.W., Washington, D.C. The purpose is to make tentative recommendations relating to the Health Insurance Program.

The meetings will begin each day at 8:30 a.m. and continue until Commission business is completed, but no later than 5:00 p.m. All meetings will be open to the public, in accordance with the Federal Advisory Committee Act.

Additional information about the meeting may be obtained from the Commission office: Room 124-Pension Building, 440 G Street, N.W., Washington, D.C. 20218. Phone: (202) 376-2622.

Francis J. Crowley,

Executive Director.

[FR Doc. 80-18093 Filed 6-16-80; 8:45 am]

BILLING CODE 6820-AC-M

NATIONAL SCIENCE FOUNDATION

Steering Committee; Postponement of an Advisory Committee Meeting

The Steering Committee of the National Science Foundation Advisory Council had scheduled a meeting to be held in Washington, D.C. on June 17, 1980. This meeting has been postponed to July 24, 1980. The original notice of this meeting appeared in the **Federal Register** on May 30, 1980, Vol. 45, No. 106, page 36567.

FOR FURTHER INFORMATION PLEASE CONTACT: Ms. Jeanne Hudson at 202–357–9433.

Dated: June 11, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80–18186 Filed 6–16–80; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public Notice of Receipt of an Application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses for the period May 13 through May 27, 1980. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H St., NW., Washington, D.C.

Dated this day, June 11, 1980, at Bethesda, Md.

For the Nuclear Regulatory Commission.

James R. Shea,

Director, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotopes		
Nissho-Iwai America, 05/07/80, 05/13/80, XSNM01271 (02)	93.3 percent enriched uranium	Additional 0.105	Additional 0.098	Increase quantity for Kyoto University High Flux Reactor.	Japan.
Transnuclear, 05/14/80, 05/19/80, XSNM01685	93.3 percent enriched uranium	103.258	96.340	Fuel for THTR-300	West Germany.
Westinghouse, 05/19/80, 05/22/80, XSNM00887 (04)	3.15 percent enriched uranium	Additional 7,921	Additional 190	Additional material for Ringhals I and II.	Sweden.
Transnuclear 05/23/80, 05/23/80, XSNM01686	3.35 percent enriched uranium	21,046.000	705.044	Reload fuel for Gosgen-Daniken Reactor.	Switzerland.
Nuclear Metals, 05/22/80, 05/22/80, XU08498	Depleted uranium	34,500		For shielding purposes only	Canada.
Nuclear Metals, 05/22/80, 05/27/80, XU08499	Depleted uranium	27,300		For shielding purposes only	United Kingdom.

[FR Doc. 80–18154 Filed 6–16–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–321]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 76 to Facility Operating License No. DPR–57, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant Unit No. 1 (the facility) located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications to (1) remove the current restriction on the Operating Limit Minimum Critical Power Ratios, and (2) add limiting conditions for operation and surveillance requirements for End-of-Cycle Recirculation Pump Trip.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 22, 1979, as supplemented May 11 and 16, June 4, 1979, and February 28, 1980, (2) Amendment No. 76 to License No. DPR–57, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 10th day of June 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80–18150 Filed 6–16–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–321]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 75 to Facility Operating License No. DPR–57, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Association of Georgia, and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1 (the facility) located in Appling County, Georgia. The amendment is effective as of the date of issuance.

The amendment conforms the diesel generator fuel oil sampling requirements to current licensing practices and makes the sampling requirements for both Hatch Units 1 and 2 identical.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act

of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 16, 1980, (2) Amendment No. 75 to License No. DPR–57, and (3) the Commission's letter to the licensee dated June 10, 1980. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 10th day of June 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80–18151 Filed 6–16–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 40–8745]

Ogle Petroleum, Inc.; Availability of Draft Environmental Statement for Bison Basin Project in Fremont County, Wyo.

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Office of Nuclear Material Safety and Safeguards related to the operations of the Bison Basin Project located in Fremont County, Wyoming, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555. The Draft Statement is also being made available at the State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne, Wyoming 82002. Requests for copies of the Draft Environmental Statement (identified as NUREG–0687) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Division of Technical Information and Document Control.

The Applicant's Environmental Report by Ogle Petroleum, Inc., are also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the **Federal Register** on October 19, 1979 (44 FR 60449).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Draft EnvironmentaL Statement (local agencies may obtain these documents upon request). Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. 20555. Comments are due by August 4, 1980. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the **Federal Register.**

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Waste Management.

Dated at Silver Spring, Md., this 9th day of June 1980.

For the Nuclear Regulatory Commission.

Ross A. Scarano,

Chief, Uranium Recovery Licensing Branch, Division of Waste Management.

[FR Doc. 80–18152 Filed 6–16–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–346A, 50–440A, 50–441A]

Toledo Edison Co. and Cleveland Electric Illuminating Company, et al.; Order Requesting Hearing

The Director, Office of Nuclear Reactor Regulation has issued an Order dated June 11, 1980. The Order reads as follows:

"On May 13, 1980 this office issued a 'Order Modifying Antitrust License Condition No. 3 of Davis-Besse Unit 1, License No. NPF–3 and Perry Units 1 and 2, CPPR–148, CPPR–149' in the captioned matter. That Order amended, effective immediately, Antitrust License Condition No. 3 contained in the above listed license and construction permits. The amendment required the Cleveland Electric Illuminating Company (CEI) to file an amendment to its tariff with the Federal Energy Regulatory Commission (FERC). CEI and any person who had an interest affected by the Order was given twenty-five days from the date of the Order to request a hearing with respect to all or any part of the Order.

"Pursuant to 10 CFR 2.204 of the Commission's rules of practice: *It is hereby ordered* that: The time affords to CEI and any other person whose interest is affected by the Order to request a hearing is extended to and including July 9, 1980."

Dated at Bethesda, Md., this 11th day of June 1980.

For the Nuclear Regulatory Commission.

Jerome Saltzman,

Chief, Utility Finance Branch, Division of Engineering, Office of Nuclear Reactor Regulation.

[FR Doc. 80–18153 Filed 6–16–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Class 9 Accidents; Meeting

The ACRS Subcommittee on Class 9 Accidents will hold a meeting on July 2, 1980 at the Best Western Airport Park Hotel, 600 Avenue of Champions, Inglewood, CA. Notice of this meeting was published May 15, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday, July 2, 1980.

8:30 a.m. until the conclusion of business.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary

opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the Nuclear Safety Analyses Center (NSAC), Battelle Columbus Laboratory (BCL), Westinghouse Corporation, Commonwealth Edison Company, the NRC Staff, their consultants and other interested persons.

The purpose of the meeting is to continue the review of the role Class 9 Accidents should take in the licensing process and the need for degraded core mitigation features at the Zion 1 and 2 and Indian Point 2 and 3 Nuclear Plants. The Subcommittee will also review the FY 81–82 NRC research budget for severe accident phenomena and mitigation.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC research program and budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Public Law 92–463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities, See 5 U.S.C. 552b(c)(9)(B).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Quittschreiber (telephone 202/634–3267) between 8:15 and 5:00 p.m., EDT.

Dated: June 11, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–18029 Filed 6–16–80; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Federal Support for Hospital Construction in Overbedded Areas

SUMMARY: This proposed memorandum would establish policies and procedures to stop Federal financial support for the construction of unnecessary hospitals in overbedded areas. For Federal hospitals, the proposed policy is that no new or replacement hospitals will be built in overbedded areas unless suitable existing non-Federal facilities cannot reasonably be acquired through purchase or lease. For non-Federal hospitals, the proposed policy is that no Federal grants, loans, loan subsidies, loan guarantees, or tax-exempt bond financing will be provided for hospital construction or renovation in an overbedded area unless the proposed project is consistent with an approved local hospital facility plan or is determined to be necessary by the Secretary of Health and Human Services. In addition, the objective of reducing unnecessary hospital capacity will be explicitly considered in the development of Medicare/Medicaid reimbursement policies. The memorandum also prescribes agency responsibilities and procedures for implementing these policies.

COMMENTS: Comments should be made in writing, within 30 days, to the Health Branch, Office of Management and Budget, Room 7002, NEOB, 726 Jackson Place, N.W., Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn Etheredge, Chief/Health Branch, telephone 202–395–4600.

Gilbert S. Omenn,

Associate Director for Human Resources, Veterans and Labor.

Draft: 6/11/80.

To: The heads of selected departments and agencies.

Subject: Federal Support for Hospital Construction in Overbedded Areas.

1. *Purpose.* This Memorandum establishes policies for support of hospital construction and renovation in overbedded areas and procedures to implement these policies.

2. *Background.* An excess of hospital capacity has been a major contributor to the escalation of health care costs. The Federal Government's activities continue to contribute to this problem through direct construction of Federal hospitals and through financial support for construction and renovation of non-Federal hospitals in areas where capacity is already excessive. For this reason, the President has directed that strengthened policies and procedures be established to stop Federal financial support for unnecessary construction and renovation of hospitals in overbedded areas.

3. *Coverage.* These policies and procedures apply to the following departments and agencies which provide financing for hospital construction and renovation:

Department of Agriculture
Department of Commerce
Department of Defense
Department of Health and Human Services
Department of Housing and Urban Development
Department of the Interior
Department of the Treasury
Appalachian Regional Commission
Small Business Administration
Veterans Administration

4. *Definitions.* For purposes of this Memorandum, the following definitions will apply.

A. *Overbedded Area.* An overbedded area is a Health Service Area established under Section 1511 of the Public Health Service Act (42 U.S.C. 300l) which has more than 4 short stay non-Federal hospital beds per 1,000 individuals or has an annual average daily occupancy rate of 80% or less. Alternative standards for determining whether a Health Service Area is overbedded may be established by a State Health Planning and Development Agency, subject to approval by the Secretary of Health and Human Services (HHS).

B. *Health Service Area/State Health Planning and Development Agency (SHPDA)/Health Systems Agency (HSA).* Such areas and agencies as are so designated pursant to Title XV of the Public Health Service Act (42 U.S.C. 300 k–1, *et seq.*).

C. *Construction/Renovation.* Construction is building a new hospital or expanding the inpatient bed capacity of an existing hospital. Renovation is alteration, remodeling or major repair of an existing hospital facility.

D. *Non-Federal Hospital.* A hospital not owned or operated by a department or agency of the Federal Government.

5. *Policies.* The following policies shall govern Federal support for hospital construction and renovation in overbedded areas.

A. *Federal hospitals.* No new or replacement Federal hospital facilities shall be constructed in overbedded areas unless suitable existing non-Federal facilities cannot reasonably be acquired by the agency through purchase or lease for operation as Federal facilities. Exceptions to this policy may be requested if any agency can demonstrate that application of this policy would prevent acquisition and maintenance of sufficient beds to support a necessary initial defense mobilization capacity.

