

Federal Register

Friday
September 5, 1980

Highlights

TWICE-A-WEEK PUBLICATION SCHEDULE

For a change in the schedules of "Agency Publication on Assigned Days of the Week", see the note appearing under the table in the Reader Aids section of this issue.

- 58801 **Convention for the Safety of Life at Sea**
Executive Order
- 58803 **Natural Gas Supply Emergencies** Executive
Order
- 58805, **Executive Schedule** Executive Orders amending
58807 levels IV and V
- 58820 **Campaign Funds** FEC announces effective date of
9-5-80 for final rule relating to public financing of
Presidential General Election Campaigns
- 58935 **Grant Programs—Education** ED announces
acceptance of applications for grants in the program
of Research Grants on Teaching and Learning;
apply by 1-27-81
- 58970 **Medical Devices** HHS/FDA considers establishing
uniform standards for electromedical devices;
comments, data and information by 11-4-80

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Highlights

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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.

- 58843 Cuban Assets Control** Treasury/Foreign Assets Control Office provides general license for transactions incident to satellite telecommunications between the U.S. and Cuba for purposes of transmission of news coverage; effective 9-5-80
- 58831, 58879 Banks, Banking** SEC amends and withdraws a proposed amendment to Form MSD, the registration form used by municipal securities dealers; withdrawn proposal effective on 9-5-80 (2 documents)
- 59132 Health Systems** HHS/PHS sets forth an interim rule governing the award of additional funds in order to assist health systems agencies in meeting certain extraordinary expenses; comments by 11-4-80; effective 9-5-80 (Part V, of this issue)
- 58936 Coal Leasing** DOE announces availability of preliminary coal production goals report for 1985, 1990 and 1995; comments by 10-8-80
- 58983 Oil and Gas Exploration** Interior/GS issues notice of receipt of a proposed development and production plan
- 58871 Petroleum Price Regulations** DOE/ERA proposes rule to address retroactive amendments to "V" factor of refiner cost allocation formulae; comments by 11-4-80; hearing on 10-16-80
- 58865 Motor Carriers** ICC eliminates requirement for motor contract carriers to file a copy of each bilateral contract entered into between carriers and shippers; effective 9-5-80
- 58809, 58933, 58988 Privacy Act Documents** Nuclear Safety Oversight Committee and DOD
- 59062 Improving Government Regulations** HUD publishes fourth semiannual agenda of significant regulations
- 58814 Farm Operating Loans** USDA/FmHA amends regulations pertaining to consolidation or rescheduling of limited resource operating loans; effective 9-5-80

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Presidential Documents

Title 3—

Executive Order 12234 of September 3, 1980

The President

Enforcement of the Convention for the Safety of Life at Sea

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to implement the International Convention for the Safety of Life at Sea, 1974, it is hereby ordered as follows:

1-101. The International Convention for the Safety of Life at Sea, 1974, signed at London on November 1, 1974, and proclaimed by the President of the United States on January 28, 1980 (TIAS 9700), entered into force for the United States on May 25, 1980.

1-102. The Secretary of State, the Secretary of the Department in which the Coast Guard is operating, the Secretary of Commerce, and the Federal Communications Commission shall (a) perform those functions prescribed in the Convention that are within their respective areas of responsibility, and (b) cooperate and assist each other in carrying out those functions.

1-103. (a) The Secretary of the Department in which the Coast Guard is operating, or the head of any other Executive agency authorized by law, shall be responsible for the issuance of certificates as required by the Convention. (b) If a certificate is to include matter that pertains to functions vested by law in another Executive agency, the issuing agency shall first ascertain from the other Executive agency the decision regarding that matter. The decision of that agency shall be final and binding on the issuing agency.

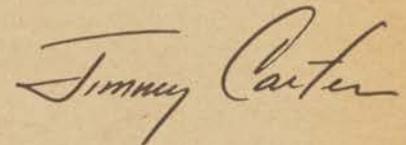
1-104. The Secretary of the Department in which the Coast Guard is operating may use the services of the American Bureau of Shipping as long as that Bureau is operated in compliance with Section 25 of the Act of June 5, 1920, as amended (46 U.S.C. 881), to perform the functions under the Convention. The Secretary may also use the services of the National Cargo Bureau to perform functions under Chapter VI (Carriage of Grain) of the Convention.

1-105. The Secretary of the Department in which the Coast Guard is operating shall promulgate regulations necessary to implement the provisions of the Convention.

1-106. To the extent that the International Convention for the Safety of Life at Sea, 1974, replaces and abrogates the International Convention for the Safety of Life at Sea, 1960 (TIAS 5780), this Order supersedes Executive Order No. 11239 of July 31, 1965, entitled "Enforcement of the Convention for the Safety of Life at Sea, 1960."

1-107. Executive Order No. 10402 of October 30, 1952, entitled "Enforcement of the Convention for the Safety of Life at Sea, 1948," is revoked.

THE WHITE HOUSE,
September 3, 1980.



Physical Documents

The Physical

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The examination of the value of a document is an important part of the investigation. This includes the age, the condition, and the rarity.

The Physical Documents



Presidential Documents

Executive Order 12235 of September 3, 1980

Management of Natural Gas Supply Emergencies

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 304(d) of the Natural Gas Policy Act of 1978 (92 Stat. 3387; 15 U.S.C. 3364(d)) and Section 301 of Title 3 of the United States Code, and in order to assign management responsibility in case of a natural gas supply emergency, it is hereby ordered as follows:

1-101. The functions vested in the President by Sections 301 through 304(c) of the Natural Gas Policy Act of 1978 (92 Stat. 3381-3387; 15 U.S.C. 3361-3364(c)) are delegated to the Secretary of Energy; except for the authority to declare, extend, and terminate a natural gas supply emergency pursuant to Section 301 thereof (15 U.S.C. 3361).

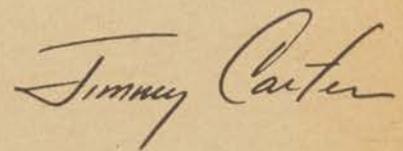
1-102. The functions vested in the President by Section 607 of the Public Utility Regulatory Policies Act of 1978 (92 Stat. 3171; 15 U.S.C. 717z) are delegated to the Secretary of Energy; except for the authority to declare, extend, and terminate a natural gas supply emergency pursuant to Section 607 (a) and (b) thereof (15 U.S.C. 717z (a) and (b)).

1-103. The Secretary shall consult with the Administrator of the Environmental Protection Agency, the Director of the Federal Emergency Management Agency, and the heads of other Executive agencies in exercising the functions delegated to him by this Order.

1-104. All functions delegated to the Secretary by this Order may be redelegated, in whole or in part, to the head of any other agency.

1-105. All Executive agencies shall, to the extent permitted by law, cooperate with and assist the Secretary in carrying out the functions delegated to him by this Order.

THE WHITE HOUSE,
September 3, 1980.



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Presidential Documents

Executive Order 12236 of September 3, 1980

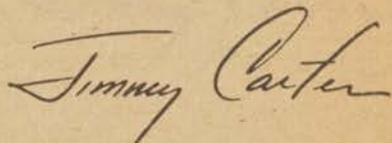
Levels IV and V of the Executive Schedule

By the authority vested in me as President of the United States of America by Section 5317 of Title 5 of the United States Code, in order to delete two positions from and add one position to level IV of the Executive Schedule, Section 1-101 of Executive Order No. 12154, as amended, is hereby further amended as follows:

1-101. In subsection (a) delete "Senior Adviser to the Secretary, Department of State" and substitute therefor "Counselor to the Secretary, Department of the Treasury".

1-102. In subsection (d) delete "Special Assistant to the Special Representative for Trade Negotiations, Office of the Special Representative for Trade Negotiations."

THE WHITE HOUSE,
September 3, 1980.



Presidential Documents

Executive Order 12237 of September 3, 1980

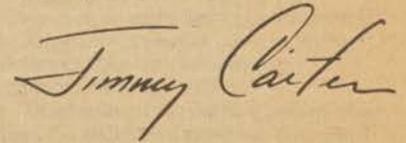
Levels IV and V of the Executive Schedule

By the authority vested in me as President of the United States of America by Section 5317 of Title 5 of the United States Code, in order to place two new Deputy Under Secretary positions in level V of the Executive Schedule, Section 1-102 of Executive Order No. 12154, as amended, is further amended by adding thereto the following new subsections:

“(e) Deputy Under Secretary for Education, Department of Education.”

“(f) Deputy Under Secretary for Education, Department of Education.”

THE WHITE HOUSE,
September 3, 1980.



[FR Doc. 80-27544
Filed 9-4-80; 11:00 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register

Vol. 45, No. 174

Friday, September 5, 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.

NUCLEAR SAFETY OVERSIGHT COMMITTEE

1 CFR Part 476

Privacy Act of 1974; Access Regulations

AGENCY: Nuclear Safety Oversight Committee.

ACTION: Final rule.

SUMMARY: The following final regulations were drafted in accordance with section (f) of 5 U.S.C. 552a, the Privacy Act of 1974. The purposes of these regulations are to establish procedures by which an individual can determine if the Committee maintains a system of records which included a record pertaining to that individual and also to establish procedures for individual access to the records for purposes of review, amendment and/or correction.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: Neil Proto, General Counsel, Nuclear Safety Oversight Committee, 1133 15th Street, NW., Room 307, Washington, D.C. 20005, (202) 653-8468.

SUPPLEMENTARY INFORMATION: The Nuclear Safety Oversight Committee (NSOC) was established by Executive Order 12202 on March 18, 1980 to monitor the progress of the utilities and their suppliers, the Nuclear Regulatory Commission, other federal agencies, and state and local governments in implementing the recommendations of the President's Commission on Three Mile Island (Kemeny Commission) and in improving the safety of nuclear power. The Committee's activities and areas of inquiry were described in a previous public notice, see 45 FR 51678, August 4, 1980.

Since its inception, NSOC has proceeded to properly organize itself

consistent with the requirements promulgated by the Office of Personnel Management (OPM) and the General Services Administration (GSA), and in accordance with applicable laws governing advisory committees. The purpose of this notice is to make public the NSOC activities in three areas of organization.

1. *OPM's Approval of NSOC's Regulations Governing Employees.* During its meeting of July 28, 1980, NSOC adopted regulations governing the conduct of its committee members, employees and special government employees, including financial disclosure requirements. Pursuant to the suggested recommendations of OPM and GSA, NSOC modified OPM's employee regulations [see 5 CFR 1001.735-102 (1980)], in order to make them more applicable to the Committee's purpose and activities, and adopted them. OPM approved NSOC's adoption by letter of August 6, 1980. A copy of the NSOC regulations and OPM's letter of approval is available for inspection at NSOC's office.

2. *Rules of Procedure.* During its meeting of July 28, 1980, NSOC reviewed and adopted Rules of Procedure governing its meetings, hearings and other activities. These Rules are based on rules governing the operations of other advisory committees, notions of fairness and sound management, and the importance of assuring the public that NSOC is operating in an orderly fashion. A copy of the NSOC Rules of Procedure are available for inspection at NSOC's office.

3. *Privacy Act: Final Rules.* On July 31, 1980, NSOC published proposed Rules (45 FR 50772, July 31, 1980) generally establishing a system of maintaining records and according access to those records by the persons affected, in accordance with the Privacy Act of 1974, see 45 FR 51011 (July 31, 1980). Interested persons were invited to submit written comments within 30 days. None were received. Consequently, the proposed rules are hereby published in final form.¹

¹For the adoption document relating to the systems of records, see the Notices section of this issue of the Federal Register.

The following Part 476 will be added to Title 1 of the CFR:

PART 476—PRIVACY ACT IMPLEMENTATION

Sec.

- 476.1 Purpose and scope.
- 476.2 Definitions.
- 476.3 Procedures for requests pertaining to individual records in a records system.
- 476.4 Times, places, and requirements for the identification of the individual making a request.
- 476.5 Access to requested information by the individual.
- 476.6 Request for correction or amendment to the record.
- 476.7 Agency review of request for correction or amendment of the record.
- 476.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
- 476.9 Disclosure of record to a person other than the individual to whom the record pertains.
- 476.10 Fees.

Authority: 5 U.S.C. 552a; Pub. L. 93-579.

§ 476.1 Purpose and scope.

The purpose of the regulations are to:

- (a) Establish a procedure by which an individual can determine if the Nuclear Safety Oversight Committee hereafter known as the Committee maintains a system of records which includes a record pertaining to the individual; and
- (b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 476.2 Definitions.

For the purpose of these regulations:

- (a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;
- (b) The term "maintain" includes maintain, collect, use or disseminate;
- (c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Committee, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or identifying number, symbol, or other identifying particular assigned to the individual, such as social security number;
- (d) The term "system of records" means a group of any records under

control of the Committee from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 476.3 Procedures for requests pertaining to individual records in a records system.

An individual shall submit a request to the Administrative Officer to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Executive Director of the Committee which states the individual's desire to review his or her record.

§ 476.4 Times, places and requirements for the identification of the individual making a request.

An individual making a request to the Administrative Officer of the Committee pursuant to Section § 476.3 shall present the request at the Committee offices, 1133 15th Street, N.W., Room 307, Washington, D.C. 20005, on any business day between the hours of 9:00 a.m. and 5:00 p.m. The individual submitting the request should present himself or herself at the Committee offices with a form of identification which will permit the Committee to verify that the individual is the same individual as contained in the record requested.

§ 476.5 Access to requested information by the individual.

Upon verification of identity the Committee shall disclose to the individual the information contained in the record which pertains to that individual.

§ 476.6 Request for correction or amendment to the record.

The individual should submit a request to the Administrative Officer which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with provisions of § 476.4.

§ 476.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Administrative Officer will acknowledge in writing such receipt and promptly either:

(a) Make any correction or amendment of any portion thereof which

the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, and the procedures established by the Committee for the individual to request a review of that refusal.

§ 476.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Administrative Officer to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Director, Nuclear Safety Oversight Committee, 1133 15th Street, N.W., Room 307, Washington, D.C. 20005. The Executive Director will, not later than thirty working days from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the Executive Director extends such thirty day period. If, after his or her review, the Executive Director also refuses to correct or to amend the record in accordance with the request, the individual may file with the Committee a concise statement setting forth the reasons for his or her disagreement with the refusal of the Committee and may seek judicial review of the Executive Director's determination under 5 U.S.C. 552(g)(1)(A).

§ 476.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Committee will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Committee's notices of its system of records, or falls within one of the special disclosure situations listed in the Privacy Act of 1974 (5 U.S.C. 552a(b)).

§ 476.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for review of the record, in advance of receipt of the pages.

Neil Proto,
General Counsel.

[FR Doc. 80-26947 Filed 9-4-80; 8:45 am]

BILLING CODE 6820-01-M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; Department of Health and Human Services; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: 1. This document changes the headings for the Department of Health, Education, and Welfare to "Department of Health and Human Services" and adds a section for the Department of Education to reflect the establishment of the new department.

2. It also transfers the organizational coverage of an excepted employment authority under Schedule B previously authorized for the Department of Health, Education, and Welfare to the Department of Education because the functions of the program were transferred to the Department of Education. The authority excepts from the competitive service 75 positions to be filled by participants in midcareer programs. This exception is continued because it is impractical to competitively examine for these positions.

EFFECTIVE DATE: March 31, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202-632-6000.
On position content: Edward G. Cook, Department of Education, 202-245-8366.

Office of Personnel Management,
Beverly M. Jones,
Issuance System Manager.

Accordingly, the heading of 5 CFR 213.3116 is revised; the heading of § 213.3216 is revised; § 213.3216(e) is revoked; and § 213.3217 is added, as set out below:

§ 213.3116 Department of Health and Human Services.

* * * * *

§ 213.3216 Department of Health and Human Services.

* * * * *

(e) [Revoked]

* * * * *

§ 213.3217 Department of Education.

(a) Seventy-five positions, not in excess of GS-13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in

midcareer development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp. p. 218)

[FR Doc. 80-27136 Filed 9-4-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare; Overseas Private Investment Corporation; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: (1) This document changes the name of the "Department of Health, Education and Welfare" to the "Department of Health and Human Services". (2) This document also redesignates Overseas Private Investment Corporation—this is an editorial change only. (3) This amendment also adds the Department of Education and excepts certain positions in the department from the competitive service under Schedule C because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 31, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-6000.

On position content: Martha Brooks, Department of Education, 202-245-8366.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, OPM is amending 5 CFR Part 213 as follows:

(1) The heading of § 213.3316 is revised to read as follows:

§ 213.3316 Department of Health and Human Services.

(2) § 213.3317 is redesignated § 213.3323 to read as follows:

§ 213.3323 Overseas Private Investment Corporation.

* * * * *

(3) A new § 213.3317 is added to read as follows:

§ 213.3317 Department of Education.

(a) Office of the Secretary. (1) Two Personal Assistants to the Secretary.

(2) One Personal Assistant to the Under Secretary.

(b) Office of the Inspector General. (1) One Personal Assistant to the Inspector General.

(c) Office of the Assistant Secretary for Public Affairs. (1) One Personal Assistant to the Assistant Secretary.

(d) Office of the Assistant Secretary for Civil Rights. (1) One Personal Assistant to the Assistant Secretary.

(e) Office of the Assistant Secretary for Elementary and Secondary Education. (1) One Personal Assistant to the Assistant Secretary.

(f) Office of the Assistant Secretary for Postsecondary Education. (1) One Personal Assistant to the Assistant Secretary.

(g) Office of the Assistant Secretary for Educational Research and Improvement. (1) One Personal Assistant to the Assistant Secretary.

(h) Office of the Assistant Secretary for Vocational and Adult Education. (1) One Personal Assistant to the Assistant Secretary.

(i) Office of the Assistant Secretary for Special Education and Rehabilitative Services. (1) One Personal Assistant to the Assistant Secretary.

(j) Office of the Assistant Secretary for Management. (1) One Personal Assistant to the Assistant Secretary.

(k) Office of the Assistant Secretary for Planning and Budget. (1) One Personal Assistant to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 80-27137 Filed 9-4-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C two Executive Assistants to the Assistant Secretary for Management, Department of Education, because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: April 14, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-6000.

On position content: Martha Brooks, Department of Education, 202-245-8366.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3317(j)(2) is added as set out below:

§ 213.3317 Department of Education.

* * * * *

(j) Office of the Assistant Secretary for Management. * * *

(2) Two Executive Assistants to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 80-27138 Filed 9-4-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Personal Assistant to the Secretary and one Private Secretary to the General Counsel, Department of Education because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: April 15, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-6000.

On position content: Martha Brooks, Department of Education, 202-245-8366.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3317(a)(1) is revised and (l) is added as set out below:

§ 213.3317 Department of Education.

(a) Office of the Secretary. (1) Three Personal Assistants to the Secretary.

* * * * *

(l) Office of the General Counsel. (1) One Private Secretary to the General Counsel.

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954-1958 Comp., p. 218)
[FR Doc. 80-27139 Filed 9-4-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Education

AGENCY: Office of Personnel Management.
ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Steward (Personal Aide to the Secretary) and two Attorney-Advisors (Special Assistant to the General Counsel), Department of Education, because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.
EFFECTIVE DATE: April 22, 1980.

FOR FURTHER INFORMATION CONTACT: On position authority: William Bohling, Office of Personnel Management, 202-632-6000.
On position content: Martha Brooks, Department of Education, 202-245-8366.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3317(a)(3) and (1)(2) are added as set out below:

§ 213.3317 Department of Education.
(a) *Office of the Secretary.* * * *
(3) Steward (Personal Aide to the Secretary).

* * * * *

(1) *Office of the General Counsel.*
* * *

(2) Two Attorney-Advisors (Special Assistant to the General Counsel).
(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)
[FR Doc. 80-27140 Filed 9-4-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Education

AGENCY: Office of Personnel Management.
ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C two Private Secretaries to the Secretary and one Private Secretary to each of the following: Under Secretary; Deputy Under Secretary for

Interagency Affairs; Deputy Under Secretary for Intergovernmental Affairs; Assistant Secretary for Legislation; Director, Bilingual Education and Minority Language Affairs; and Assistant Secretary for Non Public Education, Department of Education because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: May 2, 1980.
FOR FURTHER INFORMATION CONTACT: On position authority: William Bohling, Office of Personnel Management, 202-632-6000.
On position content: Martha Brooks, Department of Education, 202-245-8366.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3317(a) (1) and (2) are revised; (a) (4) and (5), (m), (n), and (o) are added as set out below:

§ 213.3317 Department of Education.
(a) *Office of the Secretary.* (1) Three Personal Assistants and two Private Secretaries to the Secretary.
(2) One Personal Assistant and one Private Secretary to the Under Secretary.
* * * * *

(4) One Private Secretary to the Deputy Under Secretary for Interagency Affairs.

(5) One Private Secretary to the Deputy Under Secretary for Intergovernmental Affairs.
* * * * *

(m) *Office of the Assistant Secretary for Congressional Legislative Affairs.* (1) One Private Secretary to the Assistant Secretary for Legislation.

(n) *Office of Bilingual and Minority Language Affairs.* (1) One Private Secretary to the Director, Bilingual Education and Minority Language Affairs.

(o) *Office of the Assistant Secretary for Non Public Education.* (1) One Private Secretary to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)
[FR Doc. 80-27141 Filed 9-4-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C two Special Assistants to the Secretary, Department of Education, because they are confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: May 5, 1980.
FOR FURTHER INFORMATION CONTACT: On position authority: William Bohling, Office of Personnel Management, 202-632-6000.

On position content: Martha Brooks, Department of Education, 202-245-8366.
Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3317(a)(6) is added as set out below:

§ 213.3317 Department of Education.
(a) *Office of the Secretary.* * * *
(6) Two Special Assistants to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)
[FR Doc. 80-27142 Filed 9-4-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Health and Human Services; Department of Education

AGENCY: Office of Personnel Management.
ACTION: Final rule.

SUMMARY: This amendment transfers certain Schedule C positions from the Department of Health and Human Services to the Department of Education, to reflect the establishment of the new agency. This amendment also revokes certain authorities from Department of Health and Human Services because they are no longer needed.
EFFECTIVE DATE: May 5, 1980.

FOR FURTHER INFORMATION CONTACT: On position authority: William Bohling, Office of Personnel Management, 202-632-6000.
On position content: Martha Brooks, Department of Education, 202-245-8366.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3316 (c), (f)(7), (g) (5) and (9) and (r) are revoked and

(q)(1) is revised and 213.3317 (c)(2), (d) (2), (3), and (4), (e)(2), (p), (q), and (r) are added as set out below:

§ 213.3316 Department of Health and Human Services.

* * * * *

(c) [Revoked.]

* * * * *

(f) *Office of the Assistant Secretary for Legislation.* * * *

(7) [Revoked.]

* * * * *

(q) *Office of the Special Assistant to the Secretary for Civil Rights. (1) One Special Assistant to the Special Assistant.*

* * * * *

(5) [Revoked.]

* * * * *

(9) [Revoked.]

* * * * *

(r) [Revoked.]

* * * * *

§ 213.3317 Department of Education.

* * * * *

(c) *Office of the Assistant Secretary for Public Affairs.* * * *

(2) One Assistant Commissioner for Public Affairs.

* * * * *

(d) *Office of the Assistant Secretary for Civil Rights.* * * *

(2) One Director, Office of Intergovernmental Affairs.

(3) One Special Assistant for Public Affairs.

(4) One Special Assistant to the Assistant for Public Affairs.

* * * * *

(e) *Office of the Assistant Secretary for Elementary and Secondary Education.* * * *

(2) One Special Assistant to the Deputy Commissioner for Elementary and Secondary Education.

* * * * *

(p) *Office of Legislation. (1) One Special Assistant to the Deputy Assistant Secretary for Legislation (Education).*

* * * * *

(q) *Office of the Commissioner for Education.*

(1) One Staff Director, Federal Interagency Commission on Human Service Delivery Systems.

(2) Executive Commissioner for Executive Operations.

(3) Three Special Assistants, two Confidential Assistants, one Personal Assistant, and one Executive Assistant to the Commissioner.

(4) One Special Assistant to the Executive Deputy Commissioner.

(5) Assistant Commissioner for Educational Community Liaison.

(6) Director, Comprehensive School Health, Bureau of School Improvement.

(7) Confidential Assistant to the Deputy Commissioner, Bureau of School Improvement.

(8) Executive Assistant to the Deputy Commissioner, Bureau of Occupational and Adult Education.

(9) One Special Assistant to the Assistant Commissioner for Policy Studies.

(10) One Confidential Assistant to the Executive Deputy Commissioner for Resources and Operations.

* * * * *

(r) *Office of the Assistant Secretary for Education. (1) One Confidential Secretary, one Confidential Assistant, two Special Assistants, and one Executive Assistant to the Assistant Secretary.*

(2) One Confidential Assistant and one Special Assistant to the Deputy Assistant Secretary.

(3) One Special Assistant to the Deputy Assistant Secretary for Education (Policy Communication).

(4) One Confidential Assistant to the Deputy Assistant Secretary (Policy Development).

(5) One Confidential Assistant to the Director, Institute of Museum Services.

(6) Assistant Director for Programs, Institute of Museum Services.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 80-27143 Filed 9-4-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Education

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C certain positions at the Department of Education because they are confidential in nature. They are as follows: one Assistant and one Special Assistant to the Secretary, three Assistants to the Executive Secretary, Office of the Secretary; two Special Assistants to the Under Secretary; one Executive Assistant and two Special Assistants to the Assistant Secretary, Office of Public Affairs; one Executive Assistant and two Special Assistants to the Assistant Secretary, Office of Legislation; one Executive Assistant and two Special Assistants to the Assistant Secretary, Office of Civil Rights; one Executive Assistant to the General Counsel; one Executive Assistant to the

Inspector General; one Executive Assistant and one Special Assistant to the Assistant Secretary, Office of Planning and Budget; one Executive Assistant and two Special Assistants to the Assistant Secretary, Office of Special Education and Rehabilitative Services; three Special Assistants to the Assistant Secretary, Office of Elementary and Secondary Education; one Executive Assistant and two Special Assistants to the Assistant Secretary, Office of the Assistant Secretary for Vocational and Adult Education; three Special Assistants to the Assistant Secretary, Office of the Assistant Secretary for Postsecondary Education; one Special Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs; and one Executive Assistant and two Special Assistants to the Assistant Secretary, Office of Educational Research and Improvement. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: May 7, 1980

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-6000.

On position content: Martha Brooks, Department of Education, 202-245-8366.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3317(a)(6) is revised and (a)(7) & (8), (b)(2), (c)(3), (d)(5), (e)(3), (f)(2), (g)(2), (h)(2), (i)(2), (k)(2), (l)(3), (n)(2), and (p)(2) are added as set out below:

§ 213.3317 Department of Education.

(a) *Office of the Secretary.* * * *

(6) Three Special Assistants and one Assistant to the Secretary.

(7) Three Assistants to the Executive Secretary.

(8) Two Special Assistants to the Under Secretary.

* * * * *

(b) *Office of the Inspector General.* * * *

(2) One Executive Assistant to the Inspector General.

* * * * *

(c) *Office of the Assistant Secretary for Public Affairs.* * * *

(3) One Executive Assistant and two Special Assistants to the Assistant Secretary.

* * * * *

(d) *Office of the Assistant Secretary for Civil Rights.* * * *

(5) One Executive Assistant and two Special Assistants to the Assistant Secretary.

(e) Office of the Assistant Secretary for Elementary and Secondary Education. * * *

(3) Three Special Assistants to the Assistant Secretary.

(f) Office of the Assistant Secretary for Postsecondary Education. * * *

(2) Three Special Assistants to the Assistant Secretary.

(g) Office of the Assistant Secretary for Educational Research and Improvement. * * *

(2) One Executive Assistant and two Special Assistants to the Assistant Secretary.

(h) Office of the Assistant Secretary for Vocational and Adult Education. * * *

(2) One Executive Assistant and two Special Assistants to the Assistant Secretary.

(i) Office of the Assistant Secretary for Special Education and Rehabilitative Services. * * *

(2) One Executive Assistant and two Special Assistants to the Assistant Secretary.

(k) Office of the Assistant Secretary for Planning and Budget. * * *

(2) One Executive Assistant and one Special Assistant to the Assistant Secretary.

(l) Office of the General Counsel. * * *

(3) One Executive Assistant to the General Counsel.

(n) Office of Bilingual and Minority Language Affairs. * * *

(2) One Special Assistant to the Assistant.

(p) Office of Legislation. * * *

(2) One Executive Assistant and two Special Assistants to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 80-27144 Filed 9-4-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 268]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period September 7-13, 1980. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 7, 1980.

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

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

This action is consistent with the marketing policy for 1979-80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

The committee met again publicly on September 2, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues very slow.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in

E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.568 Lemon Regulation 268.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period September 7, 1980, through September 13, 1980, is established at 150,000 cartons.

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

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

Dated: September 4, 1980.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable
Division,
Agricultural Marketing Service.

[FR Doc. 80-27589 Filed 9-4-80; 12:51 pm]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1951

[FCDA No. 10.406 Farm Operating Loans]

Servicing and Collections; Account Servicing Policies

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations pertaining to the consolidation or rescheduling of limited resource operating loans. The intended effect of this action is to require that all consolidation or rescheduling of limited resource operating loans be made at not less than the current limited resource interest rate. This action is taken as a result of an Administrative review.

EFFECTIVE DATE: August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Ron Thelen, Production Loan Officer, Production Loan Division, Room 5313, 14th and Independence Avenue, SW., Washington, DC 20250, telephone 202-447-2288.

The Final Impact Statement describing the options considered in developing this final rule is available on request from the Office of the Chief, Directives Management Branch, Farmers

Home Administration, Room 6346, South Agriculture Building, Washington, DC 20250.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under the USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified "not significant."

On April 23, 1980, FmHA published a proposal in the Federal Register (45 FR 27453) to amend § 1951.33(c)(5) of Subpart A of Part 1951, Chapter XVIII, Title 7, Code of Federal Regulations. One comment was received from the Small Business Administration which inquired about the effect of proposed changes in small businesses. FmHA does not anticipate any significant adverse impacts on small business as a result of this action. This instruction does not directly affect any FmHA programs or projects which are subject to A-95 clearing house review.

Accordingly, as amended, § 1951.33(c)(5) of Subpart A of Part 1951 reads as follows:

§ 1951.33 Deferral, consolidation and rescheduling of OL, EM and EE loans made for Subtitle B purposes.

* * * * *

*(c) Consolidation and rescheduling of OL loans. * * **

(5) The interest rate for consolidated or rescheduled loans will be the current interest rate for OL loans made to regular or limited resource loan borrowers, as appropriate. Limited resource loan interest rates will be stated in increments of whole numbers and may be increased to the current OL rate or decreased to not less than the current limited resource interest rate set out in Exhibit B of FmHA Instruction 440.1 (available from any FmHA office), in accordance with a borrower's repayment ability.

* * * * *

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

(7 U.S.C. 1989; 5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: August 11, 1980.
Gordon Cavanaugh,
Administrator, Farmers Home
Administration.

[FR Doc. 80-27219 Filed 9-4-80; 8:45 am]
BILLING CODE 3410-07-M

Food Safety and Quality Service

9 CFR Parts 317, 318 and 381

Use of Certain Proteolytic Enzymes in Certain Meat and Poultry Products

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal meat inspection regulations to permit the use of aspergillus oryzae, aspergillus flavus oryzae group, bromelin, ficin, and papain as proteolytic enzymes to tenderize the muscle tissue of all cuts of meat. In addition, this rule amends the Federal poultry products inspection regulations to permit the use of these proteolytic enzymes to tenderize the muscle tissue of mature poultry. Under the current regulations, these proteolytic enzymes are only authorized for use to tenderize the muscle tissue of beef cuts. This rule also limits the weight gain from the application of the solution containing the approved proteolytic enzymes to the untreated meat or mature poultry, to 3 percent above the weight of the untreated meat or mature poultry. This rule also amends the Federal meat and poultry products inspection regulations to provide that meat and poultry muscle tissue that has been tenderized with a proteolytic enzyme shall bear a statement on the label contiguous to the product name indicating the presence of the enzyme. This rule will allow for expanded supplies of meat and poultry products at the retail market.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION:

Significance

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to

implement Executive Order 12044, and has been classified "significant."

Background

Approval of Substances for Use in the Preparation of Meat Products

The present Federal meat inspection regulations (9 CFR 318.7) permit the use of aspergillus oryzae, aspergillus flavus oryzae group, bromelin, ficin, and papain as proteolytic enzymes to tenderize the muscle tissue of cuts of beef. These substances currently are considered generally recognized as safe for use in human food by the Food and Drug Administration (FDA). In this connection, FDA has proposed to affirm the generally recognized as safe status of papain as a direct human food ingredient (43 FR 31349, July 21, 1978).

The Department had received requests from the meat industry to permit the use of certain proteolytic enzymes to tenderize pork muscle tissue. In connection with those requests, the Department received data from the industry which showed that meat from larger and older swine is effectively tenderized by the action of these enzymes. The Department also conducted a taste panel which concluded that the enzyme treatment of pork muscle tissue makes the meat from larger and older swine more palatable.

On the basis of the previous findings for beef and the current information available on pork, on June 1, 1979, the Department published a proposal in the Federal Register (44 FR 31665-31667) which would permit the use of such proteolytic enzymes for use in pork as well as other meat cuts, subject to inspection under the Federal Meat Inspection Act, such as lamb, mutton, and goat (chevon).

Approval of Substances for Use in Certain Poultry Products

The Department also had been petitioned by Agway, Inc., Syracuse, New York, to amend the Federal poultry products inspection regulations to allow the use of proteolytic enzymes to tenderize mature poultry muscle tissue. Industry proposals claimed that this action would enhance producer marketing prospects for the approximately 250 million mature chickens marketed annually. Approximately 85 percent of these mature chickens are old hens culled from egg-laying flocks because they are no longer economically productive. The remainder are old birds from poultry breeder flocks. The poultry meat from these mature chickens is generally tough, dry, and sinewy. As a result, the market for such poultry meat is limited.

Industry proponents indicated that if proteolytic enzymes were permitted for such poultry meat, the profitability of commercial egg production would significantly improve.

Poultry technologists, in evaluating this situation on behalf of producers, developed a method for tenderizing the tissue derived from the older birds by using a proteolytic enzyme (papain) in a manner similarly used for treating tissue from cattle. The Department has observed the tests conducted by the industry, examined the treated muscle tissue, conducted its own taste panel, and evaluated other available data. The tests show that the use of papain as a proteolytic enzyme softens and tenderizes poultry muscle tissue from fowl. Because of the similarities between papain and the other proteolytic enzymes, the Department believes that *Aspergillus oryzae*, *Aspergillus flavus oryzae* group, bromelin, and ficin would soften and tenderize poultry muscle tissue in the same manner as papain.

Thus, the Department, in the same Federal Register publication of June 1, 1979, discussed above, proposed to permit the use of these tenderizing substances in mature poultry, which is defined in section 381.170 of the poultry products inspection regulations (9 CFR 381.170). The proposal did not apply to immature poultry which comprises the overwhelming proportion of poultry processed under Federal inspection, such as broilers, since these birds are by definition tender-meated.

Restrictions on Use

In proposing to permit the use of certain proteolytic enzymes, as discussed above, the Department also proposed to permit the use of these enzymes only under certain conditions:

Amount Limitations

1. *Cooked Product.* The Department proposed a limitation on the weight gain of the finished product if cooked at the official establishment. Meat cuts or poultry can be cooked after enzyme treatment prior to leaving the official establishment. In the expected cooking process, the normal processing effect is that products lose moisture rather than gain moisture during cooking. The proposal specified a limit for the weight of the finished product if cooked. It was proposed that, if the product is cooked, the weight of the finished product shall not be greater than the weight of meat cuts or poultry prior to application of the solution containing the enzyme treatment.

2. *Uncooked Product.* The Department also proposed extending the present 3

percent weight gain limitation on the amount of proteolytic enzymes permitted to be used in uncooked beef cuts to all uncooked meat cuts and mature poultry. Federal meat inspection regulations (9 CFR 318.7) currently provide that solutions containing approved proteolytic enzymes applied or injected into cuts of beef shall not result in a gain of more than 3 percent above the weight of the untreated products. The Department reviewed the 3 percent limitation on the weight gain of the uncooked product and found that the 3 percent limitation was sufficient for the purpose of softening tissue for all of the uncooked product.

Labeling Requirements

In addition to the limitation on the amount of weight gain permitted for cooked and uncooked meat and poultry products to which enzymes are applied or injected, the Department proposed that the labels for such products include a prominent descriptive statement, such as "Dipped in a Solution of [approved enzyme]," appearing on the label contiguous to the product name. This labeling requirement would apply to all products prepared under Federal inspection and to all products treated with the enzymes at the retail establishments, including those establishments exempt from Federal inspection requirements.

The adulteration and misbranding provisions of the Federal Meat Inspection Act and the Poultry Products Inspection Act, other than the requirement of the official inspection legend, apply also to custom operations and other operations exempted from routine inspection under the Acts (see Attorney General's opinion of August 17, 1972, Vol. 42, Op. No. 44; 21 U.S.C. 623(c) and 464(d)). Therefore, it was also proposed that the current labeling requirement contained in § 317.8(b)(25) of the Federal meat inspection regulations (9 CFR 317.8(b)(25)) be deleted. This requirement currently provides that the descriptive statement that a product contains a proteolytic enzyme only appear on the label if a proteolytic enzyme has been used on a product prepared in an official establishment.

Final Action

Based on a review of the comments and the data available to the Department during the development of the proposal, the Department has determined that this proposed rule should become a final regulation. In finalizing this rule, the Department has determined that modifications are necessary in order to avoid

misinterpretation and to clarify the rule. The proposal stated that:

"If the product is cooked, the weight of the finished product shall not be greater than the weight of the raw meat (poultry) cuts prior to enzyme treatment."

While considering the comments, departmental officials became concerned that this language in the proposal might be misconstrued. This language could be interpreted to authorize unlimited addition of the solution containing the proteolytic enzyme and water to the raw meat and poultry as long as the cooked product did not exceed the weight of the untreated raw product. This was not the intent of the proposal.

Cooking reduces raw meat and poultry weight as fat and moisture are lost. The current inspection regulations for meat and poultry do not permit moisture to be added to a product to compensate for cooking loss (shrinkage), except as specifically provided, e.g., in cured products. Traditionally, such compensation has been achieved through price mechanisms.

It is the intent of this regulation that the use of the enzyme solution be limited to 3 percent of the raw meat weight. Therefore, both cooked and uncooked meat and poultry products which contain the enzyme solution are treated identically and the weight limitation gain will be based on the untreated product or the raw meat weight. Therefore, the previously discussed language relating to the limitation on use of the enzyme solution in cooked products has been deleted from the final rule.