B. *Non-Federal hospitals.* (1) No Federal support through grants, loans, loan subsidies, loan guarantees, or tax exempt bond financing shall be provided for construction or renovation of non-Federal hospitals in overbedded areas, except in two circumstances:

(a) Federal support for construction or renovation may be provided to projects in health service areas where there is a hospital facilities plan approved by the SHPDA and the Secretary of Health and Human Services (HHS), if the SHPDA certifies that the project is consistent with the hospital facilities plan.

(b) For health services areas where there is no approved facilities plan, Federal support for construction or renovation may be provided only if the Secretary of HHS determines that the health service area and facility are in need of the proposed construction or renovation.

(2) The objective of reducing unnecessary hospital capacity shall be explicitly considered in the development of Medicare and Medicaid reimbursement policies for costs related to hospital construction or renovation.

6. *Implementation:*

A. *Federal hospitals:*

(1) Each affected department or agency shall establish: (a) procedures to insure that no Federal funds are obligated for the construction of new or replacement Federal hospital facilities in overbedded areas unless such projects are consistent with the policies established in this Memorandum; and (b) criteria for determining the availability of suitable existing non-Federal facilities.

(2) The Secretary of HHS shall establish procedures for providing timely notification to other Federal agencies of whether an area is overbedded.

(3) Agency and HHS procedures and agency criteria will be submitted to OMB for approval within 30 days of the effective date of this Memorandum.

(4) The policies established by this Memorandum apply to all facilities for which construction finds have not been obligated as of the effective date of this Memorandum, unless such application is currently prohibited by statute. Exceptions may be considered for projects where site development funds have already been obligated. Such exceptions require OMB approval and must be requested by the agency within 30 days of the effective date of this Memorandum.

(5) The FY 1982 agency budget submissions to OMB shall include, for each proposed hospital construction in an overbedded area: a discussion of the need for the construction; a description of the overbedding situation in the relevant health service area; and a report on the studies which establish that suitable existing non-Federal facilities cannot reasonably be acquired.

B *Non-Federal hospitals:*

(1) Each affected department or agency shall establish procedures to insure that no Federal funds are obligated for the construction or renovation of non-Federal hospitals in overbedded areas unless such projects are consistent with the policies established in this Memorandum.

(2) These procedures shall rely on determinations by the Secretary of HHS of whether proposed construction or renovation is consistent with these policies.

(3) The Secretary of HHS shall establish procedures for providing timely notification of these determinations to other Federal agencies.

(4) The Secretary of HHS shall establish criteria and standards for acceptable hospital facilities plans and for determining when, in the absence of an approved hospital facilities plan, proposed construction or renovation may be eligible for Federal support.

(5) The Secretary of HHS shall develop recommendations for actions to assure that reimbursement policies for hospital construction and renovation costs through the Medicare and Medicaid programs support the objective of reducing unneccessary hospital capacity.

(6) The agency and HHS procedures and the HHS criteria, standards and recommendations will be submitted to OMB for approval within 30 days of the effective date of this Memorandum.

(7) The policies established by this Memorandum shall apply to all hospital construction and renovation for which Federal funds have not been obligated as of the effective date of this Memorandum, unless such application is currently prohibited by statute.

C. *Rescissions, Deferrals and Budget Amendments.* Agencies will submit to OMB proposed rescissions, deferrals or budget amendments, as appropriate, for funds which cannot be obligated consistent with these policies.

D. *Legislative proposals.* Agencies with current statutory barriers to the implementation of these policies shall submit to OMB, in accordance with the procedures set forth in OMB Circulars No. A–19 and No. A–70, proposed legislation that would remove these barriers.

5. *Inquiries.* Questions concerning the policies established in this Memorandum may be addressed to the OMB Health Branch (Lynn Etheredge, 395–4600).

6. *Effective date.* This Memorandum is effective immediately.

James T. McIntyre, Jr.,

Director.

[FR Doc. 80–18321 Filed 6–16–80; 8:45 am]

BILLING CODE 3110–01–M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Board of Directors Meeting

The Pennsylvania Avenue Development Corporation will hold a meeting of its Board of Directors on Wednesday, June 18, 1980, beginning at 9:30 a.m. The meeting will be held in the first floor (street level) conference room of the National Endowment for the Humanities, 806 15th Street, N.W., Washington, D.C.

The major items to be presented for the Board's consideration and approval are the adoption of the Side Streets Improvements Program and the Energy Conservation Program, and an amendment to the Corporation's Bylaws providing for the Vice Chairman's temporary assumption of the powers and duties of the Chairman upon the vacancy of the Chairman's position.

There will also be a review of the status of the project on Square 457 pursuant to the lease with Gallery Row Associates, and a presentation on certain aspects of the proposed development of Square 322 (Old Evening Star Building).

The meeting is open to the public. However, a portion of the meeting may be closed for an executive session in order to discuss confidential financial matters.

A complete printed agenda for the meeting is available and may be obtained by request to Ms. Rita Abraham, Public Information Officer, Pennsylvania Avenue Development Corporation, 425 13th Street NW., Suite 1148, Washington, D.C. 20004; or, by visiting the offices of the Corporation at the foregoing address.

Dated: June 12, 1980.

Mary M. Schneider,

Acting General Counsel.

[FR Doc. 80–18310 Filed 6–16–80; 8:45 am]

BILLING CODE 7630–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-16879: File No. SR-Amex-80-13]

American Stock Exchange, Inc.; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("the Act"), 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 30, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of Terms of Substance of the Proposed Rule Change

The American Stock Exchange proposes to amend its Constitution and rules to eliminate the Exchange requirement that the principal purpose of every member and member organization be the transaction of business as a broker or dealer in securities. Under this requirement, each member organization must now derive at least 50% of its gross income from specified securities-related businesses.

The Exchange's Statement of Purpose and Basis

The elimination of the Exchange's "principal purpose" requirement will afford members and member organizations greater flexibility by making it possible to combine securities and non-securities activities without regard to the percentage of income derived from either source.

The proposed amendments are consistent with Section 6(b) of the Act in general and furthers the objectives of Sections 6(b)(2), 6(b)(5), and 6(b)(8) of the Act in particular in that they are designed to broaden opportunities for qualified persons to become members of the Exchange, remove impediments to membership and thus to a free and open market, and remove a burden on competition.

Comments Received From Members, Participants, or Others on Proposed Rule Change

No comments were solicited or received with respect to the proposed rule change.

Exchange's Statement on Burden on Competition

The Amex has determined that no burden on competition will be imposed by the proposed amendments. On the contrary, elimination of the principal purpose requirement will enhance competition.

By July 14, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number references in the caption above and should be submitted by July 7, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

June 6, 1980.

George A. Fitzsimmons,

Secretary.

[FR Doc 80-18173 Filed 6-16-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11209; 812-4668]

American General Life Insurance Co. of New York and American General Life Insurance Co. of New York Separate Account E; Filing of Application

June 10, 1980.

Notice is hereby given that American General Life Insurance Company of New York Separate Account E ("Separate Account E") 90 Presidential Plaza, Syracuse, N.Y. 13202, a unit investment trust registered under the Investment Company Act of 1940 (the "Act"), and American General Life Insurance Company of New York (the "Company") (hereinafter collectively referred to as "Applicants"), have filed an application on April 14, 1980, pursuant to Section 6(c) of the Act for an Order exempting Applicants from the provisions of Section 26(a) and 27(c)(2) to the extent requested and for approval of certain offers of exchange pursuant to Section 11 of the Act. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Background

The Company is a life insurance company organized under the laws of Delaware. On February 15, 1979, the Company created Separate Account E under New York law as a separate account for the purpose of investing the net purchase payments received by the Company for certain variable annuity contracts (the "Contracts").

Net purchase payments deposited in the Company's Separate Account are applied to one of three Divisions of the Separate Account. Each Division applies net purchase payments to purchase shares in a different open-end investment company, the investment advisor of each of which is a wholly owned subsidiary of the Company's parent.

A Contract owner may elect to have purchase payments for a Contract invested in the American General Capital Bond Fund, with respect to Division 1, in the American General Money Market Fund, Inc. with respect to Division 2 and in American General High Yield Investments, Inc, with respect to Division 3 of the Separate Account. In addition, subject to receipt of the order requested hereby, Contract owners will have the right to transfer accumulated purchase payments from one Division of the Separate Account to another Division of the Separate Account. Such right may be exercised at any time after the first seven days after the issuance of a Contract provided that a transfer may not be made if a previous transfer has been made within seven days. The Company reserves the right to impose a longer holding period requirement between transfers if circumstances dictate the need for imposition of any such limitation.

If the order requested hereby is granted, holders of shares in certain investment companies, the investment advisor of which is a subsidiary of the Company's ultimate parent, who have paid a sales charge upon the purchase of such shares, will be offered the right to exchange the net asset value of shares toward the purchase of a Contract without any sales or administrative charges; however, a $5.00 fee to cover the Distributor's costs in processing each transfer will be imposed.

Section 11

Section 11(a) of the Act provides, in pertinent part, that no registered, open-end company or any principal underwriter for such a company shall make an offer to the holder of a security of such company to exchange his

security for a security in the same or another such company on any basis other than relative net asset values unless the terms of the offer have been approved by the Commission.

Section 11(c) provides that, irrespective of the basis of exchange, the provision of section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

As hereinabove described, holders of shares in certain investment companies who have paid a sales charge upon the purchase of such shares will be offered the right to exchange the net asset value of shares toward the purchase of a contract without any sales charges; however, a $5.00 administrative fee will be imposed to cover the Distributor's costs in processing each such transfer.

In addition, subject to receipt of the order requested hereby, Contract owners will have the right to transfer accumulated purchase payments from one Division of the Separate Account to another Division of the same. Similarly, a $5.00 administrative fee will be imposed on such transfers. Applicants have requested an Order of the Commission pursuant to Section 11 in order that the Contract purchaser or participant may make such exchanges or transfers under the circumstances described.

Section 26(a) and Section 27(c)(2)

Sections 26(a) and 27(c)(2) of the Act provide, in substance, that a registered unit investment trust or issuer of a periodic payment plan certificate and any depositor and underwriter for such investment company are prohibited from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a qualified bank as trustee and are held under an indenture or agreement containing the following provisions: (1) that the trustee or custodian be a bank of a designated size; (2) that the assets be held in trust and only certain charges be made against them; (3) that the trustee or custodian may only resign in a specified fashion; and (4) that certain records be kept and notice given to securities holders in the event of substitution of the trust's securities.

Applicants hereby request an exemption from Sections 26(a) and 27(c)(2) to permit them to sell Contracts without need of an independent trustee or custodian. Ownership of Fund shares by Separate Account E will be held in an open account so that such ownership will only be indicated on the books of the Fund and Separate Account E and will not be evidenced by transferable stock certificates.

Applicants further state that the Company is subject to extensive supervision and control by the New York Superintendent of Insurance, and the Insurance Commissioners of each state in which the Contracts will be sold. In addition, Applicants state that under New York law and the terms of the Contracts, the assets of Separate Account E are not chargeable with liabilities arising out of any other business conducted by the Company. Obligations arising under the Contracts as general obligations of the Company cannot be abrogated without violating the New York insurance law. Therefore, Applicants assert that such existing regulation of the Company affords substantially the same protection contemplated by the provisions of Sections 26(a) and 27(c)(2) of the Act.

Applicants have consented that the foregoing requested exemption may be made subject to the following conditions: (1) that the deductions for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, the Commission reserving jurisdiction for such purpose; and (2) that the payment of sums and charges out of the assets of Separate Account E shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Section 6(c)

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, transaction, or any class or classes of the same from any provision of the Act, if and to the extent necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 3, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following July 3, 1980, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of futher developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 18172 Filed 6–16–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 16883; SR–NSCC–77–5]

National Securities Clearing Corporation ("NSCC"); Order Approving Proposed Rule Change

June 10, 1980.

On August 7, 1979, NSCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b–4 thereunder an amendment to a proposed rule change, consisting of an interface agreement between NSCC and the Cincinnati Stock Exchange.

Notice of the amendment to the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 16592 (February 20, 1980)) and by publication in the **Federal Register** (45 FR 12513 February 26, 1980). No written comments were received by the Commission.

The Commission finds that the amendment to the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17a of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the amendment to the proposed rule change by approved. The Commission does not, however, approve the remainder of the proposed rule change.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-18179 Filed 6-16-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16882; File No. SR-Amex-80-14]

American Stock Exchange, Inc.; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 2, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange proposes to amend Rule 444 to eliminate the following requirements: (1) that members report to the Exchange through a senior member designated by their member organization any unsecured, non-capital borrowings aggregating $20,000 or more of cash, securities or a combination of the two; and (2) that the senior member designated by the member organization supervise the non-capital borrowings by members associated with the member organization to assure that such borrowings are in a form which does not create an obligation for the member organization and are not excessive in relation to the member's net worth.

The Exchange's Statement of Purpose and Basis

The reporting and supervisory requirements of Rule 444 which are proposed to be deleted have been found to be unnecessarily burdensome: Personal borrowings by members associated with a member organization which are for non-capital purposes do not affect that member organization's net capital and thus reporting of such borrowings to the Exchange is not necessary. The extent to which a member organization supervises these non-capital borrowings is an internal matter best left to the business judgment of the member organization.

The proposed amendment is consistent with Section 6(b) of the Act in general and further the objectives of Section 6(b)(5) of the Act in particular in that it eliminates requirements which do not relate to the purposes of the Act or the administration of the Exchange.

Comments Received From Members, Participants or Others on Proposed Rule Change

No comments were solicited or received with respect to the proposed rule change.

The Exchange's Statement on Burden on Competition

The Exchange has determined that no burden on competition will be imposed by the proposed rule change.

By July 14, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer periods to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 8, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons

Secretary.

June 9, 1980.

[FR Doc. 80-18174 Filed 6-16-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11206; 811-2707]

Colonial Tax Exempt Income Fund, Inc.; Filing of Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

June 6, 1980.

In the matter of Colonial Tax Exempt Income Fund, Inc., 75 Federal Street, Boston, Massachusetts 02110 (811-2707).

Notice is hereby given that Colonial Tax Exempt Income Fund, Inc. ("Applicant"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on form N-8F on April 18, 1980, for an order pursuant to Section 8(f) of the Act declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant registered under the Act on November 18, 1976, and filed a registration statement on Form N-8B-1 pursuant to Section 8(b) of the Act on the same date. Applicant also filed a registration statement on form S-5 pursuant to the Securities Act of 1933 (File No. 2-57686) on November 18, 1976, with respect to 500,000 shares of Applicant's common stock, $1 par value. Said registration statement has not become effective and no public offering of Applicant's common stock has commenced.

Applicant represents that it never issued any securities and has no security-holders at the time of the filing of the application. Applicant further represents that it has no assets and that it has not transferred any assets at any time since its inception to a separate trust, the beneficiaries of which were or are securityholders of Applicant. Applicant states that it is currently incorporated pursuant to the laws of the Commonwealth of Massachusetts, that it is not now engaged and does not propose to engage in any business activities other than those necessary for the winding-up of its affairs, and that its board of directors has authorized its dissolution and the filing of the application. Applicant futher states that no distributions have been or will be made by it in connection with the winding-up of its affairs pursuant to its dissolution.

According to the application, Applicant is not party to any litigation or administrative proceeding and has no liabilitites, except for 1980 Massachusetts corporate excise tax, which Applicant represents will be paid

by Colonial Management Associates, Inc.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than July 3, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-18175 Filed 6-16-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21611; 70–6464]

Connecticut Yankee Atomic Power Co.; Proposal To Issue Short-Term Notes to Banks and Commercial Paper to a Dealer

June 9, 1980.

In the matter of Connecticut Yankee Atomic Power Company, P.O. Box 270, Hartford, Connecticut 06101 (70–6464).

Notice is hereby given that Connecticut Yankee Atomic Power Company ("Connecticut Yankee"), a subsidiary of Northeast Utilities and New England Electric System, both registered holding companies, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Connecticut Yankee is the owner of 575,000 kW nuclear electric generating plant (the plant) in Haddam, Connecticut, which has been in operation since January 1968. Outstanding shares of Connecticut Yankee's common stock are owned by eleven New England electric utilities.

Connecticut Yankee proposes to issue and sell notes to banks and commercial paper to a dealer from time to time on or before June 30, 1981. The aggregate amount of all such notes at any time outstanding, whether issued to banks or to a dealer in commercial paper, will not exceed $35,000,000. As of March 31, 1980, Connecticut Yankee's outstanding short-term debt was $11,050,000. The short-term debt to be outstanding at June 30, 1980 is estimated at $30,000,000. The proceeds of the sale bank notes and commercial paper will be applied by Connecticut Yankee to repay $9,825,000 of commercial paper presently outstanding, to provide funds for construction and for the purchase of additional nuclear fuel through June 30, 1981. Connecticut Yankee's estimated construction and nuclear fuel programs for 1980 and 1981 are:

	1980	1981
Construction	$33,000,000	$26,000,000
Nuclear Fuel	0	$34,000,000

The bank notes issued by Connecticut Yankee will each be dated the date of issue, will have a maximum maturity date of nine months, and will bear interest at the prime rate and will be subject to compensating balance requirements. The bank notes will be issued no later than June 30, 1981, and will be subject to prepayment at any time at Connecticut Yankee's option without premium. Assuming a prime rate of 12% the effective cost of such borrowings would be 14.4% per annum.

The commercial paper will be issued in the form of short-term promissory notes in denominations of not less than $50,000 and not more than $1,000,000, of varying maturities, with no maturity more than 270 days after the date of issue and will not be repayable prior to maturity. The commercial paper will be sold directly to Lehman Commercial Paper, Incorporated, at the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and of the particular maturity, sold by the public utility issuers thereof of commercial paper dealers. No commercial paper shall be issued having a maturity of more than 90 days at an effective interest cost to Connecticut Yankee in excess of the effective bank interest rate at which Connecticut Yankee could obtain loans from banks in an amount at least equal to the principal amount of such commercial paper. No commission or fee will be payable in connection with the issuance and sale of the commercial paper. The purchasing dealer, as principal, will reoffer the commercial paper to institutional investors at a discount of not more than ⅛ of 1% per annum less than the prevailing discount rate to Connecticut Yankee in such manner as not to constitute a public offering.

The commercial paper will be reoffered to not more than 200 identified and designated customers in a list (nonpublic) prepared for Connecticut Yankee in advance by the purchasing dealer. No additions will be made to this customer list.

It is anticipated that the commercial paper will be held by customers to maturity, but if such customers desire to resell prior to maturity, the purchasing dealer, pursuant to a verbal repurchase agreement, will repurchase the commercial paper and reoffer the same to others in the group of 200 customers.

The fees, commissions and expenses to be incurred in connection with the proposed transaction are estimated at $2,500. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may not later than June 30, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as

amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-18176 Filed 6-16-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21610; 70-6443]

General Public Utilities Corp. et al., Proposal To Organize a Wholly Owned Subsidiary for the Management and Operation of Nuclear Stations

June 9, 1980.

In the matter of General Public Utilities Corporation, 100 Interpace Parkway, Parsippany, New Jersey 07054; Jersey Central Power & Light Company, Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960; Metropolitan Edison Company, P.O. Box 542, Reading, Pennsylvania 19640; Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907 (70-6443).

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, and its subsidiary companies named above have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a), 10, 12(b), and 13(b) thereof and Rules 45, 50(a)(3), and 86-95 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration which is summarized below for a complete statement of the proposed transactions.

GPU proposes to organize a new wholly owned subsidiary company to be known as GPU Nuclear Corporation ("NC"). NC will issue and GPU will purchase for cash 2,500 shares of NC's common stock, at a price of $20 per share or an aggregate consideration of $50,000. If necessary, GPU will make open account advances to NC from time to time; the aggregate amount of such advances by GPU to NC outstanding at any time will be not more than $500,000. Interest on such open account advances will accrue at a rate equal to the current interest cost on GPU's bank borrowings. Based on the current prime rate of 14 percent, the effective cost of such bank borrowings would be 14.89 percent.

NC will be a service company and will not own or finance any nuclear or other utility assets. It is intended that NC will become responsible, on behalf of the owners and through contract with them, as and when necessary regulatory authorizations are received, for the safe operation, maintenance, rehabilitation, design, construction, start-up and testing of all nuclear generating facilities owned by GPU System companies and related research and development. The purpose is to consolidate all resources of the GPU companies relating to nuclear matters in a single organization. GPU cities the Report of the President's Commission on the Accident at Three Mile Island and the Report of the NRC/TMI Special Inquiry which have stated that integration into one organization of management and operating responsibility for nuclear generating stations is desirable so that there will be a single accountable organization with the requisite expertise to take responsibility for the integrated operation and maintenance of such stations.

NC proposes to apply to the Nuclear Regulatory Commission ("NRC") for operating licenses for the Oyster Creek Nuclear Generating Station ("Oyster Creek") owned and operated by Jersey Central Power & Light Company ("JCP&L") and for the Three Mile Island Nuclear Plants ("TMI"), jointly owned, but not presently operated and for which Metropolitan Edison Company ("Met-Ed") is the present licensee and the operator under the existing TMI Operating Agreement among JCP&L, Met Ed and Pennsylvania Electric Company ("TMI Operating Agreement"). An amendment of the TMI Operating Agreement would be proposed in the NRC proceeding, which would, among other things, make NC a party to the agreement and the operator of TMI. The NRC has broad jurisdiction over the operation of nuclear facilities. Both the timing and the scope of NC's activities will be governed by the terms and conditions of any licenses granted by the NRC and by its other regulatory requirements. Any such license will also be implemented by a specific operating agreement between NC and the owner or owners of the subject facility. And licensing will be for specific plants, so that NC's functions may commence in stages.