In addition, the Department in finalizing the rule is requiring a descriptive statement for use on the labels of meat and poultry products to which an enzyme is applied or injected. Numerous comments received by the Department stated that consumers desired specific labeling when a product was tenderized with an enzyme. The Department believes that a statement which would advise of the purpose of the addition of a food additive, such as "Used as a tenderizer," is more descriptive than a statement that advises the process in which the food additive is applied; i.e., dipped or injected. Therefore, the final rule has been modified to require the use of the statement on the label: "Tenderized with [approved enzyme]." For those meat food products which currently have approved labels indicating the usage of phrases other than "tenderized with [approved enzyme]," the Department believes that a reasonable period of time should be granted to

processors and packers to exhaust existing supplies of such approved labels. Accordingly, the Department will allow continued use of such currently approved labels for up to 1 year from the effective date of this regulation.

One final point has been clarified in the final rule concerning the labeling of products in which an approved proteolytic enzyme has been applied or injected. As mentioned previously, the proposal limited the amount of solution to be applied or injected into the product. The proposal stated that "Solutions, consisting of water, salt, monosodium glutamate, and approved proteolytic enzyme" would be limited. This statement was intended solely to be an example of the types of solution that could be utilized on the product and not a requirement that the solution contain water, salt, monosodium glutamate and approved enzymes since the solution used for tenderization actually consists of water and approved enzymes. The final rule clearly states that the solution consists of water and the approved proteolytic enzymes. In order to ensure that consumers will be informed if a solution contains substances other than water and proteolytic enzymes, the final rule also requires that "Any other approved substance which may be used in the solution shall also be included in the descriptive statement" used in the labeling of the products.

Options Considered

Three options were considered by the Department during development of this final rule:

1. Deny the request for expansion of proteolytic enzyme use. This option was rejected because it does not provide equal treatment to producers and processors of pork, sheep, and poultry that compete with beef producers and processors that currently are permitted to use proteolytic tenderization. The efficacy of proteolytic tenderization has been demonstrated for these animals.

2. Permit proteolytic enzyme tenderization of all red meat and poultry. This option was rejected because efficacy could not be demonstrated for young poultry, such as broilers. Immature poultry are by definition tender-meated, and, therefore, do not need to be tenderized.

3. Permit proteolytic enzyme tenderization of all red meat and mature poultry. This option was chosen because it meets the marketing needs of farmers and processors, and provides for expanded wholesome meat and poultry food products to consumers.

Comments to Proposal

The June 1, 1979, Federal Register notice announcing the proposal included a solicitation for comments and established a comment period from June 1 through August 1, 1979. In response to requests from interested parties, the comment period was reopened from August 10 through September 10, 1979 (44 FR 47098).

A total of 705 comments were received during the two comment periods, most of which were from individuals. The majority of comments involved concerns of the health consequences resulting from the addition of enzymes or salt to meat and poultry. Over 95 percent of the comments were apparently in response to newspaper articles which did not report the complete text of the proposal; therefore, the commenters were unaware of the labeling provisions provided for in the proposal.

The comments raised concerns expressed along the following lines which will be discussed individually:

1. Allergies on the part of some consumers to enzymes, specifically papain.
2. Too many additives already in foods, and these additives may cause cancer.
3. Tenderization would allow extra water to be added to meat and poultry.
4. Federal government favors industry.
5. Tenderization would allow tough or spoiled meat or poultry to be utilized by industry.
6. Tenderized products should bear informative labeling.
7. Tenderizers create an unusual or bad taste in meat and poultry and also result in a mushy texture to meat and poultry.
8. Consumers should have the right to choose between tenderized and untenderized meat and poultry and be free to add their own tenderizers if they so desire.
9. The proposal would have resulted in more salt being added to meat and poultry, which would be a burden to persons on salt-restricted diets.
10. The safety of many substances on the generally recognized as safe (GRAS) list is questionable, and the enzymes may harm various body organs.
11. Tenderization would increase the cost of treated meat and poultry.
12. The need for the use of enzymes on meat and poultry is questionable.
 1. *Potential Allergies to Papain.* Possible allergic reactions to papain present a serious problem to many people. Eighty-six commenters reported that they are allergic to papain and suffered allergic reactions to varying

degrees after eating meat tenderized with papain. Additionally, five doctors reported that patients under their care had allergies to tenderizers. Two professors from the University of Minnesota Medical School reported that allergies to tenderizers were fairly common among allergic persons. Those individuals, allergic to papain, expressed a fear that they would no longer be able to purchase meat or poultry without tenderizers.

The Department recognizes that allergies to tenderizing enzymes are well documented. These enzymes are proteins and, therefore, some degree of allergy would be expected as with other proteins. According to the U.S. Department of Health and Human Services (HHS) (formerly the Department of Health, Education and Welfare (HEW)), although experts are not certain how many Americans suffer from symptoms of allergic reactions to food, a conservative estimate indicates that approximately 31,000,000 Americans, or 15 out of every 100, suffer from one or more significant allergies. Of these, nearly 9,000,000 may have allergic reactions to foods, drugs, or bee stings. Some of the more common food allergies are fish and seafood, berries, nuts, eggs, cereals, milk, beef, pork, chocolate, legumes such as beans and peanuts, peaches, cherries, almonds, crabs, lobsters, shrimp, apples, pears, oysters, clams, tomatoes, green peppers, rye, wheat, pumpkin, cucumbers, and cantaloupes (HEW Pub. No. (NIH) 74-533).

It is not the policy of the Department to limit or prohibit the distribution and sale of all these foods because of possible allergic reactions to them. The Federal meat and poultry products inspection Acts require all ingredients of a food to be identified on a label in an ingredient list. Therefore, by reading the list of ingredients on the package label, individuals can avoid the food ingredients to which they are sensitive.

In developing this regulation, the Department recognized the importance of informing the consumer of the presence of the approved enzymes in tenderized meat and mature poultry. The use of such meat and poultry tenderizers is optional, but if used, the presence of the enzymes must be shown by a statement on the label contiguous to the product name which is clearly visible to the consumer.

Enzymes have been widely used for quite some time in the cheese, brewing, dairy, and baking industries. The use of these enzymes in these industries has not created a serious health problem for allergic persons. Meat and poultry products containing certain approved

enzymes will be clearly labeled showing the presence of these enzymes, thereby allowing persons allergic to these substances to avoid them.

2. *Excessive Additives in Foods.* Many individuals stated that meat and poultry already contain too many additives. Several individuals compared enzymes to pesticide residues.

The Department does not authorize the use of substances without a thorough investigation. The FDA requires the proponent of any food additive to furnish data showing the additive is safe. Under the Federal Meat Inspection Act and the Poultry Products Inspection Act, any food additive which is not safe under the Federal Food, Drug, and Cosmetic Act is prohibited as an adulterant in meat and poultry products. The Department also obtains data from the proponent of the use of an additive to determine whether the substance will otherwise adulterate meat or poultry products.

3. *Tenderization Would Allow Extra Water to be Added to Meat and Poultry.* Comments were received from 12 individuals who believe that excessive amounts of water would be added to meat and poultry if the proposal were adopted.

Under the Federal meat inspection regulations, the Department has, for many years, permitted the addition of a solution consisting of water and the approved proteolytic enzymes to beef cuts in the process of tenderizing beef with enzymes, provided it does not result in a gain of more than 3 percent above the weight of the untreated product. Upon review, the Department has retained the 3 percent maximum weight gain level in this final rule.

As it was previously discussed, the proposal also contained a requirement that products cooked after enzymatic treatment shall not be greater than the weight of the meat or poultry product before enzyme treatment. The Department now believes that this statement could be misinterpreted to allow cooked meat or poultry to be treated with enzymes, or to allow excessive amounts of water to be added prior to cooking. For clarity, this reference has been deleted in this final rule. Water limitations for specific cooked products already exist in the meat and poultry inspection regulations. These limitations, in conjunction with the 3 percent weight gain limitation of this rule, will control the amount of water permitted in products.

4. *Federal Government Favors Industry.* Thirty-three comments were received which accused USDA of allowing the industry to recondition products for resale to the public, thereby

permitting increased industry profits. These comments were all from private individuals. The Department has required extensive testing to show the effective use of enzymes. Enzyme tests for the use of enzymes on pork products have been in progress for 10 years. The tests on poultry have extended over the last 2 years. Thus, USDA required the proponents to show that they could meet various restrictions before publishing the proposal.

5. *Tenderizers Would Allow Tough or Spoiled Meat or Poultry to be Utilized by Industry.* Several comments stated that spoiled or tough meats would be used. The Federal meat and poultry products inspection Acts prohibit the preparation and distribution of adulterated meat and poultry products. Sections 1(m)(3) and 4(g)(3) of the Federal Meat Inspection Act (21 U.S.C. 601(m)(3)) and the Poultry Products Inspection Act (21 U.S.C. 453(g)(3)) state that meat and poultry products are adulterated if, among other things, they consist in whole or in part of any filthy, putrid, or decomposed substance or are for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food. Therefore, the USDA inspectors may not allow spoiled or adulterated meat or poultry to be used as human food.

The intent of this rule is to allow meat and poultry from mature animals to be used in more ways. The acceptance of the tenderized product is and will continue to be defined by consumer decisions in the marketplace. Under current regulations, since the demand for such products is relatively low, the tougher cuts of meat and poultry which are derived from mature animals are generally used only in products where they are subjected to long periods of moist cooking such as in canned soups or stews. These products may also be mechanically tenderized by grinding or chopping. The use of tenderizing enzymes will allow such meat and poultry to be used, like other meat and poultry cuts, in foods that are ready-to-eat and ready-to-cook. There is no question that the tenderizing enzymes are efficacious, i.e., that they accomplish the intended effect of making the product more tender. The Administrator has reviewed the current use of these enzymes to tenderized beef cuts and the information developed during this rulemaking proceeding. Upon review, he has determined that the use of these proteolytic enzymes as a tenderizer with the labeling required by this rule, would not reduce the quality of the products or make the products appear of greater

value or otherwise adulterate the products.

6. *Tenderized Products Should Bear Informative Labeling.* Some commenters opposing the proposal stated many times that tenderized products should be labeled to show the enzyme used. This rule requires all products treated with certain enzymes to show, in a phrase immediately following the product name, the enzyme used. This rule also requires all meat tenderized at the retail level to be labeled to show the presence of the specified enzymes. In addition, the rule has been amended to require the use of the phrase "Tenderized with (approved enzyme)" to more fully advise consumers of the purpose of the enzyme.

7. *Tenderizers Create an Unusual or Bad Taste in Meat and Poultry and Also Result in a Mushy Texture.* Some comments were received objecting to the taste and texture of the tenderized meats. Although some individuals may find products treated with proteolytic enzymes unpalatable, such personal preferences do not provide a basis for the Department to limit the use of these substances. Moreover, a product's taste or texture may be affected by many factors other than the addition of proteolytic enzymes. It would be inappropriate to prohibit the use of these tenderizers which may be one of many factors involved in the development of the product's taste or texture.

8. *Consumers Should Have the Right to Choose Between Tenderized and Untenderized Meat and Poultry and Be Free To Add Their Own Tenderizers If They So Desire.* A great many commenters expressed the wish to be able to tenderize meat at home. This rule does not require that all meat be tenderized, nor will it remove untenderized meat from the market. Consumers will still be able to purchase fresh, untenderized meat and prepare it as they desire at home. The Department believes that tenderized meat and poultry will be used predominantly in preparing convenience foods or ready-to-eat items which could not be made from the tough, untenderized meat or poultry.

9. *This Rule Would Result in More Salt Being Added to Meat and Poultry Which Would Be a Burden to Persons on Salt Restricted Diets.* One hundred and forty-seven comments were received stating that too much salt is being used in foods. Seven of these were in favor of the proposal if salt were not required to be used.

These comments were from persons on salt-restricted diets who believed that salt would be added along with the enzymes. This information was gathered

from an analysis of a widely circulated newspaper article reporting on the Department's proposal. The newspaper article quoted an example of the labeling to be required which includes a qualifying phrase such as "tenderized with a solution of water, salt, flavoring and papain." These consumers, therefore, believed that the approval of papain as a tenderizer was also the approval of the use of salt in such products. This rule does not require salt to be added with the enzymes. Salt is already authorized for use in all meat and poultry products and this rule does not affect the use of salt.

10. *The Safety of Many Substances on the GRAS List is Questionable and the Enzymes Would Harm Various Body Organs.* Several commenters stated that they do not believe that GRAS substances are really safe and that the enzymes would harm various parts of the body. Some commenters stated that things declared safe today would not be called safe 5 years from now.

Substances on the GRAS list are currently being studied and reviewed to determine if there is any available evidence to show that they are harmful. Historically, substances on the GRAS list have been permitted in food based on their long history of use. FDA is currently reviewing the GRAS list and reevaluating substances based on available information.

As noted above, FDA has published a proposal to affirm the GRAS status of papain (43 FR 31349). As part of its ongoing review of GRAS substances, FDA has also received and reviewed a report from the American Society of Experimental Biology which concludes that papain is safe for human consumption. Copies of the report of the Society's Select Committee on GRAS Substances are available from the National Technical Information Service, 5285 Post Royal Road, Springfield, Virginia 22161.

These enzymes occur naturally in plants and have been used for centuries by various people to tenderize meat. There is no evidence that enzymes directly harm any part of the body when used as a tenderizer.

11. *Tenderization Would Increase the Cost of Treated Meat and Poultry.* Fifty commenters expressed concern that the tenderizing procedure would increase the production costs of the meat processor who would pass the increased cost on to the consumer.

The meat and poultry from older animals are not generally sold at the retail level. The public demand for better grades of meat and poultry has limited the utilization of breeding animals and egg-laying poultry as food

sources. Consequently, the farmer has a very limited market for these mature animals and poultry.

This situation of a large supply and a small demand has resulted in a very low price for mature animals and poultry. The use of tenderizers would expand the uses of these animals and poultry as food. The lower original cost of the animals and poultry would enable the processor to offer the consumers more products at lower costs, whereas without tenderizing, most of this meat and poultry would not enter the retail market.

This action is not expected to have a significant effect on the retail prices of red meat or poultry products. The proportion of meat and poultry affected by this action is relatively small. The proportions of each class affected are estimated as follows: pork, 6 percent; lamb and mutton, 7 percent; chicken, 5 percent; and turkey, 1 percent. Furthermore, the animal supply suitable for such processing may expand as a result of this action. Consumers are unlikely to experience price changes since these animals comprise such a small proportion of the total supply.

This action could increase the farm income of producers of eggs, sheep, and feeder pigs as a result of higher slaughter prices received from the sale of hens, turkeys, sheep, sows, and boars. The effect on egg producers may result in some reduction of retail egg prices since the increased return for spent hens would generally lower egg production costs.

12. *The Need for the Use of Enzymes on Meat and Poultry Is Questionable.* The last objection to the proposal was based on the need for tenderizing. Many people stated that there is no need for it, that consumers could tenderize the meat and poultry at home, and that tough meat may be preferred because it exercises the teeth and gums.

The meat and poultry from older animals is very tough and not suited for roasting, broiling, or frying. There is no demand for this class of meat or poultry in the retail market; therefore, the utilization of breeding stock and egg-laying poultry as food sources is very limited. The application of a tenderizer to this class of meat and poultry makes it possible to prepare a tender product with the meat and poultry from older animals regardless of the method of cooking.

This rule will not affect the beef presently on the market. Not all beef cuts are tenderized even though the current Federal meat inspection regulations authorize the cuts to be tenderized. Therefore, the Department believes that there will still be

untenderized meat available for those desiring tougher cuts after this regulation is promulgated.

On January 16, 1980, the National Advisory Committee on Meat and Poultry Inspection was consulted regarding these regulations. Members of the Committee expressed comments both in support of and in opposition to the proposal. The Committee members did not raise issues outside the scope of the written comments as discussed above, but their views were also considered in the preparation of this final rule. FDA was also consulted during the rulemaking proceeding in order to assure consistency in Federal food standards. No inconsistency was identified.

On the basis of the foregoing, the Federal meat and poultry products inspection regulations are amended as set forth below:

1. Section 317.8(b)(25) of the Federal meat inspection regulations (9 CFR 317.8(b)(25)) is amended to read as follows:

§ 317.8 False or misleading labeling or practices generally; specific prohibitions and requirements for labels and containers.

* * * * *

(b) * * *

(25) When approved proteolytic enzymes as permitted in Part 318 of this subchapter are used on steaks or other raw meat cuts, there shall appear on the label, in a prominent manner, contiguous to the product name, the statement, "Tenderized with [approved enzyme]," to indicate the use of such enzymes. Any other approved substance which may be used in the solution shall also be included in the statement.

* * * * *

§ 318.7 [Amended]

2. The chart listing the substances approved for use in the preparation of products in § 318.7(c)(4) of the Federal meat inspection regulations (9 CFR 318.7(c)(4)) is amended as follows: In connection with the class of substances listed as "Proteolytic enzymes," in the "Products" column, the term "Beef cuts" is amended to read "Raw meat cuts" and the "Amount" column is amended to read "Solutions consisting of water and approved proteolytic enzymes applied or injected into raw meat cuts shall not result in a gain of more than 3 percent above the weight of the untreated product."

§ 381.120 [Amended]

3. Section 381.120 of the Federal poultry products inspection regulations (9 CFR 381.120) is amended by adding a new sentence at the end of this section

to read as follows: "When approved proteolytic enzymes as permitted in § 381.147 of this subchapter are used in mature poultry muscle tissue, there shall appear on the label, in a prominent manner, contiguous to the product name, the statement "Tenderized with [approved enzyme]," to indicate the use of such enzymes. Any other approved

substance which may be used in the solution shall also be included in the statement."

§ 381.147 [Amended]

4. The chart listing the restrictions on the use of substances in poultry products in § 381.147(f)(3) of the Federal

poultry products inspection regulations (9 CFR 381.147(f)(3)) is amended by inserting a new class of substance, "Proteolytic enzymes," immediately before the class of substance listed as "Synergists (used in combination with antioxidant)" and in the correct columns, the following information about those enzymes:

Class of substance	Substance	Purpose	Products	Amounts
Proteolytic enzymes	Aspergillus oryzae	To soften tissue	Raw poultry muscle tissue of hen, cock, mature turkey, mature duck, mature goose, and mature guinea.	Solutions consisting of water and approved proteolytic enzyme applied or injected into raw poultry tissue shall not result in a gain of more than 3 percent above the weight of the untreated product.
	Aspergillus flavus oryzae group	do	do	Do.
	Bromelain	do	do	Do.
	Ficin	do	do	Do.
	Papain	do	do	Do.

(Sec. 7(c), 34 Stat. 1262, as amended, 21 U.S.C. 607; Sec. 8, 71 Stat. 444, as amended, 21 U.S.C. 457; 42 FR 35625, 35626, 35631)

Done at Washington, D.C., on August 28, 1980.

Carol Tucker Foreman,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-27098 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 106, 110, 140-146, 9001-9007

[Notice 1980-28]

Public Financing of Presidential General Election Campaign; Effective Date Confirmation

AGENCY: Federal Election Commission.

ACTION: Final rule.

SUMMARY: On Friday, June 27, 1980 (45 FR 43378-43387), the Commission published the text of revised regulations to implement the provisions of the Presidential Election Campaign Fund Act (26 U.S.C. 9001, *et seq.*) relating to the public financing of Presidential General Election Campaigns. The Commission announces those regulations are effective as of September 5, 1980. 11 CFR Subchapter D, Parts 140-146 are deleted.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, Assistant General Counsel, 1325 K Street, N.W., Washington, D.C. 20463.

SUPPLEMENTARY INFORMATION: 26 U.S.C. 9009(c) requires that any rule or regulation prescribed by the Commission under Chapter 95 of Title 26, United States Code be transmitted to the Speaker of the House of

Representatives and the President of the Senate for legislative review prior to final promulgation. If neither House of Congress disapproves the regulations within 30 legislative days after transmittal, the Commission may finally prescribe them.

The regulations being made effective by this notice were transmitted to Congress on June 13, 1980. Thirty legislative days passed as of adjournment August 26, 1980.

Announcement of Effective Date

PARTS 140-146 [DELETED]

The amendments to 11 CFR 100.8, 106.3 and 110.7; and the new 11 CFR Subchapter E, Parts 9001 through 9007, as published at 45 FR 43378-43387, are effective as of September 5, 1980. 11 CFR Subchapter D, Parts 140-146 are deleted.

Dated: September 3, 1980.

Max L. Friedersdorf,
Chairman, Federal Election Commission.

[FR Doc. 80-27512 Filed 9-4-80; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R-0306; Regulation D]

Reserves of Member Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: Effective August 28, 1980, the Board has established a reserve requirement ratio of 12 per cent on savings accounts subject to negotiable order of withdrawal (NOW accounts) maintained by member banks located outside of New England, New York, and New Jersey. This is a technical revision to Regulation D—Reserves of Member Banks to implement the Board's revised Regulation D announced on August 15, 1980 (45 FR 56009). Under that action, NOW accounts maintained by all depository institutions outside of New England, New York and New Jersey will not be subject to the reserve requirement phase-in provisions of revised Regulation D—Reserve Requirements of Depository Institutions, which becomes effective on November 13, 1980. This action will have no effect on the level of reserve requirements member banks currently are required to maintain.

EFFECTIVE DATE: August 28, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452-3625) or Paul S. Pilecki, Attorney (202/452-3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Under the Monetary Control Act of 1980 (Title I of Pub. L. 96-221), the Board is authorized to impose Federal reserve requirements on depository institutions that maintain transaction accounts or nonpersonal time deposits. Transaction accounts are subject initially to a reserve requirement ratio of 3 per cent on amounts up to \$25 million and 12 per cent on amounts in excess of \$25 million. Initially, nonpersonal time deposits are subject to 3 per cent reserve ratio. The Act provides a transitional adjustment period for most nonmember depository institutions of eight years during which time such institutions will phase in to the new reserve requirements. Member banks will phase in over a four-year period from existing reserve requirements to the new, generally lower reserve requirements. Under the Act, however, any category of deposit accounts first authorized under Federal law in any State after April 1, 1980, will not be subject to the phase-in provisions. (See S. Rep. No. 96-640, 96th Cong., 2d Sess. 70 (1980).) This requirement most immediately applies to negotiable order of withdrawal (NOW accounts) that may be offered by depository institutions outside of New England,¹ New York, and New Jersey, beginning December 31, 1980, under section 303 of the Consumer Checking Account Equity Act of 1980 (Title III of Pub. L. 96-221). On August 15, 1980, the Board announced a revised Regulation D—Reserve Requirements of Depository Institutions to implement the Monetary Control Act. Under that action, reserve requirements on negotiable order of withdrawal (NOW accounts) maintained by member banks in the District of Columbia and the 42 States outside of New England, New York and New Jersey will not be subject to the reserve requirement phase-in provisions of the Monetary Control Act in accordance with the intent of the Monetary Control Act. In order to make this action effective, the Board has amended Regulation D, effective August 28, 1980, the beginning of the last reserve computation period prior to the effective date of the Monetary Control Act, to impose a 12 per cent reserve requirement of NOW accounts of member banks located in the District of Columbia and the 42 States outside of New England, New York and New Jersey.

This revision to current Regulation D will not impose any additional reserve requirements on member banks at this

time since NOW accounts are not permitted under Federal law outside of New England, New York, and New Jersey until December 31, 1980. NOW accounts maintained at member banks in the eight States where they are currently authorized will continue to be subject to a reserve requirement ratio of 3 per cent until November 13, 1980, when such member banks will commence phasing into the new reserve ratios on transaction accounts of Regulation D (12 CFR Part 204).

This amendment is technical in nature and relates to a regulatory provision that becomes effective November 13, 1980. Public comment on this issue was solicited on this issue on June 4, 1980 (45 FR 38388).

Effective August 28, 1980, pursuant to the Board's authority under section 19 of the Federal Reserve Act (12 U.S.C. 461 *et seq.* § 204.5 of Regulation D (12 CFR 204.5) is amended as follows:

Section 204.5(a) (1)(ii) and (2)(ii) are revised to read as follows:

§ 204.5 Reserve requirements.

(a) * * *

(1) * * *

(ii) 1 per cent of its time deposits outstanding on or issued after October 16, 1975, that have an initial maturity of four years or more; 2½ per cent of its time deposits outstanding on or issued after December 25, 1975, that have an initial maturity of 180 days or more but less than four years; 3 per cent of its time deposits up to \$5 million, outstanding on or issued after October 16, 1975, that have an initial maturity of less than 180 days, plus 6 per cent of such deposits in excess of \$5 million; for a member bank located outside of the States of Massachusetts, New Hampshire, Connecticut, Maine, New Jersey, New York, Rhode Island, and Vermont, 12 per cent of its savings accounts subject to negotiable orders of withdrawal: *Provided, however,* that in no event shall the reserves required on its aggregate amount of time and savings deposits be less than 3 per cent or more than 10 per cent.

* * * * *

(2) * * *

(ii) 1 per cent of its time deposits outstanding on or issued after October 16, 1975, that have an initial maturity of four years or more; 2½ per cent of its time deposits outstanding on or issued after December 25, 1975, that have an initial maturity of 180 days or more but less than four years; 3 per cent of its time deposits up to \$5 million, outstanding on or issued after October 16, 1975, that have an initial maturity of less than 180 days, plus 6 per cent of such deposits in excess of \$5 million; for

a member bank located outside of the States of Massachusetts, New Hampshire, Connecticut, Maine, New Jersey, New York, Rhode Island, and Vermont, 12 per cent of its savings accounts subject to negotiable orders of withdrawal: *Provided, however,* that in no event shall the reserves required on its aggregate amount of time and savings deposits be less than 3 per cent or more than 10 per cent.

* * * * *

By order of the Board of Governors, August 28, 1980.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 80-27294 Filed 9-4-80; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 223

[Regulation ER-1197; Economic Regulations Amendment No. 10 to Part 223]

Free and Reduced-Rate Transportation; Notice of Approval by the General Accounting Office

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the General Accounting Office has approved the reporting requirements and the application requirement contained in Part 223 of the Board's Economic Regulations governing free and reduced-rate transportation. This approval is required under the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated August 25, 1980.

DATES: Adopted: September 2, 1980. Effective: September 2, 1980.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6042.

Accordingly, the Civil Aeronautics Board amends Part 223 of its Economic Regulations (14 CFR 223) by revising the note at the end of Part 223 to read:

Note.—The reporting requirements contained in sections 223.2(c), 223.6, 223.7 and the application requirement contained in section 223.8 have been approved by the U.S. General Accounting Office under B-180228 (R0069).

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

¹ Massachusetts, New Hampshire, Connecticut, Maine, Rhode Island, and Vermont.

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-27221 Filed 9-4-80; 8:45 am]
BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 239, 240 and
249

[Release Nos. 33-6230; 34-17095]

Amendments Regarding Exhibit Requirements

AGENCY: Securities and Exchange
Commission.

ACTION: Final rules.

SUMMARY: The Commission announces the adoption of amendments to Regulation S-K [17 CFR 229.20] and certain frequently used forms under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a et seq.] and the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq.] in order to standardize and improve the Commission's requirements relating to the filing of exhibits. The amendments delete thirteen exhibits formerly required to be filed, revise and make uniform the requirements relating to certain other exhibits, and, with the exception of the exhibit requirements for Form S-18, consolidate all of the amended exhibit requirements of the frequently used forms into a new Regulation S-K item. To facilitate the identification and location of exhibits by the public, the Commission is also adopting amendments to certain rules to require an exhibit index with each form or report filed and a statement on the first page of each such document indicating the page on which the exhibit index can be found.

EFFECTIVE DATE: October 6, 1980. While the amendments will not be effective until such date, in view of the cost and other savings the amendments may provide to registrants, the Commission will accept filings complying with the amendments beginning immediately for those wishing to utilize them.

FOR FURTHER INFORMATION CONTACT: Prior to effectiveness contact Joseph G. Connolly, Jr. at (202) 272-3097. After effectiveness contact William E. Toomey, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-272-2573).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission

today announced certain amendments to the exhibit filing requirements currently set forth in certain registration and reporting forms under the Securities Act of 1933 (the "Securities Act") and the Securities Exchange Act of 1934 (the "Exchange Act"), the amendment of certain related rules under these Acts, and the adoption of a new item relating to exhibits in Regulation S-K.

I. Background

As a result of a reexamination by the Division of Corporation Finance of the exhibit filing requirements for the registration and reporting forms promulgated under both the Securities Act and the Exchange Act, the Commission published proposed amendments to Regulation S-K and certain forms and rules under both Acts to standardize and improve the Commission's requirements relating to the filing of exhibits.¹ These changes were proposed for the dual purpose of making the requirements more relevant to investors and of reducing the burdens which they impose on registrants. A significant concomitant effect would also be to lessen the volume of paper filed with the Commission. Generally, the proposing release requested comments on the propriety of: (1) eliminating, modifying and, in limited circumstances, adding certain exhibit requirements in light of existing disclosure obligations; (2) deleting the specific exhibit requirements from certain frequently used forms; (3) adding a new item to Regulation S-K to consolidate all exhibit requirements for such selected frequently used forms.²

¹ Release No. 33-6149 (November 16, 1979) [44 FR 67143].

² As noted in the proposing release, the Commission has determined to confine the amendments to only those forms under the Securities Act and the Exchange Act which are most frequently used. The frequently used forms selected are Forms S-1 [17 CFR 239.11], S-2 [17 CFR 230.12], S-7 [17 CFR 239.26], S-8 [17 CFR 239.16b], S-11 [17 CFR 239.18], S-14 [17 CFR 239.23], S-16 [17 CFR 239.27], and S-18 [17 CFR 239.28] under the Securities Act and Forms 10 [17 CFR 249.210], 8-K [17 CFR 249.308], 10-Q [17 CFR 249.308a], and 10-K [17 CFR 249.310] under the Exchange Act. Although the Form 11-K [17 CFR 249.31] had originally been included in the proposed Regulation S-K item, in view of the limited number and type of exhibits required by the Form 11-K [17 CFR 249.31], the Commission has determined not to include this form in Item 7 of Regulation S-K.

³ With respect to the Form S-18, the Commission has determined to adopt all the substantive changes to the exhibit requirements outlined in this release but, instead of inserting a reference to Regulation S-K in the Form S-18, the substantive changes are directly incorporated into the "Instructions as to Exhibits" section of that Form. The basis for this distinction is the view that Form S-18 represents a "simplified" registration form and as such the Commission believes that it is appropriate to avoid cross references to other regulations wherever possible.

and (4) amending certain rules under both the Securities Act and the Exchange Act to require an exhibit index with all registration and reporting forms filed under such Acts, as well as a statement on the first page of each such form indicating the page on which the exhibit index may be found.

Twenty-one commentators addressed various aspects of the proposed amendments. The commentators expressed unanimous support for the proposed elimination of the thirteen exhibits listed in that release, commending the Commission for alleviating certain burdensome and outdated requirements upon registrants. The commentators also expressed in varying degrees their support for the Commission's attempt to achieve uniformity in the exhibit requirements for the forms selected and the relocation of the exhibit requirements for such forms in a single item of Regulation S-K. As a result of the views expressed by the commentators, a number of revisions have been incorporated into the proposals as adopted.

II. Synopsis of Amendments

The following synopsis discusses the exhibits which have been eliminated, modified and added to the filing requirements as well as the new exhibit item in Regulation S-K and the amendments to other rules. Attention is directed to the text of the amendments for a more complete understanding.

A. Elimination, Modification and Addition of Exhibits

1. Elimination of Exhibits

As noted above, there was unanimous support of the commentators for the proposed elimination of the thirteen exhibits set forth below. The Commission believes that these exhibits are of limited interest to both the public and the Commission and may be eliminated without impairing investor information or protection.

The Commission has determined to no longer require the following exhibits, in those forms indicated in parentheses:

- (1) Syndication agreements (S-1, S-2, S-7, S-11, S-14, S-16 and S-18);
- (2) Selling group agreements (S-1, S-2, S-7, S-11, S-14, S-16 and S-18);
- (3) Specimen certificates (S-1, S-2, S-7, S-11, S-14, S-16, S-18, Form 10 and Form 20);
- (4) Plans relating to options, warrants and rights to the extent they are not deemed to be material contracts (S-1, S-8, S-11, S-14, S-18, Form 10 and Form 10-K);
- (5) Pension, retirement and deferred compensation plans (S-1 and S-18);

(6) Indemnification contracts or arrangements (S-1, S-7, S-11 and S-14);

(7) Profit sharing or bonus plans to the extent they are not deemed to be material contracts (S-8, S-11, S-14, S-18 and Form 10);

(8) Agreements relating to registration rights (S-14);

(9) Summaries of the employee benefit plan to which the filing relates and any related written communications (S-8 and S-18);

(10) Waivers or undertakings required by Rule 460 [17 CFR 230.460] (S-8);

(11) List of subsidiaries participating in the plan (S-8);

(12) Form of proxy (S-14);⁴ and

(13) Text of any proposal or any published report regarding matters submitted to a vote of security holders (Form 10-K and Form 10-Q).

2. Modification of Exhibits Requirements

(a) *Applicability of Requirements to Various Forms.* One of the commentators' general observations on the proposals was that the proposed revisions and codification into Regulation S-K of the exhibit filing requirements did not reflect adequately the distinctions among the various forms, particularly the Form S-16.

The Commission has determined that certain exhibit requirements are unnecessary for Form S-16 and can be eliminated without impairing investor information or protection. This determination is based upon the fact that the Form S-16 incorporates by reference current as well as subsequently filed reports under the Exchange Act where such exhibits may be found.⁵ In this manner, information filed as an exhibit pursuant to the continuous disclosure requirements of the Exchange Act will be relied upon in lieu of an exhibit filing. This revision is intended to eliminate unnecessary and duplicative filings without reducing the quality of the information available to investors. As revised, only documents which relate specifically to the securities offering will be required as exhibits to Form S-16, i.e. underwriting agreements, plans of acquisition,

⁴ Although the form of proxy will no longer be required to be filed as an exhibit to the S-14 registration statement, the requirement that it be filed with the Commission with both the preliminary and definitive proxy material would be retained.

⁵ Material changes in the registrant's affairs not previously disclosed in an incorporated document would be required to be disclosed in the registration statement pursuant to Item 8 of the Form. As a result, a material contract not previously filed as an exhibit to an Exchange Act periodic report would be required to be disclosed in the filing, although not required to be filed as an exhibit to the registration statement.

reorganization, arrangement, liquidation or succession, instruments defining the rights of holders of the debt or equity securities being registered and opinions of counsel relating to legality and tax matters.

(b) *Modification of Specific Exhibits.* As discussed in Release No. 33-6149, the Commission proposed substantive revisions to two existing exhibit requirements: material contracts and previously unfiled documents. In response to the comments received, these definitions have been revised, as well as the proposed definitions of certain other exhibits, namely (a) instruments defining the rights of security holders, (b) letter with respect to changes in accounting principles, (c) plans of acquisition, reorganization, arrangement, liquidation or succession and (d) articles of incorporation and by-laws.

(i) *Material contracts.*—The material contract definition has been revised from the proposal in two respects. First, in paragraph (b) of the definition relating to contracts not made in the ordinary course of business, the percentage in subpart 3 concerning the acquisition or sale of certain assets has been revised to the 15% threshold currently in the definition of material contracts in Form S-1. After analyzing the commentators' views in this area, the Commission has determined to set the percentage at 15% rather than reduce it to the Form 10 10% standard. This approach is consistent with the purpose of reducing the burdens which the exhibit filing requirements impose upon registrants without materially impairing investor information or protection.

Second, a new subpart has been added to paragraph (c) of the definition which specifically excludes from the exhibit filing requirements any remuneration plan or arrangement in which directors or executive officers of the registrant do not participate. The Commission believes that these types of plans generally are not material to investor information or protection and are not necessary for staff review purposes.

In certain respects, particularly with regard to the current exhibit requirements of Form S-7, the definition of material contract adopted will require the filing or at least the listing of some additional documents not currently required. The Commission does not believe, however, that this item requirement imposes an unreasonable burden upon registrants. It should be noted that Form S-7 allows the integration into the registration statement of the Exchange Act reports. To the extent such contracts have been

filed with these reports, the registrant may incorporate them by reference so that the requirement in most instances will be a reference requirement rather than the imposition of a new filing requirement.

The Commission has determined, however, to eliminate this specific exhibit from the filing requirements for the Form S-16. Unlike the other registration and reporting forms, the Form S-16 incorporates by reference into the registration statement current, as well as subsequently filed, Exchange Act periodic reports where such contracts will be filed. As a result, the Commission believes that the elimination of this exhibit requirement will not reduce the quality of information available to investors but rather will eliminate a duplicative filing and reference requirement.

(ii) *Previously unfiled documents.*—Although the substance of this exhibit requirement remains as originally proposed, the definition of this exhibit has been redrafted to remove certain ambiguities perceived by commentators, including eliminating the possible interpretation that the item would require a continual updating of all Securities Act exhibits not otherwise required to be filed with the Forms adopted under the Exchange Act. As adopted, the exhibit requires the filing of all contracts or other documents either originally required to be filed with a registration statement on Form 10 or a report on Forms 10-K or 10-Q, as well as any document which later comes into existence and is of a character originally required to be so filed. Further, all amendments or modifications of previously filed exhibits are also encompassed within the item requirement. As noted in the proposing release, this item is a consolidation of several existing exhibit requirements in Forms 10-Q and 10-K and in the Commission's view does not impose any new filing requirements upon registrants except that the revised requirement would be operative on a quarterly basis, rather than on the annual basis used in the past.

(iii) *Instruments defining the rights of security holders, including indentures.*—The substance, as well as the applicability, of this definition has been revised in a number of respects from the original proposal. Substantively, the definition has been revised by increasing the exclusionary provision in subpart (b), relating to non-registered long-term debt, from 5% to 10%.

Similarly, the applicability of the item to the various forms has been revised by limiting in certain respects the specific filing requirements. As adopted, the

definition requires the filing of all instruments defining the rights of holders of the equity or debt securities being registered. Further, the definition requires the filing of all other instruments defining the rights of holders of long-term debt of the registrant, and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed, only on Forms S-1, S-2, S-11 and S-14 under the Securities Act and Forms 10 and 10-K under the Exchange Act. The original proposal would have required the filing of all such instruments with each Securities Act and Exchange Act form. In light of the nature of Forms S-7, S-8 and S-16 under the Securities Act, however, the Commission has determined that this requirement is unnecessary. Forms S-7 and S-16 are simplified registration forms which are premised upon Exchange Act filings where such instruments are already filed while the Form S-8 is the registration form relating solely to the registration of securities to be offered to employees of the registrant pursuant to certain employee benefit plans.

With regard to Forms 8-K and 10-Q under the Exchange Act, the definition of this item requirement has been revised to call for such exhibits only when the periodic report filed discloses a modification of existing rights, the issuance of any additional securities of a class outstanding or the creation of a new class of securities or indebtedness. Each Form 10-K, however, will require as exhibits all instruments defining the rights of holders of long-term debt. To the extent such instruments have been previously filed with the Commission, the registrant may incorporate them by reference. In this manner an interested investor or the staff of the Commission will be able to obtain a listing of all such instruments by consulting the registrant's latest Form 10-K and any subsequently filed Form 10-Q's.

(iv) *Letter with respect to changes in accounting principles.*—The Commission has revised this definition by adding the qualifying "under the circumstances" phrase currently appearing in the requirement for this exhibit. This language had been inadvertently omitted from the definition when proposed.