Shortly after the March 28, 1979 accident at Unit No. 2 of TMI, the GPU System combined the technical staffs from Met Ed and GPU Service Corporation ("Service") to form the TMI Generation Group consisting of approximately 250 professionals assigned exclusively to activities at Units Nos. 1 and 2 of TMI. This group, together with the technical staff of JCP&L that is presently responsible for the operation and maintenance of Oyster Creek, and approximately 800 of the non-professional employees of the various GPU System companies will ultimately be transferred to NC, if and when it receives the necessary authorizations. The salaries and other costs of the present GPU System employees including pension and other employee benefits for such employees, will be included in NC's operating costs. The aggregate salaries and costs of such employees to the GPU System during 1979 amounted to approximately $25,000,000. NC may also engage consultants and contractors as needed for the discharge of its functions.

NC will render service at cost, pursuant to Section 13(b) of the Act. The costs will be accounted for and billed to the owners of the subject facilities as prescribed by Rules 91 and 93 and the system of accounts prescribed thereunder. In the case of NC services rendered for the TMI units, these costs will be determined and accumulated and allocated among the owners of TMI in proportion to ownership interests in TMI.

NC's initial function will be to seek from other regulatory agencies the licenses and authorizations required. It is proposed that is will report its progress and activities under Rule 24, including the undertaking of any of the intended functions summarized above, as its authority to do so is established. Variations would be reported under the 60 day letter procedure established for service companies.

The fees and expenses to be incurred in connection with the proposed transactions will be filed by amendment. It is stated that amendment of the TMI Operating Agreement is subject to the jurisdication of the Pennsylvania Public Utility Commission and will require amendment of the TMI Operating licenses issued by the Nuclear Regulatory Commission ("NRC"). Implementation of the Oyster Creek Operating Agreement requires the issuance of an operating license by the NRC. It is also stated that JCP&L does not believe that the operating agreements for TMI and Oyster Creek

are subject to the jurisdiction of the New Jersey Board of Public Utilities ("BPU") although the question is before the BPU. No other state or federal commission other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may not later than June 30, 1980 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of serve (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any time after said date, the application-declaration as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commision may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will received any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzimmons,

Secretary.

[FR Doc. 80-18177 Filed 6-16-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21607; 70-6465]

Northeast Utilities et al.; Proposals To Issue Short-Term Notes to Banks and Commercial Paper to Dealers and to Enter Into a Multibank Revolving Credit Agreement; Capital Contributions to Subsidiaries

June 9, 1980.

In the matter of Northeast Utilities, Western Massachusetts Electric Company, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089; The Connecticut Light & Power Company, The Hartford Electric Light Company, Northeast Nuclear Energy Company, Seldon Street, Berlin, Connecticut 06037; Holyoke Water Power Company, One Canal Street, Holyoke, Massachusetts 01040 (70-6465).

Notice is hereby given that Northeast Utilities ("NU"), a registered holding company, and five of its wholly owned subsidiary companies, The Connecticut Light & Power Company ("CL&P"), The Hartford Electric Light Company ("HELCO"), Western Massachusetts Electric Company ("WMECO"), Holyoke Water Power Company ("HWP") and Northeast Nuclear Energy Company ("NNECO"), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, and 12(b) of the Act and Rules 45 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

The applicants propose 1) to make short-term borrowings through the issuance of notes to banks and, with the exception of HWP and NNECO, the issuance of commercial paper to a dealer from time to time through June 30, 1981, and 2) to enter into a multibank revolving credit and term loan agreement under the terms of which CL&P, HELCO and WMECO may borrow up to an aggregate of $140,000,000. The aggregate amount of all such notes at any time outstanding, whether issued to banks ("Bank Notes") or to a dealer in commercial paper ("Commercial Paper") or to banks under the revolving credit/term loan agreement ("Revolving Credit/Term Notes") will not exceed $55,000,000 in the case of NU, $185,000,000 in the case of CL&P, $100,000,000 in the case of HELCO, $55,000,000 in the case of WEMCO, $8,000,000 in the case of HWP and $30,000,000 in the case of NNECO. The applicants propose to renew and extend any notes so issued or to refund them with other similar notes issued to banks or to a dealer in commercial paper and to issue and sell additional short-term notes (and to renew such notes) from time to time to meet portions of their capital requirements, subject to the applicable maximum limitations.

The Bank Notes will each be dated the date of issue, will have maximum maturity dates of nine months with right of renewal, will bear interest at the prime rate or at the prime rate plus a fraction thereof, will be issued no later than June 30, 1981 and will be subject to prepayment at any time at the applicant's option without premium.

With respect to the issuance of Bank Notes, the applicants have credit lines with a number of banks subject in some cases to commitment fees and/or compensating balance requirements. The effective cost of borrowings under such credit lines, based on a prime rate of 12%, ranges from 12.72% to 15.36%. The bank credit lines expire at various times in 1980 and 1981 and their continued availability is subject to continuing review by the banks involved. Bank credit lines of the applicants may be changed and additional lines may be obtained from other banks.

Commercial Paper will be issued in the form of short-term promissory notes in denominations of not less than $50,000 and not more than $1,000,000, of varying maturities, with no maturity more than 270 days after the date of issue and will not be repayable prior to maturity. The Commercial Paper will be sold directly to a dealer in commercial paper, Lehman Commercial Paper, Incorporated, at the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and of the particular maturity sold by public utility issuers thereof to commercial paper dealers. No Commercial Paper shall be issued giving a maturity of more than 90 days at an effective interest cost to the applicant in excess of the effective bank interest rate at which the applicant could obtain loans from banks in an amount at least equal to the principal amount of such Commercial Paper. No commission or fee will be payable in connection with the issuance and sale of the Commercial Paper. The purchasing dealer, as principal, will reoffer the Commercial Paper to institutional investors at a discount of not more than ⅛ of 1% per annum less than the prevailing discount rate to the applicant in such manner as not to constitute a public offering.

The Commercial paper will be reoffered to not more than 200 identified and designated customers in a nonpublic list prepared for each applicant in advance by the purchasing dealer. No additions will be made to this customer list. It is anticipated that the Commercial Paper will be held by customers to maturity, but if such customers desire to resell prior to maturity, the purchasing dealer, pursuant to a verbal repurchase agreement, will repurchase the Commercial Paper and reoffer the same to others in the group of 200 customers.

The revolving credit/term loan agreement ("Agreement") will provide that during the revolving period, CL&P, HELCO and WMECO may borrow, on a first-come, first-served basis, up to the maximum amount committed,

$80,000,000, $60,000,000 and $45,000,000, respectively. The revolving period would end June 30, 1983 or such earlier date as CL&P, HELCO and WMECO individually elect, and in either event the then outstanding borrowings will be converted to term loans maturing no later than June 30, 1987 and amortized in eight semiannual installments commencing December 31, 1983. Borrowings may be repaid in whole or in part without penalty during the revolving period or during the term of the term notes and may be reborrowed during the revolving period. The borrowings outstanding shall bear interest, payable quarterly in arrears, at the following rates:

Year and rate

1—100% Base Rate
2—100% Base Rate
3—102% Base Rate
4—104% Base Rate
5—104% Base Rate
6—105% Base Rate
7—106% Base Rate

Base Rate is the higher of (a) Continental Illinois National Bank floating prime rate (b) ½ of 1 percent per annum above the latest three week moving average of secondary market offering rates in the United States for three months certificates of deposit as published weekly by the Federal Reserve Bank of New York. Subject to requisite regulatory approval, the applicants will pay a commitment fee of ½ of 1 percent per annum, commencing not later than April 15, 1980, on the average unused portion of the commitment during the revolving period, payable quarterly in arrears.

The proceeds derived by NU from the issuance and sale of the Bank Notes and the Commercial Paper will be applied during the period from July 1, 1980 to June 30, 1981 (1) to make capital contributions to CL&P and to WMECO in amounts not to exceed $40,000,000 and $15,000,000, respectively, (2) to make capital contributions or open account advances to NNEC in an amount not to exceed in the aggregate $7,000,000, and (3) to make open account advances to the Quinnehtuk Company, a wholly-owned real estate subsidiary of NU, in amounts not to exceed the aggregate $500,000, and (4) to supply funds as needed to other subsidiary companies as heretofore or hereafter authorized by the Commission. All capital contributions to subsidiaries will be credited to their capital surplus accounts. NNEC will apply such contributions or open account advances, together with short-term borrowings and other funds available to it, for nuclear fuel financing during 1980 and 1981. NNECO's total expenditures for nuclear fuel in 1980 and 1981 are estimated to be $41,000,000.

The funds to be derived by CL&P, HELCO and WMECO from the issuance and sale of the Bank Notes, Commercial Paper and Revolving Credit/Term Notes will be applied, together with other funds available to these companies, to provide working capital and to finance their respective construction expenditures in 1980 and 1981, which are estimated to be $323,000,000, $154,000,000 and $83,000,000, respectively. Funds derived by HWP from the sale of Bank Notes will be applied to the installation of second hydro unit at its facility at Hadley Falls on the Connecticut River. It is anticipated that construction will commence in 1980 and the total estimated construction costs for the unit are $17,000,000.

It is presently contemplated that any Bank Notes or Commercial Paper of NU, CL&P, HELCO, WMECO, HWP and NNECO outstanding June 30, 1981, or any Revolving Credit/Term Notes of CL&P, HELCO and WMECO, outstanding at June 30, 1987 will be repaid from internal cash resources or from the proceeds of long-term debt or equity financing.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transactions will be filed by amendment. The issue of the Revolving Credit/Term Notes by CL&P, HELCO and WMECO is subject to the jurisdiction of the Connecticut Division of Public Utility Control and the Massachusetts Department of Public Utilities. No other state or federal regulatory authority has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 30, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-18178 Filed 6-16-80; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 9, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

RCA Corporation

$3.65 Preference Stock, $1 Par Value (File No. 7-5569)

$2.125 Cumulative Convertible Preference Stock, $1 Par Value (File No. 7-5570)

These securities are listed and registered on one or more other national securities exchanges.

Interested persons are invited to submit on or before June 30, 1980 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-18180 Filed 6-16-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11203; 811-2971]

Pirvest, Inc.; Filing of Application for an Order Declaring That Company Has Ceased To Be an Investment Company

June 5, 1980.

In the matter of Pirvest, Inc., 2520 West Freeway, Fort Worth, Texas 76102 (811-2971).

Notice is hereby given that Pirvest, Inc. ("Applicant"), a Delaware corporation registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified management investment company, filed an application on February 14, 1980, and an amendment thereto on May 27, 1980, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as that term is defined in the Act. All interested persons are referred to the application on file with the Commission and the amendment thereto for a statement of the representations contained therein, which are summarized below.

According to the application, on November 30, 1979, substantially all of the operating assets of Applicant were sold to Pier 1. Acquisition, Inc. ("Acquisition"), a wholly-owned subsidiary of Newcorp, Inc., A Georgia corporation whose common stock is listed on the New York Stock Exchange. On the same date, Applicant registered under the Act by filing Form N-8A with the Commission. Applicant represents that after the sale of its assets to Acquisition (now Pier 1. Imports, Inc.), Applicant invested a substantial portion of the sale proceeds in interest-bearing securities to preserve the value of the proceeds from the sale of its assets to Acquisition. Applicant represents that at the time such investments were made, it did not (and at the present time Applicant does not) intend to permanently engage in the business of investing in securities. To that end Applicant advises that it has plans to engage in bona fide efforts to acquire companies (as majority-owned subsidiaries) which are not investment companies by using proceeds from the sale of Applicant's assets, now temporarily invested in investment securities.

According to the application, on April 7, 1980, Applicant commenced a tender offer pursuant to Section 23(c)(2) of the Act, and that as a result of such tender offer, the number of beneficial shareholders of Applicant as that term is used Section 3(c)(1) of the Act has been reduced to 96. Applicant states that it does not presently propose to make a public offering of its securities. Applicant asserts, therefore, that pursuant to Section 3(c)(1) of the Act, Applicant is not an investment company within the meaning of the Act. Additionally, Applicant contends that it would be qualified for an exemption from registration under the Act if proposed Rule 3a-2, which temporarily exempts transient investment companies from registration and regulation under the Act, were in effect.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 30, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commision, by the Division of Investment Management, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-18181 Filed 6-16-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-4479]

Plessey Inc.; Application To Withdraw From Listing and Registration

June 6, 1980.

In the matter of Plessey Incorporated 4½ percent Subordinated Convertible Debentures due 6-1-93; File No. 1-4479.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the American Stock Exchange ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. Plessey Incorporated's 4½ percent Subordinated Convertible Debentures ("Debentures") due June 1, 1993 were listed on the Amex on July 17, 1968. The number of debentureholders has been reduced to approximately 220 as a result of an issuer tender offer.

2. The volume of trading of the debentures on the Amex is minimal ($4,000 principal amount was traded between March 28, 1980 and April 8, 1980).

3. The expense of continued listing on the Amex is not warranted in light of the above two facts. [1]

Any interested person may, on or before June 27, 1980, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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[1] The issuer has undertaken to cause a registered broker-dealer to advertise a willingness to purchase the debentures until there are no longer any outstanding publicly held debentures, and to provide debentureholders with annual audited financial statements concerning the issuer.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-18182 Filed 6-16-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21616; 70-6467]

Transok Pipe Line Co. and Public Service Company of Oklahoma; Proposed Capital Contribution by Parent Company to Subsidiary Pipeline Company

June 10, 1980.

In the matter of Transok Pipe Line Company, P.O. Box 3008, Tulsa, Oklahoma 74101 and Public Service Company of Oklahoma, 212 East 6th Street, Tulsa, Oklahoma 74119; (70-6467).

Notice is hereby given that Public Service Company of Oklahoma ("PSO"), an electric utility subsidiary of Central and South West Corporation ("CSW"), a registered holding company, and Transok Pipe Line Company ("Transok"), a subsidiary pipeline company of PSO, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 9, 10 and 12 of the Act and Rules 43 and 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Transok is an intrastate pipeline company with operations limited to its state of incorporation, Oklahoma. All of its common stock is owned by PSO. Transok is engaged in the purchase, transportation and sale to PSO of natural gas pursuant to a contractual arrangement to supply PSO's electric generating stations with boiler fuel on a long-term basis.

PSO proposes to make a capital contribution of $10,000,000 to Transok. The full amount of the capital contribution will be used to increase Transok's equity base primarily to support refinancing of $27,000,000 of Transok bonds due in November, 1980.

The proceeds of the capital contribution will be used to repay short-term debt incurred in connection with Transok's 1979 and 1980 construction programs. At July 15, 1980, short-term borrowings will approximate $11,000,000.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $2,250. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than July 3, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-18183 Filed 6-16-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 02/02-0403]

EAB Venture Corp.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions as Section 301 (d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by EAB Venture Corp. (applicant) with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the applicant are as follows:

Harvey E. Ekldom, 350 Highlands Avenue, Ridgewood, N.J. 07450; President and Director.

H. Newman Marsh Jr., 169 East 69th Street, New York, N.Y. 10021; Vice President, Treasurer, and Director.

Lionel S. Jassy, 14 Arcadia Road, Allendale, N.J. 07450; Vice President, Secretary, and Director.

European American Bancorp [1] 10 Hanover Square, New York, N.Y. 10005; 100 percent stockholder.

The applicant, a Delaware corporation, with its principal place of business at 10 Hanover Square, New York, New York, 10005 will begin operations with $3,000,000 paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in small concerns located primarily in New York, Massachusetts, Pennsylvania, North Carolina, Virginia, Texas, California and Colorado.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 10, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-18101 Filed 6-16-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0002]

Federal Street Capital Corp.; Surrender of License

Notice is hereby given that Federal Street Capital Corporation (Federal), 75 Federal Street, Boston, Massachusetts

[1] No individual directly or indirectly owns 10 percent or more of the stock of the European American Bancorp.

02110, incorporated under the laws of the Commonwealth of Massachusetts on December 16, 1959, has surrendered its License No. 01/01–0002, issued by the Small Business Administration on December 29, 1959.

Federal has complied with all the conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the Regulations promulgated thereunder, the surrender of the license of Federal is hereby accepted and it is no longer licensed to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 6, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-18103 Filed 6-16-80; 8:45 am]

BILLING CODE 8025-01-M

Independence Mortgage Inc.; Application To Become Eligible as a Small Business Lending Company

On May 1, 1980, Independence Mortgage, Incorporated (IMI), a newly formed corporation, filed an application with the Small Business Administration (SBA) in compliance with Section 120.4(b) of the SBA's Regulations (13 CFR, 1975) to become eligible to operate as a Small Business Lending Company under the provisions of the Small Business Act.

Stock ownership in IMI is as follows:

William Nelson Rees, 3510 Monclair, Odessa, Texas—22,000 shares.
Ralph Foster, #8 San Miquel, Odessa, Texas—10,000 shares.
Cliffton Ralph Cramer, 1318 French, Odessa, Texas—10,000 shares.
Ralph Paul Cramer, 4202 Dawn Circle, Midland, Texas—10,000 shares.
James Clifton Rowe, 2716 Bainbridge, Odessa, Texas—10,000 shares.
Independence Development, Inc., Odessa, Texas—50,000 shares.

Total shares of stock purchased is 112,000.

Persons owning stock in Independence Development, Inc. are as follows:

Abraham Torres, 1315 West County, Odessa, Texas.
Tommy Lynn Doran, 2637 San Carlos, Odessa, Texas.
Alan D. Austin, 208 E. 86th Street, Odessa, Texas.

Independence Mortgage, Inc. is a corporation duly organized and existing under the laws of Texas. IMI is requesting the power to engage in the business of making loans in participation with SBA. IMI proposes to make SBA guaranteed loans in a fifty (50) mile radius of Odessa (in Ector County), Texas and will provide these loan services through a main office located at Suite 420, National Bank of Odessa Plaza, Odessa, Texas 79762.

Officers/Directors of Independence Mortgage, Inc. are as follows:

Alan D. Austin, President, 208 E. 86th Street, Odessa, Texas.
James Clifton Rowe, Vice-President, 2716 Bainbridge, Odessa, Texas.
Arden R. Holcomb, Treasurer, 3654 Loma, Odessa, Texas.
Barbara A. Dicus, Secretary, 4651 Oakwood, Odessa, Texas.

Independence Mortgage, Inc. proposes to begin operations in Odessa with $560,000 initial capitalization. Lending will be made available to any qualified small business in the geographic area stipulated. IMI will sell SBA's guaranteed portion in the Secondary Market, providing IMI with liquidity.

As a Subsection (b) lender, IMI will be restricted to making only SBA guaranteed loans. IMI will be licensed, examined, and monitored solely by SBA.

Matters involved in SBA's consideration of the application include:

(1) The general business reputation and character of management;

(2) The probability of successful operation of the new company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Act and the regulations.

Notice is hereby given that all interested parties, may, not later than fifteen (15) days from the date of notice publication, submit in writing to SBA relevant comments on the proposed company and/or its management. Address all communications to: Wayne S. Foren, Director, SBLC Operations, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Odessa, Texas, and the Western regional edition of the Wall Street Journal.

Rita M. McCoy,

Associate Administrator for Financial Assistance.

[FR Doc. 80-18104 Filed 6-16-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0262]

Round Table Capital Corp.; Issuance of a License To Operate as a Small Business Investment Company

On March 14, 1980, a Notice was published in the **Federal Register** (45 FR 16661) stating that Round Table Capital Corporation, 601 Montgomery Street, San Francisco, California 94111, had filed an application with the Small Business Administration, pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), for a license to operate as a small business investment company.

Interested persons were given until the close of business on April 4, 1980, to submit written comments on the application to the SBA.

Notice is hereby given that no written comments were received and, having considered the application and all other pertinent information, the SBA approved the issuance of License No. 09/09–0262 on April 28, 1980, to Round Table Capital Corporation pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 8, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 18102 Filed 6-16-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 06/06-0227]

Bow Lane Capital Corp; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Adminstration pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), under the name of Bow Lane Capital Corp., Suite 250, 2411 Fountainview, Houston, Texas 77057, for a license to operate as a small business investment comany (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.),* and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and major shareholders are as follows:

Stuart Schube, 806 Wycliffe Drive, Houston, Texas 77079; President, Director; 10 percent shareholder.
Robert R. Smither, 10122 Briar Rose; Houston, Texas 77042; Vice President, Secretary/Treasurer, Director.

Cas Lee Loobeek, No. 166, 11002 Hammerly, Houston, Texas 77043; Director.
Bow Lane International B.V. (a Netherlands Antilles corporation); 81 percent.

Bow Lane International B.V. is owned as follows:

Tien Pao Liem, 729 Bukit Timah Road, Singapore 1026; 73.4 percent.
Thian-Hok Liem, 414 Lakeshore Drive, Seabrook, Texas 77586; 13.3 percent.
Thian-Too Liem, 1227 Dominion Drive, Katy, Texas 77450; 13.3 percent.

The Applicant proposes to begin operations with a private capital of $2.5 million. Initially, the company will conduct its operations within the State of Texas and will follow a diversified investment policy. Applicant anticipates that it will, from time to time, provide managment consulting services to portfolio concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than July 2, 1980, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 6, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-18208 Filed 6-16-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 10/10-0171]

Capital Resource Corp.; Issuance of a Small Business Investment Company License

On April 8, 1980, a notice was published in the **Federal Register** (45 FR 23842) stating that an application had been filed by Capital Resource Corporation, 1001 Logan Building, Seattle, Washington 98101, with the Small Business Administration (SBA), pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)) for a license as a small business investment company.