(v) *Plan of acquisition, reorganization, arrangement, liquidation or succession.*—This definition has been revised by the addition of a sentence relating to the requirements for filing any schedules (or similar attachments) to these plans. Currently, all such schedules are required to be filed with

the disclosure document. It has been the Commission's experience, however, that many of the schedules being received by the staff are not material for investor information or protection and are unnecessary for Commission review purposes. Accordingly, the definition as adopted limits the applicability of the exhibit filing requirements to these schedules which are material to an investment decision and which are not otherwise disclosed in the plan itself or the disclosure document. This provision has been qualified by the requirement that the plan or agreement filed as the exhibit contain a list briefly identifying the contents of all omitted schedules together with the registrant's agreement to furnish supplementally a copy of any omitted schedule to the Commission upon request.

(vi) *Articles of Incorporation and by-laws.*—The definition of this exhibit has been revised in one respect from the proposal. A provision has been added to the item which requires that, whenever an amendment to the articles or by-laws of the registrant is filed as an exhibit to a reporting form, a complete copy of the registrant's articles or by-laws as amended must also be filed as an exhibit. The Commission believes that this revision will assist interested investors, as well as members of the staff of the Commission, in identifying and locating the registrant's complete charter or by-laws which at present is particularly difficult under the Commission's existing micrographic document storage system. Although the Commission recognizes that this revision may impose some additional burdens upon registrants, it believes that these burdens will be minimal and that significant benefits to the public will result.

3. Additional Exhibits

As noted in the proposing release, the Commission became aware during the reexamination of the exhibit filing requirements that the exhibits called for by certain related forms were inconsistent in the sense that certain items are required in some forms but not in others, even though such forms pertain to similar disclosure issues. To cure this inconsistency, the Commission is adopting the requirement that the following documents be filed as exhibits to the forms listed in parentheses: (1) instruments defining the rights of security holders, including indentures, (S-2); (2) opinion with respect to tax matters (S-1, S-2, S-7, S-14, S-16 and S-18); (3) voting trust agreements (S-2); (4) plans of acquisition, reorganization, arrangement, liquidation or succession (S-7 and S-16); and opinions of counsel

with respect to liquidation preference and this discount on capital shares (S-2 and S-7).

Certain commentators believed that the additional requirement for an opinion of counsel relating to tax matters may be burdensome, costly and, in some instances, difficult to satisfy. In light of these views, the Commission has modified materially the filing requirement for such opinions. As adopted, an opinion of counsel will be mandated only for filings on Form S-11 or filings in which Guide 60 of the Guides for the Preparation of Registration Statements⁶ applies. The Commission notes that tax opinions are currently required in these filings and in light of the type of securities being registered and the business activities of the registrant continues to believe in their importance to investors. For all other filings, including Forms S-2, S-7 and S-16, an opinion of counsel as to tax matters will be required only where the tax consequences are material to an investor and a representation as to the tax consequences is set forth in the filing. This requirement may be satisfied, however, by the inclusion of the full opinion in the registration statement.

A new exhibit requirement relating to the use of SAS No. 24⁷ reports in registration statements has also been included in Table I of the exhibit item. Under this exhibit requirement, which is captioned "Letter re unaudited financial information," registrants must file as an exhibit to a registration statement a letter from the independent accountants which acknowledges the accountants' awareness of the use in the registration statement of any of their reports which are not subject to the consent requirement of section 7 of the Securities Act. The intention of the Commission to adopt this exhibit requirement was announced in Securities Act Release No. 6173 (December 28, 1979) [41 FR 43398]. That Release announced the adoption of a rule excluding from the definition of a "report," for the purposes of sections 7 and 11 of the Securities Act, SAS No. 24, reports by independent accountants on reviews of unaudited interim financial information. While this amendment to Rule 436 (17 CFR 230.436) eliminated the requirement of section 7 of the Securities Act that accountants consent to the use of SAS No. 24 reports, the Commission noted in the Release that the independent accountants should

⁶ Securities Act Release No. 5745 [41 FR 43398].

⁷ Statement on Auditing Standards No. 24, "Review of Interim Financial Information," AICPA, March 1979.

acknowledge their awareness that these reports are being included in a registration statement. As adopted, this exhibit will be required for all the Securities Act forms in Table I except Form S-2.

B. Revision of Forms and Inclusion of Exhibit Item in Regulation S-K

In the interest of clarity, and to establish uniformity between the exhibit requirements for the most frequently used forms under both the Securities Act and the Exchange Act, the Commission has adopted, as proposed, two major changes in the manner in which such requirements are set forth. First, with the exception of the Form S-18, the specific exhibit requirements are no longer contained in the selected frequently used forms. In lieu thereof, a single reference appears to Regulation S-K. Second, the Commission has adopted Item 7 of Regulation S-K which contains all the exhibit requirements for the relevant forms being amended.⁸ The Commission believes that these changes will assist registrants in complying with the exhibit requirements by simplifying and consolidating requirements.

New Item 7 consists of two parts: first, two tables (one each for the Securities and the Exchange Acts) list each of the forms being covered by the item and the exhibits required to be filed with each such form; second, a definitional section containing a narrative description of each exhibit listed in the table.

In response to a number of comments, certain revisions have been incorporated into Item 7. In paragraph (a) of the item, the reference to the exhibit index and sequential numbering requirement has been revised to require sequential pagination in only the manually signed original. This reference had been inadvertently omitted from the item when proposed.

Instruction number 2 to Item 7(a) has also been expanded to indicate that an "X" designation in the exhibit table indicates the documents which are required to be filed with each form even if previously filed with an earlier report.⁹ Accordingly, the filing of certain previously filed exhibits is required in a number of documents. For example, in Table II, the Form 10-K requires the filing of all exhibits relating to the articles of incorporation and by-laws, instruments defining the rights of

holders of long-term debt and material contracts, in addition to any previously unfiled documents. As noted in paragraph (a) of the Item, incorporation by reference is permitted and, if utilized, the Commission believes this requirement will, in many cases, result in a listing of previously filed exhibits, rather than the imposition of a requirement that the exhibits be physically filed each year.

The tables, as adopted, have also been modified in several respects to incorporate a number of the commentators' concerns. A number of footnotes have been added to the various requirements of the Item which limit, in certain respects, the specific exhibit filing requirements. In many respects, these footnotes clarify the Commission's intent in publishing the proposal. The requirement in Form S-16 for filing material contracts has been deleted. The requirements for the filing of opinions regarding liquidation preference and discount on capital shares have been added to Forms S-2 and S-7 while the opinion of counsel relating to tax matters has been added to Forms S-2, S-7 and S-16. Further, in view of the limited number and type of exhibits required by the Form 11-K, this form has been eliminated from the Regulation S-K Item requirements.

C. Amendments to Certain Related Rules

In connection with the amendment to Regulation S-K, the Commission has also adopted amendments to Rule 403 [17 CFR 230.403] under the Securities Act and Rule 0-3 [17 CFR 240.0-3] under the Exchange Act. Both rules set forth requirements relating to the filing of documents with the Commission. Each such rule has been amended to add a new paragraph thereto requiring that the following be included with each registration statement or report being filed: (1) and index listing each exhibit filed with the registration statement or report and, in the manually signed original, the page under the Commission's sequential numbering system where such exhibit can be found and (2) a statement on the cover page of the manually signed filing indicating the page under the sequential numbering system on which the exhibit index is located.

The purpose of the rule changes is to assist readers of the filings in identifying and locating exhibits. Under the current micrographic system used by the Commission to store documents, it is difficult to determine without a complete review of the document which exhibits are filed with a particular registration statement or report.

The Commission believes that these changes will substantially ease the difficulties in identification and location inherent in the present micrographic system and will greatly facilitate the retrieval of such information for the investing public.

D. Text of the Amendments

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K

1. 17 CFR 229.20 is amended by adding a new Item 7 to Regulation S-K.

§ 229.20 Information required in document.

* * * * *

Item 7. Exhibits. (a) Subject to Rule 447 (17 CFR 230.447) under the Securities Act of 1933 and Rule 12b-32 (17 CFR 240.12b-32) under the Securities Exchange Act of 1934 regarding incorporation of exhibits by reference, the following exhibits shall be filed, where applicable, as part of the registration statement or report. For convenient reference, each exhibit should be listed in the exhibit index according to the number assigned to it in the applicable table set forth below. The exhibit index should immediately precede the exhibits filed with such document and should indicate in the manually signed original the page number in the sequential numbering system where such exhibit can be found. Where exhibits are incorporated by reference, this fact should be noted in the exhibit index referred to in the preceding sentence. For a description of each of the exhibits included in the following tables, see paragraph (b) of this Item.

This Item applies only to the forms specified below. With regard to forms not listed in the tables, reference should be made to the appropriate form for the specific exhibit filing requirements applicable thereto.

Tables

Instructions

(1) Each table indicates those documents which must be filed as exhibits to the respective forms listed. Only copies, rather than originals, need be filed of each document listed;

(2) The "X" designation indicates the documents which are required to be filed with each form even if previously filed with another document, *Provided, however*, That such previously filed documents may be incorporated by reference to satisfy the filing requirements; and

(3) The number used in the far left column of each table refers to the appropriate

⁸ As originally proposed the exhibit requirement Item of Regulation S-K would have been designated Item 8.

⁹ Previously filed documents, however, may be incorporated by reference pursuant to Rule 447 under the Securities Act [17 CFR 230.447] and Rule 12b-32 [17 CFR 240.12b-32] under the Exchange Act to satisfy these requirements.

subsection in paragraph (b) where a description of the exhibit can be found.

Whenever necessary, alphabetical or numerical subparts may be used.

Table I.—Securities Act of 1933—Frequently Used Forms

	S-1	S-2	S-7	S-8	S-11	S-14	S-16
(1) Underwriting agreement.....	X	X	X		X	X	X
(2) Plan of acquisition, reorganization arrangement, liquidation or succession.....	X		X		X	X	X
(3) Articles of incorporation and by-laws.....	X	X			X	X	
(4) Instruments defining the rights of security holders, including indentures.....	X	X	X	X	X	X	X
(5) Opinion re legality.....	X	X	X	X	X	X	X
(6) Opinion re discount on capital shares.....	X	X	X		X	X	
(7) Opinion re liquidation preference.....	X	X	X		X	X	
(8) Opinion re tax matters.....	X	X	X	X	X	X	X
(9) Voting trust agreement.....	X	X			X	X	
(10) Material contracts.....	X	X	X		X	X	
(11) Statement re computation of per share earnings.....	X		X		X	X	
(12) Statements re computation of ratios ¹	X		X		X	X	
(13) Annual report to security holders.....				X			
(14) Material foreign patents.....		X				X	
(15) Instruments defining the rights of participating employees.....	X			X			
(16) Letter re unaudited financial information.....	X	X	X	X	X	X	X

¹ Such plans need not be filed for secondary offerings on this form.

² Such statements are necessary only when such ratios are furnished.

³ This exhibit need be filed only for the registration of securities offered pursuant to an employee benefit plan of the registrant.

Table II.—Securities Exchange Act of 1934—Frequently Used Forms

	Form 10	8-K	10-Q	10-K
(2) Plan of acquisition, reorganization arrangement, liquidation or succession.....	X	X		
(3) Articles of incorporation and by-laws.....	X			X
(4) Instruments defining the rights of security holders, including indentures.....	X	X	X	X
(6) Opinion re discount on capital shares.....	X			
(7) Opinion re liquidation preference.....	X			
(9) Voting trust agreement.....	X			
(10) Material contracts.....	X			X
(11) Statement re computation of per share earnings.....	X		X	X
(12) Statements re computation of ratios ¹	X			X
(13) Annual report to security holders.....				X
(14) Material foreign patents.....	X			
(17) Letter re change in certifying accountant.....		X		
(18) Letter re director resignation.....		X		
(19) Letter re change in accounting principles.....			X	X
(20) Previously unfiled documents.....			X	X
(21) Financial statements furnished to security holders.....			X	

¹ Such statements are necessary only when such ratios are furnished.

(b) *Description of Exhibits.* Set forth below is a description of each document listed in the foregoing tables for which copies should be filed, where appropriate.

(1) *Underwriting agreement.*—Each underwriting contract or agreement with a principal underwriter pursuant to which the securities being registered are to be distributed; if the terms of such documents have not been determined, the proposed forms thereof.

(2) *Plan of acquisition, reorganization, arrangement, liquidation, or succession.*—Any material plan of acquisition, disposition, reorganization, readjustment, succession, liquidation or arrangement and any amendments thereto described in the statement or report. Schedules (or similar attachments) to these exhibits shall not be filed unless such schedules contain

information which is material to an investment decision and which is not otherwise disclosed in the agreement or the disclosure document. The plan filed shall contain a list briefly identifying the contents of all omitted schedules, together with an agreement to furnish supplementally a copy of any omitted schedule to the Commission upon request.

(3) *Articles of incorporation and by-laws.*—The articles of incorporation and by-laws of the registrant or instruments corresponding thereto as currently in effect and any amendments thereto. Whenever amendments to the articles or by-laws of the registrant are filed, there shall also be filed a complete copy of the articles or by-laws as amended.

(4) *Instruments defining the rights of security holders, including indentures.*—

(a) All instruments defining the rights of holders of the equity or debt securities being registered.

(b) Except as set forth in (c) below, for filings on Forms S-1, S-2, S-11 and S-14 under the Securities Act of 1933 and Forms 10 and 10-K under the Securities Exchange Act of 1934 all instruments defining the rights of holders of long-term debt of the registrant and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed.

(c) Where the instrument defines the rights of holders of long-term debt of the registrant and all its subsidiaries for which consolidated or unconsolidated financial statements are required to be filed, there need not be filed (1) any instrument with respect to long-term debt not being registered if the total amount of securities authorized thereunder does not exceed 10% of the total assets of the registrant and its subsidiaries on a consolidated basis and if there is filed an agreement to furnish a copy of such agreement to the Commission upon request; (2) any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class will be taken prior to or upon delivery by the registrant of the securities being registered; or (3) copies of instruments evidencing scrip certificates for fractions of shares.

(d) If any of the securities being registered are, or will be, issued under an indenture to be qualified under the Trust Indenture Act of 1939, the copy of such indenture which is filed as an exhibit shall include or be accompanied by (1) a reasonably itemized and informative table of contents; and (2) a cross-reference sheet showing the location in the indenture of the provisions inserted pursuant to Sections 310 through 318(a) inclusive of the Trust Indenture Act of 1939.

(e) With respect to Forms 8-K and 10-Q under the Securities Exchange Act of 1934 which are filed and which disclose the creation of a new class of securities or indebtedness or the issuance or reissuance of any additional securities or indebtedness of a class outstanding, or the modification of existing rights of security holders, file all instruments defining the rights of holders of these securities or indebtedness.

(5) *Opinion re legality.*—(a) An opinion of counsel, as to the legality of the securities being registered, indicating whether they will, when sold, be legally issued, fully paid and non-

assessable, and, if debt securities, whether they will be binding obligations of the registrant.

(b) If the securities being registered are issued under a plan and the plan is subject to the requirements of ERISA either (i) an opinion of counsel which confirms compliance with the provisions of the written documents constituting the plan with the requirements of that Act pertaining to such provisions; or (ii) a copy of the Internal Revenue Service determination letter that the plan is qualified under Section 410 of the Internal Revenue Code; or (iii) an opinion of counsel attaching a copy of the determination letter, that any amended provisions of the plan adopted subsequent to such determination comply with the requirements of that Act pertaining to such provisions.

(6) *Opinion re discount on capital shares*—If any discount on capital shares is shown as a deduction from capital shares on the most recent balance sheet being filed for the registrant, there shall be filed a statement of the circumstances under which such discount arose and an opinion of counsel as to the legality of the issuance of the shares to which such discount relates. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which in the opinion of counsel are controlling.

(7) *Opinion re liquidation preference*—If the registrant has any shares the preference of which upon involuntary liquidation exceeds the par or stated value thereof, there shall be filed an opinion of counsel as to whether there are any restrictions upon surplus by reason of such excess and also as to any remedies available to security holders before or after payment of any dividend that would reduce surplus to an amount less than the amount of such excess. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which, in the opinion of counsel, are controlling.

(8) *Opinion re tax matters*—For filings on Form S-11 under the Securities Act of 1933 or those to which Guide 60 of the Guides for the Preparation of Registration Statements (Securities Act Release 5745; 41 FR 43398) applies an opinion of counsel or, in lieu thereof, a revenue ruling from the Internal Revenue Service, supporting the tax matters and consequences to the shareholders as described in the filing when such tax matters are material to the transaction for which the registration statement is being filed. This exhibit otherwise need only be filed with the other applicable

registration forms where the tax consequences are material to an investor and a representation as to tax consequences is set forth in the filing. If a tax opinion is set forth in full in the filing, an indication that such is the case may be made in lieu of filing the otherwise required exhibit. Such tax opinions may be conditioned or may be qualified, so long as such conditions and qualifications are adequately described in the filing.

(9) *Voting trust agreement*—Any voting trust agreements and amendments thereto.

(10) *Material contracts*—(a) Every contract not made in the ordinary course of business which is material to the registrant and is to be performed in whole or in part at or after the filing of the registration statement or was entered into not more than two years before such filing. Only contracts need be filed as to which the registrant or subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment or in which the registrant or such subsidiary has a beneficial interest.

(b) If the contract is such as ordinarily accompanies the kind of business conducted by the registrant and its subsidiaries, it will be deemed to have been made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance:

(1) Any contract to which directors, officers, promoters, voting trustees, security holders named in the registration statement or report, or underwriters are parties other than contracts involving only the purchase or sale of current assets having a determinable market price, at such market price;

(2) Any contract upon which the registrant's business is substantially dependent, as in the case of continuing contracts to sell the major part of registrant's products or services or to purchase the major part of registrant's requirements of goods, services or raw materials or any franchise or license or other agreement to use a patent, formula, trade secret, process or trade name upon which registrant's business depends to a material extent;

(3) Any contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 15 percent of the assets of the registrant on a consolidated basis; or

(4) Any lease under which a significant part of the property described in the registration statement or report is held by the registrant.

(c) Any management contract or any remunerative plan, contract or arrangement, including but not limited to plans relating to options, warrants or rights, pension, retirement or deferred compensation or bonus, incentive or profit sharing (or if not set forth in any formal document, a written description thereof) shall be deemed material and shall be filed except the following:

(1) Ordinary purchase and sales agency agreements.

(2) Agreements with managers of stores in a chain organization or similar organization.

(3) Contracts providing for labor or salesmen's bonuses or payments to a class of security holders, as such.

(4) Any remunerative plan, contract or arrangement in which directors or executive officers of the registrant do not participate. See Item 4 of Regulation S-K for the definition of the term "executive officer."

(5) Any remunerative plan, contract or arrangement which pursuant to its terms is available to employees generally and which in operation provides for the same method of allocation of benefits between management and nonmanagement participants.

(11) *Statement re computation of per share earnings*—A statement setting forth in reasonable detail the computation of per share earnings, unless the computation can be clearly determined from the material contained in the registration statement or report. (See Securities Act Release No. 5133 (February 18, 1971) [36 FR 4483]).

(12) *Statement re computation of ratios*—A statement setting forth in reasonable detail the computation of ratios of earnings to fixed charges which appears in the registration statement or report.

(13) *Annual report to security holders*—The registrant's annual report to security holders for its last fiscal year if all or a portion thereof are incorporated by reference in the filing. Such report, except for those portions thereof which are expressly incorporated by reference in the filing, is to be furnished for the information of the Commission and is not to be deemed "filed" as part of the filing. If the financial statements in the report have been incorporated by reference in the filing, the accountant's certificate shall be manually signed in one copy.

(14) *Material foreign patents*—Each material foreign patent for an invention not covered by a United States patent. If the filing is a registration statement and if a substantial part of the securities to be offered or if the proceeds therefrom have been or are to be used for the particular purposes of acquiring,

developing or exploiting one or more material foreign patents or patent rights, furnish a list showing the number and a brief identification of each such patent or patent right.

(15) *Instruments defining the rights of participating employees*—All constituent instruments (other than the plan itself) defining the rights of employees who participate in the plan.

(16) *Letter re unaudited financial information*—A letter, where applicable, from the independent accountants which acknowledges their awareness of the use in a registration statement of any of their reports which pursuant to Rule 436(c) (17 CFR 230.436(c)) under the Securities Act are not considered a part of a registration statement prepared or certified by an accountant or a report prepared or certified by an accountant within the meaning of sections 7 and 11 of that Act.

(17) *Letter re change in certifying accountant*—A letter from the registrant's former independent accountant regarding its concurrence or disagreement with the statements made by the registrant in the current report concerning the resignation or dismissal as the registrant's principal accountant.

(18) *Letter re director resignation*—Any letter from a former director which sets forth a description of a disagreement with the registrant that led to the director's resignation or refusal to stand for re-election and which requests that the matter be disclosed.

(19) *Letter re change in accounting principles*—Unless previously filed, a letter from the registrant's independent accountant indicating whether any change in accounting principles or practices followed by the registrant, or any change in the method of applying any such accounting principles or practices, which affected the financial statements being filed with the Commission in the report or which is reasonably certain to affect the financial statements of future fiscal years is to an alternative principle which in his judgment is preferable under circumstances. No such letter need be filed when such change is made in response to a standard adopted by the Financial Accounting Standards Board requiring such a change.

(20) *Previously unfiled documents*—All contracts and other documents of a type required to be filed as an exhibit to an original registration statement on Form 10 or a report on Forms 10-K and 10-Q under the Securities Exchange Act of 1934 which were executed or in effect during the reporting period and not previously filed, as well as all amendments or modifications, not previously filed, to all exhibits

previously filed with Forms 10, 10-K and 10-Q.

(21) *Financial statements furnished to security holders*—If the registrant makes available to its stockholders or otherwise publishes, within the period prescribed for filing the report, a financial statement containing the information required by this form, the information called for may be incorporated by reference to such published statement provided copies thereof are included as an exhibit to Part I of the report filed.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

2. 17 CFR 230.403 is amended by adding a new paragraph (e):

§ 230.403 Requirements as to paper, printing and language.

(e) Each registration statement shall contain an exhibit index, which should immediately precede the exhibits filed with such registration statement. The index shall list each exhibit filed and identify by handwritten, typed, printed, or other legible form of notation in the manually signed original, the page number in the sequential numbering system described in paragraph (d) of this section where such exhibit can be found or where it is stated that the exhibit is incorporated by reference. Further, the first page of the manually signed registration statement shall list the page in the filing where the exhibit index is located.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

3. 17 CFR 240.0-3 is amended by adding a new paragraph (c):

§ 240.0-3 Filing of material with the Commission.

(c) Each document filed shall contain an exhibit index, which should immediately precede the exhibits filed with such document. The index shall list each exhibit filed and identify by handwritten, typed, printed, or other legible form of notation in the manually signed original, the page number in the sequential numbering system described in paragraph (b) of this section where such exhibit can be found or where it is stated that the exhibit is incorporated by reference. Further, the first page of the manually signed document shall list the page in the filing where the exhibit index is located.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

4. 17 CFR Part 239 is amended as follows:

a. *Form S-1*. Item 30 and the Instructions as to Exhibits of Form S-1 are amended as follows:

§ 239.11 Form S-1, registration statement under the Securities Act of 1933.

Item 30. Financial statements and exhibits.

- (a) * * *
- (b) Exhibits, as required by Item 7 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

b. *Form S-2*. Item 18 and the Instructions as to Exhibits of Form S-2 are amended as follows:

§ 239.12 Form S-2, for shares of certain corporations in the development stage.

Item 18. Exhibits File. Exhibits, as required by Item 7 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

c. *Form S-7*. Item 17 and the Instructions as to Exhibits of Form S-7 are amended as follows:

§ 239.26 Form S-7, for registration under the Securities Act of 1933 of securities of certain issuers.

Item 17. Other Documents Filed as a Part of the Registration Statement.

- (a) * * *
- (b) Exhibits, as required by Item 7 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

The exhibits, shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

d. *Form S-8*. Instructions as to Exhibits of Form S-8 are amended as follows:

§ 239.16b Form S-8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans.

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

e. *Form S-11.* Item 32 and the Instructions as to Exhibits of Form S-11 are amended as follows:

§ 239.18 Form S-11, for registration under the Securities Act of 1933 of securities of certain real estate companies.

Item 32. Financial Statements and Exhibits

(a) ***

(b) The exhibits, as required by Item 7 of Regulation S-K, 17 CFR 229.30.

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

f. *Form S-14.* Item 5 and the Instructions as to Exhibits of Form S-14 are amended as follows:

§ 239.23 Form S-14, for simplified registration of securities issued in certain transactions under Rules 133 and 145 [17 CFR 230.133, 230.145].

Item 5. Exhibits Filed. Exhibits, as required by Item 7 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

g. *Form S-16.* Item 13 and the Instructions as to Exhibits of Form S-16 are amended as follows:

§ 239.27 Form S-16, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.

Item 13. List of Exhibits. Exhibits, as required by Item 7 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

h. *Form S-18.* Instructions as to Exhibits of Form S-18 are amended as follows:

§ 239.28 Form S-18, optional form for the registration of securities to be sold to the public by the issuer for an aggregate cash price not to exceed \$5,000,000.

Instructions as to Exhibits

Subject to the rules regarding incorporation by reference, the following exhibits shall be filed as a part of the registration statement. Exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for by Item 20.

(1) *Underwriting agreement*—Each underwriting contract or agreement with a principal underwriter pursuant to which the securities being registered are to be distributed; if the terms of such documents have not been determined, the proposed forms thereof.

(2) *Articles of incorporation and by-laws*—The articles of incorporation and by-laws of the registrant or instruments corresponding thereto as currently in effect and any amendments thereto.

(3) *Instruments defining the rights of security holders, including indentures*—(a) All instruments defining the rights of holders of the equity or debt securities being registered as well as all instruments defining the rights of holders of long-term debt of the registrant and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed.

(b) Where the instrument defines the rights of holders of long-term debt of the registrant and all its subsidiaries for which consolidated or unconsolidated financial statements are required to be filed, there need not be filed (1) any instrument with respect to long-term debt not being registered if the total amount of securities authorized thereunder does not exceed 10% of the total assets of the registrant and its subsidiaries on a consolidated basis and if there is filed an agreement to furnish a copy of such agreement to the Commission upon request; (2) any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class will be taken prior to or upon delivery by the registrant of the securities being registered; or (3) copies of instruments evidencing scrip certificates for fractions of shares.

(c) If any of the securities being registered are, or will be, issued under an indenture to be qualified under the Trust Indenture Act of 1939, the copy of such indenture which is filed as an exhibit shall include or be accompanied by (1) a reasonably itemized and informative table of contents; and (2) a cross-reference sheet showing the location in the indenture of the provisions inserted pursuant to Sections 310 through 318(a) inclusive of the Trust Indenture Act of 1939.

(4) *Opinion re legality*—(a) An opinion of counsel, as to the legality of the securities being registered, indicating whether they will, when sold, be legally issued, fully paid and non-assessable, and, if debt securities, whether they will be binding obligations of the registrant.

(b) If the securities being registered are issued under a plan and the plan is subject to the requirements of ERISA either (i) an opinion of counsel which confirms compliance with the provisions of the written documents constituting the plan with the requirements of that Act pertaining to such provisions; (ii) a copy of the Internal Revenue Service determination letter that the plan is qualified under Section 401 of the Internal Revenue Code; or (iii) an opinion of counsel attaching a copy of the determination letter, that any amended provisions of the plan adopted subsequent to such determination comply with the requirements of that Act pertaining to such provisions.

(5) *Opinion re discount on capital shares*—If any discount on capital shares is shown as a deduction from capital shares on the most recent balance sheet being filed for the registrant, there shall be a statement of the circumstances under which such discount arose and an opinion of counsel as to the legality of the issuance of the shares to which such discount relates. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which, in the opinion of counsel, are controlling.

(6) *Opinion re liquidation preference*—If the registrant has any shares the preference of which upon involuntary liquidation exceeds the par or stated value thereof, there shall be filed an opinion of counsel as to whether there are any restrictions upon surplus by reason of such excess and also as to any remedies available to security holders before or after payment of any dividend that would reduce surplus to an amount less than the amount of such excess. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which, in the opinion of counsel, are controlling.

(7) *Opinion re tax matters*—An opinion of counsel or, in lieu thereof, a revenue ruling from the Internal Revenue Service supporting the Tax matters and consequences as to the shareholders as described in the filing when such tax matters are material to the transaction for which the registration statement is being filed. If a tax opinion is set forth in full in the filing, an indication that such is the case may be made in lieu of filing the otherwise required exhibit. Such tax opinion may be conditioned or may be qualified so long as such conditions and qualifications are adequately described in the filing.

(8) *Voting trust agreement*—Any voting trust agreements and amendments thereto.

(9) *Material contracts*—(a) Every contract not made in the ordinary course of business which is material to the registrant and is to be performed in whole or in part at or after the filing of the registration statement or was entered into not more than two years before such filing. Only contracts need be filed as to which the registrant or subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment or in which the registrant or such subsidiary has a beneficial interest.

(b) If the contract is such as ordinarily accompanies the kind of business conducted by the registrant and its subsidiaries, it will

be deemed to have been made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance:

(1) Any contract to which directors, officers, promoters, voting trustees, security holders named in the registration statement or report, or underwriters are parties other than contracts involving only the purchase or sale of current assets having a determinable market price, at such market price;

(2) Any contract upon which the registrant's business is substantially dependent, as in the case of continuing contracts to sell the major part of registrant's products or services or to purchase the major part of registrant's requirements of goods, services or raw materials or any franchise or license or other agreement to use a patent, formula, trade secret, process or trade name upon which registrant's business depends to a material extent;

(3) Any contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 15 percent of all the assets of the registrant on a consolidated basis; or

(4) Any lease under which a significant part of the property described in the registration statement or report is held by the registrant.

(c) Any management contract or any remunerative plan, contract or arrangement including but not limited to plans relating to options, warrants or rights, pension, retirement or deferred compensation or bonus, incentive or profit sharing (or if not set forth in any formal document, a written description thereof) shall be deemed material and shall be filed except the following:

(1) Ordinary purchase and sales agency agreements.

(2) Agreements with managers of stores in a chain organization or similar organization.

(3) Contracts providing for labor or salesmen's bonuses or payments to a class of security holders, as such.

(4) Any remunerative plan, contract or arrangement in which directors or executive officers of the registrant do not participate. See Item 4 of Regulation S-K for the definition of the term "executive officer."

(5) Any remunerative plan, contract or arrangement which pursuant to its terms is available to employees generally and which in operation provides for the same method of allocation of benefits between management and nonmanagement participants.

(10) *Material foreign patents*—Each material foreign patent for an invention not covered by a United States patent. If the filing is a registration statement and if a substantial part of the securities to be offered or if the proceeds therefrom have been or are to be used for the particular purposes of acquiring, developing or exploiting one or more material foreign patents or patent rights, furnish a list showing the number and a brief identification of each such patent or patent right.

(11) *Instruments defining the rights of participating employees*—All constituent instruments (other than the plan itself) defining the rights of employees who participate in the plan.

(12) *Letter re unaudited financial information*—A letter, where applicable, from the independent accountants which acknowledges their awareness of the use in a registration statement of any of their reports which pursuant to Rule 436(c) (17 CFR 230.436(c)) under the Securities Act are not considered a part of a registration statement prepared or certified by an accountant or a report prepared or certified by an accountant within the meaning of sections 7 and 11 of that Act.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

5. 17 CFR Part 249 is amended as follows:

a. *Form 10*. Item 16 and the Instructions as to Exhibits of Form 10 are amended as follows:

§ 249.210 *Form 10, general form for registration of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.*

Item 16. Financial Statements and Exhibits

(a) * * *

(b) Exhibits, as required by Item 7 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

b. *Form 8-K*. Item 7 of the Form 8-K is amended as follows:

§ 249.308 *Form 8-K, for current reports.*

Item 7. Financial statements

(a) * * *

(b) Exhibits. The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

c. *Form 10-Q*. Instruction 9 and Item 9 of Form 10-Q are amended as follows:

§ 249.308a *Form 10-Q, for quarterly reports under sections 13 or 15(d) of the Securities Exchange Act of 1934.*

Instruction 9. Exhibits. The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

Item 9. Exhibits and Reports on Form 8-K.

(a) The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

d. *Form 10-K*. Item 12 and the Instructions to Exhibits of Form 10-K are amended as follows:

§ 249.310 *Form 10-K, annual report pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934.*

Item 12. Financial Statements, Exhibits Filed and Reports on Form 8-K.

(a) * * *

(2) Exhibits, as required by Item 7 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 7 of Regulation S-K, 17 CFR 229.20.

Certain Findings

As required by Section 23(a) of the Exchange Act, the Commission has specifically considered the impact which the amendments would have on competition and has concluded that it imposes no significant burden on competition. In any event, the Commission has determined that any possible burden will be outweighed by, and is necessary and appropriate to achieve, the benefit of this rule to investors and registrants.

The Commission also finds that any changes in the amended rule and forms adopted from those published in Securities Act Release No. 6149 have already been generally subject to comment so that further notice and rulemaking procedures pursuant to the Administrative Procedure Act (5 U.S.C. 553) are not necessary.

Authority

The amendments to Rule 403 and the enumerated forms prescribed under the Securities Act of 1933 are being adopted pursuant to the authority in Sections 6, 7, 8, 10, and 19(a) of that Act. The amendments to Rule 0-3 and the enumerated forms prescribed under the Securities Exchange Act of 1934 are being adopted pursuant to the authority in Sections 12, 13, 15(d) and 23(a) of that Act. The amendments to Regulation S-K are being adopted pursuant to all of the 1933 and 1934 Act provisions referred to above.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; Secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; Secs. 205, 209, 48 Stat. 906, 908; Secs. 1, 3, 8, 203(a), 49 Stat. 704, 1375, 1377, 1379; Sec. 2, 52 Stat. 1075; Sec. 301, 54 Stat. 657; Secs. 8, 202, 68 Stat. 685, 686; Secs. 3, 4, 6, 10, 78 Stat. 88(a), 565, 569, 570; Sec. 1, 79 Stat. 1051; Secs. 1, 2, 82 Stat. 454; Secs. 1, 2, 7, 28, 84 Stat. 1435, 1497, 1653; Secs. 10, 11, 18, 89 Stat. 119, 121, 155; Sec. 308, 90 Stat. 57; Sec. 204, 91 Stat. 1500; 15 U.S.C. 77f, 77g, 77h, 77i, 77s(a), 78l, 78m, 78o(d), 78w(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

August 27, 1980.

[FR Doc. 80-27123 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 249

[Release No. 34-17100]

Registration of Municipal Securities Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Final amendments to form.

SUMMARY: The Commission is amending Form MSD, the registration form used by municipal securities dealers which are banks or separately identifiable departments or divisions of banks. The amendments (1) conform a definition in Form MSD to a definition contained in a rule of the Municipal Securities Rulemaking Board, (2) allow, under certain circumstances, bank municipal securities dealers to substitute, for forms currently required to be filed with the Commission, forms containing similar information with respect to supervisory personnel currently filed with the bank regulatory agencies, and (3) make certain technical changes in Form MSD. Banks or separately identifiable departments or divisions of banks whose municipal securities dealer registration is either currently effective or pending will be required to update their registrations or applications on Form MSD if such registrations or applications do not already contain the new information required by the amendments.

EFFECTIVE DATES: With respect to registrants or applicants whose municipal securities dealer registration is either effective or pending on October 6, 1980, the effective date of the amendments is December 28, 1980. With respect to other applicants, the effective date of the adopted amendments is October 6, 1980.

FOR FURTHER INFORMATION CONTACT:

Thomas G. Lovett, Esq.,
Office of Self-Regulatory Oversight,
Division of Market Regulation,
Securities and Exchange Commission,
500 North Capitol Street,
Washington, D.C. 20549,
(202) 272-2411.

SUPPLEMENTARY INFORMATION: On July 17, 1978, the Securities and Exchange Commission published and solicited comments concerning three proposed substantive amendments and two proposed technical amendments to Form

MSD. The Commission has determined to adopt certain of the substantive amendments described below and the two technical amendments. The Commission, in a companion release, is withdrawing the proposed substantive amendment to the instruction to item 6 of Form MSD.¹

The first proposed substantive amendment would amend Form MSD's definition of the phrase "municipal securities dealer activities" in the instructions to Form MSD to conform to the definition of that term in rule G-1(b) of the Municipal Securities Rulemaking Board (the "MSRB").² As originally adopted, MSRB rule G-1 included four types of activities as "municipal securities dealer activities"; this list of activities was incorporated verbatim into Form MSD. After the Commission adopted Form MSD, the MSRB amended rule G-1 to expand the list of "municipal securities dealer activities" to include (1) financial advisory and consultant services in connection with the issuance of municipal securities and (2) activities which involve communication, directly or indirectly with public investors in municipal securities. As a result, the instructions in Form MSD do not conform to the MSRB's current definition of the term "municipal securities dealer activities." The amendment would replace the current list of activities enumerated in Form MSD with language referring to the definition of the term "municipal securities dealer activities," thus conforming the two definitions eliminating the need for future amendments to the same instructions in the event additional amendments to the term, as defined in MSRB rule G-1, become effective.

The second proposed amendment would permit certain persons named in response to item 5 of Form MSD, who are required to complete a separate Schedule A,³ to substitute for that

¹The Commission published and solicited comments concerning the proposed amendments in Securities Exchange Act Release No. 14971 (July 17, 1978) (43 FR 32309 (1978)). The Commission, in this release, is adopting two of the substantive amendments and the two technical amendments. In Securities Exchange Act Release No. 17101 (August 28, 1980), the Commission is withdrawing the proposed substantive amendment to the instruction to item 6 of Form MSD. See discussion beginning at fn. 5, *infra*.

²MSRB rule G-1 defines the term "separately identifiable department or division of a bank" for purposes of Section 3(a)(30) of the Securities Exchange Act (the "Act") (15 U.S.C. 78c(a)(30)).

³Each person directly engaged in the management, direction or supervision of any of the applicant's or registrant's municipal securities dealer activities, as enumerated in MSRB rule G-1(b), is required to be listed in response to item 5 and on Schedule A of Form MSD. Such persons include personnel responsible for the clearance and

schedule Form MSD-4.⁴ In order to satisfy the requirements in MSRB rule G-7 with respect to information concerning associated persons, the federal bank regulatory agencies have uniformly adopted Form MSD-4, which every bank municipal securities dealer is required to submit to its appropriate regulatory agency on behalf of each municipal securities principal or municipal securities representative associated with such bank dealer. Applicants would still be required, however, to complete a Schedule A for any disciplined personnel named in response to item 7 of Form MSD even if such persons have also completed a Form MSD-4, since Schedule A solicits additional disciplinary information which is not available on Form MSD-4.

The third proposed substantive amendment would amend the instruction to item 6 of Form MSD. Item 6 solicits information concerning any person who "directly or indirectly control(s) any of the applicant's municipal securities dealer activities." The current instruction can be interpreted to exclude members of the board of directors of a bank dealer and of a parent bank holding company (if any) from the category of persons considered to control directly or indirectly an applicant bank's municipal securities dealer activities. The proposed amendment to the instruction to item 6 would explicitly require a bank municipal securities dealer, whether it applies for registration as a whole or as a separately identifiable department or division, to list on Schedule B all the members of the board of directors of the applicant, or of the bank of which it is a part, and of the parent bank holding company, if any.