Interested parties were given until close of business April 23, 1980, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 10/10-0171 on May 19, 1980, to Capital Resource Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 6, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-18207 Filed 6-16-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1847]

Idaho; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Nez Perce and Shoshone Counties and adjacent Counties within the State of Idaho, constitutes a disaster area because of damage resulting from the volcanic eruption of Mount St. Helens beginning on May 18, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 1, 1980, and for economic injury until close of business on March 2, 1981, at:

Small Business Administration, District Office, 1005 Main Street, Boise, Idaho 83702.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: June 5, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-18204 Filed 6-16-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0115]

Rio Investment Corp.; Surrender of License

Notice is hereby given that pursuant to § 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (SBICs) (13 CFR (1980)), RIO Investment Corporation, 1415 Industry Avenue, Albany, Georgia 31702, incorporated under the laws of the State of Georgia has surrendered its license to operate as a small business investment company (SBIC); License No. 04/04-0115 was issued on February 2, 1978.

RIO Investment Corporation has complied with all the conditions set forth by SBA for the surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of RIO Investment Corporation is hereby accepted and it is no longer licensed to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 50.011, Small Business Investment Companies)

Dated: June 10, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-18206 Filed 6-16-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1846]

Wisconsin; Delcaration of Disaster Loan Area

The area of 808 South 3rd Street in the City of Cornell, Chippewa County, Wisconsin, constitutes a disaster area because of damage resulting from a fire which occurred on February 14, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 4, 1980 and for economic injury until the close of business on March 3, 1980 at:

Small Business Administration, District Office, 212 East Washington Avenue, Room 213, Madison, Wisconsin 53703.

or other locally announced locations.

(Catalog of Federal Domestic Program Nos. 59002 and 59008)

Dated: June 3, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-18203 Filed 6-16-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 09/09-5261]

YFY Capital Corp.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by YFY Capital

Corporation (Applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Richard Lim, 477 Raymond Ave., San Francisco, CA 94134; President, Director, General Manager.
Yee Keung Yeung, 311 Willard N. St., San Francisco, CA 94118; Vice President, Director.
Rose Yee, 2555 El Caminito Ave., Oakland, CA 94610; Secretary, Director.
Young Ngook Gay Lee, 1400 Jones St., San Francisco, CA 94133; Director, 100 percent Stockholder.
George L. Yee, 2555 El Caminito Ave., Oakland, CA 94610; Director.

The Applicant, a California corporation with its principal place of business at 533 Jackson Street, San Francisco, California 94133, will begin operations with $500,000 of paid-in capital and paid-in surplus from the sale of 50,500 shares of common stock.

The Applicant will conduct its activities principally in the State of California.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Smell Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than July 2, 1980, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Associate Administrator for Investment, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in San Francisco, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 10, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-18205 Filed 6-16-80; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 118
Tuesday, June 17, 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).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Communications Commission	2
Federal Maritime Commission	3
Federal Trade Commission	4
International Trade Commission	5—7
National Transportation Safety Board	8
Nuclear Regulatory Commission	9
Tennessee Valley Authority	10

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, June 17, 1980.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street, NW, Washington, D.C. 20506

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Amendments to the Procedures for Processing Complaints of handicap Discrimination by Federal Employees
2. Freedom of Information Act Appeal No. 80-4-FOIA-178 concerning a request for materials from an investigative file.
3. Proposed Procedures for Notation Voting
4. Report on Commission Operations by the Executive Director.

Closed to the Public

1. Litigation Authorization; General Counsel Recommendations
2. Proposed Withdrawal of Certain Charges.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued June 10, 1980.

[S-1168-80 Filed 6-13-80; 12:13 pm]

BILLING CODE 6570-06-M

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, June 18, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUE: Special open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Title: Inquiry into Commercial Television Network Practices. Summary: The Network Inquiry Staff will summarize preliminary reports on program production, acquisition, and distribution; the market for television advertising; and determinants of television station profitability.

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 11, 1980.

[S-1167-80 Filed 6-13-80; 10:49 am]

BILLING CODE 6712-01-M

3

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: June 12, 1980, 45 FR 40002.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., June 18, 1980.

CHANGES IN THE MEETING: Date of meeting changed from June 18, 1980 to June 19, 1980 at 10 a.m. Addition of the following item to the open session:

5. Agreement No. 10045-3: Modification of the Florida/Panama Rate Agreement and Agreement No. 10105-1: Modification of the Florida/Guatemala, Honduras and El Salvador Rate Agreement to admit Sea-Land Service, Inc., as a party; to expand their geographic scopes; and for other purposes.

[S-1166-80 Filed 6-13-80; 10:35 am]

BILLING CODE 6730-01-M

4

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, June 19, 1980.

PLACE: Room 532 (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions Open to Public: (1) Oral Argument in Montgomery Ward and Co., Inc., Docket No. 9117.

Portions closed to the Public: (2) Executive Session to discuss Oral Argument in Montgomery Ward and Co., Inc., Docket No. 9117.

CONTACT PERSON FOR MORE INFORMATION: Pamela F. Richard, Office of Public Information: (202) 523-3830; Recorded Message: (202) 523-3806.

[S-1165-80; Filed 6-13-80; 10:07 am]

BILLING CODE 6750-01-M

5

INTERNATIONAL TRADE COMMISSION.

[USITC 5E-80-34]

TIME AND DATE: 10 a.m., Tuesday, June 24, 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.
5. Anhydrous sodium metasilicate from France (Inv. 731-TA-25)—briefing and vote.
6. Surveying Devices (Inv. 337-TA-68)—briefing and vote.
7. Steel pipe and tube from Japan (Inv. 731-TA-15)—reopening of vote, if necessary.
8. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202 523-0161.

[S-1171-80 Filed 6-13-80; 2:45 pm]

BILLING CODE 7020-02-M

6

INTERNATIONAL TRADE COMMISSION.

[USITC SE-80-35]

TIME AND DATE: 10 a.m., Thursday, June 26, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Steel jacks (Inv. 603-TA-6)—briefing.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1172-80 Filed 6-13-80; 2:45 p.m.]

BILLING CODE 7020-02-M

7

INTERNATIONAL TRADE COMMISSION.

[USITC ERB-80-7A]

Executive Resources Board (ERB)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 39373, June 10, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, June 16, 1980.

CHANGES IN THE MEETING: Rescheduling of meeting.

Commissioners Alberger and Calhoun, as members of the Executive Resources Board (ERB), determined by recorded vote that Commission business requires the rescheduling of the meeting of June 16, 1980, to Tuesday, June 17, 1980, at 2:30 p.m., and affirmed that no earlier announcement of the change in the schedule was possible and directed the issuance of this notice at the earliest practicable time. Commissioner Stern was not present for the vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1169-80 Filed 6-13-80; 1:58 pm]

BILLING CODE 7020-02-M

8

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, June 24, 1980. [NM-80-24].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report.*—Crane Barge C. L. DILL 10, Fire, Garden Island Bay, Mississippi River Delta, June 5, 1979, and *Recommendations* to U.S. Army Corps of Engineers, Texaco, Inc., and the C. L. Dill Co.

2. *Special Investigation Report.*—Design-induced Landing Gear Retraction Accidents in Beechcraft Baron, Bonanza, and other Light Aircraft and *Recommendations* to the Federal Aviation Administration.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

June 13, 1980.

[S-1170-80 Filed 6-13-80; 2:38 pm]

BILLING CODE 4910-58-M

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of June 16, 1980.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Monday, June 16, 10 a.m.

1. Affirmation session (approximately 5 minutes—public meeting). TMI action plan (policy statement). (rescheduled from June 12).

2. Reserved for discussion and vote on affirmation item (if required; approximately 15 minutes—public meeting).

Tuesday, June 17, 3:30 p.m.

1. discussion of management-organization and internal personnel matters (approximately 1 hour—closed, Exemptions 2 and 6).

Wednesday, June 18, 2 p.m.

Staff presentation on final rulemaking on emergency preparedness (approximately 1½ hours—public meeting, as announced).

Thursday, June 19, 10 a.m.

1. Briefing on report on potential threat to nuclear activities from insiders and briefing on DOE study on effectiveness of security clearances (approximately 2 hours—public meeting/portions may be closed).

2. Affirmation session (approximately 10 minutes—public meeting. Proposed rulemaking on reactor siting (tentative)).

3. Reserved for discussion and vote on affirmation item (if required, approximately 15 minutes—public meeting).

Friday, June 20

No Commission meetings.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

Walter Magee,

Office of the Secretary.

June 12, 1980.

[S-1173-80 Filed 6-13-80; 2:57 pm]

BILLING CODE 7590-01-M

10

TENNESSEE VALLEY AUTHORITY. (Meeting No. 1245.)

TIME AND DATE: 7 p.m., EDT, Thursday, June 19, 1980.

PLACE: Union County High School, Blairsville, Ga.

STATUS: Open.

MATTERS FOR ACTION

A. Project Authorization

1. No. 3515—Construction of a facility to demonstrate production of an ammonium polyphosphate suspension fertilizer.

B. Purchase Awards

1. Req. 55—Emergency coal purchases for Widows Creek Steam Plant, Units 1-6.

2. Req. 824989 (Reissue)—Reactor safety relief valve discharge line quenchers for Hartsville, Nuclear Plants A & B and Phipps Bend Nuclear Plant.

C. Power Items

1. Lease and Amendatory Agreement with Newport, Tennessee, covering arrangements for 161-kV delivery at TVA's Newport 161-kV Substation and 115-kV delivery at TVA's Cosby 115-kV Substation.

2. Lease and Amendatory Agreement with Chickasaw Electric Cooperative covering lease of TVA's Rossville Substation.

3. New power contract with Florida Steel Corporation, Jackson, Tennessee.

4. Letter Agreement with the City of Monticello, Kentucky, amending power contract to cover application of credit to customers' bills.

5. Deed conveying to Lawrenceburg, Tennessee, a 0.68-acre portion of TVA's Lawrenceburg 161-kV Substation site located in Lawrence County, Tennessee.

*Agreement among Reynolds Metals Company, Union Carbide Corporation, and TVA modifying power supply arrangements in connection with Union Carbide's sale of its Ferroalloy Plant in Sheffield, Alabama, to Reynolds.

7. Contract with Tennessee Valley Public Power Association (TVPPA) providing for funding for TVPPA's distributor-oriented research, development, and demonstration (R&D) efforts.

8. Contract with Electric Power Research Institute (EPRI), covering arrangements for a test program for development and implementation of the TVA Atmospheric Fluidized Bed Combustion (AFBC) Pilot Plant.

D. Personnel Items

*1. Change of status for Ralph M. Pierce from Design Project Manager (Sequoyah and Watts Bar Design Project) to Assistant Manager, Division of Engineering Design (thermal Power Design), Office of Engineering Design and Construction, Knoxville, Tennessee.

*2. Change of status for Robert W. Cantrell from Electrical Engineer to Design Project Manager (Sequoyah and Watts Bar Design Project), Division of Engineering Design, Office of Engineering Design and Construction, Knoxville, Tennessee.

*3. Appointment of Allan G. Pulsipher as Chief Economist, Office of Planning and Budget, Knoxville, Tennessee.

4. Contract with Coopers & Lybrand, New York, New York, for audit of TVA's financial statements for fiscal year 1980, requested by the Division of Finance.