The first proposed technical amendment to item 1 of Form MSD would facilitate the processing of registration forms filed by applicants which intend to succeed to and continue the business of another registered municipal securities dealer by requiring that such applicants check a box on the form indicating their successor status. The second proposed technical amendment would make a minor correction to item 10(c) of Form MSD to avoid an overlap with item 12(h) of the form. Under the proposed amendment, an applicant which is a department or

processing activities of the bank with respect to transactions in municipal securities.

⁴Form MSD-4 is an abbreviation for the form entitled "Uniform Application for a Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Dealer." The information required by Form MSD-4 is substantially identical to, or more detailed than, similar information required on Schedule A.

division of a bank, rather than a whole bank, would not be required to answer item 10(c) in addition to item 12(h), which requests identical information.

As stated above, the Commission has determined to adopt all of the proposed amendments, with the exception of the proposed amendment to the instruction to item 6.⁵ The Commission believes that adoption of the proposed amendment to the instruction to item 6 is not necessary at this time in view of the public availability elsewhere of much of the information the proposed amendment is designed to elicit,⁶ and the potentially duplicative paperwork burden that the requirement would impose on bank municipal securities dealers.⁷ The proposed amendment, if adopted, would have required every member of the board of directors of the applicant or registrant, or of the bank of which it is a part, and of a parent bank holding company to (i) state on Schedule B his or her name, business address, and basis for control, (ii) respond to the list of questions in item 7, and (iii) update such information on a periodic basis.

Information with respect to persons associated with an applicant bank is important for the Commission to evaluate properly whether registration as a municipal securities dealer should be granted or denied in accordance with Section 15B(a)(2) of the Act (15 U.S.C.

780-4(a)(2)). Under that section, the Commission is directed to deny registration to an applicant if it finds that, if the applicant were already registered as a municipal securities dealer, its registration would be subject to revocation or suspension under Section 15B(c) of the Act (15 U.S.C. 780-4(c)).

Information relating to an applicant's associated persons is relevant in determining whether its registration would be subject to suspension or revocation. Section 15B(c)(2) (15 U.S.C. 780-4(c)(2)) empowers the Commission to suspend or revoke the registration of a municipal securities dealer which has committed or omitted any act or omission enumerated in Section 15(b)(4) (15 U.S.C. 780(b)(4)), including a violation of any provision of the Act or rules or regulations thereunder. A municipal securities dealer that permits a person subject to a disciplinary order entered pursuant to Section 15B(c) of the Act to become or remain an associated person violates Section 15B(c)(4) of the Act (15 U.S.C. 780-4(c)(4)), if the dealer knows or should have known of the order. Thus, by violating a provision of the Act, a municipal securities dealer would be subject, if already registered, to revocation or suspension pursuant to Section 15B(c)(2). Accordingly, it is evident that, pursuant to Section 15B(a)(2) of the Act, the Commission could deny an application for registration based on the applicant's relationship with certain persons associated with it, and it is important that information concerning those persons be furnished to the Commission.

Nevertheless, since item 7 of Form MSD currently asks for information with respect to enumerated disciplinary actions taken against any person who meets the definition of the term "person associated with a municipal securities dealer,"⁸ the Commission will not at this time specifically require information on Schedule B concerning every member of the board of directors. Instead, applicants and registrants will continue to be required, in response to item 6, to make individual case-by-case decisions as to whether a director is in fact a controlling person.

In the case of those directors who are not viewed by applicants as within the definition of "person associated with a municipal securities dealer" and for whom information accordingly will not be furnished, the Commission notes that the federal bank regulatory agencies,

which have primary inspection and enforcement authority with respect to bank municipal securities dealers, are authorized to enforce compliance by those entities and associated persons with applicable provisions of the securities laws.⁹ In exercising those responsibilities, the bank regulatory agencies can be expected to examine the control relationship of members of the board of directors of a bank, and of a parent bank holding company, with the bank or the department of the bank which engages in municipal securities dealer activities. Accordingly, the Commission believes that appropriate statutory safeguards exist to ensure that it has access to certain relevant information with respect to associated persons for whom information is not furnished on Form MSD.¹⁰

In withdrawing the proposed amendment to the instruction to item 6, the Commission, of course, reserves the right to reconsider the matter at a later date if information in Form MSD about all members of the boards of directors of a municipal securities dealer proves necessary to the registration process.

Discussion of Certain Aspects of Commission Authority With Respect to Bank Municipal Securities Dealers

As indicated above, the Commission, in withdrawing the proposed amendment to the instruction to item 6, has considered the commenters' concerns that the information which would be elicited by the proposed amendment is already publicly available to a large degree,¹¹ and that the proposed amendment would impose a duplicative paperwork burden without a corresponding benefit.¹² The commenters also argued that the proposed amendment was contrary to the legislative history of Section 3(a)(32) of the Act¹³ which defines the term

⁵Section 15B(c)(5) of the Act (15 U.S.C. 780-4(c)(5)).

⁶For example, the appropriate bank regulatory agency, prior to the commencement of any proceeding against a person associated with a municipal securities dealer for a violation of applicable provisions of the securities laws, is required to notify the Commission of the identity of such person. Section 15B(c)(6)(A) of the Act (15 U.S.C. 780-4(c)(6)(A)). In addition, pursuant to Section 17(c) of the Act (15 U.S.C. 780(c)) the appropriate bank agency is required to furnish the Commission, upon request, with a copy of any report of an examination of a municipal securities dealer.

⁷See fn. 6, *supra* for commenters.

⁸See fn. 7, *supra* for commenters.

⁹Section 3(a)(32) of the Act provides: The term "person associated with a municipal securities dealer" when used with respect to a municipal securities dealer which is a bank or a division or department of a bank means any person directly engaged in the management, direction, supervision,

Footnotes continued on next page

⁵The Commission received 14 comment letters on the proposed amendments. The commenters generally favored their adoption, with the exception of the proposed amendment to the instruction to item 6.

⁶As indicated in the responses of the staff of the Board of Governors of the Federal Reserve System (the "Federal Reserve") and the Hartford National Bank and Trust Co. ("Hartford"), a publicly-held bank holding company may be subject to Section 12(g) of the Act (15 U.S.C. 781(g)), thereby requiring Form 10-K to be filed with the Commission. Form 10-K requires a listing or diagram of all subsidiaries of the registrant, and the names of all directors of the registrant. A publicly-held bank is subject to substantially similar regulations issued by the appropriate bank regulatory agencies pursuant to Section 12(i) of the Act (15 U.S.C. 781(i)) and accordingly must file similar information with those agencies. In addition, certain professional publications provide listings of the members of the boards of directors of banks. Responses of the American Bankers Association (the "ABA") (Sept. 8, 1978), the Association of Bank Holding Companies (the "Association") (Sept. 15, 1978), the Dealer Bank Association (the "DBA") (Aug. 31, 1978), Federal Reserve (Aug. 31, 1978), Hartford (Aug. 31, 1978), the Irving Trust Co. ("Irving") (Aug. 31, 1978), the Manufacturers Hanover Trust Co. ("Manufacturers") (Aug. 31, 1978), the Pacific National Bank of Washington ("Pacific") (Aug. 24, 1978), the Public Securities Association (Aug. 31, 1978), and Seattle Trust and Savings Bank ("Seattle") (Aug. 31, 1978); Securities and Exchange Commission File No. S7-746 ("File No. S7-746").

⁷Responses of the ABA, the Association, the DBA, Federal Reserve, Hartford, Irving, Manufacturers, Pacific, the Republic National Bank of Dallas ("Republic") (Sept. 14, 1978), and Seattle; File No. S7-746.

⁸The term "person associated with a municipal securities dealer" is defined in Section 3(a)(32) of the Act (15 U.S.C. 780(a)(32)). The text of that section is set forth in full *infra*, at fn. 13.

"person associated with a municipal securities dealer,"¹⁴ and, as a further amplification on that concern, that the proposed amendment, contrary to case law and previous Commission positions, would establish an irrebuttable presumption concerning the existence of a control relationship, in contrast to a case-by-case approach.¹⁵ The Commission believes, however, that the commenters have misconstrued the legislative history of Section 3(a)(32) in asserting that the Commission should not require information concerning members of the board of directors of a bank unless such persons are directly involved in the management of the municipal securities department. Accordingly, it is appropriate, at this time, to interpret that section, together with the term "separately identifiable department or division" used in Section 3(a)(30) of the Act,¹⁶ in order to clarify the Commission's views concerning certain aspects of the regulatory scheme applicable to municipal securities dealers which are banks or separately identifiable departments or divisions of banks.

Some commenters, relying on the legislative history of the Securities Acts Amendments of 1975 (the "1975 Amendments"),¹⁷ indicated that they believed the term "person associated

with a municipal securities dealer," as defined in Section 3(a)(32) of the Act, was intended to be limited to "[p]ersons involved in the management, direction or supervision of a bank's municipal securities activities."¹⁸ Thus, absent personal intervention in the municipal securities activities of the bank's municipal securities department or division, a person would not be considered a "person associated with a municipal securities dealer,"¹⁹ and, therefore, information concerning such person need not be supplied on Schedule B of Form MSD. The legislative history cited by the commenters, however, interprets only the specific language in Section 3(a)(32) referring to persons "directly engaged in the management, direction, supervision or performance of any of the municipal securities dealer's activities," and does not address the "directly or indirectly controlling" language which follows. The legislative history, therefore, does no more than clarify the intent behind the "directly engaged in" language of Section 3(a)(32). Accordingly, the commenters' reference to the legislative history of Section 3(a)(32) inappropriately focuses on only one aspect of that section. The Senate Report does not explain the application of the section with respect to persons "directly or indirectly controlling" a municipal securities dealer's activities, and should not be interpreted to limit the definition with respect to such controlling persons.

Furthermore, the Senate Report discussion of the activities of a bank president which would result in the president's being considered a "person associated with a municipal securities dealer" should be read in conjunction with the Commission's comment on draft Section 3(a)(32) in S. 2474, the "Municipal Securities Act of 1973." In order to clarify the application of the proposed section to bank officers, the Commission suggested that the adverb "directly" be substituted for "actively" in the phrase "any person * * * engaged in" certain management-related

activities of a bank municipal securities dealer.²⁰ That drafting suggestion, which was subsequently adopted by the Congress, indicates the section is meant to apply broadly to all persons responsible, no matter how infrequently, for the activities of a bank municipal securities dealer.

Some commenters, in connection with a discussion of the scope of Commission regulation intended by the Congress for bank municipal securities dealers and their associated persons, relied on the provisions in the 1975 Amendments permitting a bank to register as a separately identifiable department or division ("SIDD") as evidence of Congressional intent to allow a bank to separate completely its municipal securities dealer activities from its other activities for purposes of registration and subsequent regulation. The term "separately identifiable department or division," as noted above, is defined in MSRB rule G-1 as "that unit of the bank which conducts all of the activities of the bank relating to the conduct of business as a municipal securities dealer * * *." This definition serves to limit the scope of MSRB and Commission regulation so that certain requirements which more appropriately apply to a department or division of a bank are not imposed upon the entire bank.²¹ MSRB rule G-1 further provides:

The fact that directors and senior officers of the bank may from time to time set broad policy guidelines affecting the bank as a whole and which are not directly related to the day-to-day conduct of the bank's municipal securities dealer activities, shall not disqualify the unit hereinbefore described as a separately identifiable department or division of the bank or require that such directors or officers be considered as part of such unit.²²

Moreover, those directors and senior officers who merely set broad policy guidelines with respect to the activities

Footnotes continued from last page or performance of any of the municipal securities dealer's activities with respect to municipal securities, and any person directly or indirectly controlling such activities or controlled by the municipal securities dealer in connection with such activities.

¹⁴ Responses of the ABA, the DBA, the Federal Reserve, the MSRB (Sept. 21, 1978), and Republic; File No. S7-746.

¹⁵ Responses of the Association, the Continental Illinois National Bank and Trust Co. ("Continental Bank") (Aug. 31, 1978), and Irving; File No. S7-746. Commenters should be aware of the distinction between actions of a director undertaken in an individual capacity and of actions undertaken as a member of a board of directors. As indicated in the text of this release *infra*, to the extent an individual director intervenes in the activities of the dealer department, the director would be a "person associated with a municipal securities dealer." In addition, however, as a group, the board of directors of a bank or of a bank holding company, except in a rare instance, at least indirectly controls the activities of the dealer department. Accordingly, the board as a whole would be "a person associated with a municipal securities dealer," as that term is defined in Section 3(a)(32) of the Act. *Cf.* rule 19g2-1 (17 CFR 240.19g2-1), adopted under Section 19(g) of the Act (15 U.S.C. 78s(g)), which establishes a rebuttable presumption that certain persons "control" a securities exchange or securities association member firm. Among the persons presumed to control are the directors of the firm.

¹⁶ Section 3(a)(30) of the Act provides, in pertinent part: The term "municipal securities dealer" means any person (including a separately identifiable department or division of a bank) engaged in the business of buying and selling municipal securities for his own account, through a broker or otherwise * * *.

¹⁷ Pub. L. 94-29 (June 4, 1975).

¹⁸ Report of the Senate Comm. on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 94-75, 94th Cong., 1st Sess. 45 (1975). (Hereafter cited as the "Senate Report")

¹⁹ The Senate Report on Section 3(a)(32) of the Act, *id.*, at 93, states:

[The term "person associated with a municipal securities dealer" * * * is intended to be applied broadly to persons assuming any significant role in a dealer's activities. That is to say, in the event a bank president personally intervened in the municipal securities activities of his bank's municipal securities department or division, he would be regarded as a "person associated with a municipal securities dealer" and would be subject to all provisions of the Act governing or affecting persons with that status.

²⁰ The Commission stated: If the president of a bank is responsible for or has directed improper activities in connection with the operation of his bank's municipal securities department, he should be subject to those sanctions established for persons associated with a municipal securities dealer. Therefore, the Commission would * * * eliminate the adverb "actively" * * * and * * * substitute therefor the word "directly," so that direct intervention in the activities of a bank municipal securities department by a bank officer, even on a single occasion, would provide an adequate basis for deeming such an officer to be a "person associated with" that department. *Hearings on S. 1933 and S. 2474 before the Subcomm. on Securities of the Senate Comm. on Banking, Housing and Urban Affairs, 93rd Cong., 2nd Sess., 82 (1974).*

²¹ For example, MSRB rule G-8 concerning recordkeeping applies only to transactions in municipal securities effected by the dealer department, if the bank is registered in that capacity.

²² MSRB rule G-1(c).

of the municipal securities dealer department are not subject to the qualification requirements for municipal securities principals set forth in MSRB rule G-3.²³

A bank may, therefore, register as a SIDD in order to limit the application of certain regulatory requirements to a department or division rather than the entire bank. Nevertheless, there is a distinction which should be drawn between persons who are considered a part of the dealer unit for purposes of MSRB rule G-1 and persons who are associated with that unit under Section 3(a)(32) of the Act.²⁴ An application for registration as a SIDD does not limit the Commission's statutory authority with respect to persons associated with the SIDD for purposes of determining whether registration should be granted or denied.

Effective Dates of Amendments to Form MSD

The amendments to Form MSD adopted in this release will require registrants, as well as applicants for registration, to make any necessary amendments to Form MSD in order to comply with the new requirements. The Commission recognizes that an appropriate period should be allowed for registrants and applicants to make such amendments. Therefore, with respect to municipal securities dealers whose registration is either effective or pending on October 6, 1980, the effective date of the amendments to Form MSD is December 28, 1980. This delayed effectiveness does not extend, however, to a registrant or applicant that, because the registration or pending application becomes inaccurate for other reasons during the intervening period, is required to amend its registration statement "promptly" in accordance with Securities Exchange Act Rule 15Ba2-1(b) (17 CFR 240.15Ba2-1(b)). With

²³ MSRB rule G-3(a)(1) defines a municipal securities principal, in the case of a bank dealer, as "a natural person associated with such bank dealer which is directly engaged in the management, direction or supervision of one or more municipal securities dealer activities * * *." Unless an officer or director meets this definition he is not required to satisfy the qualification requirements of rule G-3.

²⁴ As discussed above, the term "person associated with a municipal securities dealer" is broadly defined to include not only persons directly engaged in the municipal securities dealer activities of the dealer department or division (who would be considered a part of such department or division), but also persons who directly or indirectly control such activities. As an example, the board of directors of a bank holding company owning a subsidiary engaged in municipal securities dealer activities would, as a whole, be considered a person associated with a municipal securities dealer.

respect to new applicants, the effective date of the proposed amendment is, in accordance with 5 U.S.C. 553(d), October 6, 1980.

Accordingly, Part 249 of Title 17 of the Code of Federal Regulations is amended by the Securities and Exchange Commission to revise the instructions to § 249.1100, as well as two items of § 249.1100, as follows:

§ 249.1100 Form MSD, Application for registration as a municipal securities dealer pursuant to rule 15Ba2-1 under the Securities Exchange Act of 1934 or amendment to such application.

G. General Definitions

d. Municipal securities dealer activities—The term "municipal securities dealer activities" has the meaning set forth in Municipal Securities Rulemaking Board rule G-1(b), which defines the term "separately identifiable department or division of a bank" for purposes of Section 3(a)(30) of the Securities Exchange Act of 1934.

L. Instructions to Specific Items

a. *Item 1(a)*.—If the applicant is not registered currently with the Commission and is not succeeding to and continuing the business of another registered municipal securities dealer, the box marked "a new application" should be checked. If a registered municipal securities dealer is amending items on a currently effective Form MSD, the box marked "an amendment" should be checked. If the applicant is succeeding to and continuing the business of another registered municipal securities dealer, the box marked "a successor application" should be checked. If a bank registered as a municipal securities dealer determines it would prefer to register as a separately identifiable department or division, or the converse, it is necessary that (i) the applicant file a Form MSD, indicating in item 1 that it is a "successor application" and (ii) the currently registered entity file a Form MSDW to withdraw its registration. Pursuant to Securities Exchange Act Rule 15Ba2-4, 17 CFR 240.15Ba2-4, if a municipal securities dealer succeeds to and continues the business of another registered municipal securities dealer, the registration of the predecessor shall be deemed to remain effective as the registration of the successor for a period of 75 days after such succession: *Provided*, That a Form MSD is filed by such successor within 30 days after such succession.

c. *Item 5*.—This item calls for information concerning persons directly engaged in the supervision of any of the applicant's municipal securities dealer activities. A separate Schedule A or Form MSD-4 must be completed for each person named in response to item 5.

- 1. (a) This Form is filed with the Securities and Exchange Commission as:
 - A new application
 - An amendment
 - A successor application

- 10. (c) If applicant is a bank, * * *
- By the Commission.

George A. Fitzsimmons,
Secretary.

August 28, 1980.
[FR Doc. 80-27291 Filed 9-4-80; 8:45 am]
BILLING CODE 8010-01-M

WATER RESOURCES COUNCIL

18 CFR Part 701

Council Organization; Interagency Liaison Committee Review of Agenda Packages

AGENCY: Water Resources Council.

ACTION: Final rule.

SUMMARY: By Action Memorandum dated July 11, 1980, the Council staff requested that Council regulations be revised to allow additional time for Interagency Liaison Committee review of agenda packages. This change was adopted by the Council by unanimous approval on July 28, 1980.

DATE: Effective July 29, 1980.

FOR FURTHER INFORMATION CONTACT: Gerald D. Seinwill, Acting Director, Water Resources Council, 2120 L Street, NW., Suite 800, Washington, DC 20037 (202) 254-6303.

Accordingly, 18 CFR 701.54 paragraph (e) is revised as follows:

§ 701.54 Interagency Liaison Committee.

(e) Draft agenda items shall be submitted to ILC representatives at least 30 days prior to the Council meeting. The ILC shall meet at least 20 days prior to the Council meeting. Final Council agenda material shall be submitted to the Members at least 7 days prior to the Council meeting.

(Sec. 402, Pub. L. 89-80, 79 Stat. 254 (42 U.S.C. 1962d-1))

Dated: August 24, 1980.
Gerald D. Seinwill,
Acting Director.

[FR Doc. 80-27243 Filed 9-4-80; 8:45 am]
BILLING CODE 8410-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 80F-0096]

Polysorbate 80; Food Additives Permitted for Direct Addition to Food for Human Consumption

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the use of polysorbate 80 as a surfactant and wetting agent for natural and artificial colors. This action is based on a petition filed by General Foods Corp.

DATES: Effective September 5, 1980; objections by October 6, 1980.

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

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

SUPPLEMENTARY INFORMATION: In the Federal Register of April 18, 1980 (45 FR 26464), the Food and Drug Administration (FDA) announced that a petition (FAP 7A3309) had been filed by General Foods Corp., Technical Center, 250 North St., White Plains, NY 10625, proposing that the food additive regulations (21 CFR Part 172) be amended to provide for the safe use of polysorbate 80 as a surfactant and wetting agent for natural and artificial colors, intended for use in barbecue sauce.

FDA has evaluated data in the petition and other relevant material and concludes that the food additive regulation, § 172.840 *Polysorbate 80* (21 CFR 172.840), should be amended as requested in the petition.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 172 is amended in § 172.840 by adding a new paragraph (c)(14) to read as follows:

§ 172.840 Polysorbate 80.

(c) * * *

(14) As a surfactant and wetting agent for natural and artificial colors for use in barbecue sauce where the level of the

additive does not exceed 0.005 percent by weight of the barbecue sauce.

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 6, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

EFFECTIVE DATE: This regulation shall become effective September 5, 1980.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 26, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-26796 Filed 9-5-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 172

[Docket No. 78F-0433]

Bakers Yeast Glycan; Food Additives Permitted for Direct Addition to Food for Human Consumption

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration amends the food additive regulations to provide for the safe use of bakers yeast glycan in certain additional food products. Anheuser-Busch, Inc., petitioned for the amendment.

DATE: Effective September 5, 1980; objections by October 6, 1980.

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

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

SUPPLEMENTARY INFORMATION: In notice published in the Federal Register of February 23, 1979 (44 FR 10789), the Food and Drug Administration (FDA) announced that a food additive petition (FAP 6A3188) had been filed by Anheuser-Busch, Inc., St. Louis, MO 63118, which proposed that the food additive regulations be amended to provide for the safe use of bakers yeast glycan in certain additional food products.

Following the evaluation of data in the petition and other relevant material, the FDA has concluded that § 172.898 *Bakers yeast glycan* (21 CFR 172.898) should be amended to provide for the use of bakers yeast glycan as a stabilizer, thickener and texturizer in frozen dessert analogs, sour cream analogs, cheese spread analogs, and cheese-flavored and sour cream-flavored snack dips.

For the purpose of clarification, the agency further concludes that an editorial change should be made in § 172.898 to indicate specifically that the additive is to be used in the prescribed foods only when standards of identity established under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) do not preclude such use.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that document may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic (secs. 201(s) and 409 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s) and 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 172 is amended in § 172.898 by revising paragraph (d) to read as follows:

§ 172.898 Bakers yeast glycan.

(d) The additive is used or intended for use in the following foods when standards of identity established under section 401 of the act do not preclude such use:

Use	Limitations
(1) In salad dressings as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter, stabilizer and thickener as defined in § 170.3(o)(26) of this chapter, or texturizer as defined in § 170.3(o)(32) of this chapter.	Not to exceed a concentration of 5 percent of the finished salad dressing.
(2) In frozen dessert analogs as a stabilizer and thickener as defined in § 170.3(o)(26) of this chapter, or texturizer as defined in § 170.3(o)(32) of this chapter.	In an amount not to exceed good manufacturing practice.
(3) In sour cream analogs as a stabilizer and thickener as defined in § 170.3(o)(26) of this chapter, or texturizer as defined in § 170.3(o)(32) of this chapter.	Do.
(4) In cheese spread analogs as a stabilizer and thickener as defined in § 170.3(o)(26) of this chapter, or texturizer as defined in § 170.3(o)(32) of this chapter.	Do.
(5) In cheese-flavored and sour cream-flavored snack dips as a stabilizer and thickener as defined in § 170.3(o)(26) of this chapter, or texturizer as defined in § 170.3(o)(32) of this chapter.	Do.

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 6, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the

above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective, September 5, 1980.

(Secs. 201(s) and 409 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s) and 348).)

Dated: August 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-27168 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 172

[Docket No. 79F-0417]

Polysorbate 60; Food Additives Permitted for Direct Addition to Food for Human Consumption

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of polysorbate 60 as a surfactant and wetting agent for natural and artificial colors intended for use in food. This action is based on a petition filed by General Foods Corp.

DATES: Effective September 5, 1980; objections by October 6, 1980.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of December 7, 1979 (44 FR 70568), the FDA announced that a food additive petition (FAP 7A3310) had been filed by General Foods Corp., Technical Center, 250 North St., White Plains, NY 10625, proposing that the food additive regulations be amended to provide for the safe use of polysorbate 60 as a surfactant and wetting agent for natural and artificial colors intended for use in food.

Following the evaluation of data in the petition and other relevant material, FDA concludes that § 172.836 Polysorbate 60 (21 CFR 172.836) should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 409 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s) and 348)) and under authority delegated to the Commissioner of Food and Drugs (21

CFR 5.1), Part 172 is amended in § 172.836 by adding a new paragraph (c)(15) to read as follows:

§ 172.836 Polysorbate 60.

(c) * * *
(15) As a surfactant and wetting agent for natural and artificial colors in food as follows:

(i) In powdered soft drink mixes in an amount not to exceed 4.5 percent by weight of the mix.

(ii) In sugar-based gelatin dessert mixes in an amount not to exceed 0.5 percent by weight of the mix.

(iii) In artificially sweetened gelatin dessert mixes in an amount not to exceed 3.6 percent by weight of the mix.

(iv) In sugar-based pudding mixes in an amount not to exceed 0.5 percent by weight of the mix.

(v) In artificially sweetened pudding mixes in an amount not to exceed 0.5 percent by weight of the mix.

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 6, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the

above office between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 5, 1980.

(Secs. 201(s) and 409 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s) and 348))

Dated: August 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-27167 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 177 and 178

[Docket No. 79F-0393]

Polyoxymethylene Homopolymer; Antioxidants and/or Stabilizers for Polymers; Indirect Food Additives

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of 612/6 nylon copolymer as a stabilizer with polyoxymethylene homopolymer to be used in articles intended for food-contact use. This action is based on a food additive petition filed by E. I. du Pont de Nemours & Co.

DATES: Effective September 5, 1980. Objections by October 6, 1980.

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

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the Federal Register of November 30, 1979 (44 FR 69010) announced that a food additive petition (FAP 9B3453) had been filed by E. I. du Pont de Nemours & Co., Wilmington, DE 19897, proposing that § 177.2480 (21 CFR 177.2480) and § 178.2010 (21 CFR 178.2010) be amended to provide for the safe use of nylon 612/6 copolymer as a stabilizer with polyoxymethylene homopolymer to be used in articles intended for food-contact use.

FDA has evaluated data in the petition and other relevant material and finds that §§ 177.2480 and 178.2010 should be amended as set forth below to include the petitioned additive.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 177 and 178 are amended to read as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. In Part 177 § 177.2480 is amended by revising paragraph (b)(1), redesignating paragraph (b)(1)(iii) as (b)(1)(iv) and adding new paragraph (b)(1)(iii) to read as follows:

§ 177.2480 Polyoxymethylene homopolymer.

(b) * * *
(1) Stabilizers (total amount of stabilizers not to exceed 1.9 percent and amount of any one stabilizer not to exceed 0.5 percent, except that Nylon 66/610/6 terpolymer or Nylon 612/6 copolymer may be used up to 1.5 percent of homopolymer by weight).

(iii) Nylon 612/6 copolymer (CAS Reg. No. 51733-10-9), weight ratio 6/1.

(iv) Tetrakis [methylene (3,5 di-tert-butyl-4-hydroxy-hydrocinnamate)] methane.

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

2. In Part 178 § 178.2010(b) is amended by alphabetically inserting a new item in the list of substances, to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

(b) * * *

Substances	Limitations
Nylon 612/6 copolymer (CAS Reg. No. 51733-10-9), weight ratio 6/1.	For use only at levels not to exceed 1.5 percent by weight of polyoxymethylene homopolymer as provided in § 177.2480(b)(1).

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 6, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a

hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 5, 1980.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-27168 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 182

[Docket No. 80N-0363]

Substances Generally Recognized as Safe; Reorganization

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is reorganizing a portion of 21 CFR Part 182 to facilitate the safety review of substances generally recognized as safe (GRAS). This action revises the heading of Subpart F to read "Dietary Supplements" and establishes new Subpart I, "Nutrients," which sets forth all regulations currently in Subpart F.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: Lynn A. Larsen, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive safety review of direct and indirect human food ingredients classified as GRAS or subject to a prior sanction. Included in this review is an evaluation of the GRAS status of nutrients currently listed in Subpart F of Part 182. To facilitate the review of these ingredients, FDA is reorganizing a portion of Part 182 to provide separate subparts for food substances used in dietary supplements

and for those used as nutrients in conventional foods.

When FDA determines, as a result of the safety evaluation, that a substance may be affirmed as GRAS, the agency publishes a proposal to affirm GRAS status in accordance with the provisions of § 170.35 (21 CFR 170.35). Such proposals include deletion of the substance from the GRAS list in Part 182 (21 CFR Part 182) and issuance of a new regulation affirming GRAS status in Part 184 or Part 186 (21 CFR Parts 184 and 186).

Substances used as nutrients or in dietary supplements are currently presented in a combined listing in Subpart F of Part 182 entitled "Nutrients and/or Dietary Supplements." Because there exists the possibility that a substance may be affirmed as GRAS when used as a nutrient in conventional food while not being affirmed as GRAS when used as an ingredient in a dietary supplement, the agency may be faced with issuing two separate regulations. One regulation would affirm the ingredient's GRAS status as a nutrient in conventional food in Part 184 while another regulation would issue maintaining the ingredient's current position as used in a special dietary supplement in Part 182. This situation would unduly complicate the GRAS affirmation procedure. Accordingly, FDA has concluded that the consequences of keeping the current heading of "Nutrients and/or Dietary Supplements" are unacceptable.

Therefore, FDA is reorganizing Part 182. Current Subpart F is retitled "Dietary Supplements," and new Subpart I is entitled "Nutrients." New Subpart I will be an exact duplicate of current Subpart F, but as substances are affirmed as GRAS in Part 184 for use as nutrients in conventional food, they will be deleted from this Subpart. The substance would continue to be listed for use in dietary supplements in Part 182, Subpart F, until it is evaluated for this specific use.

The effect of this reorganization is to facilitate the GRAS review of these substances used as nutrients in conventional foods without in any way affecting the current GRAS status of substances used in dietary supplements.

The changes being made are nonsubstantive, and for this reason notice and public comment procedures are not appropriate or necessary.

The agency has determined under 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment

nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 182 of Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. By revising the heading of Subpart F to read as follows:

Subpart F—Dietary Supplements

2. By adding new Subpart I to read as follows:

Subpart I—Nutrients

Sec.	
182.8013	Ascorbic acid.
182.8065	Linoleic acid.
182.8159	Biotin.
182.8191	Calcium carbonate.
182.8195	Calcium citrate.
182.8201	Calcium glycerophosphate.
182.8210	Calcium oxide.
182.8212	Calcium pantothenate.
182.8217	Calcium phosphate.
182.8223	Calcium pyrophosphate.
182.8245	Carotene.
182.8250	Choline bitartrate.
182.8252	Choline chloride.
182.8260	Cooper gluconate.
182.8265	Cuprous iodide.
182.8301	Ferric phosphate.
182.8304	Ferric pyrophosphate.
182.8306	Ferric sodium pyrophosphate.
182.8308	Ferrous gluconate.
182.8311	Ferrous lactate.
182.8315	Ferrous sulfate.
182.8370	Inositol.
182.8375	Iron reduced.
182.8431	Magnesium oxide.
182.8434	Magnesium phosphate.
182.8443	Magnesium sulfate.
182.8446	Manganese chloride.
182.8449	Manganese citrate.
182.8452	Manganese gluconate.
182.8455	Manganese glycerophosphate.
182.8458	Manganese hypophosphite.
182.8461	Manganese sulfate.
182.8464	Manganous oxide.
182.8530	Niacin.
182.8535	Niacinamide.
182.8580	D-Pantotheryl alcohol.
182.8622	Potassium chloride.
182.8628	Potassium glycerophosphate.
182.8676	Pyridoxine hydrochloride.
182.8695	Riboflavin.
182.8697	Riboflavin-5-phosphate.
182.8772	Sodium pantothenate.
182.8778	Sodium phosphate.
182.8875	Thiamine hydrochloride.
182.8878	Thiamine mononitrate.
182.8890	Tocopherols.
182.8892	α -Tocopherol acetate.
182.8930	Vitamin A.
182.8933	Vitamin A acetate.
182.8936	Vitamin A palmitate.
182.8945	Vitamine B ₁₂ .
182.8950	Vitamin D ₂ .
182.8953	Vitamin D ₃ .
182.8985	Zinc chloride.

182.8988	Zinc gluconate.
182.8991	Zinc oxide.
182.8994	Zinc stearate.
182.8997	Zinc sulfate.

Subpart I—Nutrients

§ 182.8013 Ascorbic acid.

(a) *Product.* Ascorbic acid.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8065 Linoleic acid.

(a) *Product.* Linoleic acid prepared from edible fats and oils and free from chickedema facto:
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8159 Biotin.

(a) *Product.* Biotin.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8191 Calcium carbonate.

(a) *Product.* Calcium carbonate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8195 Calcium citrate

(a) *Product.* Calcium citrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8201 Calcium glycerophosphate.

(a) *Product.* Calcium glycerophosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8210 Calcium oxide.

(a) *Product.* Calcium oxide.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8212 Calcium pantothenate.

(a) *Product.* Calcium pantothenate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8217 Calcium phosphate.

(a) *Product.* Calcium phosphate (mono-, di-, and tribasic).
(b) *Conditions of use.* This substance is generally recognized as safe when

used in accordance with good manufacturing practice.

§ 182.8223 Calcium pyrophosphate.

(a) *Product.* Calcium pyrophosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8245 Carotene.

(a) *Product.* Carotene.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8250 Choline bitartrate.

(a) *Product.* Choline bitartrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8252 Choline chloride.

(a) *Product.* Choline chloride.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8260 Copper gluconate.

(a) *Product.* Copper gluconate.
(b) *Conditions of use.* This substance is generally recognized as safe for use at a level not exceeding 0.005 percent in accordance with good manufacturing practice.

§ 182.8265 Cuprous iodide.

(a) *Product.* Cuprous iodide.
(b) *Tolerance.* 0.01 percent.
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in table salt as a source of dietary iodine in accordance with good manufacturing practice.

§ 182.8301 Ferric phosphate.

(a) *Product.* Ferric phosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8304 Ferric pyrophosphate.

(a) *Product.* Ferric pyrophosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8306 Ferric sodium pyrophosphate.

(a) *Product.* Ferric sodium pyrophosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8308 Ferrous gluconate.

(a) *Product.* Ferrous gluconate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8311 Ferrous lactate.

(a) *Product.* Ferrous lactate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8315 Ferrous sulfate.

(a) *Product.* Ferrous sulfate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8370 Inositol.

(a) *Product.* Inositol.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8375 Iron reduced.

(a) *Product.* Iron reduced.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8431 Magnesium oxide.

(a) *Product.* Magnesium oxide.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8434 Magnesium phosphate.

(a) *Product.* Magnesium phosphate (di- and tribasic).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8443 Magnesium sulfate.

(a) *Product.* Magnesium sulfate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8446 Manganese chloride.

(a) *Product.* Manganese chloride.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8449 Manganese citrate.

(a) *Product.* Manganese citrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8452 Manganese gluconate.

(a) *Product.* Manganese gluconate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8455 Manganese glycerophosphate.

(a) *Product.* Manganese glycerophosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8458 Manganese hypophosphite.

(a) *Product.* Manganese hypophosphite.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8461 Manganese sulfate.

(a) *Product.* Manganese sulfate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8464 Manganous oxide.

(a) *Product.* Manganous oxide.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8530 Niacin.

(a) *Product.* Niacin.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8535 Niacinamide.

(a) *Product.* Niacinamide.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8580 D-Pantothenyl alcohol.

(a) *Product.* D-Pantothenyl alcohol.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8622 Potassium chloride.

(a) *Product.* Potassium chloride.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.8628 Potassium glycerophosphate.

(a) *Product.* Potassium glycerophosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when

used in accordance with good manufacturing practice.

§182.8676 Pyridoxine hydrochloride.

(a) *Product.* Pyridoxine hydrochloride.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8695 Riboflavin.

(a) *Product.* Riboflavin.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8697 Riboflavin-5-phosphate.

(a) *Product.* Riboflavin-5-phosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8772 Sodium pantothenate.

(a) *Product.* Sodium pantothenate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8778 Sodium phosphate.

(a) *Product.* Sodium phosphate (mono-, di-, and tribasic).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8875 Thiamine hydrochloride.

(a) *Product.* Thiamine hydrochloride.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8878 Thiamine mononitrate.

(a) *Product.* Thiamine mononitrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8890 Tocopherols.

(a) *Product.* Tocopherols.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8892 α -Tocopherol acetate.

(a) *Product.* α -Tocopherol acetate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8930 Vitamin A.

(a) *Product.* Vitamin A.
(b) *Conditions of use.* This substance is generally recognized as safe when

used in accordance with good manufacturing practice.

§182.8933 Vitamin A acetate.

(a) *Product.* Vitamin A acetate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8936 Vitamin A palmitate.

(a) *Product.* Vitamin A palmitate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8945 Vitamin B₁₂.

(a) *Product.* Vitamin B₁₂.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8950 Vitamin D₂.

(a) *Product.* Vitamin D₂.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8953 Vitamin D₃.

(a) *Product.* Vitamin D₃.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8985 Zinc chloride.

(a) *Product.* Zinc chloride.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8988 Zinc gluconate.

(a) *Product.* Zinc gluconate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8991 Zinc oxide.

(a) *Product.* Zinc oxide.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8994 Zinc stearate.

(a) *Product.* Zinc stearate prepared from stearic acid free from cholesterin factor.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§182.8997 Zinc sulfate.

(a) *Product.* Zinc sulfate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

Effective date. This regulation becomes effective September 5, 1980. (Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

In accordance with Executive Order 12044, as amended by Executive Order 12221, the economic effects of this regulation have been carefully analyzed, and it has been determined that the regulation does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-27171 Filed 9-4-80; 9:46 am]

BILLING CODE 4110-03-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Pyrantel Tartrate and Tylosin

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Pfizer, Inc., providing for safe and effective use of pyrantel tartrate and tylosin premixes in manufacturing a complete swine feed.

EFFECTIVE DATE: September 5, 1980.

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

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, filed an NADA (110-047) providing for combining 48-gram-per-pound pyrantel tartrate and 40-gram-per-pound tylosin premixes in manufacturing complete swine feeds. The feeds are indicated as an aid in prevention of migration and establishment of roundworm infections, as an aid in prevention of establishment of nodular worm infections, and either for prevention or treatment and control of swine dysentery.

Approval of this NADA relies in part upon safety and effectiveness data contained in NADA's for Pfizer's pyrantel tartrate and Elanco's tylosin (NADA's 43-290 and 41-275, respectively). Use of those data to support this NADA has been authorized

by both firms. This approval does not change the dosage levels or indications for the drugs, but merely provides for combining them in complete swine feeds. Therefore, it poses no increased human risk from exposure to residues of the drugs. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977) approval of this NADA has been treated as would an approval of a category II supplemental and does not require reevaluation of the safety and effectiveness data in NADA's 43-290 and 41-275.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined pursuant to 21 CFR 25.24(d)(1) (proposed December 11, 1979, 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

1. In § 558.485 by adding new paragraphs (d)(2)(iii) and (e) (5) and (6) to read as follows:

§ 558.485 Pyrantel tartrate.

(d) * * *
(2) * * *
(iii) Not more than 0.106 percent (960 grams/ton) pyrantel tartrate with not more than 500 grams per ton tylosin when produced from individual supplements and as provided in paragraphs (e) (5) and (6) of this section.

(e) * * *
(5) *Amount per ton.* Pyrantel tartrate, 96 grams (0.0106 percent) and tylosin, 40 to 100 grams, as tylosin phosphate.

(i) *Indications for use.* For prevention of swine dysentery (vibronic); aid in the prevention of migration and establishment of large roundworms

(*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum spp.*) infections.

(ii) *Limitations.* Use 100 grams tylosin per ton for at least 3 weeks followed by 40 grams tylosin per ton until market weight; withdraw 24 hours before slaughter. Consult your veterinarian before feeding to severely debilitated animals and for assistance in the diagnosis, treatment, and control of parasitism.

(6) *Amount per ton.* Pyrantel tartrate, 96 grams (0.0106 percent) and tylosin 40 to 100 grams, as tylosin phosphate.

(i) *Indications for use.* Treatment and control of swine dysentery (vibronic); aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum spp.*) infections.

(ii) *Limitations.* Administer tylosin in feed as tylosin phosphate after treatment with tylosin in drinking water as tylosin base; 0.25 grams per gallon in drinking water for 3 to 10 days, 40 to 100 grams tylosin per ton in feed for 2 to 6 weeks; withdraw 24 hours before slaughter. Consult your veterinarian before feeding to severely debilitated animals and for assistance in the diagnosis, treatment, and control of parasitism.

2. In § 558.625 by adding new paragraph (f)(2)(v) to read as follows:

§ 558.625 Tylosin.

(f) * * *
(2) * * *
(v) Pyrantel tartrate in accordance with § 558.485.

Effective date. This regulation is effective September 5, 1980.

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

Dated: August 28, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-27168 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 812

[Docket No. 76N-0327]

Investigational Device Exemptions; OMB Approval and Effective Dates

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing

that the Office of Management and Budget has approved the recordkeeping and reporting requirements in the final regulations prescribing procedures for investigational device exemptions. FDA also is extending the effective date of the regulation for certain investigations and is correcting several provisions.

DATES: For investigations begun on or before July 16, 1980 that are to continue after January 19, 1981, FDA is extending to December 4, 1980, the effective date of the regulation. FDA is retaining the July 16, 1980 effective date for investigation begun after July 16, 1980. Comments on the corrections by December 4, 1980; corrections are effective September 5, 1980.

ADDRESS: Written comments on the corrections to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Bureau of Medical Devices (HFK-403), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) published final regulations prescribing procedures for investigational device exemptions (the IDE regulations) in the Federal Register of January 18, 1980 (45 FR 3732). The IDE regulations became effective on July 16, 1980.

OMB Approval

The preamble to the IDE regulations, as well as the effective date statement, declared that the recordkeeping and reporting requirements were submitted to the Office of Management and Budget (OMB) for approval in accordance with the Federal Reports Act of 1942, which requires OMB to review and approve records and reports used by Federal agencies in the collection of information from the public. The January 18, 1980 document also stated that the IDE regulations would become effective July 16, 1980, provided that OMB approval was received by that date and that FDA would publish a notice in the Federal Register concerning OMB's decision.

On June 24, 1980, OMB approved without change the recordkeeping and reporting requirements of the IDE regulations, under OMB number 57-R0151.

Effective Date of the IDE Regulations

There has been confusion about the effective date of the IDE regulations. FDA has received several inquiries from the public concerning whether the July 16, 1980 effective date was contingent upon FDA's receiving OMB approval,

and whether the July 16 effective date was operative before FDA published notice of this approval. Some have misunderstood the preamble and thought that the regulation was not to become effective until 6 months after July 16.

Because OMB approved the recordkeeping and reporting requirements before July 16, 1980, the IDE regulation became effective on that date. This effective date was not contingent on publication of notice of OMB's approval. Thus, FDA is retaining the July 16, 1980 effective date for investigations subject to the regulation begun after that date. FDA believes, however, that the confusion about the effective date of the regulation for investigations begun before July 16 justifies a change in the effective date for these investigations. For investigations begun on or before July 16, 1980 that are expected to continue after January 19, 1981, FDA is extending the effective date to December 4, 1980. Under § 812.2(b)(2) of the IDE regulations (21 CFR 812.2(b)(2)), investigations begun on or before July 16, 1980 that are planned to be completed by January 19, 1981 do not require an approved IDE.

To have an approved IDE by December 4, 1980, sponsors of ongoing clinical investigations are required to take the steps necessary to obtain any required approvals from institutional review boards (IRB's) or FDA before that date. The IDE regulations prescribe the circumstances in which these approvals are required.

Corrections in Regulation

1. Section 812.5(a) of the final rule requires that all relevant contraindications, hazards, adverse effects, interfering substances or devices, warnings, and precautions be stated on the label of an investigational device. Inclusion of this information in the labeling, although not necessarily on the label, meets sufficiently the purposes of this requirement. Often this information would not fit on a device's label.

2. FDA is revising § 812.20(a)(3) to correct an inconsistency between this provision and § 812.30(a) with respect to when a sponsor may begin an investigation.

3. FDA is deleting as unnecessary § 812.30(b)(5) which allows FDA to disapprove or withdraw approval of an application if there is reason to believe that the device, as used in the investigation, is ineffective. This ground for disapproval or withdrawal was already covered by § 812.30(b)(4). For clarity, FDA is also splitting present

§ 812.30(b)(4) into two paragraphs, (b)(4) and (5).

4. FDA is revising § 812.140(b)(4)(v) so that the sponsor of a nonsignificant risk device investigation is required to maintain in the sponsor's records a statement of the extent to which FDA's good manufacturing practice (GMP) regulations in Part 820 (21 CFR Part 820) will be followed in manufacturing the device, but not "a copy of any quality assurance program that is followed with respect to the device." The latter phrase was inadvertently included in the final IDE regulations and imposes an unnecessary requirement. To evaluate manufacturing practices for nonsignificant risk devices, FDA wishes sponsors to maintain, routinely, only a statement of the extent to which the GMP regulations will be followed and not a copy of the quality assurance program, unless required specifically under § 812.140(b)(4)(vi).

5. Section 812.150(b)(5) now requires submission of progress reports to FDA and IRB's for both significant risk and nonsignificant risk device investigations. FDA did not intend for sponsors of nonsignificant risk device investigations, which are regulated principally by IRB's, to make progress reports to FDA.

Accordingly, FDA is correcting §§ 812.5(a), 812.20(a)(3), 812.30(b)(4) and (5), 812.140(b)(4)(v), and 812.150(b)(5), as described above. These changes make minor corrections in a major rule that became effective on July 16, 1980 (for investigations begun after that date) after a long rulemaking proceeding in which there were several opportunities for public comment and participation with respect to the provisions now being changed. Also, sponsors of investigations need to know the requirements with which they must comply. Therefore, the Commissioner determines that good cause exists to find that notice and public procedures are impracticable, unnecessary, and contrary to the public interest. For the same reasons, and because some of the changes relieve restrictions, the Commissioner finds good cause for not delaying the effective date of these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 501, 502, 520, 701(a), 702, 704, 801, 52 Stat. 1042-1043 as amended, 1049-1051 as amended, 1055, 1056-1058 as amended, 67 Stat. 477 as amended, 90 Stat. 565-574 (21 U.S.C. 331, 351, 352, 360j, 371(a), 372, 374, 381)) 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 Part 812 as follows:

1. In § 812.5, paragraph (a) is revised to read as follows:

§ 812.5 Labeling of investigational devices.

(a) *Contents.* An investigational device or its immediate package shall bear a label with the following information: the name and place of business of the manufacturer, packer, or distributor (in accordance with § 801.1), the quantity of contents, if appropriate, and the following statement: "CAUTION—Investigational device. Limited by Federal (or United States) law to investigational use." The label or other labeling shall describe all relevant contraindications, hazards, adverse effects, interfering substances or devices, warnings, and precautions.

2. In § 812.20, paragraph (a)(3) is revised to read as follows:

§ 812.20 Application.

(a) * * *

(3) If more than one IRB must approve an investigation, and these approvals occur after submission of an application to FDA, a sponsor shall submit a supplemental application under § 812.35(b) to FDA following each additional IRB approval. A sponsor shall not begin an investigation or part of an investigation until the IRB has approved it and until § 812.30(a) allows the investigation to begin.

3. In § 812.30, paragraph (b)(4) and (5) is revised to read as follows:

§ 812.30 FDA action on applications.

* * *

(b) * * *

(4) There is reason to believe that the risks to the subjects are not outweighed by the anticipated benefits to the subjects and the importance of the knowledge to be gained, or informed consent is inadequate, or the investigation is scientifically unsound, or there is reason to believe that the device as used is ineffective.

(5) It is otherwise unreasonable to begin or to continue the investigation owing to the way in which the device is used or the inadequacy of:

(i) The report of prior investigations or the investigational plan;

(ii) The methods, facilities, and controls used for the manufacturing, processing, packaging, storage, and, where appropriate, installation of the device; or

(iii) Monitoring and review of the investigation.

* * *

4. In § 812.140, paragraph (b)(4)(v) is revised to read as follows:

§ 812.140 Records.

(b) * * *

(4) * * *

(v) A statement of the extent to which the good manufacturing practice regulation in Part 820 will be followed in manufacturing the device; and

5. In § 812.150, paragraph (b)(5) is revised to read as follows:

§ 812.150 Reports.

(b) * * *

(5) *Progress reports.* At regular intervals, and at least yearly, a sponsor shall submit progress reports to all reviewing IRB's. In the case of a significant risk device, the sponsor shall also submit progress reports to FDA.

Effective date. Corrections to §§ 812.5(a), 812.20(a)(3), 812.30(b)(4) and (5), 812.140(b)(4)(v), and 812.150(b)(5) are effective September 5, 1980.

(Secs. 301, 501, 502, 520, 701(a), 702, 704, 801, 52 Stat. 1042-1043 as amended, 1049-1051 as amended, 1055, 1056-1058 as amended, 67 Stat. 477 as amended, 90 Stat. 565-574 (21 U.S.C. 331, 351, 352, 360j, 371(a), 372, 374, 381))

Dated: August 26, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-28069 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****31 CFR Part 515****Cuban Assets Control Regulations; Communications**

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Cuban Assets Control Regulations. The purpose of the amendment is to revise § 515.542, to provide a general license for transactions incident to satellite telecommunications between the United States and Cuba for purposes of transmission of news coverage. The amendment also indicates that specific licenses may be issued on a case-by-case basis for transactions incident to other communications activities, such as provision of telephone and telegraph services between the United States and Cuba. The need for the amendment is the growing media interest in

transmissions by satellite from Cuba to the United States. The effect of the amendment is that United States media organizations will be permitted to use satellite channels for the transmission of television news and news programs from Cuba.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Director, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, (202) 376-0395.

SUPPLEMENTARY INFORMATION: Since the Regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rule making, opportunity for public participation and delay in effective date are inapplicable.

Prior to its amendment, § 535.542 contained a general license authorizing all transactions of common carriers incidental to the receipt or transmission of mail and telecommunications with Cuba.

Paragraph (a) of the amended section continues the general license for the receipt and transmission of mail.

Paragraph (b) contains the new general license authorizing transactions incident to the use of satellite communications for the transmission of television news and news programs originating in Cuba by United States news organizations.

Paragraph (c) provides that licensing of other transactions incident to communications between the United States and Cuba will be handled by specific license on a case-by-case basis. Such transactions were literally within the provisions of the general license contained in § 515.542 prior to amendment. However, actual Office of Foreign Assets Control practice has been to issue a specific license authorizing appropriate transactions to each of the small number of common carriers providing telephone and telegraph service between the United States and Cuba. Accordingly, new paragraph (c) simply reflects existing Office practice, under which the relevant carriers have been operating for some time. This revision of section 515.542 does not affect outstanding specific licenses already issued to such carriers with respect to the provision of such communications services between the United States and Cuba. However, the revision will clarify the fact that all transactions incident to communications other than those covered by the general license in paragraph (b) require a specific license from the Office.

31 CFR Part 515 is amended by revising section 515.542 to read as follows:

§ 515.542 Communications.

(a) All transactions of common carriers incident to the receipt or transmission of mail between the United States and Cuba are hereby authorized.

(b) All transactions incident to the use of satellite channels for the transmission of television news and news programs originating in Cuba by United States news organizations are hereby authorized.

(c) Specific licenses may be issued on a case-by-case basis for transactions incident to the receipt or transmission of communications between the United States and Cuba, other than communications covered by paragraph (b) of this section. Specific licenses are generally issued for such transactions as entry into traffic agreements to provide telephone and telegraph services, provision of services, and settlement of charges under traffic agreements.

Dated: August 24, 1980.

(Sec. 5, 40 Stat. 415, as amended, 50 U.S.C. App. 5; sec. 820(a), 75 Stat. 445, (22 U.S.C. 2370(a)); Prov. 3447, 27 FR 1065, 3 CFR, 1959-1963 Comp.; E. O. 9193, 7 FR 5205, 3 CFR, Comp. Supp., p. 1174; E. O. 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp. p. 748)

Susan M. Swinehart,
Acting Director.

Approved:

Richard J. Davis,

Assistant Secretary.

[FR Doc. 80-27225 Filed 9-4-80; 8:45 am]

BILLING CODE 4810-25-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**41 CFR Ch. 18, Parts 1, 2, 3, 7, 12, and 16.**

[Procurement Regulation Directive 80-3 (dated March 31, 1980)]

Procurement Regulations; Miscellaneous Amendments

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments contained in Procurement Regulation Directive 80-3 concerning the following areas:

1. Prohibition Against Contracts with Organizations Which Provide Quasi-Military Armed Forces for Hire.
2. Late Bids, Modifications of Bids or Withdrawal of Bids Clause.
3. Publicizing Procurement Actions.
4. Small Purchases.

5. Payment of Interest on Contractors' Claims Clause.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT:

James H. Wilson, Policy Division (Code HP-1), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: 202-755-2237.

SUPPLEMENTARY INFORMATION: The major changes are summarized as follows:

1. Part 1.302-5 is added to the NASA Procurement Regulation to reflect the statutory prohibition (5 U.S.C. 3108) against contracts with detective agencies, and reflects the interpretation of the prohibition as the result of a recent Circuit Court case (United States ex rel. Weinberger v. Equifax, 557 F2 456 (5th Cir. 1977)), cert. denied January 16, 1978, rehearing denied June 7, 1978, and a decision by the Comptroller General of the U.S. (B-139965, June 7, 1978).

2. Part 2.303-2, paragraph (c)(i) of the clause is amended to provide that (a) a "postmark" imprinted by a postage meter machine will not be recognized as an acceptable indication of the time of mailing, and (b) offeror should request the postal clerk to place a hand cancellation bull's-eye "postmark" on both the receipt and the envelope or wrapper.

3. Both substantive and editorial revisions are made throughout Part 1.10, pertaining to coverage such as advance notices, preparation and transmittal of material, synopsis of contract awards, and requests for information.

4. The title of Part 6.3 is revised to read "Small Purchase and Other Simplified Purchase Procedures." This Part is revised and associated revisions in Parts 7, 12 and 16 are made to update NASA's policy and procedure applicable to small purchases. Note the added clauses that must be considered under Blanket Purchase Agreements (3.605-3(b) and other small purchases (3.608-2(b)(1))). The dollar limitations under the Procurement Request Overlay Method (3.650-3(a)) have been changed to match those authorized for Imprest Fund purchases. The Equal Opportunity clause at 12.804(a) is revised. Editorial changes have been made as appropriate.

5. The Payment of Interest on Contractors' Claims clause (7.104-82) has been deleted.

Authority.—The provisions of this document are issued under 42 U.S.C. 2473(c)(1).

L. E. Hopkins,

Acting Director of Procurement.

PART 1—GENERAL PROVISIONS

1. In Part 1, Table of Contents, 1.302-5 is added to read as follows:

* * * * *	
1.302-5 Prohibition Against Contracts With Organizations Which Provide Quasi-Military Armed Forces For Hire.....	1-3:3
* * * * *	

2. In Part 1, Table of Contents, 1.303 and 1.304, the page numbers are amended to read as follows:

* * * * *	
1.303 Exchange of Purchase Information.....	1-3:4
1.304 Restrictions on Data and Other Information.....	1-3:4
* * * * *	

3. In Part 1, Table of Contents, 1.1002-1 through 1.1050-2 are amended to read as follows:

* * * * *	
1.1002-1 Availability of Invitations for Bids and Requests for Proposals at the Contracting Office.....	1-10:1
1.1002-2 Limited Availability of Certain Specifications, Plans, and Drawings.....	1-10:2
1.1002-3 [Reserved].....	1-10:2
1.1002-4 Displaying in Public Place.....	1-10:2
1.1002-5 Information Releases to Newspapers and Trade Journals.....	1-10:2
1.1002-6 Paid Advertisements in Newspapers and Trade Journals.....	1-10:2
1.1003 Synopses of Proposed Procurements.....	1-10:2
1.1003-1 General.....	1-10:2
1.1003-2 Time of Publicizing.....	1-10:3
1.1003-3 Pre-Invitation Notices.....	1-10:4
1.1003-4 Special Synopsis Situations.....	1-10:4
1.1003-5 Publication of Procurements Not Exceeding \$10,000.....	1-10:5
1.1003-6 Synopsis of Subcontract Opportunities.....	1-10:5
1.1003-7 Information Regarding Specifications, Plans, and Drawings.....	1-10:6
1.1003-8 Responsibility of Small Business Specialists.....	1-10:6
1.1003-9 Preparation and Transmittal.....	1-10:6
1.1004 Release of Procurement Information.....	1-10:11
1.1004-1 General.....	1-10:11
1.1004-2 General Public.....	1-10:11
1.1004-3 Members of Congress.....	1-10:12
1.1005 Publicizing Award Information.....	1-10:12
1.1005-1 Synopsis of Contract Awards.....	1-10:12
1.1005-2 Local Announcements of Awards Over \$10,000.....	1-10:13
1.1006 [Reserved].....	1-10:13
1.1007 [Reserved].....	1-10:13
1.1008 Classification Codes.....	1-10:13
1.1008-1 Codes for Services.....	1-10:13
1.1008-2 Codes for Supplies.....	1-10:14

1.1050 Furnishing Additional Procurement Information to the Public.....	1-10:16
1.1050-1 Policy.....	1-10:16
1.1050-2 Procedures.....	1-10:16
* * * * *	

4. In Part 1, 1.302-5 is added to read as follows:

1.302-5 Prohibition Against Contracts With Organizations Which Provide Quasi-Military Armed Forces For Hire, 5 U.S.C. 3108 prohibits contracts with "Pinkerton Detective Agencies or similar organizations." This prohibition applies only to entering into a contract with an organization or its employees, regardless of the character of the contract to be performed, if such organization offers quasi-military armed forces for hire. An organization which provides guard or protective services does not thereby become a "quasi-military armed force," even if the individual guards are armed, and even though the organization may also be engaged in the business of providing general investigative or "detective" services.

1.321 [Amended]

5. In Part 1, 1.321 is amended to add at the end of the paragraph a new sentence to read as follows: (See 2.201-1, Section C(27) and 3.501, Section C(40)).

6. In Part 1, 1.1002-1 is revised to read as follows:

1.1002-1 Availability of Invitations for Bids and Requests for Proposals at the Contracting Office. A reasonable number of copies of invitations for bids and requests for proposals, which are required to be publicized in the Commerce Business Daily, including specifications and other pertinent information, shall be maintained at the contracting office. Upon request, prospective contractors not initially solicited may be mailed or otherwise provided copies of such invitations for bids or requests for proposals to the extent they are available. However, for any contract to be let by any NASA procurement office, it shall provide to any small business concern upon its request; (i) a copy of bid sets and specifications with respect to such contract; (ii) the name and telephone number of any employee of such procurement office to answer questions with respect to such contract; and (iii) adequate citations to each major Federal law or agency rule with which such business concern must comply in performing such contract. When a solicitation for proposals has been

limited as a result of a determination that only a specified firm or firms possess the capability to meet the requirements of an acquisition, requests for proposals shall be mailed or otherwise provided upon request to firms not solicited, but only after advice has been given to the firm making the request as to the reasons for the limited solicitation and the unlikelihood of any other firm being able to qualify for a contract award under the circumstances. In addition, to the extent that invitations for bids or requests for proposals are available, they shall be provided on a "first come-first served" basis, for pick up at the contracting office, to publishers, trade associations, procurement information services, and other members of the public having a legitimate interest therein; otherwise, the procurement office may limit the availability of such information to review at such office. In determining the "reasonable number" of copies to be maintained, the contracting officer shall consider, among other things, the extent of initial solicitation, reproduction costs, the nature of the acquisition, whether access to classified matter is involved, the anticipated requests for copies based upon responses to synopses and other means of publication in previous similar situations, and the fact that publishers and others who disseminate information regarding proposed acquisitions normally do not require voluminous specifications or drawings. With regard to classified acquisitions, the foregoing instructions apply to the extent consistent with NASA security instructions and procedures.

1.1002-2 [Amended]

7. In Part 1, 1.1002-2, the reference in the text "1.1002" is amended to read "1.1002-1."

1.1002-6 [Amended]

8. In Part 1, 1.1002-6, the reference "2.203-3" at the end of the paragraph is amended to read "2.203-3(b)."

9. In Part 1, 1.1003-1(a)(ii) is amended to add at the end of the paragraph the following sentence: "A copy of each synopsis sent to the Department of Commerce shall be furnished to the Director of Small and Disadvantaged Business Utilization, NASA Headquarters (Code K)."

10. In Part 1, 1.1003-1(b) and (c)(vi) are revised to read as follows:

1.1003-1 General.

(a) * * *

(b) Only those classified procurements, where the information necessary to be included in the Synopsis cannot be worded in such a manner so

as to preclude the disclosure of classified information, or where the mere disclosure of the Government's interest in the area of the proposed procurement would violate security requirements, shall not be publicized in the Synopsis. All other classified procurements shall be publicized in the Synopsis, even though access to classified matter might be necessary in order to submit a proposal or to perform the contract (see 1.1003-9(f)(3)). The intent of the exception for classified procurement in the synopsis requirements of Public Law 87-305 is not to exempt every classified procurement from publicizing, but to provide a safeguard against violating security requirements.

(c) * * *

(vi) procurement to be made from or through another Government department or agency, including procurements from the SBA using the authority of section 8(a) of the Small Business Act, or a mandatory source of supply such as an agency for the blind under the blind made products program;

11. In Part 1, 1.1003-4 (a) and (b)(1) are revised to read as follows:

1.1003-4 Special Synopsis Situations.

(a) *Research and Development.* Advance notices of an agency's interest in a given field of research and development shall be published in the *Commerce Business Daily* in accordance with 1.1003-9(e) whenever the contracting officer considers that existing bidders mailing lists do not include a sufficient number of concerns to obtain adequate competition. Advance notices shall not be used where security considerations prohibit such publication. Advance notices will enable potential sources to learn of research and development programs and provide these sources with an opportunity to submit information which will permit evaluation of their research and development capabilities. Potential sources which respond to advance notices shall be added to the appropriate bidders mailing list for the subsequent solicitation. Those sources which do not appear on the agency bidders mailing lists established in accordance with 2.205-1 shall be requested to submit Standard Form 129, Bidder's Mailing List Application. In those situations where responding sources are on established lists they may be requested to submit amended applications in order to reflect their current capabilities. Each specific procurement of research and development shall be publicized in the *Commerce Business Daily* unless one of the exceptions in 1.1003-1 is applicable.

(b) *Services.*

(1) *Personal and Professional Services.* Notwithstanding the exception in 1.1003-1(c)(vii), contracting officers shall synopsise personal and professional services when it is feasible and practicable to do so and the best interests of the Government will be served.

12. In Part 1, 1.1003-5 is amended to read as follows:

1.1003-5 *Publication of Procurements Not Exceeding \$10,000.* When recommended by procurement personnel or the small business specialist, and approved by the contracting officer, proposed procurements not exceeding \$10,000 may be publicized in the *Commerce Business Daily*.

1.1004 [Amended]

13. In Part 1, the title in 1.1004 is amended to read "Release of Procurement Information" and the text is designated as "1.1004-1 General."

14. In Part 1, 1.1004-2 and 1.1004-3 are added to read as follows:

1.1004 Release of Procurement Information.

* * * * *

1.1004-2 *General Public.* Requests from the general public for specific information will be processed in accordance with 1.1050.

1.1004-3 *Members of Congress.* In addition to having access to that information available to members of the public, Members of Congress, upon their request, shall be given detailed information regarding any particular NASA procurement. The information given shall be responsive to the Congressional request; however, where responsiveness would result in disclosure of classified matter, business confidential information, or information which would be prejudicial to competitive procurement, the proposed reply, with full documentation, will be promptly prepared and forwarded by the most expeditious means to the Director of Legislative Affairs, NASA Headquarters, for approval and release. (Also see 3.854.)

1.1005-1 [Amended]

15. In Part 1, 1.1005-1, the phrase starting with "* * * * * exceeding \$50,000 in amount, * * * * *" is amended to read "* * * * * exceeding \$100,000 in amount, * * * * *"

16. In Part 1, 1.1005-1(b), subparagraph (3) is amended to read as follows:

(b) * * *

(3) Procurement offices shall forward, by mail, one copy of the synopsis of

contract award as prepared in 1.1005-1(b) to the Office of Small and Disadvantaged Business Utilization, NASA Headquarters (Code K) and a copy to the Public Affairs Office of the installation.

17. In Part 1, 1.1005-2 is amended to read as follows:

1.1005-2 Local Announcements of Awards Over \$10,000. Contract awards may also be the subject of local press release or other public announcements. When such press releases or public announcements are made, or procurements of \$10,000 or more, they shall include the following information:

1.1006 [Amended]

18. In Part 1, 1.1006 and 1.1006-1 are amended to delete the text and mark the paragraphs "Reserved."

19. In Part 1, 1.1050-1(iii) is amended to read as follows:

1.1050-1 Policy.

(ii) * * *
 (iii) after the date established for receipt of bids or proposals, the names of firms which submitted bids or proposals. (But see 3.805-1(c) regarding requests for information involving offerors participating in negotiations).

20. In Part 1, 1.1050-2(a) is revised to read as follows:

1.1050-2 Procedures.

(a) Contracts requiring approval by the Director of Procurement, in accordance with Part 20, Subpart 50, will not be distributed, or any information given to any source outside of NASA that the contract has been approved, until 24 hours after the Director of Public Affairs and the Director of Legislative Affairs, NASA Headquarters, have been advised that the contract has been consummated.

PART 2—PROCUREMENT BY FORMAL ADVERTISING

21. In Part 2, in the Table of Contents, paragraphs 2.303-4 and 2.303-5 are amended to read as follows:

2.303-4 Disposition of Late Submissions.....	2-3:3
2.303-5 Records.....	2-3:3
* * * * *	

2.303-2 [Amended]

22. In Part 2, 2.303-2, the second sentence of the introduction is amended to read: "(This replaces paragraph 8 of Standard Form 22 and paragraph 7 of Standard Form 33A.)"

23. In Part 2, 2.303-2, the date of the "Late Bids, Modifications of Bids or Withdrawal of Bids" clause is amended to read "(March 1980)" and paragraph (c)(i) of the clause is amended to read as follows:

2.303-2 Late Bids, Modification of Bids or Withdrawal of Bids.

LATE BIDS, MODIFICATIONS OF BIDS OR WITHDRAWAL OF BIDS (MARCH 1980)

(c) The only acceptable evidence to establish:

(i) the date of mailing of a late bid, modification or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark on the wrapper or on the original receipt from the U.S. or Canadian Postal Service. If neither postmark shows a legible date, the bid, modification or withdrawal shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. or Canadian Postal Service. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye "postmark" on both the receipt and the envelope or wrapper.)

PART 3—PROCUREMENT BY NEGOTIATION

24. In part 3, in the Table of Contents, paragraphs 3.600 through 3.650-3 are amended to read as follows:

Subpart 6—Small Purchase and Other Simplified Purchase Procedures

3.600 Scope of Subpart.....	3-6:1
3.601 Purpose.....	3-6:1
3.602 Definitions.....	3-6:1
3.603 Policy.....	3-6:1
3.603-1 General.....	3-6:1
3.604 Competition and Price Reasonableness.....	3-6:2
3.604-1 Purchases Not in Excess of \$500.....	3-6:2
3.604-2 Purchases in Excess of \$500.....	3-6:3
3.605 Blanket Purchase Agreement (BPA).....	3-6:4
3.605-1 General.....	3-6:4
3.605-2 Limitation on Use.....	3-6:4
3.605-3 Establishment of Blanket Purchase Agreements.....	3-6:4
3.605-4 Competition Under Blanket Purchase Agreement.....	3-6:6
3.605-5 Calls Against Blanket Purchase Agreements.....	3-6:7
3.605-6 Receipt and Acceptance of Supplies or Services.....	3-6:7
3.605-7 Review Procedures.....	3-6:7

3.606 Fast Payment Procedure.....	3-6:7
3.606-1 General.....	3-6:7
3.606-2 Conditions for Use.....	3-6:7
3.606-3 Preparation and Execution of Orders.....	3-6:7
3.606-4 Responsibility for Collection of Debts.....	3-6:9
3.607 Imprest Fund Method.....	3-6:9
3.607-1 General.....	3-6:9
3.607-2 Establishment of Imprest Funds.....	3-6:10
3.607-3 Conditions for Use.....	3-6:10
3.607-4 Procedures.....	3-6:11
3.608 Purchase Orders.....	3-6:14
3.608-1 General.....	3-6:14
3.608-2 Order for Supplies or Services (NASA Form 1379 or Standard Form 147; Standard Form 36; NASA Form 1379B and Standard Form 30).....	3-6:14
3.608-3 Unpriced Purchase Orders.....	3-6:18
3.608-4 Obtaining Contractor Acceptance and Modifying the Purchase Order.....	3-6:18
3.608-5 Termination of Purchase Order.....	3-6:19
3.608-6 Use of Standard Form 147 of NASA Form 1379 as a Delivery Order.....	3-6:20
3.608-7 and 3.608-8 [Reserved].....	3-6:20
3.608-9 Order-Invoice-Voucher Method.....	3-6:20
3.650 Procurement Request Overlay Method.....	3-6:21
3.650-1 General.....	3-6:21
3.650-2 Limitations on Use.....	3-6:21
3.650-3 Procedure.....	3-6:21

3.600 [Amended]

25. In part 3, 3.600 is amended to change the reference at the end of the fourth sentence "(see 3.608-2)." to read "(see 3.608-2(b)(1)(vi))."

3.603 [Amended]

26. In part 3, 3.603(a) is amended to add a second reference to one now in the last sentence of paragraph (a). The reference "(see 2.203-3(b))," is amended to read "(see 1.1002-6 and 2.203-3(b))."

3.603(d) [Amended]

27. In Part 3, 3.603(d) is amended to add the word "purchasing" before the word "installation."

3.603(e) [Amended]

28. In Part 3, 603(e) is amended to change the reference "14.106," at the end of the paragraph, to read "14.207."

3.604-1 [Amended]

29. In Part 3, 304-1 is amended to delete the parenthetical phrase "(\$300 for emergency procurements using imprest funds)," of the title and in the first and fourth sentences of the text.

3.604-2 [Amended]

30. In Part 3, 3.604-2 is amended by adding the reference "(see 16.813)" at the end of the fifth sentence.

3.605-1 [Amended]

31. In Part 3, 3.605-1 is amended to change the second sentence "(See 12.302; 12.602-1; and 12.1001)" to read "(See 12.302-1, 12.302-2, 12.602-1, and 12.1001)."

3.605-3 [Amended]

32. In Part 3, 3.605-3(b), paragraph (i) is amended by changing the reference "12.303" to read "12.303-1" and paragraph (ii) is amended to add "as amended" following the phrase " * * * Service Contract Act of 1965, * * * "

33. In Part 3, 3.605-3(b), paragraph (iv) is added to read as follows:

3.605-3 Establishment of Blanket Purchase Agreements

* * * * *

(b) * * *

(iv) where the agreement is for the intended purchase of supplies, the applicable equal opportunity clause in 7.103-18 shall be added.

34. In Part 3, 3.605-3(c), is amended to change the reference "Part 50, Subpart 3," to read "Part 20, Subpart 2."

35. In Part 3, 3.605-3(e), is amended to change the phrase in the second sentence "The issuance of individual request * * * " to read "The issuance of individual calls * * * "

3.603-3 [Amended]

36. In Part 3, 3.603-3(a), the clause in paragraph (iv) is amended to change the date to read "(March 1980)" and paragraph (d) of the clause is amended by adding "for payment" following the phrase " * * * submission of an invoice to the Government."

3.607-2 [Amended]

37. In Part 3, 3.607-2, the fourth sentence is amended to add the word "principal." As amended the fourth sentence reads as follows: "Upon resumption of his duties, the principal cashier shall return the cash receipt to the alternate after obtaining paid receipts."

38. In Part 3, 3.608-2(b) is revised to read as follows:

3.608-2 Orders for Supplies or Services (NASA Form 1379 or Standard Form 147; Standard Form 36; NASA Form 1379B and Standard Form 30)

(a) * * *

(b) *Conditions for Use.*

(1) *Use as a Purchase Order of Not More than \$10,000 in the United States, its Possessions, and Puerto Rico.* NASA Form 1379 is authorized for negotiated purchases of not more than \$10,000 (other than research and development and R&D-related projects such as conferences from educational

institutions) within the United States, its possessions, and Puerto Rico, *provided:*

(i) The procurement is unclassified, except that NASA Form 1379 may be used for classified procurements if:

(A) the contracting officer retains responsibility for complete administration of the contract, including compliance with the requirements;

(B) the "Security Requirements" clause in 7.104-12 is inserted in the Schedule;

(C) DD Form 254 (Contract Security Classification Specification) (see 16.811) is incorporated in the purchase order; and

(D) the contractor's acceptance of the purchase order is obtained by use of NASA Form 1379B at the time of issuance of the order.

(ii) No clause altering the subject matter of the provisions contained in NASA Forms 1379 and 1379B shall be used. The use of other special terms, conditions, or provisions should be minimized to the extent that such additional instructions are considered essential and are consistent with small purchase procedures.

(iii) Where the contract specifies the delivery of data, one of the clauses set forth in 9.203 through 9.206 shall be added as appropriate in accordance with the instructions contained in Part 9, Subpart 2.

(iv) When required by Part 6, Subpart 4, the *Communist Areas* clause set forth in 6.404 shall be added.

(v) Where inspection and acceptance are at origin, where contract administration is performed at origin, where delivery at multiple destinations is required, or where otherwise appropriate the "Material Inspection and Receiving Report" clause may be required for use and inserted in the Schedule.

(vi) Where Government property having an acquisition cost in excess of \$25,000 is to be furnished (for use in performance of contract or for repair), the "Government Property (Fixed-Price)" clause in 13.702 shall be inserted in the Schedule. Where Government property having an acquisition cost not in excess of \$25,000 is to be furnished for use in performance of the contract or for repair, the "Government-Furnished Property (Short Form)" clause in 13.710 shall be inserted in the Schedule; *provided* that use of the clause shall be optional where the acquisition cost of property furnished for repair is not in excess of \$2,500. Where a "Government Property" clause is inserted in the Schedule, the contractor's signature shall be obtained on NASA Form 1379B.

(vii) The clauses set forth in 1.1208 may be used in accordance with the provisions of that paragraph.

(viii) When required by Part 12, Subpart 10, the applicable clause set forth in 12.1004 shall be added.

(ix) When a bid guarantee is required in accordance with 10.102, the applicable clause set forth in 10.102-4 shall be added.

(x) When performance and payment bonds are required in accordance with 10.103, pertinent instructions with regard thereto shall be added.

(xi) When required by Part 12, Subpart 3, the clause in 12.303-1 shall be added.

(xii) When required by Part 1, Subpart 7, the notice of Total Small Business Set-Aside clause in 1.706-5(c) shall be added.

(xiii) The changes authorized by 16.402-2 shall be incorporated when construction procurements are negotiated in accordance with 3.600.

(xiv) When required by Part 12, Subpart 13, the *Affirmative Action for Handicapped Workers* clause in 12.1302-1 shall be added.

(xv) If the contract is to involve materials of a hazardous nature, include the clause in 1.351.

(xvi) When the contract involves the purchase of gas in contractor-furnished returnable cylinders and the contractor retains title to the cylinders, the clause in 7.104-64 shall be added. The clause may also be used, with appropriate modification, in contracts for other supplies under the circumstances specified in 7.104-64.

(xvii) When required by 12.804(a), the Equal Opportunity clause set forth therein shall be added.

39. In Part 3, 3.608-2(c), subparagraph (2) is amended to change the last sentence to read: "Except as provided under the unpriced purchase order method, quotations that are indefinite as to price or based on economic price adjustment or redetermination shall not be considered for award by the purchase order method."

3.608-2 [Amended]

40. In Part 3, 3.608-2(d), the references in the first and second sentences are amended to read "14.207" in place of "14.106" and "14.206-2" in place of "14.105-2."

3.650-3 [Amended]

41. In part 3, 3.650-3(a), the last sentence is amended to read "If the amount of purchase does not exceed \$150 (or \$300 under emergency conditions) the supplier should be encouraged to deliver C.O.D. (see 3.607-3)."