5. Designation of Dale H. Kangas as Assistant Treasurer of TVA.

E. Real Property Transactions

1. Reconveyace to TVA by State of Alabama of 14.6 acres of Guntersvile Reservoir land in Marshall County, Alabama—Tract XTGR-7.

2. Modification of deed to approximately 7.2 aces of Pickwick Reservoir land in Colbert County, Alabama, to permit construction of a subdivision and access road—Tract XPR-247.

*Approved by individual Board members. This would give formal ratification to the Board's action.

3. Filing of condemnation suits.

F. Unclassified

1. Supplement to Interagency Agreement with U.S. Department of the Interior, Office of Surface Mining, for aerial photography in surface and underground mining areas.

2. Interagency Agreement with U.S. Department of the Interior, Office of Surface Mining, relating to procedures for determining adequacy of postmining revegetation.

3. Agreement with Gold Kist, Inc., covering arrangements for cooperation in a project for developing a commercial market for hardwood timber in the Blairsville, Georgia, area.

CONTACT PERSON FOR MORE INFORMATION: Graven Crowell, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated June 12, 1980.

[S–1164–80 Filed 6–13–80; 8:46 am]

BILLING CODE 8120–01–M

federal register

Tuesday
June 17, 1980

Part II

Department of Energy

Federal Energy Regulatory Commission

Draft Consumer Program

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D C 20426

JUN 10 1980

OFFICE OF THE CHAIRMAN

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

As you know, the Federal Energy Regulatory Commission (FERC), is committed to implementing a consumer affairs program consistent with Executive Order 12160. Although, as an independent regulatory agency the FERC is not required to comply with Executive Order 12160, this Commission strongly supports your efforts to achieve increased consumer participation.

My letter to you of November 29, 1979, indicated that we were reviewing various options and plans for our consumer affairs plan. The FERC has now completed that review and we are now transmitting for publication in the Federal Register the enclosed Draft Consumer Program.

I hope that we can work together to help you fulfill your commitment to consumer participation throughout the federal government.

Sincerely,

Charles B. Curtis

Charles B. Curtis
Chairman

Enclosure

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission Draft Consumer Program

AGENCY: Federal Energy Regulatory Commission.

ACTION: Publication for Comment of Draft Consumer Program.

SUMMARY: As part of its voluntary compliance with Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs," the Federal Energy Regulatory Commission is publishing for public comment its Draft Consumer Program.

DATE: To be most useful, comments should be submitted by August 20, 1980.

ADDRESS: Comments should be addressed to: Kenneth S. Levine, Director, Office of Congressional, Consumer and Public Affairs, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth S. Levine, Director, Office of Congressional, Consumer and Public Affairs, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8370.

INTRODUCTION

The agency's Draft Consumer Program has been developed in the context of three major directives:

1. *Executive Order 12160,* designed to "ensure that agencies review and revise their operating procedures so that consumer needs and interests are adequately considered and addressed." The Order requires specific agency efforts in the areas of consumer affairs perspective, consumer participation, informational materials, education and training, and complaint handling.

2. *Public Utility Regulatory Polices Act (PURPA) Section 319,* requiring the agency to set up an Office of Public Participation to "coordinate assistance to the public (and) to persons intervening or participating . . . in proceedings before the Commission." Section 319 also authorizes the agency to "provide compensation for reasonable attorney's fees, expert witness fees, and other costs to participants whose participation makes a substantial contribution to a proceeding and who, without compensation, would not be able to participate.

3. *The Commission's perception of the need for increased, effective representation of consumer interests.* Beyond the requirements of the Executive Order and of PURPA, the agency is committed to encouraging more effective representation of consumer interests in its proceedings. It believes that a variety of intermediaries—including citizens groups, state utility commissions, state utility consumer advocates, and other public and private organizations—can help serve this function.

The agency is particularly concerned about increasing the participation of consumer-oriented groups in rulemakings. Because of its responsibilities under the Natural Gas Policy Act and PURPA, as well as its approach to regulatory decision-making, the agency is increasingly relying on rulemakings to make many of its most important decisions. For the agency to make fully-informed decisions, and for consumers to have the greatest impact on agency decisions, increased participation in rulemakings by consumer-oriented participants is needed.

The agency's Draft Consumer Program is designed to encourage more consumer-oriented organizations to participate in more agency proceedings and to help particpants do so more effectively. To achieve these goals, the implementation of the Consumer Program is split between two offices:

—the Division of Consumer Affairs (which is part of the Office of Congressional, Consumer and Public Affairs);

—the Office of Public Participation (which is mandated by PURPA section 319 and reports directly to the Commission);

In general, the Division of Consumer Affiars is responsible for *outreach* to consumer organizations *and analysis* of the impact of proceedings on consumers. The Office of Public Participation, in contrast, is responsible for *technical assistance,* helping consumer-oriented participants in specific proceedings.

1. CONSUMER AFFAIRS PERSPECTIVE

The primary responsibility for this function rests with the Division of Consumer Affairs (DCA). The Director of the DCA reports to the Commission Chairman through the Director of the Office of Congressional Consumer and Public Affairs, of which the DCA is a part. The DCA has an authorized staff of six, including consumer specialists with expertise in regulatory analysis, communications, and management.

Among other tasks, the Division is responsible for:

—analyzing the potential impact on consumers of agency proceedings;

—identifying agency proceedings of potential consumer interest;

—advising the Commissioners and agency staff of consumer views and potential consumer impact of agency proceedings, budget decisions, and legislative proposals.

2. CONSUMER PARTICIPATION

While the agency puts priority in increasing effective consumer participation in rulemaking through the comment process, both the DCA and Office of Public Participation (OPP) are responsible for aiding potential consumer participants in all agency proceedings (including rate cases, licensing and other proceedings).

In addition to the informational efforts discussed below (see No. 3), the DCA is responsible for:

—*Staffing the Consumer Advisory Committee.* Meeting four times a year, the committee provides an organized vehicle from which to solicit consumer-oriented comment on proposed rules and encourages a reasonable number of consumer leaders from around the country to pay attention on a continuing basis to the FERC activity. The committee is presented at each meeting with specific questions that the Commission would like its view on. Background material is provided ot the committee members before the

meetings and, when appropriate, committee members and FERC staff make prepared presentations on aspects of issues under consideration. The committee's membership includes officers of national, state and local consumer groups; state people's counsels; leaders of national, state and local constituency groups such as small business, labor, and community based organizations; and experts such as academics, lawyers, and consultants aligned with consumer interests.

—*Staffing the State Government Advisory Committee.* This committee plays the same role for relevant state officials that the Consumer Advisory Committee does for consumer representatives. It will meet four times a year to consider agendas similar to those of the Consumer Advisory Committee. This advisory committee provides the Commission with a vehicle to solicit comments from public service commissions, oil and gas commissions, energy agencies, and other state officials.

—*Organizing "consumer exchange meetings".* Unlike the Consumer Advisory Committee whose purpose is, in large part, to interest locally-based consumer representavies in FERC activity, the "consumer exchange" meetings are designed to communicate *regularly* with relatively well-informed, Washington based consumer leaders. Held several times a year, these meetings are to allow top agency officials and consumer leaders to discuss agenda and non-agenda items of concern.

—The OPP is responsible for:

—*Identifying barriers to participation,* including access to information, transcript costs, hearing locations, and procedural requirements.

—*Informing and coordinating efforts of regular consumer participants.* Regular non-regulated industry intervenors include some state commissions, public distribution systems, gas distributors federal agencies, and a number of citizen groups. The OPP staff develops whatever publications, briefings, or other vehicles needed to increase these intervenors' awareness of particular proceedings. To minimize duplication of effort by those with limited resources and to maximize the breadth of participation, the OPP coordinates the participation of intervenors in major proceedings. This effort includes encouraging potential intervenors with parallel interests to pool their resources and calling the attention of regular intervenors to significant proceedings in which their interests are not represented.

—*Administering an intervenor reimbursement funding program.* The Public Utility Regulatory Polices Act of 1978 section 319 authorizes the agency to set up a program to reimburse the intervention costs of intervenors who could make substantial contributions to agency proceedings. Since the passage of PURPA, the agency has sought Office of Management and Budget and congressional appropriation for this program and has been repeatedly turned down. The agency will continue to seek funds to pay the intervention costs of these intervenors.

3. INFORMATIONAL MATERIALS

—The DCA is responsible for regularly updating the agency's list of consumer-oriented organizations that are interested in agency proceedings and for alerting them, through special mailings, meetings, and other methods, to specific proceedings.

The OPP is responsible for:

—*Developing and updating a list of past intervenors* to identify the primary client group for OPP's services.

—*Developing a "how to" handbook for potential intervenors,* explaining to first-time or occasional intervenors how to participate effectively in agency proceedings.

—*Serving as ombudsman for intervenors.* The OPP helps intervenors answer questions about the FERC's procedures and the current status of cases, identify the correct staff people for them to talk with, and acquire information in the FERC's public file that is relevant to the proceedings.

4. EDUCATION AND TRAINING

The OPP is responsible for training of agency staff to encourage and effectively use increased consumer participation and for providing technical assistance to intervenors.

The initial training of agency staff concentrates on explaining the requirements of the Consumer Program, the role of the DCA and the OPP, and the ways in which other agency offices should use the DCA and OPP in specific proceedings.

The primary function of the OPP is to provide technical assistance to intervenors. It is provided in specific proceedings by OPP staff and, as appropriate, by technical office or other staff, based on:

—the needs of the intervenors for procedural, substantive, or other help;

—the needs of the agency for input on particular issues or from particular interests.

5. COMPLAINT HANDLING

Each agencys office is responsible for logging, investigating and responding to consumer complaints in its area. The DCA is responsible for *periodically* evaluating the effectiveness of each office's complaint-handling system and for analyzing patterns of complaints for use in policy development.

OVERSIGHT

The Director of the Division of Consumer Affairs has oversight responsibility for the agency's consumer program. This reponsibility includes supervising the work of the DCA and advising other agency officials on matters relating to the consumer program. The DCA is part of the Office of Congressional, Consumer and Public Affairs and reports to the Commission Chairman through the Director of that office. To the extent that the DCA's responsibilities complement those of the OPP, the Director of the DCA coordinates its work with the OPP Director.

Charles B. Curtis,

Chairman, Federal Energy Regulatory Commission.

June 10, 1980.