PART 7—CONTRACT CLAUSES

42. In Part 7, Table of Contents, 7.104-61 through 7.104-6 are amended to read as follows:

* * *	
7.104-61	Rights in Data for Potentially Hazardous Items.....7-1:21
7.104-62	Potentially Hazardous Items.....7-1:21
7.104-63	Required Source for Jewel Bearings and Related Items.....7-1:21
7.104-64	Contractor-Furnished Returnable Gas Cylinders and Other Containers.....7-1:21
7.104-65	through 7.104-83 [Reserved].....7-1:22
7.104-84	Fast Payment Procedure.....7-1:22
7.104-85	[Reserved].....7-1:22
7.104-86	Notification of Changes.....7-1:22
7.104-87	through 7.104-88 [Reserved].....7-1:22C
7.104-89	Engineering Change Proposals (ECP's).....7-1:22C
7.104-90	Change Order Accounting.....7-1:22D
7.104-91	through 7.104-94 [Reserved].....7-1:22D
7.104-95	Preference for United States Flag Air Carriers.....7-1:22D
7.104-96	Notice of Intent to Disallow or Not Recognize Costs...7-1:22E
7.105	Additional Clauses.....7-1:22E
7.105-1	Alterations in Contract.....7-1:22E
7.105-2	through 7.105-4 [Reserved]...7-1:22E
7.105-5	Liquidated Damages.....7-1:22E
7.105-6	Bill of Materials.....7-1:22F

43. In Part 7, 7.104-64 is added to read as follows:

7.104-64 Contractor-Furnished Returnable Gas Cylinders and Other Containers. Insert the following clause in contracts involving the purchase of gas in contractor-furnished returnable cylinders where the contractor retains title to the cylinders. The clause may be used, with appropriate modification, in contracts for other supplies involving reels, spools, drums, carboys, liquid petroleum gas containers, or other reusable containers, where the contractor is to retain title to the containers.

Returnable Gas Cylinders (March 1980)

(a) Cylinders shall remain the property of the Contractor but will be loaned without charge to the Government for a period of thirty (30) days¹ after the date of delivery of the cylinders to the f.o.b. point specified in the contract. Beginning with the first day after the expiration of the thirty (30) day loan period to and including the day the cylinders are delivered to the Contractor where the original delivery was f.o.b. origin, or to and including the date the

cylinders are delivered or are made available for delivery to the Contractor's designated carrier in the case where the original delivery was f.o.b. destination, the Government shall pay the Contractor a rental of _____ dollars (\$_____) per cylinder per day, regardless of type or capacity.

(b) This rental charge will be computed separately for cylinders of differing types, sizes, and capacities, and for each point of delivery named in the contract. A credit of thirty (30) cylinder days will accrue to the Government for each cylinder, regardless of type or capacity, delivered by the Contractor. A debit of one (1) cylinder day will accrue to the Government for each cylinder for each day after delivery to the f.o.b. point specified in the contract. At the end of the contract, if the total number of debits exceeds the total number of credits, rental shall be charged for the difference. If the total number of credits equals or exceeds the total number of debits, no rental charges will be made for the cylinders. No rental shall accrue to the Contractor in excess of the replacement value per cylinder specified in (c) below.

(c) For each cylinder lost or damaged beyond repair while in the Government's possession, the Government shall pay to the Contractor the replacement value as follows, less the allocable rental paid therefor:

- (i) oxygen cylinders of 100-110 cubic foot capacity \$_____;
- (ii) oxygen cylinders of 200-220 cubic foot capacity \$_____;
- (iii) acetylene cylinders of 100-150 cubic foot capacity \$_____; and
- (iv) acetylene cylinders of 230-300 cubic foot capacity \$_____.

(d) Cylinders lost, or damage beyond repair, and paid for by the Government shall become the property of the Government, subject to the following: If any lost cylinder is located within _____ (insert period of time) after payment by the Government, it may be returned to the Contractor by the Government, and the Contractor shall pay to the Government an amount equal to the replacement value, less rental computed in accordance with (a) above, beginning at the expiration of the thirty (30) days loan period specified in (a) above, and continuing to the date on which the cylinder was delivered to the Contractor.

PART 12—LABOR

44. Part 12, 12.804(a) is revised to read as follows:

12.804 Equal Opportunity Clauses.

(a) *Government Contracts.* The following clause shall be included in all contracts (and modifications thereof if the clause was not included in the original contract), unless exempted in accordance with 12.805.

Equal Opportunity (March 1980)

(If, during any twelve (12) month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded Federal contracts and/or subcontracts which have an aggregate value in excess of \$10,000, the Contractor shall comply with (1) through (7) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.)

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by

¹ The time period may be modified to comply with the customary commercial practice for the particular type of container being rented.

Executive Order 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the provisions of paragraph (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided*, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

PART 16—PROCUREMENT FORMS

45. In Part 16, Table of Contents, paragraph 16.803-4 is amended to delete

the sentence following the title and 16.811-2 is added to read as follows:

16.811-2 Contract Security Classification Specification—16-8:2

46. In Part 16, 16.001, in the list in paragraph (a) NASA Forms., (b) U.S. Standard Forms., and (c) Department of Defense Forms., the entries for NASA Form 1018, Standard Forms 18, 33, 33-A, 129, 147 and 129 and Department of Defense Form 254 are amended to read as follows:

16.001 Index of Procurement Forms for NASA Use.

(a) NASA Forms.

1018 (1-79) Report of Government-Owned/Contractor-Held Property

(b) U.S. Standard Forms.

18 (3-71) Request for Quotations

33 (3-77) Solicitation, Offer, and Award

33-A (7-77) Solicitation Instructions and Conditions

129 (2-77) Bidder's Mailing List Application

147 (2-77) Order for Supplies or Services

1129 Undated Reimbursement Voucher

(c) Department of Defense Forms.

254 (1-78) Contract Security Classification Specification

16.811-2 [Amended]

47. In Part 16, the title in 16.811-2 is amended to read "Contract Security Classification Specification."

[FR Doc. 80-27186 Filed 9-4-80; 8:45 am]

BILLING CODE 7510-01-M

41 CFR Ch. 18, Parts 1, 2, 3, 15, 20 and Appendix J

[Procurement Regulation Directive 80-1]

Procurement Regulations; Miscellaneous Amendments

January 18, 1980.

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments contained in Procurement Regulation Directive 80-1 concerning the following areas:

1. Required Use of the Priorities, Allocations, and Allotments Clause
2. Certificates of Competency
3. Prepaid Transportation Charges
4. Evaluation of Bids
5. Letter Contract
6. Forms for Procurement Plans
7. Adjustment and Allocation of Pension Costs
8. Master Buy Plan Procedure
9. Authority to Sign a Class D&F.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Policy Division (Code HP-1), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: 202-755-2237.

SUPPLEMENTARY INFORMATION:

(1) Part 1.307-2 is revised to raise the dollar value of ratable contracts which require the "Priorities, Allocations, and Allotments" clause from \$500 to \$2,500.

(2) The text of Part 1.705-4(c)(iv) is deleted and the paragraph marked reserved. In accordance with Public Law 98-89, this exception is no longer valid.

(3) The amount of transportation charges which a contracting officer may authorize a contractor to prepay when the f.o.b. point of origin is increased from \$25 to \$100. See Part 1.1316(b). In paragraph 1.1316(e), the NASA Management Instruction (NMI) governing the use of official Government mailing privileges by NASA contractors is NMI 1450.11B, "NASA Mail Management Program." NMI 1530.1A is deleted.

(4) The "Evaluation of Bids" provision in Part 2.201-1, Section D(13) is revised to show "\$100" in lieu of "\$50" as the amount to be considered administrative cost to the Government.

(5) Part 3.408 is revised to update NASA policy regarding issuance of letter contracts and to authorize the Procurement Officer to sign and submit requests for authority to issue letter contracts directly to the Director of Procurement.

(6) Part 3.852-3(a) is revised to authorize installations that use automated equipment to prepare procurement plans on a Headquarters approved "Optional Free Form."

(7) This item addresses the adjustment and allocation of pension costs. It provides for the prospective application of a revised 15.205-6(f) dealing with deferred compensation.

The provisions of the cost accounting principle at 15.205-6(f) are hereby revised to incorporate and conform to the provisions of Cost Accounting Standard (CAS) 413. CAS 413 requires that actuarial gains and losses in pension funds be calculated annually and assigned to that cost accounting period and, in certain instances consistent with CAS 413, to subsequent periods. In this regard, it is also important to note that the introductory comments to CAS 412 (see 4 CFR) state that actuarial gains and losses should be accounted for in accordance with pertinent laws and regulations and should be consistently applied. This is particularly significant in connection with the requirements of the Employee Retirement Income Security Act (ERISA).

To avoid undue confusion, note that the revised 15.205-6(f)(2)(ii)(A)e. is an additional NASA Procurement Regulation requirement not contained in CAS 413. This requirement will be effective on all new contracts awarded after the effective date of this Procurement Regulation Directive. For CAS-covered contracts, the implementation date of the remainder of this revision is the date prescribed in CAS 413.80. Otherwise, new provisions will apply to contracts awarded after the effective date of this Procurement Regulation Directive.

(8) Parts 20.5102 through 20.5106 are revised substantially; especially with regard to the submission, selection and notification procedure, and Master Buy Plan format. Several editorial changes are made to assure compatibility of terminology and to delete unnecessary words. Review of the entire Part is recommended.

(9) Part J, 205-50(4)(A) is revised to clarify an apparent ambiguity which existed between the provisions of Parts 3.303(b) and J, 205-50(4)(A) regarding the Procurement Officer's authority to sign a Class D&F consisting of two or more contracts, each of which has an estimated value which does not exceed \$100,000.

(42 U.S.C. 2473(c)(1))

L. E. Hopkins,

Acting Director of Procurement.

PART 1—GENERAL PROVISIONS

1.307-2 [Amended]

1. In Part 1, 1.307-2, in the first sentence of the introductory text, the phrase " * * * those purchase orders of less than \$500 * * *" is amended to read " * * * those purchase orders of less than \$2,500. * * *"

1.705-4 [Amended]

2. In Part 1, 1.705-4(c), paragraph (iv) is deleted and marked "Reserved."

3. In Part 1, 1.1316, paragraphs (b) and (e) are revised as follows:

1.1316 Prepaid Transportation Charges

(a) * * *

(b) The contracting officer may authorize the contractor to prepay the transportation charges, provided the cost of such transportation charges does not exceed \$100.00. The actual cost of transportation charges, not to exceed \$100.00 per shipment, will be added to the contractor's invoice as a separate item. All transportation charges which are added to the contractor's invoice shall be supported by paid freight, express, or parcel post receipts. If paid receipts in support of the invoice are not obtainable, the contractor shall insert the following certificate on his invoice:

* * * * *

(e) The policy governing the use of official Government mailing privileges by NASA contractors is set forth in NASA Management Instruction 1450.11B, "NASA Mail Management Program."

PART 2—PROCUREMENT BY FORMAL ADVERTISING

2.201-1 [Amended]

4. In Part 2, 2.201-1, Part I, Section D, the "Evaluation of Bids" clause date "(July 1965)" in paragraph (13), is amended to read "(January 1980)." In the second sentence of the clause, the phrase " * * * the sum of \$50 * * *" is amended to read " * * * the sum of \$100 * * *."

PART 3—PROCUREMENT BY NEGOTIATION

5. In Part 3, Table of Contents, paragraphs 3.404-4 and 3.409-1 through 3.409-3 are revised to read as follows:

* * * * *	
§ 3.404-4	Fixed-Price Incentive Contracts.
* * * * *	
3.409-1	Definite Quantity Contracts.....3-4:20
3.409-2	Requirements Contract.....3-4:20
3.409-3	Indefinite Quantity Contracts.....3-4:20A
* * * * *	

6. In Part 3, 3.408 is revised to read as follows:

3.408 Letter Contract.

(a) *Definition.* A letter contract is a written preliminary contractual instrument which authorizes immediate commencement of work or services.

(b) *Application.* A letter contract may be entered into only when: (i) the urgency of the requirement necessitates

that the contractor be given a binding commitment so that work can commence immediately, (ii) preparation of a definitive contract in sufficient time to meet mission requirements is not possible, and (iii) prior approval of the Director of Procurement has been obtained (see 20.5005(c)).

(c) Limitations.

(i) a letter contract shall not be entered into without competition when competition is practicable;

(ii) a letter contract shall be superseded by a definitive contract at the earliest practicable date; and

(iii) the maximum fund liability of the Government stated in the letter contract will be limited to only that amount determined essential to cover the contractor's requirements for funds prior to definitization. In no event shall total funds placed on a letter contract exceed fifty percent (50%) of the estimated total amount of the definitive contract;

(iv) a letter contract will be prepared in accordance with the applicable form set forth in 16.859.

(d) *Information to be Furnished when Requesting Authority to Issue a Letter Contract.* Requests for authority to issue letter contracts shall be signed by the Procurement Officer and submitted to the Director of Procurement (Code HS-1), and shall include the following:

(i) name and address of proposed contractor;

(ii) location where contract is to be performed;

(iii) contract number, including modification number if applicable;

(iv) brief description of the work or services to be performed;

(v) performance period, or delivery schedule;

(vi) amount of letter contract;

(vii) estimated total amount of definitive contract;

(viii) type of definitive contract to be executed (fixed-price, cost-plus-award-fee, etc.);

(ix) statement that the definitive contract will contain all required clauses or that deviations therefrom have been approved; and

(x) statement as to the necessity and advantage to the Government of the use of the proposed letter contract. Promptly upon receipt of a request to issue a letter contract, the Director of Procurement will obtain the concurrence or comments of cognizant Officials-in-Charge of Headquarters Offices. Upon receipt of the foregoing concurrences or comments, the Director of Procurement will advise the Procurement Officer of the disposition of his request.

(e) *Approval for Modifications to Letter Contracts.* Letter contracts shall not be modified to extend the period of

performance or to increase the dollar amount without the prior approval of the Director of Procurement. Requests for authority to issue such modifications to letter contracts shall be processed in the same manner as requests for authority to issue letter contracts (see (d) above) and shall include the following:

- (i) name and address of the contractor;
- (ii) description of the work or services to be performed;
- (iii) date originally approved;
- (iv) date letter contract was executed; and
- (v) complete justification for the requested modification to include the reasons why the definitive contract cannot be executed without such amendment.

7. In Part 3, 3.852-3, the introductory language in (a) is amended to read as follows:

3.852-3 Contents of the Procurement Plan.

(a) *Procurement Plans Requiring Approval by NASA Headquarters.* Each procurement plan prepared for approval by NASA Headquarters shall be prepared on NASA Forms 1451, 1452, 1452A, 1453 and 1454 or on a Headquarters approved Optional Free Form for those installations that use automated equipment to prepare their procurement plans. Use of either the NASA forms or the Optional Free Form is authorized for preparing procurement plans to be approved by the Head of the Installation. Form 1451 shall be completed as follows:

PART 15—CONTRACT COST PRINCIPLES AND PROCEDURES

8. In Part 15, 15.205-6, subparagraphs (f)(2)(ii)(A)b., (f)(2)(ii)(A)e. and (f)(2)(ii)(C) are amended to read as follows:

15.205-6 Compensation for Personal Services.

- (f) * * *
- (2) * * *
- (ii) * * *
- (A) * * *
- b. the determination of allowable costs shall take into consideration the method of valuing pension fund assets as provided for in CAS 413.50(b). Any significant adjustment resulting from the actuarial valuation falling outside of the market value corridors will be amortized (i) in equal amounts over a 15-year period when the immediate gain actuarial cost method is used, or (ii) over the remaining average lives of the

workforce if the spread gain actuarial cost method is used;

e. increased normal and past service cost caused by delay in funding the actuarial liability beyond thirty (30) days after each quarter of the year to which such costs are assignable, are unallowable. If a composite rate is used to allocate pension liability between the segments of a company and if, because of differences in the timing of the funding by segments, an inequity exists, allowable normal cost and past service costs will be limited to that particular segment's calculation of pension costs as provided in CAS 413.50(c)(5). Determination of unallowable costs shall be made in accordance with the actuarial method used in calculating the normal and past service costs;

- (B) * * *
- (c) It complies with the provisions of Part 412 and Part 413, Appendix O, which are incorporated here in their entirety; and when any of the contractor's contracts are subject to Cost Accounting Standards, these provisions will be applicable commencing with the contractor's fiscal year as prescribed by the terms of Part 412.80 and Part 413.80, Appendix O. The amount of deferred compensation costs which may be allowed shall not, however, exceed the amount determined under the provisions of the standard, subject to the cost limitations and exclusions set forth in subparagraphs (A) and (B) above.

PART 20—ADMINISTRATIVE MATTERS

20.5103-3 [Amended]

9. In Part 20, Table of Contents, the page number for paragraph 20.5103-2 is amended to read "20-51:4," paragraph 20.5103-3 is deleted and paragraph 20.5103-4 is redesignated 20.5103-3.

10. In Part 20, 20.5101 through 20.5106 are revised to read as follows:

20.5101 Policy.

The Master Buy Plan Procedure is designed to enable management to focus its attention on a representative selection of high dollar value and otherwise sensitive procurement actions without compromise of Headquarters visibility or control over essential management functions. This procedure is expected to:

- (i) reduce the number of procurement actions requiring Headquarters review and approval;

(ii) permit better visibility of those procurement actions to be submitted to Headquarters;

(iii) permit better planning of workload and better use of personnel resources at both Headquarters and installation levels;

(iv) shorten the procurement review and approval cycle at Headquarters; and

(v) increase the delegation of procurement responsibility and authority to each installation.

20.5102 Applicability.

(a) The Master Buy Plan Procedure is applicable to each negotiated procurement, when the expected dollar value of that procurement, or aggregate amount of follow-on procurements under the same program (see 3.852-2(b)), is expected to equal or exceed the dollar value shown below, for the installation making the award, except that this procedure is applicable to:

(i) procurement of utility services when an area-wide contract is not used and either:

(A) the annual cost of the services to be procured is estimated by the using installation, at the time of the initiation of the service or annual renewal of the expenditure, to exceed \$100,000; or

(B) when, except for communication services, a proposed connection charge, termination liability, or any other facilities charge to be paid (whether or not refundable) is estimated to exceed \$25,000;

(ii) procurement of architect-engineer services when:

(A) the total dollar value is \$250,000 or more, or

(B) the work to be performed under a cost-plus-fixed-fee or fixed-price contract, regardless of the dollar amount, which involves the production and delivery of designs, plans, drawings, and specifications; and the fee inclusive of the architect-engineer's cost, to be paid to the architect-engineer for the performance of such services exceeds 6% of the estimated cost of the related construction project, exclusive of the amount of such fee. (See 4.204-1(b)).

(iii) procurements which provide facilities having a total acquisition value exceeding \$500,000, or provide real property regardless of amount (see 13.202-2(d)); and

(iv) leases, and extensions thereto, for the rental of real property by the Government where the annual rental is more than \$50,000 or where a Certificate of Necessity under 40 U.S.C. 278b is required.

Information on above listed procurements is required to be submitted to NASA Headquarters in

accordance with 20.5103 for determination as to which individual procurement actions are to be submitted to NASA Headquarters for review and approval and which ones are to be approved at the installation level. These individual procurement actions may include one or more of the following: procurement plans, requests for proposals, justifications for noncompetitive procurements, source evaluation board appointments and source selections, prenegotiation positions, contracts (including supplemental agreements) and leases (see 20.5006).

Monetary Limitations on Master Buy Plan Procedure

National Space Technology Laboratories
\$2,500,000

Headquarters Contracts and Grants Division
NASA Resident Office-JPL
Wallops Flight Center
Ames Research Center \$5,000,000
Dryden Flight Research Center
Goddard Space Flight Center
Johnson Space Center
Kennedy Space Center
Langley Research Center
Lewis Research Center
Marshall Space Flight Center

(b) The foregoing monetary limitations also apply to the following types of contracts:

(i) a contract which contains an option provision (including those authorized by Part 1, Subpart 15), or an agreement-to-agree provision, when the total dollar value, including the option(s) or agreement(s)-to-agree, equals or exceeds the dollar value set forth in (a) above, for the installation awarding the initial contract.

(ii) a supplemental agreement (except one which provides only for the addition or deletion of funds for incremental funding purposes) which:

(A) definitizes either one or more debit change orders or one or more credit change orders when the total dollar value of either the debit change order(s) or credit change order(s) equals or exceeds the dollar value set forth in (a) above for the installation making the award;

(B) definitizes and consolidates one or more debit and one or more credit change orders when the total dollar value of either the debit change order(s) or credit change order(s) before consolidation equals or exceeds the dollar value set forth in (a) above, for the installation making the award; or

(C) adds new work and definitizes and consolidates one or more debit and one or more credit change orders when the total dollar value of either (i) the new work and debit change order(s), or (ii) the new work and the credit change

order(s) equals or exceeds the dollar value set forth in (a) above, for the installation making the award.

(c) The Master Buy Plan Procedure does not apply to supplemental agreements which extend contract performance pursuant to agreement(s)-to-agree provisions, where the initial contract was approved by the Director of Procurement. However, where the supplemental agreement provides for a substantive change in the contract, e.g., expanded statement of work, substantial increase in contract value, etc., the Master Buy Plan Procedure will apply. Approval of such supplemental agreements may be specifically required by the Director of Procurement.

(d) The Master Buy Plan Procedure is not applicable to termination settlement agreements (see Part 8).

20.5103 Submission, Selection and Notification Procedure.

20.5103-1 Submission of Master Buy Plan.

Prior to July 15th of every year, each installation will submit to the Director of Procurement (Code HS-1) a Master Buy Plan (original and eight copies) for the next fiscal year, listing therein every known procurement that meets the criteria set forth in 20.5102, and that (i) is expected to be initiated in that fiscal year; and (ii) has not been included in a previous Master Buy Plan or amendment to a Master Buy Plan. The plans will be prepared in accordance with the format shown in 20.5106, and, for every procurement listed therein, an identification will be provided as to the individual procurement documents that are involved (20.5104). Procurement documents that require Headquarters approval (see 20.5104) will be held in abeyance until receipt of the notification required by 20.5103-3 (a) or (b). This is not to preclude the planning for or initiation of such actions up to that point where Headquarters approval may be required. The Master Buy Plan shall include a listing of those procurements that were selected for Headquarters review and approval from prior fiscal year(s) Master Buy Plans and amendments to Master Buy Plans that have not been completed. The procurements should be listed by the appropriate fiscal year Master Buy Plan and should show the current status of the individual procurement documents previously selected for Headquarters review and approval.

20.5103-2 Submission of Amendments to the Master Buy Plan.

Procurements identified by installations after submission of their

Master Buy Plan for a fiscal year, which meet one of the criteria in 20.5102, will be submitted to Headquarters in the same manner as the original Master Buy Plan.

20.5103-3 Selection and Notification Procedures.

(a) *Selection of Procurements.* Selection of procurements from the Master Buy Plan and amendments to Master Buy Plans to receive Headquarters review and approval and designation of the Source Selection Officials and the officials to whom the justifications for noncompetitive procurements are to be submitted for approval shall be made by the Director of Procurement with the concurrence of the cognizant officials-in-charge of Headquarters offices.

(b) *Notification When Procurement is Cancelled, Superseded, Deferred, or No Longer Requires Headquarters Approval.* In the event a selected procurement, subsequent to its selection, is cancelled, superseded or deferred, or no longer requires Headquarters approval in accordance with the criteria in paragraph 20.5102, the Director of Procurement will be so advised, together, with the reasons therefor. The Director of Procurement, with the concurrence of the cognizant officials-in-charge of Headquarters offices, will notify the installation in writing of any further action which may be required.

20.5104 Procedures for Procurements Selected for Headquarters Review and Approval.

For those procurements which have been selected for Headquarters review and approval under this procedure, the cognizant installation will ensure that all documents that require Headquarters review and approval are submitted in accordance with established procedures. Such documents may include one or more of the following: procurement plans (3.852-2(a)(iii)); request for proposals (SEB Advisory (75-3)); justifications for noncompetitive procurements (3.802-3(d)(v)); source evaluation board appointments and source selections (NHB 5103.6A); prenegotiation positions; contracts (including supplemental agreements); and leases (20.5006).

20.5105 Procedures for Procurements not Selected for Headquarters Review and Approval.

(a) Procurements which are not selected for Headquarters review and approval shall be processed at the installation level. For such procurements, the following documents, to the extent applicable, shall be

approved by the Head of the Installation; procurement plans, justifications for noncompetitive procurements, and prenegotiation positions (incentive contract plans—3.450(c)). If the procurement is to be competitive and subject to the procedures of the Source Evaluation Board Manual, the Head of the Installation shall be the Source Selection Official. Contracts (including supplemental agreements) and leases that are not selected for Headquarters review and approval under the Master Buy Plan Procedure, shall be approved by the Procurement Officer. The signing

of the contracts (including supplemental agreements) and leases by the Procurement Officer, as the contracting officer, constitutes such approval. The above approval authorities may not be redelegated, except that the Head of the Installation may redelegate the authority to approve procurement plans and prenegotiation positions (incentive contract plans (3.450(c)) to his Deputy or Associate Director (the title "Associate Director" means a full Associate Director and not an Associate Director for . . .), without authority for further redelegation.

(b) For those procurements that are authorized to be processed at the installation level, after-the-fact reviews of contracts (including supplemental agreements) and leases will be conducted by Headquarters personnel during normal procurement surveys or as the situation may otherwise indicate, through special reviews.

20.5106 Format of Master Buy Plan.

In accordance with the requirements of 20.5103-1 and 20.5103-2, Master Buy Plans and amendments to Master Buy Plans will be prepared in the format set forth below:

MASTER BUY PLAN (AMENDMENTS)

INSTALLATION:

DATE:

Cognizant HDO Program Office(1)	Descriptive Title of Procurement(2)	Estimated Dollar Value	Proc Plan	RFP	JNCP(3)	SEB	Pre- Neg	Contract Review	Current Status(4)	Remarks(5)
---------------------------------------	---	---------------------------	--------------	-----	---------	-----	-------------	--------------------	----------------------	------------

FY19... Documents Selected for Headquarters Review and Approval Not Yet Completed(6)

- (1) Include 3 digit Unique Project Number (UPN) as listed in FM 9130.
- (2) Include N or FD to indicate new or follow-on procurement.
- (3) Include name of firm under Remarks.
- (4) Indicate current status and scheduled date for next event.
- (5) Include data considered pertinent by installation and indicate expected date for placement of contract.
- (6) List procurements from prior fiscal year(s) Master Buy Plans and amendments to Master Buy Plans that have not been completed (20.5103.1).

(Form should be prepared on legal size paper. Use separate sheets as necessary.)

Appendix J—Authorization for Negotiation

J.205-50 [Amended]

11. In Appendix J, J.205-50(4)(A), the last sentence is amended to read "This authority is delegated in accordance with 3.303(b) and may not be redelegated." in place of "This authority may not be redelegated."

[FR Doc. 80-27184 Filed 9-4-80; 8:45 am]

BILLING CODE 7510-01-M

41 CFR Ch. 18, Parts 1, 2, 3, 4, 7, 10, 13, 21, 24, 26, Appendix B, Appendix C, Appendix J, and Appendix O.

[Procurement Regulation Directive 80-4 (dated March 31, 1980)]

Procurement Regulations;
Miscellaneous Amendments

AGENCY: National Aeronautics and

Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments contained in Procurement Regulation Directive 80-4 concerning the following areas:

1. Recovered Material.
2. Personal or Professional Services.
3. Advance Payment D&F's.
4. Scientific and Technical Information Service Clause.
5. Required Clause for Facilities Contracts.
6. Minimum Limits for Liability Insurance.
7. Government Property.
8. Quarterly Contract Closeout Status.

9. Potential for Small or Disadvantaged Business Participation in Individual Procurements.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Policy Division (Code HP-1, Office of Procurement, NASA Headquarters, Washington, D.C. 20546, Telephone: 202-755-2237.

SUPPLEMENTARY INFORMATION: 1. A new Part 1.25, "Recovered Material" is added to implement OFPP Policy Letter No. 77-1 and to closer align the NASA Procurement Regulation with the Defense Acquisition Regulation. Associated solicitation provisions are inserted into Parts 2.201-1 and 3.501(b).

2. Part 3.204-2(b) is revised to update the coverage applicable to NASA's

authority to contract for personal or professional services.

3. (a) Part 3.303 is revised to provide guidance for preparing D&F's when a contract modification requires an increase in the amount of advance payments.

(b)(i) Appendix J.5000 is revised to authorize the contracting officer to sign advance payment D&F's, when appropriate.

(ii) Instruction No. 1 under Appendix J.5001, is revised to state that such instruction is applicable to requests for advance payment provisions for the basic contract.

4. The clause in Part 7.302-55 is revised to update the title and code of the NASA office to which the contractor must furnish the required information.

5. Parts 7.702-61 and 7-703.52 are added to require the insertion of the "License for Subsequent Use" clause into consolidated facilities contracts and facilities acquisition contracts.

6. Minimum limits for various types of liability insurance in Part 10.5 have been revised to be consistent with the Defense Acquisition Regulation.

7. Several changes are made regarding Government Property as follows:

(a) The definition of centrally reportable equipment and the Equipment Visibility System screening requirement are clarified. The requirement for inventories to be wall-to-wall is deleted. (See the clause in Part 1.5406; and Parts 13.114, 24.101-35, B.102-22, B.501, C.102-24 and B.501.)

(b) The clause in Part 13.311 is revised to change the reference to "property and supply" to read "Supply and Equipment Management Officer."

8. Part 21.202 is revised to require the furnishing of information that will better reflect aging of contracts and separately identify certain specific contracts awaiting actions by another agency before they can be closed out.

9. Appendix J.101-50 is revised to require the inclusion of information in Block 13 of the JAN regarding the potential for participation by small and/or disadvantaged business in certain NASA procurements.

(42 U.S.C. 2473(c)(1))

L. E. Hopkins,

Acting Director of Procurement.

Table of Parts and Subparts

1. In the "Table of Parts and Subparts" to the Code of Federal Regulations for 18 CFR, Volume I (Parts 1-5), "Appendix O" is amended to read "Appendix O—(See PRD 77-16)" and "Supplement 50—Federal Procurement Data System Codes" is added to read as follows:

SUPPLEMENT 50—FEDERAL PROCUREMENT DATA SYSTEM CODES

Subpart 1—Procurement Placement Code Matrix

Subpart 2—Codes for Services and Supplies and Equipment

PART 1—GENERAL PROVISIONS

2. In Part 1, Table of Contents, "Subpart 24" is added and marked "Reserved" and Parts 1.2500 through 1.2500-5 are added to read as follows:

Subpart 24 [Reserved]

Subpart 25—Recovered Material

1.2500 Recovered Material.....	1-25:1
1.2500-1 Scope.....	1-25:1
1.2500-2 Policy.....	1-25:1
1.2500-3 General.....	1-25:1
1.2500-4 Definition.....	1-25:1
1.2500-5 Procedure.....	1-25:1

3. In Part 1, 1.2500 through 1.2500-5 are added to read as follows:

1.2500 Recovered Material.

1.2500-1 Scope. This Subpart prescribes policies and procedures regarding the use of recovered materials.

1.2500-2 Policy. The policy of the Government is to obtain items composed of the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

1.2500-3 General. Basic policy is provided in the Solid Waste Disposal Act (Public Law 89-272, October 20, 1965; 42 U.S.C. 3251 et seq.) as amended by the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, October 21, 1976; 42 U.S.C. 6901 et seq.), and the Office of Federal Procurement Policy Letter Number 77-1. The legislation requires Executive Agencies responsible for drafting or reviewing specifications to assure that Government specifications and standards (i) do not exclude the use of recovered materials, (ii) do not require the item to be manufactured from virgin materials, and (iii) require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the item. It also requires the Administrator, Environmental Protection Agency (EPA), to prepare guidelines setting forth information on the availability, sources, and potential uses of recovered materials and associated items, including solid waste management services and recovered materials to be used as fuel.

1.2500-4 Definition. "Recovered material" means material which has been collected or recovered from solid waste.

1.2500-5 Procedures.

(a) These procedures are applicable to all acquisitions using Government specifications which require incorporation of specified minimum percentages of recovered materials.

(b) Solicitations which incorporate Government specifications requiring utilization of recovered materials shall include the certification in 2.201-1 Sec. B(15) or 3.501, Part I, Sec. B(18).

(c) Requirements in Government specifications for use of recovered materials may be waived by the contracting officer only after a determination that the items:

- (1) are not available within a reasonable period of time,
- (2) fail to meet performance standards set forth in specifications, or
- (3) are available only at unreasonable prices.

1.5406 [Amended]

4. In Part 1, 1.5406, the "Acquisition of Existing Government Equipment" clause date is changed to read "(March 1980)" and by inserting a parenthetical phrase the first sentence of the clause is amended to read as follows:

Prior to the acquisition of any item of centrally reportable equipment under this contract (unless for incorporation into deliverable end items), the Contractor shall provide the Contracting Officer, at the earliest possible date, a detailed listing of his requirements for screening of existing Government inventories.

PART 2—PROCUREMENT BY FORMAL ADVERTISING

5. In Part 2, 2.201-1, Part 1, Section B, paragraph (15) is added to read as follows:

(15) The following certification shall be inserted in solicitations as required by 1.2500-5(b):

RECOVERED MATERIAL (MARCH 1980)

The Contractor certifies by signing this bid/proposal/quotation that recovered materials, as defined in 1.2500-4, will be used as required by the applicable specifications.

PART 3—PROCUREMENT BY NEGOTIATION

6. In Part 3, 3.204-2(b) is amended to read as follows:

3.204-2 Application

(a) * * *

(b) Under Section 203(c)(9) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(9)), NASA is authorized:

"to obtain services as authorized by Section 3109 of Title 5, United States Code, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18."

5 U.S.C. 3109, in turn, provides authority to procure by contract: "the temporary (not in excess of one year) or intermittent services of experts or consultants or an organization thereof, including stenographic reporting services."

3.204-3 [Amended]

7. In Part 3, 3.204-3 is amended by changing the reference "Supp. 57." at the end of the paragraph to read "Supp. 118."

3.302 [Amended]

8. In Part 3, 3.302(i), the reference "3.303(a)(iii)" is amended to read "3.303(a)(iv)."

9. In Part 3, 3.303(a) is revised to read as follows:

3.303 Determinations and Findings Below the Administrator Level

(a) Determinations and Findings in support thereof, not required to be made by higher authority including those in (i) through (vi) below may be made with respect to purchases and contracts by the Director of Procurement. The contracting officer may make the determinations and findings in (iii) through (vii) with respect to individual purchases and contracts:

(i) the determination required with respect to waiving the requirements for submission by contractors and subcontractors of cost or pricing data and the certification thereof;

(ii) for the basic contract, the determination required with respect to advance payments as required by 10 U.S.C. 2307(c) and 2310(b);

(iii) for modifications to a contract which require an increase in the amount of advance payments, the determination required by 10 U.S.C. 2307(c) and 2301(b); provided that: (1) the work called for in the modification is within the scope of work set forth in the determination authorizing the advance payment under the basic contract, and (2) such action has been coordinated with the Installation Financial Management Officer;

(iv) determinations and findings with respect to authority to enter into contracts by negotiation required by 3.202-3, 3.207-3, 2.210-3 and 3.211-3; provided that under 3.211-3 the basic contract or any single modification thereto does not obligate the Government to pay more than \$100,000 (in a procurement under 3.211, where it is known in advance that the scope of

the contract will be expanded to include additional phases or where it is incrementally funded, the total estimated cost of all increments will be used as the basis for determining whether a determination and findings will be made at the Administrator level or by the contracting officer);

(v) determinations and findings with respect to the use of a cost, cost-plus-award-fee, a cost-plus-a-fixed-fee, or an incentive-type contract required by 3.404-4, 3.405, 3.405-4, 3.405-5, and 3.405-6;

(vi) the determination required by 10 U.S.C. 2306(g) to enter into contracts that do not exceed three (3) years for certain types of services outside of the 48 contiguous states; and

(vii) any other determinations and findings not required to be made by higher authority.

* * * * *

3.404-3 [Amended]

10. In Part 3, 3.404-3, paragraph (c)(3)b. is amended by changing "Code HR" at the end of the paragraph to read "Code HS-1."

11. In Part 3, 3.501(b), Part I, Section B, is amended by adding paragraph (18) to read as follows:

3.501 Preparation of Requests for Proposals or Requests for Quotations

(b) * * *
Part I * * *
Section B * * *

(18) the following certification shall be inserted in solicitations as required by 1.2500-5(b):

RECOVERED MATERIAL (MARCH 1980)

The Contractor certifies by signing this bid/proposal/quotation that recovered materials, as defined in 1.2500-4, will be used as required by the applicable specifications.

PART 4—SPECIAL TYPES AND METHODS OF PROCUREMENT

4.5200 [Amended]

12. In Part 4, 4.5200, at the end of the paragraph the reference "Supp. 32." is amended to read "Supp. 118."

PART 7—CONTRACT CLAUSES

13. In Part 7, Table of Contents, paragraph 7.104-56 through 7.104-60 were inadvertently deleted and are reinserted to read as follows:

* * * * *

7.104-56	Order of Precedence.....	7-1:20F
7.104-57	Liability for Government Property Furnished for Repair or Other Services.....	7-1:20F
7.104-58	Safety and Health.....	7-1:20F

7.104-59	Non-Use of Foreign-Flag Vessels Engaged in Cuban or North Vietnam Trade.....	7-1:20G
7.104-60	Report on NASA Subcontracts.....	7-1:20G

14. In Part 7, Table of Contents, 7.702-61 and 7.703-52 are added to read as follows:

* * * * *		
7.702-61	License for Subsequent Use.....	7-7:21
* * * * *		
7.703-52	License for Subsequent Use.....	7-7:25
* * * * *		

7.302-55 [Amended]

15. In Part 7, 7.302-55, the date of the clause is amended to read "(March 1980)" and in paragraph (a) of the clause the code for Scientific and Technical Information Branch is amended to read:

7.702-59 and 7.703-50 [Amended]

16. In Part 7, 7.702-59 and 7.703-50 are amended by deleting the reference "16.902" and inserting "21.500" therein.

17. In Part 7, 7.702-61 is added to read as follows:

7.702-61 License for Subsequent Use. In accordance with the requirements of 9.114, insert the clause set forth therein.

18. In Part 7, 7.703-46 is amended to read as follows:

7.703-46 General Services Administration Supply Sources. The clause set forth in 5.909 will be included in contracts in accordance with the instructions set forth therein.

19. In Part 7, 7.703-52 is added to read as follows:

7.703-52 License for Subsequent Use. In accordance with the requirements of 9.114, insert the clause set forth therein.

PART 10—BONDS AND INSURANCE

10.501-2 [Amended]

20. In Part 10, 10.501-2(a) is amended by deleting the last sentence and inserting the following language: "Comprehensive general (bodily injury) liability insurance shall be required with minimum limits of \$300,000 per occurrence."

21. In Part 10, 10.501-2(c), the first sentence is amended to read as follows:

10.501-2 Automobile Liability Insurance

(b) * * *
(c) Automobile bodily injury liability and property damage liability insurance shall be required with minimum limits of \$100,000 per person and \$300,000 per occurrence for bodily injury liability and \$10,000 per occurrence for property damage liability on the comprehensive policy form covering all owned, non-

owned, hired, and Government-furnished motor vehicles which will be used in the contract operations where use will not be limited exclusively to the premises on which the work under such contract is performed.

PART 13—GOVERNMENT PROPERTY

22. In Part 13, 13.114 is revised as follows:

13.114 *Centrally reportable equipment* means that plant equipment, special test equipment (including components), special tooling and non-flight space property (including ground support equipment) which is (i) generally commercially available and used as a separate item or component of a system, and (ii) is valued at \$1,000 or more, and (iii) is identifiable by a manufacturer and model number.

23. In Part 13, the date of the "Installation Provided Government Property" clause in 13.311 is amended to read "(March 1980)" and paragraph (b) of clause is amended to read as follows:

13.311 *Providing Government Property to On-site Contractors and Local Support Service Contractors.* * * *

(a) * * *

(b) The official accountable record keeping and financial control and reporting of the property subject to this clause shall be retained by the Government and accomplished by the installation Supply and Equipment Management and Financial Management Officers. However, the Government will provide the Contractor a record of all items of property including copies of all transaction documents used to describe changes to this record. The Contractor shall maintain this record and transaction documentation in such a condition that at any stage of completion of work under this contract, the status of the property including location, utilization, consumption rate and identification may be readily ascertained. The Contractor shall also adhere to all other procedures (and sanctions related thereto) prescribed by the installation director which have been established for the management of installation property. The records and documentation shall be made available, upon request, to the installation Supply and Equipment Management Officer and other formally designated representative(s) of the Contracting Officer.

* * * * *

PART 21—PROCUREMENT MANAGEMENT REPORTING SYSTEM

24. In Part 21, Table of Contents, 21.200 through 21.202 are added to read as follows:

* * * * *

Subpart 2—Quarterly Contract Administration Summary

21.200	Scope of Subpart.....	21-2:1
21.201	Definitions.....	21-2:1
21.202	Content of the Summary.....	21-2:1

* * * * *

25. In Part 21, 21.202, the introductory text and paragraph (a) are revised to read as follows:

21.202 *Content of the Summary.* The information required in the summary is as follows:

(a) *Contracts in Closeout* (see 21.201(a))

(1) The number of fixed-price type contracts which are in the closeout process.

(2) Of the number in (1) above, the number of fixed-price type contracts which have been in the closeout process for more than 6 months.

(3) Of the number in (2) above which exceed \$500,000 in face value, the number which have been in the closeout process from:

(i) 7-12 months

(ii) 13-18 months

(iii) more than 18

(4) The number of contracts other than fixed-price type which are in the closeout process.

(5) Of the number in (4) above, the number of contracts other than fixed-price type which have been in the closeout process for more than 20 months.

(6) Of the number in (5) above, which exceed \$500,000 in face value, the number which have been in the closeout process from:

(i) 21-26 months

(ii) 27-32 months

(iii) more than 32 months

(7) Of the number in (5) above, provide the total number of contracts for which final closeout is solely dependent on audit actions by another agency.

* * * * *

PART 24—DISPOSITION OF PERSONAL PROPERTY

26. In Part 24, 24.101-35 is revised to read as follows:

24.101-35 *Centrally Reportable Equipment* means that plant equipment, special test equipment (including components), special tooling, and non-flight space property (including ground support equipment) which is (i) generally commercially available and used as a separate item or component of

a system, and (ii) is valued at \$1,000 or more, and (iii) is identifiable by a manufacturer and model number.

PART 26—CONTRACT MODIFICATIONS

26.206-7 [Amended]

27. In Part 26, 26.206-7 the reference "3.807-2(c)" is amended to read "3.807-2(b)."

Appendix B—Control of Government Property

28. In Appendix B, B.102-22 is revised to read as follows:

B.102-22 *Centrally reportable equipment* means that plant equipment, special test equipment (including components), special tooling, and non-flight space property (including ground support equipment) which is (i) generally commercially available and used as a separate item or component of a system, and (ii) is valued at \$1,000 or more, and (iii) is identifiable by a manufacturer and model number.

29. In Appendix B, B.501, the fourth, fifth and sixth sentences of the first paragraph are deleted and the paragraph reads as follows:

B.501 *Periodic Inventories.* The contractor shall periodically, physically inventory all Government property (except work in process) in his possession or control and shall cause his subcontractors to do likewise. The physical inventory procedures shall be established by the contractor and approved by the property administrator. Inventory, as used here, consists of sighting, tagging or marking, describing, recording and reporting the property concerned and reconciling the property recorded and reported with the property records. The contractor's procedures shall provide that personnel who perform the physical inventory are not the same individuals who maintain the property records or have custody of the property unless the size of the contractor's operation is so small as to make it impracticable to do so.

* * * * *

Appendix C—Property in Possession of R&D Contractors

30. In Appendix C, C.102-24 is revised to read as follows:

C.102-24 *Centrally Reportable Equipment* means that plant equipment, special test equipment (including components), special tooling, and non-flight space property (including ground support equipment) which is (i) generally commercially available and used as a separate item or component of a system, and (ii) is valued at \$1,000 or

more, and (iii) is identifiable by a manufacturer and model number.

31. In Appendix C, C.501, the fourth, fifth and sixth sentences of the first paragraph are deleted and the paragraph reads as follows:

C.501 Periodic Inventories. The contractor shall periodically, physically inventory all Government property (except work in process) in his possession or control and shall cause his subcontractors to do likewise. The physical inventory procedures shall be established by the contractor and approved by the property administrator. Inventory, as used here, consists of sighting, tagging or marking, describing, recording and reporting the property concerned and reconciling the property recorded and reported with the property records. The contractor's procedures shall provide that personnel who perform the physical inventory are not the same individuals who maintain the property records or have custody of the property unless the size of the contractor's operation is so small as to make it impracticable to do so.

Appendix J—Authorization for Negotiation

32. In Appendix J, J.101-50 (iii) is revised to read as follows:

- (i) * * *
- (ii) * * *
- (iii) the following information is to be included in block 13 or in an attachment to the JAN:

(A) if a class determination and findings is proposed, state that a procurement plan and justification for noncompetitive procurement will be prepared prior to the issuance of the requests for proposals, as required.

(B) if a class determination and findings is proposed, include a statement with regard to the potential for a small business set-aside or a Section 8(a) contract on each procurement. If individual procurements are not susceptible to such preferential procedures the reasons therefor should be stated.

(C) if an individual determination and findings is proposed, state why a small business set-aside or Section 8(a) contract is inappropriate. Also, state how many of the firms being solicited are small and/or disadvantaged business firms.

The requirements of (B) and (C) above are not applicable to a noncompetitive procurement. However, if the firm is a small and/or disadvantaged business, so state. Additional information in support of Exception (11) through Exception (16), as required by J.200(a)

through (f) may be included in the JAN or attached thereto (see also 3.306-50).

J.5001 [Amended]

33. In Appendix J, J.5001, in the instructions following the Determination and Finding format, Instruction 1 is amended to insert the phrase ". . . for the basic contract . . ." following the sixth word "provisions."

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41 CFR Ch. 18, Parts 3 and 16

[Procurement Regulation Directive 80-2]

Structured Approach for Determining Profit/Fee Objectives and Administrative Limitations on Fees Applicable to Cost-Type Contracts and Subcontracts

February 28, 1980.

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments contained in Procurement Regulation Directive 80-2 concerning the Structured Approach for Determining Profit/Fee Objectives and the Administrative Limitations on Fees Applicable to Cost-Type Contracts and Subcontracts.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Policy Division (Code HP-1), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: 202-755-2237.

SUPPLEMENTARY INFORMATION:

1. Part 3.808 is revised to provide a structured approach for use in determining the Government's profit/fee objectives prior to commencing negotiations with a contractor. The structured approach does not alter the principal procurement objectives to obtain a quality product, delivered on schedule at a reasonable price, or the NASA basic profit policy which recognizes the need to attract the best possible industrial capabilities to space and aeronautical oriented activities by providing industry with profit motivations necessary to stimulate efficient contract performance.

2. Generally, the structured approach is prescribed for use where cost analysis is performed. The structured approach provides a rational, uniform, and equitable method for evaluating the factors which must be considered in determining a profit/fee objective. While the structured approach continues

to make use of the factors used heretofore in determining the profit/fee objective, primary emphasis has been placed on evaluating contractor effort, risk assumed, investment required, complexity of the work to be performed, and other factors appropriate to the circumstances. Quantification of these factors in the form of a dollar profit/fee objective should be the derivative of a thorough evaluation of the procurement action.

3. Use of the structured approach to determine the Government's profit/fee objective in accordance with NASA Procurement Regulation, Part 3.808, is required for all applicable contracts negotiated on or after April 15, 1980.

4. Parts 3.405-6(c) and 3.807-9(e) are revised to delete the administrative limitations on fees previously applicable to various types of cost-type contracts and subcontracts. The fee limitations prescribed by 10 U.S.C. 2306(d) are now applicable (see NASA Procurement Regulation Part 3.405-5(d)(3)).

5. Part 3.450 is revised to:
(i) Delete the administrative requirements previously associated with the approval and use of incentive contracts;

(ii) Delete administrative limitations on fees; and

(iii) Create consistency, with respect to fee limitations, between CFFF, CPAF and CPIF contracts.

[42 U.S.C. 2473(c)(1)]

L. E. Hopkins,
Acting Director of Procurement.

PART 3—PROCUREMENT BY NEGOTIATION

1. Part 3, Table of Contents, the page numbers for paragraphs 3.405-5, 3.405-6, 3.450 and 3.809 are amended to read as follows:

* * * * *	
3.405-5 Cost-Plus-Award-Fee Contract.....	3-4:12
3.405-6 Cost-Plus-A-Fixed-Fee Contract.....	3-4:14
* * * * *	
3.450 Incentive Contracts.....	3-4:28
* * * * *	
3.809 Contract Audit as a Pricing Aid.....	3-8:38]
* * * * *	

2. In Part 3, 3.405-4 is amended by adding a new paragraph (c) to read as follows:

3.405-4 [Amended]

(c) *Limitations.* The maximum fee shall not exceed the limitations stated in 3.405-6(c)(2).

* * * * *

3.405-5 [Amended]

3. In Part 3, 3.405-5(d), the reference at the end of paragraph (3) "3.450(f)" is amended to read "3.405-6(c)(2)."

4. In Part 3, 3.405-6(c) is amended to read as follows:

3.405-6 Cost-Plus-A-Fixed-Fee Contract.

* * * * *

(c) Limitations.

(1) This type of contract normally should not be used in the development of space systems and equipment, once preliminary exploration and studies have indicated a high degree of probability that the development is feasible and the Government generally has determined its desired performance objectives and schedule of completion (see 3.405-4).

(2) 10 U.S.C. 2306(d) provides that in the case of a cost-plus-a-fixed-fee contract the fee shall not exceed ten percent (10%) of the estimated cost of the contract, exclusive of the fee, as determined by the Administrator at the time of entering into such contract except that a fee not in excess of fifteen percent (15%) of such estimated cost is authorized in any such contract for experimental, development, or research work. 10 U.S.C. 2306(d) also provides that a fee inclusive of the contractor's cost and not in excess of six percent (6%) of the estimated cost, exclusive of fees, as determined by the Administrator at the time of entering into the contract, of the project to which such fee is applicable, is authorized in contracts for architectural or engineering services relating to any public works or utility projects. As to fee limitations on subcontracts, see 3.807-9(e).

(3) Pursuant to 10 U.S.C. 2311, authority to make the determinations of the estimated costs of a contract or project on which the allowable fee percentage is measured has been delegated to the contracting officer (see 3.303(a)(vi)).

(4) Other limitations on fees under architect-engineering contracts are set forth in 4.204-1(b).

(d) * * *

5. In Part 3, 3.450 is revised to read as follows:

3.450 Incentive Contracts

(a) *Policy.* It is NASA policy to make judicious and effective use of incentive contracts of both the cost and the performance type. Particular care and judgment are required in choosing procurements appropriate for incentive contracts, and in framing and

negotiating the specific incentive terms to:

(i) effectively seek out procurements that lend themselves to the use of contract incentive provisions;

(ii) avoid the use of incentive provisions in situations where they are unsuited and where their use could have adverse results; and

(iii) ensure, in connection with contracts in which incentive provisions are to be included, that the skills necessary to draft and negotiate the appropriate incentive provisions are available to NASA procurement offices.

(b) Contract Clauses.

(1) Fixed-price incentive contracts with cost incentives will include either the "Incentive Price Revision (Firm Target)" clause in paragraph 7.108-1, or the "Incentive Price Revision (Successive Targets)" clause in paragraph 7.108-2, as appropriate.

(2) Cost-plus-incentive-fee contracts with cost incentives will include the "Allowable Cost, Incentive Fee, and Payment" clause in paragraph 7.203-4(b). In addition, the "Alteration in Contract" clause in paragraph 7.105-1 will be included, followed by the clause set forth below which may be modified by the contracting officer if necessary to meet the requirements of a particular procurement:

MEANING OF TERMS (DECEMBER 1964)

For the purpose of this cost-plus-incentive-fee contract, certain terms in this contract have the following meanings:

(a) "Estimated Cost" means "target cost" except in the following instances:

(1) Where the term first appears in the second sentence of the clause of this contract entitled "Changes."

(2) Wherever it appears in the clause of this contract entitled "Limitation of Cost."

(3) Wherever it appears in the clause of this contract entitled "Estimated Cost and Fixed-Fee."

(4) If this contract is incrementally funded, wherever the term appears in the clause "Limitation of Government's Obligation."

(5) If the "Government Property" clause is used, wherever the term appears.

(b) "Fixed-Fee" means "Fee."

(c) "Allowable Cost, Fixed-Fee, and Payment" means "Allowable Cost, Incentive-Fee, and Payment."

(End of clause)

Where a contract is not solely of the cost-plus-incentive-fee type (e.g., one which also provides for a fixed-fee), the

first sentence of the clause shall be changed to read as follows:

"For the purpose of the cost-plus-incentive-fee portions of this contract, certain terms in this contract have the following meanings":

(3) Cost-plus-award-fee contracts will include the "Allowable Cost, Fixed-Fee and Payment" clause in paragraph 7.203-4(a), modified in accordance with paragraph 7.203-4(c)(6). In addition, the "Alteration in Contract" clause in paragraph 7.105-1 will be included, followed by the sentence set forth below which may be modified by the contracting officer if necessary to meet the requirements of a particular procurement:

"For the purpose of this cost-plus-award-fee contract, the term 'Fixed-Fee' in this contract means 'Fee'."

Where a contract is not solely of the cost-plus-award-fee type (e.g., one which also provides for a fixed-fee), the sentence shall be changed to read as follows:

"For the purpose of the cost-plus-award-fee portions of this contract, the term 'Fixed-Fee' in this contract means 'Fee'."

(c) *Limitations.* The negotiation of a cost-type-incentive contract (CPIF—Cost-Plus-Incentive-Fee, CPAF—Cost-Plus-Award-Fee) will establish the target cost, target fee (basic fee for CPAF contracts), minimum and maximum fee, and the method for computing increases or decreases from target or basic fee, and may provide for a negative fee, if appropriate to the reward and penalty concepts of the incentive arrangements in the contract. The maximum fee shall not exceed the limitations stated in 3.405-6(c)(2).

6. In Part 3, 3.807-9(e) is revised to read as follows:

3.807-9 Subcontract Pricing Considerations.

* * * * *

(e) *Subcontract Fee Considerations.* In considering cost-plus-a-fixed-fee subcontracts, while negotiating prime contracts where cost analysis is performed, the contracting officer will make every effort to ensure, but in consenting to cost-plus-a-fixed-fee subcontracts, the contracting officer shall ensure, that fees under such subcontracts, never exceed the Statutory limitations set forth in 10 U.S.C. 2306(d).

7. In Part 3, paragraphs 3.808 through 3.808-5 are revised, 3.808-6 and 3.808-7 are added to read as follows:

3.808 Structured Approach for Determining Profit/Fee Objectives

3.808-1 Policy.

(a) *General.* Profit generally is the basic motive of business enterprise and it is the policy of NASA to utilize profit to stimulate efficient contract performance. The Government and its contractors should be concerned with harnessing this motive to work for more effective and economical contract performance. Negotiation of very low profits, the use of historical averages, or the automatic application of a predetermined percentage to the total estimated cost of a product, does not provide the motivation to accomplish such performance. Negotiations aimed merely at reducing profits, with no realization of the function of profit are not in the Government's best interest. For each contract in which profit is negotiated as a separate element of the contract price, the aim of negotiation should be to employ the profit motive so as to impel effective contract performance by which overall costs are economically controlled. To this end, the profit objective must be fitted to the circumstances of the particular procurement, giving due weight to contractor effort, risk assumed, investment required, complexity of the work to be performed, and other factors appropriate to the circumstances. However, nothing in this Regulation requires or suggests the use of a profit objective which is higher than that proposed by the contractor.

(b) *Contracts Priced on the Basis of Cost Analysis.* When cost analysis is performed pursuant to 3.807-2, profit consideration shall be in accordance with the objectives set forth below.

The Government should establish a profit objective for contract negotiations which will:

- (i) motivate contractors to undertake more difficult work requiring higher skills and reward those who do so;
- (ii) allow the contractor an opportunity to earn profits commensurate with the extent of the cost risk it is willing to assume; and
- (iii) encourage contractors to provide their own facilities and financing and establish their competence through development work undertaken at their own risk and reward those who do so.

The structured approach set forth in 3.808-2 below for establishing profit objectives is designed to provide guidance in applying these principles. This approach, properly applied, will tailor profits to the circumstances of each contract and provide a spread of profits which is commensurate with varying circumstances. The structured

approach shall be used in all contracts where cost analysis is performed except as set forth in 3.808-2(b) below.

(c) *Contracts Priced Without Cost Analysis.* On many contracts and subcontracts, good pricing does not require an examination into costs and profits. Where adequate price competition exists and in other situations where cost analysis is not required (see 3.807), fixed-price type contracts will be awarded to the lowest responsible offerors without regard to the amount of their profits. Under these circumstances, the profit which is anticipated, or in fact earned, should not be of concern to the Government. In such cases, if a low offeror earns a large profit, it should be considered the normal reward of efficiency in a competitive system and efforts should not be made to reduce such profits.

(d) *The Cost of Money for Facilities Capital.* When profit analysis is required, the cost of money for facilities capital (see 3.1300) shall not be included when measuring the contractor's effort. Contract effort for this purpose shall be restricted to normal, booked costs. Further, a reduction in the profit objective shall be made in an amount equal to the amount of facilities capital cost of money allowed in accordance with 15.205-50. This policy shall apply to any tier subcontract or modifications thereto.

3.808-2 Structured Approach.

(a) General.

(1) The structured approach provides contracting officers with a technique that will insure consideration of the relative value of the appropriate profit factors described in 3.808-4 in the establishment of a profit objective for the conduct of negotiations. The contracting officer's analysis of these profit factors is based on information available to him prior to negotiations. Such information is furnished in proposals, audit data, performance reports, pre-award surveys and the like. The structured approach also provides a basis for documentation of this objective, including an explanation of any significant departure from this objective in reaching a final agreement. The extent of documentation should be directly related to the dollar value importance, and complexity of the proposed procurement.

(2) The contractor's proposal will include cost information for evaluation and a total proposed profit. Contractors shall not be required to submit the details of their profit objectives but they shall not be prohibited from doing so if they desire. Elaborate and voluminous

presentations are neither required nor desired.

(3) The negotiation process does not contemplate or require agreement on either estimated cost elements or profit elements. The profit objective is a part of an overall negotiation objective which, as a going-in objective, bears a distinct relationship to the target cost objective and any proposed sharing arrangement. Since the profit is merely one of several interrelated variables, the Government negotiator shall not complete the profit negotiation without prior agreement on the other variables. Specific agreement on the exact weights or values of the individual factors is not required and should not be attempted.

(b) Exceptions.

(1) Under the following listed circumstances, other methods for establishing profit objectives may be used. Generally, it is expected that such methods will be supported in a manner similar to that used in the structured approach (profit factor breakdown and documentation of profit objective); however, factors within the structured approach considered inapplicable to the procurement will be excluded from the profit objective.

- (i) all procurements where cost analysis is not required;
- (ii) architect-engineer contracts;
- (iii) management contracts for operation and/or maintenance of Government facilities;
- (iv) construction contracts;
- (v) contracts primarily requiring delivery of material supplied by subcontractors;
- (vi) termination settlements; and
- (vii) cost-plus-award-fee contracts (however, contracting officers may find it advantageous to perform a structured profit analysis as an aid in arriving at an appropriate fee arrangement).

(2) Other exceptions may be made in the negotiation of contracts having unusual pricing situations. Such exceptions shall be justified in writing and authorized by the Procurement Officer in situations where the structured approach is determined to be unsuitable.

(c) *Limitation.* In the event this or any other method would result in establishing a fee objective in violation of limitations established by Statute or this Regulation, the maximum fee objective shall be the percentage allowed pursuant to such limitations (see 3.405-6(c)(2)).

3.808-3 Profit Objective.

(a) A profit objective is that part of the estimated contract price objective or value which, in the judgment of the contracting officer, is appropriate for the

procurement being considered. This objective should realistically reflect the total overall task to be performed and the requirements placed on the contractor. Prior to the negotiation of a contract, change order, or contract modification, where cost analysis is undertaken, the negotiator shall develop a profit objective. The structured approach, if applicable, shall be used for developing this profit objective. If a change or modification is of a relatively small dollar amount and is basically the same type of work as required in the basic contract, the application of the structured approach will generally result in a profit objective similar to the profit objective in the basic contract, and therefore this basic rate may be applied to the contract change or modification. However, in cases where the change or modification calls for substantially different work, or if the dollar amount of the change or contract modification is significant, a detailed analysis should be made.

(b) Development of a profit objective should not begin until after (i) a thorough review of proposed contract work; (ii) review of all available knowledge regarding the contractor, pursuant to Part 1, Subpart 9, including capability reports, audit data, pre-award survey reports and financial statements, as appropriate; and (iii) analysis of the contractor's cost estimate and comparison with the Government's estimate or projection of cost.

3.808-4 Profit Factors.

(a) The following factors shall be considered in all cases in which profit is to be specifically negotiated. The weight ranges listed after each factor shall be used in all instances where the structured approach is used.

Profit factors	Weight ranges (percent)
1. Contractor effort:	
Material acquisition.....	1-4
Direct labor.....	4-12
Overhead.....	3-8
Other costs.....	1-3
General management.....	4-8
2. Other factors:	
Cost risk.....	0-7
Investment.....	-2-+2
Performance.....	-1-+1
Socioeconomic programs.....	-5-+5
Special situations.....	

(b) Under the structured approach the contracting officer shall first measure the "Contractor Effort" by the assignment of a profit percentage within the designated weight ranges to each element of contract cost recognized by

the contracting officer. Not to be included for the computation of profit as part of the cost base is the amount calculated for the cost of money for facilities capital. A complete discussion of how this cost is determined and how it will be applied and administered is set forth in 3.1300.

(c) The suggested categories under the Contractor Effort are for reference purposes only. Often individual proposals will be in a different format; but since these categories are broad and basic, they provide sufficient guidance to evaluate all other items of cost.

(d) After computing a total dollar profit for the Contractor Effort, the contracting officer shall then calculate the specific profit dollars assigned for cost risk, investment, performance, socio-economic programs, and special situations. This is accomplished by multiplying the total Government Cost Objective, exclusive of any cost of money for facilities capital, by the specific weight assigned to the elements within the Other Factors category. Structured Approach Profit/Fee Objective (NASA Form 634, or Equivalent) should be used, as appropriate, to facilitate the calculation of this profit objective (see 16.203).

(e) In making a judgment of the value of each factor, the contracting officer should be governed by the definition, description, and purpose of the factors together with considerations for evaluating them as set forth in 3.808-5 and 3.808-6.

(f) The structured approach was designed for arriving at profit or fee objectives for other than nonprofit organizations. However, if appropriate adjustments are made to reflect differences between profit and nonprofit organizations, the structured approach can be used as a basis for arriving at fee objectives for nonprofit organizations. Therefore, the structured approach, as modified in (2) below, shall be used to establish fee objectives for non-profit organizations. The modifications should not be applied as deductions against historical fee levels, but rather, to the fee objective for such a contract as calculated under the structured approach.

(1) For purposes of this subparagraph, nonprofit organizations are defined as those business entities organized and operated exclusively for charitable, scientific, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual, and which are exempt from Federal income taxation under Section 501 of the Internal Revenue Code.

(2) For contracts with nonprofit organizations where fees are involved,

an adjustment of up to 3% will be subtracted from the total profit/fee objective. In developing this adjustment, it will be necessary to consider the following factors:

(i) tax position benefits;

(ii) granting of financing through letters of credit;

(iii) facility requirements of the nonprofit organization; and

(iv) other pertinent factors which may work to either the advantage or disadvantage of the contractor in its position as a nonprofit organization.

3.808-5 Contractor Effort.

(a) *General.* This factor is a measure of how much the contractor is expected to contribute to the overall effort necessary to meet the contract performance requirements in an efficient manner. This factor, which is apart from the contractor's responsibility for contract performance, takes into account what resources are necessary and what the contractor must do to accomplish a conversion of ideas and materials into the final product called for in the contract. This is a recognition that within a given performance output, or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value and quantity, and that the profit objective should reflect the extent and nature of the contractor's contribution to total performance. A major consideration, particularly in connection with experimental, developmental, or research work, is the difficulty or complexity of the work to be performed, and the unusual demands of the contract, such as whether the project involves a new approach unrelated to existing equipment or only refinements on existing equipment. The evaluation of this factor requires an analysis of the cost content of the proposed contract as follows.

(b) *Material Acquisition (Subcontracted Items, Purchased Parts, and Other Material).* Analysis of these cost items shall include an evaluation of the managerial and technical effort necessary to obtain the required purchased parts, subcontracted items, and other materials, including special tooling. This evaluation shall include consideration of the number of orders and suppliers, and whether established sources are available or new sources must be developed. The contracting officer shall also determine whether the contractor will, for example, obtain the material and tooling by routine orders from readily available supplies (particularly those of substantial value in relation to the total contract cost), or by detailed subcontracts for which the

prime contractor will be required to develop complex specifications involving creative design or close tolerance manufacturing requirements. Consideration should be given to the managerial and technical efforts necessary for the prime contractor to administer subcontracts, and select subcontractors, including efforts to break out subcontracts from sole sources, through the introduction of competition. These determinations should be made for purchases of raw materials or basic commodities, purchases of processed material including all types of components of standard or near standard characteristics, and purchases of pieces, assemblies, subassemblies, special tooling, and other products special to the end-item. In the application of this criterion, it should be recognized that the contractor's purchasing program might make a substantial contribution to the performance of the contract. This might be applicable in the management of subcontracting programs involving many sources, involving new complex components and instrumentation, incomplete specifications, and close surveillance by the prime contractor's representative. Recognized costs proposed as direct material costs such as scrap charges shall be treated as material for profit evaluation. If intracompany transfers are accepted at price, in accordance with 15.205-22(e), they shall be evaluated as material. Other intracompany transfers shall be evaluated by individual components of cost, i.e., material, labor, and overhead.

(c) *Direct Labor (Engineering, Service, Manufacturing, and Other Labor)*. Analysis of the various labor items of the cost content of the contract should include evaluation of the comparative quality and level of the engineering talents, service contract labor, manufacturing, skills, and experience to be employed. In evaluating engineering labor for the purpose of assigning profit dollars, consideration should be given to the amount of notable scientific talent or unusual or scarce engineering talent needed in contrast to journeyman engineering effort or supporting personnel. The diversity, or lack thereof, of scientific and engineering specialties required for contract performance and the corresponding need for engineering supervision and coordination should be evaluated. Such circumstances as whether the calibre or class of engineer involved is that of an "idea-man," or whether the contractor is required by the contract to assign to the work, because of its nature, unusually skilled

talent should be considered as part of the evaluation. Service contract labor should be evaluated in a like manner by assigning higher weights to engineering or professional type skills and lower weights to semi-professional or other type skills required for contract performance. Similarly, the variety of manufacturing and other categories of labor skills required and the contractor's manpower resources for meeting these requirements should be considered. For purposes of evaluation, categories of labor (i.e., quality control, receiving and inspecting, etc.) which do not fall within the definition for engineering, service or manufacturing labor may be categorized as appropriate. However, the same evaluation considerations as outlined above will be applied.

(d) *Overhead and General Management (G&A)*.

(1) Analysis of these overhead items of cost includes the evaluation of the make-up of these expenses and how much they contribute to contract performance. To the extent practicable, analysis should include a determination of the amount of labor within these overhead pools and how this labor would be treated if it were considered as direct labor under the contract. The allocable labor elements should be given the same profit consideration that they would receive if they were treated as direct labor. The other elements of these overhead pools should be evaluated to determine whether they are routine expenses such as utilities and maintenance, and hence given lesser profit consideration, or whether they are significant contributing elements. The composite of the individual determinations in relation to the elements of the overhead pools will be the profit consideration given the pools as a whole.

(2) It is not necessary that the contractor's accounting system break down overhead expenses within the classification of engineering overhead, manufacturing overhead, other overhead pools, and general and administrative expenses, unless dictated otherwise by Cost Accounting Standards (CAS). The contractor whose accounting system only reflects one overhead rate on all direct labor need not change its system (if CAS exempt) to correspond with the above classifications. The contracting officer, in an evaluation of such a contractor's overhead rate, could break out the applicable sections of the composite rate which could be classified as engineering overhead, manufacturing overhead, other overhead pools, and general and administrative expenses,

and follow the appropriate evaluation technique.

(3) Management problems surface in various degrees and the management expertise exercised to solve them should be considered as an element of profit. For example, a new program for an item which is on the cutting edge of the state of the art will cause more problems, require more managerial time, and abilities of a higher order, than one which is a follow-on contract. If new contracts create more problems and require a higher profit weight, follow-ons should be adjusted downward as many of the problems should have been solved. In any event, an evaluation should be made of the underlying managerial effort involved on a case-by-case basis.

(4) It may not be necessary for the contracting officer to make a separate profit evaluation of overhead expenses in connection with each procurement action for substantially the same product with the same contractor. Where an analysis of the profit weight to be assigned to the overhead pool has been made, that weight assigned may be used for future procurements with the same contractor until there is a change in the cost composition of the overhead pool or the contract circumstances, or the factors discussed in (3) above are involved.

(e) *Other Costs*. Include all other direct costs associated with contractor performance under this item (e.g., travel and relocation, direct support, and consultants). Analysis of these items of cost should include (i) the significance of the cost to contract performance, (ii) nature of the cost, and (iii) how much they contribute to contract performance.

3.808-6 *Other Factors*.

(a) *Contract Cost Risk*. The degree of risk assumed by the contractor should influence the amount of profit or fee a contractor is entitled to anticipate. For example, where a portion of the risk has been shifted to the Government through cost-reimbursement or price redetermination provisions, unusual contingency provisions, or other risk-reducing measures, the amount of profit or fee should be less than where the contractor assumes all the risk. In developing the pre-negotiation profit objective, the contracting officer will need to consider the type of contract anticipated to be negotiated and the contractor risk associated therewith when selecting the position in the weight range for profit that is appropriate for the risk to be borne by the contractor. This factor should be one of the most important in arriving at pre-negotiation profit objectives.

(1) Evaluation of this risk requires a determination of (i) the degree of cost responsibility the contractor assumes, (ii) the reliability of the cost estimates in relation to the task assumed, and (iii) the complexity of the task assumed by the contractor. This factor is specifically limited to the risk of contract costs. Thus, such risks on the part of the contractor as reputation, losing a commercial market, risk of losing potential profits in other fields, or any risk on the part of the procurement office, such as the risk of not acquiring an effective space vehicle, are not within the scope of this factor.

(2) The first and basic determination of the degree of cost responsibility assumed by the contractor is related to the sharing of total risk by contract cost by the Government and the contractor through the selection of contract type. The extremes are a cost-plus-a-fixed-fee contract requiring the contractor to use his best efforts to perform a task, and a firm fixed-price contract for a complex item. A cost-plus-a-fixed-fee contract would reflect a minimum assumption of cost responsibility, whereas a firm fixed-price contract would reflect a complete assumption of cost responsibility. Where proper contract type selection has been made, the regard for risk by contract type would usually fall into the following percentages ranges:

Cost Type Contracts.....	0-3%.
Fixed Price Type Contracts.....	3-7%.

(3) The second determination is that of the reliability of the cost estimates. Sound price negotiation requires well-defined contract objectives and reliable cost estimates. Prior experience assists the contractor in preparing reliable cost estimates on new procurements for similar equipment. An excessive cost estimate reduces the possibility that the cost of performance will exceed the contract price, thereby reducing the contractor's assumption of contract cost risk.

(4) The third determination is that of the difficulty of the contractor's task. The contractor's task can be difficult or easy, regardless of the type of contract.

(A) Within the above ranges, a cost-plus-a-fixed-fee contract normally would not justify a reward for risk in excess of 0%, unless the contract contains cost risk features such as ceilings on overheads, etc. In such cases, up to 1/2% may be justified. Cost-plus-incentive-fee contracts fill the remaining portion of the above cost range with weightings directly related to such factors as confidence in target cost, share ratio of fee(s), etc. The range for fixed-price contracts is wide enough to

accommodate the many types of fixed-price arrangements. These include fixed-price-incentive, firm fixed-price with economic price adjustment, fixed price with prospective or retroactive price redetermination, and firm fixed-price contracts. Weighing should be indicative of the price risk assumed and the end item required, with only firm fixed-price contracts with requirements for prototypes or hardware reaching the top end of the range.

(B) The contractor's subcontracting program may have a significant impact on the contractor's acceptance of risk under a contract form. It could cause risk to increase or decrease in terms of both cost and performance. This consideration should be a part of the contracting officer's overall evaluation in selecting a factor to apply for cost risk. It may be determined, for instance, that the prime contractor has effectively transferred real cost risk to a subcontractor and the contract cost risk evaluation may, as a result, be below the range which would otherwise apply for the contract type being proposed. The contract cost risk evaluation should not be lowered, however, merely on the basis that a substantial portion of the contract costs represents subcontracts without any substantial transfer of contractor's risk.

(C) In making a contract cost risk evaluation in a procurement action that involves definitization of a letter contract, unpriced change orders, and unpriced orders, under BOA's; consideration should be given to the effect on total contract cost risk as a result of having partial performance before definitization. Under some circumstances it may be reasoned that the total amount of cost risk has been effectively reduced. Under other circumstances it may be apparent that the contractor's cost risk remained substantially unchanged. To be equitable the determination of a profit weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all attendant circumstances; not just be the portion of costs incurred, or percentage of work completed, prior to definitization.

(D) Time and material and labor hour contracts will be considered to be cost-plus-a-fixed-fee contracts for the purpose of establishing profit weights, unless otherwise exempt under 3.808-2(b) in the evaluation of the contractor's assumption of contract cost risk.

(b) *Investment.* NASA encourages its contractors to perform their contracts with the minimum of financial, facilities, or other assistance from the Government. As such, it is the purpose

of this factor to encourage the contractor to acquire and use its own resources to the maximum extent possible. The evaluation of this factor should include an analysis of the following:

(1) *Facilities.* To evaluate how this factor contributes to the profit objective requires knowledge of the level of facilities utilization needed for contract performance, the source and financing of the required facilities and the overall cost effectiveness of the facilities offered. Contractors who furnish their own facilities which significantly contribute to lower total contract costs should be provided with additional profit. On the other hand, contractors who rely on the Government to provide or finance needed facilities should receive a corresponding reduction in profit. Cases between the above examples should be evaluated on their merits with either a positive or negative adjustment, as appropriate, in profit being made. However, where a highly facilitated contractor is to perform a contract which does not benefit from this facilitation or where a contractor's use of its facilities has a minimum cost impact on the contract, profit need not be adjusted.

(2) *Payments.* In analyzing this factor, consideration should be given to the frequency of payments by the Government to the contractor. The key to this weighting is to give proper consideration to the impact the contract will have on the contractor's cash flow. Generally, negative consideration should be given for payments more frequent than monthly with maximum reduction being given as the contractor's working capital approaches zero. Positive consideration should be given for payments less frequent than monthly with additional consideration given for a capital turn-over-rate on the contract which is less than the contractor's or the industry's normal capital turn-over-rate.

(c) *Contractor's Performance.* The contractor's past and present performance should be evaluated in such areas as quality of product, meeting performance schedules, efficiency in cost control (including need for and reasonableness of cost incurred), accuracy and reliability of previous cost estimates, degree of cooperation by the contractor (both business and technical), timely processing of changes and compliance with other contractual provisions, and management of subcontract programs. Where a contractor has consistently achieved excellent results in the foregoing areas in comparison with other contractors in similar circumstances, such performance merits a proportionately greater

opportunity for profit or fee. Conversely, a poor record in this regard should be reflected in determining what constitutes a fair and reasonable profit or fee.

(d) *Federal Socio-Economic Programs.* This factor, which may apply to special circumstances or particular acquisitions, relates to the extent of contractor successful participation in the Government sponsored programs such as small business, small disadvantaged business, labor surplus programs, and energy conservation efforts. The contractor's policies and procedures which energetically support Government socio-economic programs and achieves successful results should be given positive consideration. Conversely, failure or unwillingness on the part of the contractor to support Government socio-economic programs should be viewed as evidence of poor performance for the purpose of establishing a profit objective.

(e) *Special Situations.*

(1) *Inventive and Developmental Contributions.* The extent and nature of contractor-initiated and financed independent development should be considered in developing the profit objective. The importance of the development in furthering space and aeronautical purposes, the demonstrable initiative in determining the need and application of the development, the extent of the contractor's cost risk, and whether the development cost was recovered directly or indirectly from Government sources should be weighed.

(2) *Unusual Pricing Agreements.* Occasionally, unusual contract pricing arrangements are made with the contractor wherein it agrees to participate in the sharing of contract cost or agrees to accept a lower profit or fee for changes or modifications within a prescribed dollar value. In such circumstances, the contractor should receive favorable consideration in developing the profit objective.

(3) This factor need not be limited to situations which only increase profit/fee levels. A negative consideration may be appropriate when the contractor is expected to obtain spin-off benefits as a direct result of the contract (e.g., products with commercial application).

3.808-7 *Facilities capital cost of money.*

When facilities capital cost of money (cost of capital committed to facilities) is included as an item of cost in the contractor's proposal, a reduction in the profit objective shall be made in an amount equal to the amount of facilities capital of cost of money allowed in accordance with 15.205-50. If the contractor does not propose this cost, a

provision must be inserted in the contract that facilities capital cost is not an allowable cost.