[FR Doc. 80-17994 Filed 6-16-80; 8:45 am]

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Reader Aids

Federal Register

Vol. 45, No. 118

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INFORMATION AND ASSISTANCE

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Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, JUNE

37175-37396.....2
37397-37680.....3
37681-37800.....4
37801-38022.....5
38023-38334.....6
38335-39236.....9
39237-39492.....10
39493-39788.....11
39789-40092.....12
40093-40560.....13
40561-40962.....16
40963-41118.....17

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

465.....37397

3 CFR

Administrative Orders:

Presidential Determination:

No. 80-19 of May 28, 1980.....37681

Reorganization Plans:

No. 1 of 1980.....40561

Proclamations:

4762.....39237

5 CFR

213.....38023-38024
410.....40963

Proposed Rules:

Ch. 1.....37610
330.....39277
352.....37452
536.....40990
720.....38061

6 CFR

705.....37397, 38335

7 CFR

10.....37175
273.....40093
282.....40094
301.....38024
711.....37398
723.....40095
724.....40095
725.....40096, 40097
726.....40095
908.....37801, 38339, 39789
910.....37683, 38033, 40097
911.....39854
913.....40565
923.....38034
925.....40565
944.....39854
947.....37178
1004.....39239
1438.....39493
1701.....37399, 40098, 40963
1804.....39789
1821.....39789
1822.....39789
1872.....39789
1901.....39789
1924.....39789
1933.....39789
1942.....39789
1943.....39789
1944.....39789
1945.....39789

Proposed Rules:

725.....39277
760.....37453
916.....38386
917.....38062, 38387
930.....38063
999.....39507
1007.....40606
1493.....37854
1701.....37454, 38064
2842.....38064

8 CFR

207.....37392
208.....37392
209.....37392
238.....38339, 40964, 40965
245.....37392
343b.....38340

9 CFR

3.....37616
51.....40965
78.....38035
83.....40098
92.....38036
113.....40099

Proposed Rules:

83.....38071
325.....40129

10 CFR

32.....38340
35.....39829
50.....40101
51.....40101
73.....37399
95.....37410
140.....37410
205.....37683
210.....40104
212.....38038, 39240, 40104, 40106
445.....37685
500.....38276
501.....38276
502.....38276
503.....38302
504.....40966
505.....38302
506.....40966
507.....38276
1040.....40514

Proposed Rules:

34.....39856
71.....39519
211.....37697, 40078
212.....37697
455.....39856
474.....39520

12 CFR

201.....40108
204.....39494
217.....37685

220.....40967, 40968
229.....39495
341.....37179
343.....37179
522.....40108
531.....40109
590.....38342
605.....39495
614.....39496
701.....39241
1204.....37801–37803, 40109

Proposed Rules:

7.....40613
201.....40130
543.....40132
552.....40132
618.....39507
701.....39279
1204.....38072, 38388

13 CFR

111.....39496
305.....39242

Proposed Rules:

Ch. III.....37972
Ch. V.....37972
120.....37454

14 CFR

11.....38342
21.....38342
25.....38342
29.....38342
37.....38342
39.....37179–37181, 37805–37811, 38349, 39829–39833, 40571
71.....37811, 38352, 39835–39837, 40572
73.....38352
91.....38342
97.....37181, 39837
121.....38342
127.....38342
135.....38342
159.....40572
207.....40572
208.....40574
212.....40575
214.....40575
249.....37812
399.....40969

Proposed Rules:

Ch. I.....38073
39.....37221, 37222, 38402, 40615
71.....37858, 38404, 39857, 40616
139.....39857
399.....40994
1252.....40994

15 CFR

368.....40575
370.....37183
373.....37415
374.....37415
376.....37415
379.....37183, 37435
385.....37415
386.....37183
399.....37415

Proposed Rules:

Ch. I.....37972
Ch. II.....37972
Ch. III.....37972
Ch. VIII.....37972
Ch. XII.....37972
19.....37374
938.....39507, 39511

16 CFR

1.....39244
2.....39244
3.....39244
4.....39244
13.....37686, 38039, 38352
305.....40974
460.....37674
1508.....37418

Proposed Rules:

13.....39865
705.....37386
1405.....39434

17 CFR

200.....40975
240.....37687, 39838
249.....39838

Proposed Rules:

16.....39280
211.....40134
229.....40134
240.....40134, 40145
249.....40134, 40145
270.....38407

18 CFR

1.....38354
141.....37420, 38354
260.....37812
271.....37185
281.....39497
282.....37185
292.....38040

Proposed Rules:

281.....39283
282.....38080, 40617

19 CFR

22.....39244
54.....38040, 38355
103.....40975
171.....40975
353.....39498

20 CFR

651.....39454
653.....39454
658.....39454

Proposed Rules:

Ch. I.....37648
Ch. III.....40356
Ch. IV.....37648
Ch. V.....37648
Ch. VI.....37648
Ch. VII.....37648
404.....39309

21 CFR

Ch. I.....40976
101.....37420
102.....39247
103.....37422
146.....39251
175.....39251
177.....39252
207.....38042
429.....40110
431.....40110
510.....37424, 38048
514.....40110
522.....37425
558.....37424, 38048–38049
573.....38049
1000.....40976

Proposed Rules:

Ch. I.....40356
Ch. II.....40576
103.....40153
163.....40999
310.....37455
589.....40999
640.....40999
1030.....40999

22 CFR

41.....39499
208.....37688

Proposed Rules:

6.....37456
6f.....37456
171.....37456

23 CFR

Proposed Rules

625.....40062
646.....40062
655.....40062

24 CFR

220.....38356
390.....40556
841.....40868
888.....40111
1710.....40474
1715.....40474
1720.....40474
1730.....40474

Proposed Rules:

115.....37697, 40999
203.....38410
570.....40155, 40954
888.....40155

25 CFR

221.....37688

26 CFR

1.....38050, 40113, 40979
7.....38050
31.....39499

Proposed Rules:

1.....39512, 39869
48.....38411

27 CFR

4.....40538
5.....40538
7.....40538

Proposed Rules:

19.....38258
70.....38258
240.....38258
245.....38258
250.....38258
270.....38258, 38271
275.....38258, 38271

28 CFR

0.....39841
20.....40114
42.....37620
43.....39841

Proposed Rules:

22.....40156
23.....40156
42.....41001
62.....40159

29 CFR

40.....40985
42.....39486
102.....37425
697.....40601, 40985
1610.....40603
2530.....40987

Proposed Rules:

Subtitle A.....37648
Ch. II.....37648
Ch. IV.....37648
Ch. V.....37648
Ch. XVII.....37648
Ch. XXV.....37648
1613.....38083
1910.....40166, 41012
1926.....41015
2550.....38084
2610.....38415

30 CFR

Ch. II.....40619
250.....37816–37817
715.....39446
816.....37818, 39446
817.....39446

Proposed Rules:

Ch. I.....37648
Ch. VII.....37223, 37697, 38088
55.....38087
56.....38087
57.....38087
70.....39310
71.....39310
90.....39310
715.....40166
716.....39448, 40166
785.....39448
816.....40166
817.....40166
826.....40166

31 CFR

15.....39841
103.....37818
535.....37679, 37688

32 CFR

536.....39253
562.....39502
888a.....39502
907.....39502
1611.....40577
1612.....40577
1613.....40577
1615.....40577
1617.....40577
1619.....40577
1621.....40577

Proposed Rules:

1611.....40621
1612.....40621
1613.....40621
1615.....40621
1617.....40621
1619.....40621
1621.....40621

32A CFR

Proposed Rules:
Ch. VI.....37972

33 CFR

117.....39845, 39846
147.....37186
165.....37187

Proposed Rules:
117.....39871
128.....40621
183.....38417
235.....39412

34 CFR

5b.....37426
30.....37426
73.....37426
100.....37426
104.....37426
106.....37426

36 CFR

251.....38324
920.....38056

37 CFR

Proposed Rules:
Ch. I.....37972

38 CFR

17.....38356, 39846
36.....38056

39 CFR

10.....40114
111.....37426-37427, 40114

Proposed Rules:
111.....38419

40 CFR

52.....39503, 40578, 40579, 40987
62.....37431
80.....37197
81.....39255
86.....40030
162.....39848
180.....39257, 39503
418.....37198
423.....37432
426.....37198
432.....37198

Proposed Rules:
51.....37466
52.....37224, 37699, 38419, 39310, 40167, 40169, 40623, 41016, 41018
60.....39766
80.....37225
81.....41018
86.....38422
112.....40174
162.....38087, 39311
169.....41024
173.....40175
180.....37700, 40175

41 CFR

Ch. 1.....39504
Ch. 14.....39504
Ch. 101.....37199, 37432
1-15.....39848
3-4.....37693
101-11.....37433
101-17.....37199
101-18.....37199
101-19.....37199
101-45.....37693, 38369
105-61.....39258

Proposed Rules:
Ch. 25.....39871

42 CFR

57.....40581
59.....37433

Proposed Rules:
Ch. I.....40356
Ch. II.....40356
Ch. III.....40356
Ch. IV.....40050, 40356
405.....37858
441.....37858
447.....37466, 39872

43 CFR

2710.....39416
2730.....39416
2750.....39416
2760.....39416

Proposed Rules:
3809.....41024

Public Land Orders:
5726.....37438
5727.....37439, 40115
5728.....37837
5729.....38369

44 CFR

64.....37207
65.....37442, 37694, 39258
67.....37208-37209
70.....38370-38379
205.....37440

Proposed Rules:
67.....37226, 37227, 37861, 39312-39315, 40624, 40625

45 CFR

74.....37666, 38380
100c.....37442
1063.....39849
1067.....39849
1211.....39270

Proposed Rules:
Subtitle A.....40356
Subtitle B.....40356
Ch. VI.....39871
63.....37700
100b.....39708
116.....39712
116a.....39712
1050.....37867
1336.....39316

46 CFR

66.....38384
283.....37442
527.....37694
536.....38057

Proposed Rules:
Ch. II.....37972
Ch. IV.....37703
531.....41024
536.....41024

47 CFR

0.....39850
19.....39850
64.....40115
73.....37210, 37838, 38057
74.....37839
97.....40116, 40117

Proposed Rules:
2.....37237
22.....37237
68.....37704
73.....37238-37246, 37468, 37868-37869, 40176-40186, 40626
74.....40187
87.....40188
90.....37237
97.....40192

49 CFR

229.....39851
450.....37212
451.....37212
452.....37212
453.....37212
571.....38380, 40585
572.....40595
800.....37842
1033.....37219, 37220, 37843-37845, 38057-38059, 38382, 39275, 39852, 40596, 40597, 40599
1041.....37218
1047.....39853

Proposed Rules:
Ch. X.....39316, 39317
71.....38423
171.....40627
391.....39872
575.....37870
1047.....39874
1056.....39519
1100.....39317
1320.....39519
1321.....39519
1322.....39519
1323.....39519
1324.....39519

50 CFR

20.....37847
222.....39875
223.....39875
224.....39875
225.....39875
226.....39875
227.....39875
230.....37451
255.....37852
260.....39275
285.....40118
611.....37695, 39876

Proposed Rules:
Ch. II.....37972
Ch. VI.....37972
17.....40958
91.....39317
661.....37870

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

TRANSPORTATION DEPARTMENT

Coast Guard–

73048 12–17–79 / Visual distress signals for boats; addition to specifications

List of Public Laws

Last Listing June 11, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 1786 / Pub. L. 96–268 To amend the Act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said Act. (June 13, 1980; 94 Stat. 485) Price $1.00.

S. 2517 / Pub. L. 96–269 To rename certain buildings of the Library of Congress. (June 13, 1980; 94 Stat. 486) Price $1.00.