BILLING CODE 7510-01-M



Structured Approach Profit/Fee Objective

CONTRACTOR	RFP/CONTRACT NO.
BUSINESS UNIT	CONTRACT TYPE
ADDRESS	

CONTRACTOR EFFORT

1. COST CATEGORY	GOVERNMENT'S COST OBJECTIVE (a)	WEIGHT RANGE (b)	ASSIGNED WEIGHT (c)	WEIGHTED PROFIT/FEE ((a) x (c)) (d)
MATERIAL ACQUISITION		1% TO 4%		
DIRECT LABOR		4% TO 12%		
OVERHEAD		3% TO 8%		
OTHER COSTS		1% TO 3%		
GENERAL MANAGEMENT (G & A)		4% TO 8%		
1. A TOTAL				

2. OTHER FACTORS

FACTOR	MEASUREMENT BASE (a)	WEIGHT RANGE (b)	ASSIGNED WEIGHT (c)	WEIGHTED PROFIT/FEE 1.A (a) x (c) (d)
COST RISK	TOTAL COST OBJECTIVE 1.A (a)	0% TO 7%		
INVESTMENT		-2% TO +2%		
PERFORMANCE		-1% TO +1%		
SOCIO-ECONOMIC PROGRAMS		-.5% TO +.5%		
SPECIAL SITUATIONS				
2.A TOTAL OTHER FACTORS				

3. SUBTOTAL PROFIT/FEE LINES (1.A) + (2.A)

4. LESS FACILITIES CAPITAL COST OF MONEY

5. TOTAL PROFIT/FEE OBJECTIVE LINE (3) - (4)

PART 16—PROCUREMENT FORMS

8. In Part 16, Table of Contents, the page numbers for paragraphs 16.202-2 through 16.204 are amended to read as follows:

* * * * *

16.202-2 Contract Pricing Proposal Supporting Schedules.....	16-2:3
16.202-3 Contract Facilities Capital and Cost of Money.....	16-2:3
16.203 Structured Approach-Profit/Fee Objective.....	16-2:3
16.204 Justification for Authority to Negotiate (NASA Form 543).....	16-2:3

* * * * *

9. In Part 16, 16.001, in the list of forms in paragraph (a), the entry for form 634 is amended to read as follows:

* * * * *

634 (2/80) Structured Approach-Profit/Fee Objective

* * * * *

10. In Part 16, 16.203 is added to read as follows:

16.203 Structured approach-profit/fee objective.

NASA Form 634 is authorized for use in computing the profit/fee objective. See 3.808-4.

[FR Doc. 80-27185 Filed 9-4-80; 8:45 am]
BILLING CODE 7510-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. No. 1483]

New York, Susquehanna & Western Railway Corp. Authorized To Operate Over Tracks of New York, Susquehanna & Western Railroad Co., Debtor (Walter G. Scott, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1483.

SUMMARY: This order authorizes The New York, Susquehanna and Western Railway Corporation (NYS&W), a newly organized rail carrier, to operate over tracks of New York, Susquehanna and Western Railroad Company (Susquehanna) consistent with an order by the United States District Court of the District of New Jersey, requiring cessation of operations and liquidation of the Susquehanna. This order provides for continued essential rail service by NYS&W to shippers which would otherwise be deprived by the Courts' order.

EFFECTIVE DATE: 12:01 a.m., September 2, 1980, and continuing in effect until 11:59, November 30, 1980, unless otherwise

modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840.
Decided: August 29, 1980.

The New York, Susquehanna and Western Railway Corporation (NYS&W), pursuant to Order No. 103 of the United States District Court for the District of New Jersey ("Reorganization Court"), entered June 30, 1980. In the matter of New York, Susquehanna and Western Railroad Company, Debtor, (Susquehanna), has filed with the Commission requesting emergency temporary authority to operate those lines of Susquehanna which have been ordered liquidated and operations terminated, and which the Commission has recommended be abandoned. The NYS&W has filed appropriate applications with the Commission for acquisition and operation of the railroad lines of Susquehanna.

In view of the urgent need for continued service over lines of the Susquehanna pending the Commission's decision on NYS&W's permanent authority applications, this order permits NYS&W to conduct temporary operations and to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

It is the opinion of the Commission that an emergency exists requiring that the NYS&W be authorized to conduct operations using Susquehanna tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1483 Service Order No. 1483.

(a) *The New York, Susquehanna and Western Railway Corporation authorized to operate over tracks of New York, Susquehanna and Western Railroad Company, debtor, (Walter G. Scott, trustee).* The New York, Susquehanna and Western Railway Corporation (NYS&W) is authorized to operate over tracks of the New York, Susquehanna and Western Railroad Company (Susquehanna), named in Order No. 103 of the United States District Court for the District of New Jersey (Reorganization Court), as lines to be liquidated and operations to be terminated.

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

(c) Nothing herein shall be considered as a prejudgement of the application of

NYS&W seeking authority to acquire and operate lines of the Susquehanna.

(d) In providing service under this order the NYS&W shall, to the maximum extent practicable, use the employees who normally would have performed the work in connection with the traffic moving over the lines subject to this Order.

(e) *Effective date.* This order shall become effective at 12:01 a.m., September 2, 1980.

(f) *Expiration date.* The provisions of this order shall remain in effect until 11:59 p.m., November 30, 1980, unless otherwise modified, amended or vacated by order of this Commission.

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

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

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and William F. Sibbald, Jr.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-27193 Filed 9-4-80; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Parts 1053 and 1307

[Ex Parte No. MC-9 (Sub-1)]

Filing of Contracts by Contract Carriers by Motor Vehicles

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Interstate Commerce Commission has revised its general rules and regulations and its tariff/schedule regulations to eliminate the requirement for motor contract carriers to file with the Interstate Commerce Commission a copy of each bilateral contract entered into between the carrier and shippers.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley, Director, Bureau of Traffic, 202-275-7348.

SUPPLEMENTARY INFORMATION: The Commission has decided to reduce a regulatory requirement by eliminating the need for motor contract carriers to

file copies of bilateral contracts with the Commission. The filing requirement resulted from Commission decisions in 1937, specifically to protect the interests of motor common carriers.¹ In April 1937, the Commission required that contracts be in writing, contain certain information, and be retained by the carriers.² However, it was not until June 1937 that the Commission required that true copies of the contracts be filed with us.³

In October 1938, we excluded contract carriers of very valuable articles, such as bullion, currency, and jewels, from executing and filing contracts with us. In 1942, we required that contract carriers of property by motor vehicle, which file with the Commission schedules of minimum rates and charges for services not previously described in schedules on file, shall, at the same time, file true copies of the actual contracts, or an amendment to a contract already on file to match the proposed changes.⁴ At the outset, the Commission observed that written contracts are necessary to protect motor common carriers against unfair and destructive competition which Congress sought (in the Interstate Commerce Act) to abate.⁵

While the policy may have been entirely appropriate for a fledgling industry, the policy of protecting the common carrier then has been replaced by a policy which fosters, encourages, and enhances competition between carriers and between modes. Our own actions in regulatory reform over the past few years underscore the point. We have issued a general policy statement concluding that more weight should be given to the benefits of healthy competition and less emphasis on protection. We have adopted summary grant procedures for unopposed motor carrier operating authority cases. We have adopted protest standards which effectively limit the right to protest against motor carrier operating authority applications to carriers effectively in competition with the applicant's proposed operation. We have allowed applicants for motor carrier operating rights the option of introducing rate proposals as part of the evidence in the case. We have eliminated the restriction of the number of shippers with whom motor contract carriers may contract. We have

liberalized entry procedures and are granting well over 90 percent of all motor carrier operating authority applications. The Motor Carrier Act of 1980, which became law on July 1, 1980, codified most of the liberalized entry actions mentioned above and established zones of rate freedom for motor common carriers of property and freight forwarders. Accordingly, we no longer see any basis for continuing the contract filing requirement as a "protection" for motor common carriers.

Of course, the contract carriers are still required to enter into written bilateral contracts and to file with us a schedule of actual rates and charges. The standard remedies against alleged unlawfulness are still available to any interested person by way of protest or complaint. We believe that the tariff publishing requirements imposed upon contract carriers by the Transportation Act of 1940 (49 U.S.C. 318, recodified at 49 U.S.C. 10762(A)(1)(B)) afford an adequate means to achieve the ends which the Commission sought to achieve by establishing its regulations controlling the content and filing of the contracts. The decision in *Contracts of Contract Carriers, Supra* makes it clear that the purpose of the rules was to protect against "cut-throat competition." Tariff publication gives the Commission the means to achieve that purpose to the extent necessary.

Initially, the contracts were open to the public, since there was no requirement that contract carriers publish schedules of rates and charges. The Transportation Act of 1940, however, required publication of schedules of minimum rates and charges. The Commission, therefore, deleted the provision permitting public inspection of contracts, but filing was still required to ensure that the provisions of the contract were consistent with those of the corresponding schedule.⁶

We believe it is no longer necessary to compare the contracts with the schedules. We are aware that most contracts do not even contain rate information, but refer to the published schedule of rates and charges instead. The carrier must charge the rate published in the tariff.⁷ If a party to a contract wishes to cite a discrepancy between an agreed upon rate and the published rate as a basis for a complaint under 49 U.S.C. 11701 against the published rate, it would of course have

access to the contract and could submit it in that proceeding, pursuant to 49 U.S.C. 10764.

Approximately 4,300 motor contract carriers hold authority from the Commission. In fiscal year 1979, 44,470 bilateral contracts were filed with the Commission by these carriers. Our costs related to receiving and filing them was approximately \$23,300. We have no estimate of the filing cost to the carriers.

Contract carriers are admonished to note that they are still required to execute a written bilateral contract with each shipper and that the Commission will retain access to the contracts where necessary. The regulations are not changed in any respect except that we are deleting the requirements for filing copies with the Commission, as shown in the appendix.

Notice to the public and an opportunity to comment are not required in this instance by section 4(a) of the Administrative Procedure Act, 5 U.S.C. 553(b). This rule change is procedural, not substantive. It merely deletes a requirement that certain persons report information to the Commission which the Commission then holds in confidence. The rule change has no substantial impact on any person. The only effect is that contract carriers are relieved of an unnecessary reporting requirement.

This decision does not significantly affect the quality of the human environment nor have any impact on energy consumption.

This action is taken under authority contained in 5 U.S.C. 553, 559 and 49 U.S.C. 10321 and 10764.

Decided: August 11, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Agatha L. Mergenovich, Secretary.

PART 1053—CONTRACTS FOR TRANSPORTATION OF PROPERTY

In Part 1053 Contracts for Transportation of Property, §§ 1053.1, 1053.2 and 1053.3 are revised to read as follows:

- Sec.
- 1053.1 Contracts or agreements to be in writing.
- 1053.2 Contract carriers of bullion, etc., relieved of requirements.
- 1053.3 Contract carrier authority-definition of shipper.

§ 1053.1 Contracts or agreements to be in writing.

No contract carrier by motor vehicle, as defined in 49 U.S.C. 10102(12) shall transport property for hire in interstate

¹ Contracts of Contract Carriers, 1 M.C.C. 628 and Filing of Contracts by Contract Carriers, 2 M.C.C. 55.

² Contracts of Contract Carriers, 1 M.C.C. 628.

³ Filing of Contracts by Contract Carriers, 2 M.C.C. 55.

⁴ Filing of Contracts by Contract Carriers, 41 M.C.C. 527.

⁵ Contracts of Contract Carriers, *Supra* at 629.

⁶ Filing of Contracts by Contract Carriers, 41 M.C.C. 527.

⁷ *Nyad Motor Freight, Inc. v. W.T. Grant Co.*, 486 F. 2d 1112 (2d Cir. 1978); *Bowser and Campbell v. Knox Glass, Inc.*, 390 F. 2d 193 (3rd Cir. 1968).

or foreign commerce except under special and individual contracts or agreements which shall be in writing, shall provide for transportation for a particular shipper or shippers, shall be bilateral and impose specific obligations upon both carrier and shipper or shippers, shall cover a series of shipments during a stated period of time in contrast to contracts of carriage governing individual shipments, and copies of which contracts or agreements shall be preserved by the carriers parties thereto so long as such contracts or agreements are in force and for at least one year thereafter.

§ 1053.2 Contract carriers of bullion, etc., relieved of requirements.

Contract carriers of bullion, currency, jewels, and other precious and other very valuable articles are relieved of the requirements of executing and preserving contracts in the form and manner prescribed in § 1053.1.

§ 1053.3 Contract carrier authority—definition of shipper.

Contracts of contract carriers, as required by Ex Parte No. MC-12 (1 M.C.C. 628), must be between the contract carrier and a particular shipper or shippers. The term "shipper" means the person who controls the transportation and refers to the actual shipper rather than an intermediary. Such shipper may be nominally either the consignor or consignee, but must be one or the other. The payment of the charges for the transportation is evidence that the person who pays is the person who controls the transportation and such person will be presumed to be the shipper. However, this presumption is rebuttable and can be rebutted by evidence demonstrating that a person not paying the transportation charges controls the selection of the carrier and the routing of the shipment. In such an instance, the person selecting the carrier and controlling the routing of the shipment would be presumed to be the shipper. The contract carrier may not transport property for shippers other than the shipper with whom he has a contract.

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATIONS OF MOTOR CARRIERS

In Part 1307 Freight Rate Tariffs, Schedules and Classifications of Motor Carriers, § 1307.4, paragraphs (c), (d), and (f) are revised to read as follows:

§ 1307.4 Publication, filing and posting of schedules.

(c) Three copies to be filed.

Three copies of every schedule must be filed with the Commission at its office in Washington, DC. All three copies shall be included in one package marked "Tariffs" and addressed to Interstate Commerce Commission, Washington, D.C. 20423, and shall be accompanied by a letter of transmittal listing the schedules. All postage or other charges must be prepaid.

(d) *Letters of Transmittal.*

(1) Each letter of transmittal shall be on paper 8 x 10½ inches in size and in form substantially as follows:

(Correct name of carrier)

(Permit or Docket No.)

(Complete address)

(Date)

Transmittal No. — to Interstate Commerce Commission, Washington, D.C. 20423:

The accompanying contract carrier schedule is sent to you for filing in compliance with the requirements of the Interstate Commerce Act, issued by _____, and bearing MF—ICC No.: _____ or Supplement No. — to MF—ICC No. _____ effective _____.

(f) *Schedules must conform with contracts.*

A schedule shall not be published and filed to apply on any commodity or from or to any point or for any service not covered by contract.

[FR Doc. 80-27215 Filed 9-4-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Migratory Bird Hunting Regulations for Flint Hills and Kirwin National Wildlife Refuges, Kans., and Big Game Hunting Regulations for DeSoto National Wildlife Refuge, Nebr.; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correction of special regulations.

SUMMARY: This notice corrects the migratory bird hunting regulations for Flint Hills National Wildlife Refuge and Kirwin National Wildlife Refuge, Kansas. The corrections remove the requirement for use of steel shot which was incorrectly included in regulations

published in Federal Register 45 FR 54060 (August 14, 1980).

This notice also corrects the big game hunting regulations for DeSoto National Wildlife Refuge. The correction adds one hour to the daily shooting hours which conforms to the State hunting regulations and was incorrectly published in Federal Register 45 FR 54060 (August 14, 1980).

DATES: Period covered—September 1, 1980 to January 31, 1981. See State regulations for waterfowl seasons.

FOR FURTHER INFORMATION CONTACT:

The Area Manager or appropriate refuge manager at the address or telephone number listed below:

Tom A. Saunders, Area Manager, U.S. Fish and Wildlife Service, 2701 Rockcreek Parkway, Suite 106, North Kansas City, Missouri 64118, Telephone: 816/374-6166.

George Gage, Refuge Manager, DeSoto National Wildlife Refuge, R.R. No. 1, Box 114, Missouri Valley, Iowa 51555, Telephone: 712/642-4121.

Michael J. Long, Refuge Manager, Flint Hills National Wildlife Refuge, P.O. Box 128, Hartford, Kansas 66854, Telephone: 316/392-5553.

Keith Hansen, Refuge Manager, Kirwin National Wildlife Refuge, Kirwin, Kansas 67644, Telephone: 913/543-6673.

SUPPLEMENTARY INFORMATION: Donald G. Young is the primary author of these corrected special regulations.

These revised regulations amend the special regulations for migratory bird hunting published in Federal Register 45 FR 54060 (August 14, 1980) for Flint Hills and Kirwin National Wildlife Refuges, Kansas. Delete Item No. 4 for Flint Hills National Wildlife Refuge and Item No. 2 for Kirwin National Wildlife Refuge. These restrictions are deleted because non-toxic shot will not be required on these refuges.

These revised regulations also amend the special regulations for big game hunting published in Federal Register 45 FR 54060 (August 14, 1980) for DeSoto National Wildlife Refuge, Nebraska. Item No. 4 of the Muzzleloader regulations should read:

"Entry to the open area will be permitted one hour before shooting hours. Shooting hours will be one-half hour before sunrise to one-half hour after sunset. All permit holders and vehicles must be out of the designated hunting area no later than one hour after sunset."

Dated: August 28, 1980
 Tom A. Saunders,
 Area Manager.
 [FR Doc. 80-27218 Filed 8-4-80; 8:45 am]
 BILLING CODE 4310-55-M

50 CFR Part 32

Opening of the Iroquois National Wildlife Refuge, N.Y., to Hunting

AGENCY: United States Fish and Wildlife Service, Department of the Interior.
ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Iroquois National Wildlife Refuge is compatible with the objective for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1980 through February 28, 1981.

FOR FURTHER INFORMATION CONTACT: Edwin Chandler, Iroquois National Wildlife Refuge RFD I, Basom, New York, Telephone No. 716-948-5445.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Iroquois National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of migratory game birds on the Iroquois National Wildlife Refuge, New York, is permitted in designated areas. Hunting shall be in

accordance with all State and Federal regulations covering the hunting of migratory game birds subject to the following special conditions:

A. Waterfowl:

- (1) Waterfowl hunting is by permit only.
- (2) Hunting is permitted on Monday, Tuesday, Thursday and Saturday.
- (3) Prior registration is required for opening day and the first two Saturdays. On other hunt days permits are issued on the basis of a daily drawing held prior to legal opening time. On prior registration days, hunters will draw for hunting sites on the morning of the hunt. On other hunt days, hunters will have a choice of available hunting sites as their names are drawn.

(4) All hunting ends each day at 12 noon local time, and all hunters must check out and present harvested game at the permit station on Lewiston Road, not later than 1:00 P.M. local time.

(5) No loaded guns are permitted beyond a 50-foot radius of the hunting stand marker and no more than two hunters are permitted to each stand.

(6) Hunters will be limited to 15 steel shotshells not larger than No. 1 including participants in the Young Waterfowlers Program. Possession of lead shotshells is not permitted.

(7) Disorderly conduct, intoxication, "sky busting" or otherwise unsportsmenlike conduct will not be tolerated and the permittee will be ejected from the area.

(8) A hunter who leaves his stand must have permission from official personnel to return.

(9) All hunters must have completed the New York State Waterfowl Hunter Training Course and must present proof of completion before permits will be issued.

(10) No person shall use or hunt from a boat.

(11) Hunters, when requested by Federal or State enforcement officers must display for inspection all game, hunting equipment and ammunition.

(12) A minimum of six (6) decoys will be used at each stand.

The decoys will be furnished by the hunter(s).

B. Woodcock and Crow:

Hunting of woodcock and crow on the Iroquois National Wildlife Refuge, New York, is permitted during the regular State open seasons, except on areas designated by signs as closed. Hunting areas are shown on maps available at refuge headquarters. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of woodcock and crow.

§ 32.22 Special regulations; upland game, for individual wildlife refuge areas.

Public hunting of upland game birds and small game mammals, including opossums, red squirrels, and woodchucks is permitted during the respective State seasons except on areas designated by signs as closed. Hunting shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) A seasonal permit is required for the nighttime hunting of raccoon. Permits may be obtained by applying in person at the refuge office.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Iroquois National Wildlife Refuge, New York, is permitted during the regular State open seasons except on areas designated by signs as closed. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer.

All hunting area maps are available at refuge headquarters and from the Regional Director, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

David H. Swendsen,
 Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-27222 Filed 9-4-80; 8:46 am]
 BILLING CODE 4310-55-M

50 CFR Part 32

Opening of the Missisquoi National Wildlife Refuge, Vt., to Hunting

AGENCY: United States Fish and Wildlife Service, Department of the Interior.
ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Missisquoi National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 27, 1980 through December 31, 1980.

FOR FURTHER INFORMATION CONTACT:

Thomas Mountain, Missisquoi National Wildlife Refuge, Swanton, Vermont 05488, Telephone No. 802-868-4781.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Missisquoi National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

The public hunting of migratory game birds on the Missisquoi National Wildlife Refuge, Vermont, is permitted only on the areas shown on maps available at refuge headquarters. Hunting shall be in accordance with all applicable Federal and State regulations covering the hunting of migratory game birds. On those areas open to the public hunting of migratory game birds for which a permit is not required, stake blinds may be constructed in accordance with State regulations. Blinds must be removed by May 15, 1981.

That portion of the refuge, known as the Webb Marsh, which includes Long Marsh Bay and channel, Brush Creek, and Metcalfe Island, will be reserved for young waterfowl hunters only. Hunting by youths who have completed a Federal waterfowl hunter training program is permitted on Saturdays and Sundays from the beginning of the State waterfowl hunting season through November 9, 1980. Shooting is permitted from designated blinds from legal shooting time until 11:00 a.m. Youth waterfowl hunters will be limited to the use and possession of 25 shot shells each.

That portion of the refuge known as Patrick Marsh-Charcoal Creek (southwest of Route 78 only) will be a controlled hunting area by special use permit only. Hunting areas will be zoned in Patrick Marsh and Charcoal Creek to Winter's north boundary. The remainder of the creek in public ownership will be closed. Hunting will be on Tuesdays, Thursdays and Saturdays only. Shooting will be from legal shooting time until 11:00 a.m. Two parties will be permitted to hunt Patrick Marsh and four parties to hunt Charcoal Creek. A party consists of not more than two hunters and both must hunt together in one location. A boat is required. Parties will regulate distance between each other with a minimum distance of two hundred (200) yards. A minimum of six decoys per party is required. Hunting must be within fifty (50) feet of the six set decoys. Jump shooting and permanent blinds are not permitted. No person shall use or have in his possession more than 15 shells.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

The public hunting of upland game on the Missisquoi National Wildlife Refuge, Vermont, is permitted only on the areas shown on maps available at refuge headquarters. Hunting shall be in accordance with all applicable State regulations covering the hunting of upland game, subject to the following special conditions: Rifles may not be used on that portion of the refuge lying east of the Missisquoi River.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

The public hunting of deer on the Missisquoi National Wildlife Refuge, Vermont, is permitted only on the areas shown on maps available at refuge headquarters. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer, subject to the following special condition:

During the regular season, only shotguns may be used on that part of the refuge lying east of the Missisquoi River.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

Administrative needs require that the Missisquoi Refuge hunting seasons be

held concurrent with the Vermont State hunting seasons. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

Howard N. Larsen,

Regional Director, U.S. Fish and Wildlife Service.

August 27, 1980.

[FR Doc. 80-27223 Filed 9-4-80; 9:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of the Montezuma National Wildlife Refuge, N.Y., to Hunting

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Montezuma National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1980 through February 15, 1981.

FOR FURTHER INFORMATION CONTACT:

Gene Hocutt, Montezuma National Wildlife Refuge, RD 1, Box 1411, Seneca Falls, New York 13148, Telephone No. 315-568-5987.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Montezuma National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of migratory waterfowl on the Montezuma National Wildlife Refuge, New York, is permitted on the areas designated by signs as open to waterfowl hunting. The waterfowl hunting area known as the Tschache Pool comprises 1,340 acres.

Hunting shall be in accordance with all State and Federal regulations covering the hunting of migratory waterfowl subject to the following special conditions:

1. Hunting is permitted on Tuesdays, Thursdays, and Saturdays.
2. Steel shot shells will be used for all waterfowl hunting. Hunters will be limited to 15 steel shot shells each, with shot size no larger than #1 fine shot. No person shall have lead shot in their possession during the hunt.
3. Applications for hunting reservations must be received no later than two weeks before the opening date of the waterfowl season. Reservations for permits will be selected by random drawing. Hunting will be allowed on the designated days from the opening of the State season to the end of the first part of a split season or until the third Saturday in November—whichever comes first. Successful applicants must appear in person at the refuge waterfowl check station prior to one hour before legal shooting time on the date reserved. Unreserved and forfeited permits will be awarded by a drawing on the morning of the hunt to hunters without reservations.
4. The first Saturday of the season will be reserved for the Young Waterfowler's Training Program hunt. If numbers warrant, a Sunday will also be set aside.
5. A person with reservations may bring no more than one companion.
6. All hunting ends each hunting day at 12 noon local time, and all hunters must check out at the waterfowl check station no later than 1 p.m. local time.
7. Proof of successful completion of the New York State Waterfowl Identification Course is required to hunt on the refuge.
8. Hunters when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment, and ammunition.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

The public hunting of gray squirrels, cottontail rabbits, raccoons and foxes is permitted from December 13, 1980 through February 15, 1981 on the

Montezuma National Wildlife Refuge, New York, except on areas designated by signs as closed.

A permit is required for night hunting of raccoon. The number of permits issued for night hunting of raccoon shall be limited to five (5).

Hunting shall be in accordance with all State regulations governing the hunting of the above mammals.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Montezuma National Wildlife Refuge, New York, is permitted from November 21, 1980 through December 5, 1980, except on the areas designated by signs as closed.

Hunting shall be in accordance with all State regulations covering the hunting of deer subject to the following special conditions:

1. Archery deer hunting is permitted Monday through Friday during the firearm season selected by the State.
2. Only longbows and compound bows may be used. No gun hunting will be allowed.
3. A deer of either sex may be taken.
4. Successful hunters must register their kill at refuge headquarters.

All hunting area maps are available at refuge headquarters and from the Regional Director, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

Administrative needs require that Montezuma Refuge migratory game bird season be held concurrent with the New York State hunting season. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

Howard N. Larsen,

Regional Director, U.S. Fish and Wildlife Service.

August 27, 1980.

[FR Doc. 80-27224 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing Regulations: Gulf of Alaska; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule relating to groundfish of the Gulf of Alaska published at 44 FR 64410, November 7, 1979.

FOR FURTHER INFORMATION CONTACT: Susan E. Jolley, Fishery Management Specialist, Permits and Regulations Division, F/CM7, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, Telephone: (202) 634-7432.

SUPPLEMENTARY INFORMATION: On November 7, 1979 (44 FR 64410), the National Marine Fisheries Service published regulations to implement Amendment #7 to the Fishery Management Plan for the Gulf of Alaska Groundfish Fishery. Regulation 50 CFR 611.92 (b)(2)(i)(E) was identified incorrectly as § 611.92 (b)(2)(i)(D). This notice corrects that error.

The Assistant Administrator for Fisheries, NOAA, determines that this correction is not significant within the meaning of E.O. 12044, and does not require an Environmental Impact Statement under the National Environmental Policy Act of 1969, as amended.

Signed in Washington, D.C., this 2nd day of September 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

Authority: 16 U.S.C. 1801 *et seq.*

50 CFR 611.92 (b)(2)(i)(D), which begins "A notice of closure * * *" is amended to be § 611.92(b)(2)(i)(E).

[FR Doc. 80-27450 Filed 9-4-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 45, No. 174

Friday, September 5, 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.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 205

[Docket No. ERA-R-79-51]

Application for Assignment, Adjustment and Other Agency Action; Notice To Aggrieved Persons; Correction

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of correction.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing a notice of correction in relation to the August 18, 1980 notice that it issued terminating its rulemaking proceeding on a proposed rule to revise the procedures set forth in 10 CFR Part 205 governing notice to aggrieved persons (45 FR 56070, August 22, 1980). Although the original rulemaking indicated that the proposed amendment would affect 10 CFR Part 205 (44 FR 67338, November 23, 1979), the heading of the August 18 termination notice incorrectly indicated that the rulemaking proceeding was in relation to 10 CFR Part 211. ERA is issuing this notice to correct that error and to confirm that 10 CFR Part 205 is the correct citation.

FOR FURTHER INFORMATION CONTACT:

Cynthia Ford (Office of Public Hearing Management), Economic Regulatory Administration, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-3971;

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

William E. Caldwell (Office of Regulatory Policy), Economic Regulatory Administration, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461 (202) 653-3256;

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

Issued at Washington, D.C., on August 29, 1980.

F. Scott Bush,

Assistant Administrator, Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-27165 Filed 9-4-80; 9:45 am]

BILLING CODE 6450-01-M

10 CFR Part 212

[Docket No. ERA-R-80-30]

Mandatory Petroleum Price Regulations; Retroactive Amendments to "V" Factor of Refiner Cost Allocation Formulae

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a proposed rulemaking and public hearing to amend, as of April 30, 1974, a definition in the refiner cost allocation formula contained in its refiner pricing regulations to reinstate that definition in the form and wording as published in the Federal Register on May 1, 1974, and to reissue all subsequent amendments to the definition. The proposal, if adopted, would conform the regulations to the original and consistent language and intent of the Department of Energy to require that the definition represents virtually the total volume of refinery output including volumes of petroleum coke, petroleum wax, asphalt, road oil and refinery gas that could no longer be subject to price regulation upon expiration of the Economic Stabilization Act. Including all such volumes in this definition assures that products subject to price controls will bear only their volumetric share of increased costs incurred in the refining process.

DATES: Comments due by 4:30 p.m., November 4, 1980. Requests to speak at Washington, D.C., hearing by October 8, 1980, 4:30 p.m. Hearing Date: October 16, 1980, 9:30 a.m.

ADDRESSES: All comments to Public Hearing Management, Docket No. ERA-

R-80-30, Department of Energy, Room 2313, 2000 "M" Street, NW, Washington, D.C. 20461. Requests to speak at Washington, D.C. hearing to Office of Public Hearing Management, Room 2313, 2000 "M" Street, NW Washington, D.C. 20461. (202) 653-3757.

HEARING LOCATION: 2000 "M" Street NW., Room 2105, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Dorothy Hamid (Hearing Procedures), Economics Regulatory Administration, Room 2105, 2000 "M" Street, NW., Washington, D.C. 20461 (202) 653-3961;

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

William Funk or William Mayo Lee (Office of General Counsel), Department of Energy, Room 6A127, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252-6736 or 252-6754.

SUPPLEMENTARY INFORMATION:

- I. Background
 - A. The Prior Rulemaking Requiring the Inclusion of Volumes of Products Other than Covered Products in the "V Factor."
 - B. The Current Situation
- II. Proposed Amendment
- III. EPAA Objectives
- IV. Proposed Retroactivity
- V. Written Comment and Public Hearing Procedures
- VI. Procedural Requirements

I. Background

A. The Prior Rulemaking Requiring the Inclusion of Volumes of Products Other Than Covered Products in the "V Factor"

The pricing rules originally promulgated pursuant to Section 203 of the Economic Stabilization Act of 1970, 12 U.S.C. 1904 note, regulated any "covered product". That term was originally defined to include any "product described in the 1972 edition, Standard Industrial Classification Manual, Industry Code 1311 (except natural gas), 1321, or 2911." 6 CFR 150.352 (1974). This definition included virtually all refinery output. The price regulations prohibited any refiner from passing through more than 100 percent of any cost increases incurred in purchases of crude oil after May 15, 1973, and, with one major exception, allowed the refiner to increase the

prices of any of those covered products as the refiner deemed appropriate in order to recapture the cost increases in crude oil. The single exception was the so-called "special products" rule. Under this rule, no "special product" (which then included gasoline, No. 2-D diesel fuel, and No. 2 heating oil) could bear more than its volumetric proportion of increases in crude oil costs. 6 CFR 150.352, 1560.356 (1974). The regulations contained a formula for determining the increased product costs that could be assigned to special products. This formula, known as the "V factor," was expressed as a fraction. The numerator was the total volume of a particular product sold in a specified time period and the denominator was the total volume of all "covered products" sold in the same period. 6 CFR 150.356 (1974).

The Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. 751 *et seq.*, enacted on November 27, 1973, directed the President "[n]ot later than fifteen days after November 27, 1973" to issue "a regulation providing for the mandatory allocation of * * * each refined petroleum product * * * and at prices specified in (or determined in a manner prescribed by) such regulation." The regulation was to be effective not later than 15 days after its promulgation. 15 U.S.C. 752(a). The final regulation, issued on January 14, 1974, after the publication of two proposals (38 FR 34414, December 13, 1973 and 39 FR 744, January 2, 1974) and after all interested persons had been given notice and an opportunity to comment, carried forward, consistent with legislative intent (See H.R. Conf. Rep. No. 93-628, 93d Cong., 1st Sess. 26 (1974)), the pricing provisions described above. 39 FR 1924, 1952-1956 (Part 212).

As had been true under the earlier regulations, the petroleum products affected by the new regulation were determined by reference to the term "covered products". The EPAA, however, authorized regulation only of "crude oil, residual fuel oil, and each refined petroleum product." Section 4(a), EPAA. Because all authority to regulate the broader class of petroleum products was to expire with the Economic Stabilization Act on April 30, 1974, the agency amended the January 14 regulation on April 3, 1974, to limit the definition of "covered products" to "crude oil, residual fuel oil and refined petroleum products" and to exempt from the price-control regulations petroleum coke, petroleum wax, asphalt, road oil and refinery gas, which did not fall within the definition of a refined petroleum product under the EPAA. 39 FR 12353-12354.

Shortly thereafter, the agency realized that the April 3 amendment was incomplete because no amendment to the cost-allocation formula, which was keyed to the term "covered product" but which was contained in a different part of the regulations, had been made. As noted above, the "special products" rule had allowed each special product to bear no more than its volumetric proportion of increased crude oil costs. This proportion was determined by dividing the particular special product's volume by the total volume of all "covered products" over a given time period. Under the old regulations, the phrase "covered products" comprehended virtually all of the end products of a refinery. This was the scheme that the agency intended to continue under the EPAA regulations. However, when the term "covered products" was narrowed on April 3 to conform it to the scope of the EPAA, the agency did not immediately realize that, absent a change to the denominator of the "V factor," this revised definition of "covered products" would automatically reduce the denominator of the "V factor" and would thereby permit all increased crude oil costs to be passed through on the reduced number of covered products. This in turn would allow a refiner to recoup all of its crude oil increases in the prices of covered products and, in essentially a double recovery, to recoup the same (or even more) costs in the prices of exempt products. Hence, special products would have borne more than a volumetric share of crude oil cost increases.

In order to correct this unintended result and to conform the regulations to the agency's original intent—i.e., to carry forward the effect of the existing cost-allocation formula, including the "special products" rule—the January 14 regulation was again amended on April 30, 1974. This amendment simply provided that all crude oil end products, whether "covered" or not under the EPAA, would be counted in the denominator of the "V factor," so that each special product would bear only its proportionate share of crude oil cost increases and all covered products as a group would bear no more than their proportionate share of increased crude oil costs. 39 FR 15139 (1974).

The April 30 amendment was promulgated without prior notice and opportunity for comment. The preamble to the amendment explained that the change was necessary to "insure that all of the increased cost of crude oil processed by a refiner is not allocated to covered products" and that "the purpose of these amendments is to provide

immediate guidance and information with respect to the mandatory petroleum price rules and regulations which apply to (refiners') permissible prices in the month of May." The agency found that it would be "impracticable" to follow the "normal rulemaking procedure" and that "good cause exist[ed] for making these amendments effective in less than 30 days." 39 FR 15139 (1974).

The April 30, 1974 rulemaking went unchallenged for over two years and, to the best of the Department's knowledge, was relied upon by every refiner in forms required to be filed with the Department and in their calculations of maximum allowable prices for particular products.

On July 26, 1976, Mobil Oil Corporation commenced an action in the United States District Court for the Eastern District of Texas challenging as arbitrary and capricious the agency's denial of its requests for exception relief from the operation of the amendment as it applied to Mobil's large volume production of petroleum coke. (Civil Action No. B-76-272-CA) Incidental to its complaint, Mobil also belatedly challenged the validity of the April 30 amendment itself on the grounds that it was arbitrary and capricious and had been promulgated in violation of the procedural requirements of the Administrative Procedure Act. On January 31, 1979, the Eastern District of Texas sustained all of Mobil's challenges. On November 19, 1979, the Temporary Emergency Court of Appeals (TECA) substantially upheld the District Court's determination with regard to Mobil's challenge to the validity of the amendment, without reaching the question of the agency's denial of exception relief. *Mobil Oil Corp. v. Department of Energy*, 610 F.2d 796 (1979). TECA, however, remanded the matter to the District Court for further consideration concerning the scope of its original decision. On May 12, 1980, the United States Supreme Court denied the agency's petition for certiorari to review the TECA decision. On July 22, 1980, the District Court amended its judgment to provide that Mobil could at all time since April 1974 allocate the costs of crude oil to regulated products, but cannot allocate more than a direct proportionate distribution (by volume) to Number 2 oils, kerosene or naphtha aviation fuel, or propane produced from crude oil.

B. The Current Situation

As indicated above, the refiners subject to the regulations of the Department of its predecessors, apparently without exception, relied upon the validity of the April 30, 1974

rulemaking. Indeed, Mobil itself relied upon the validity of the rule, as demonstrated in its filings of applicable reporting forms with the Department. Mobil was the only firm to challenge that amendment, and it did so only as part of an independent challenge to an agency order. Not a single firm joined in its suit, nor did any firm seek to do so. Indeed, no firm even offered to file as *amicus curiae*. Nevertheless, refiners are now attempting to refile the refiner costs allocation reports, FEO-96's and in some cases FEA P-110's, on the basis of the Mobil decision. The attempted refilings take various views of the scope of the original District Court decision. Although many refiners take the view that the decision only applies to the five products decontrolled on April 3, 1974, others apparently take the view that the decision applies to products decontrolled after February 1976, when the agency comprehensively revised its regulatory scheme and shortly thereafter began a consistent program of decontrol. Moreover, some refiners even seem to take the position that they need not take account in their refilings for recoveries of increased costs actually recouped in sales of the five exempt products. More attempted refilings can be expected in light of the most recent District Court decision.

These refilings, if permitted, could ultimately result, depending upon the method used by each particular refiner, in total refiner claims for retroactive increases in banked costs of over \$50 billion. Refiners' current banks are on the order of \$8.8 billion. These retroactive increases in banks would result solely from the invalidation of a single amendment to the regulations, enacted more than six years ago, the validity of which was never challenged by the affected firms and which was relied upon by those firms. The result effectively could be the immediate decontrol of gasoline prices.

Pursuant to 10 CFR 212.126(d)(2) cost allocation reports over one year old may not be refiled, for purposes relevant here, unless DOE grants written permission for good cause shown, upon a proper application pursuant to § 212.126(d)(3). Pending completion of this rulemaking, DOE will neither grant nor deny any applications made for refiling refiner cost allocation reports which are based upon the effect of the Mobil case. This is intended to preserve the status quo pending a final determination in this rulemaking proceeding.

II. Proposed Amendment

The proposal, if adopted, would retroactively impose to April 30, 1974,

the volumetric apportionment requirement adopted on April 30, 1974, which was subsequently ruled invalid. This amendment would reinstate language requiring that volumes of all products refined from crude petroleum be included in the denominator of the "V" factor." This amendment would assure that volumes of the five products enumerated above, which had been included in the denominator under the Economic Stabilization Act, but which absent the revision would no longer be included because of their deletion from the term "covered products", would continue to be included in the denominator. Again, this amendment would assure that from April 30, 1974, to the present crude oil cost increases could not be passed through onto covered products generally, and onto special products individually, in a proportion greater than the volume of such products to the total volume of all refinery output. This would assure that there would be no double recovery of crude oil cost increases; that is, costs incurred with respect to exempt products could not be used in determining the maximum lawful selling prices for covered products.

III. EPAA Objectives

In holding the April 30, 1974 rule invalid, the courts found that the agency had not considered the objectives of the EPAA. Before proposing the repromulgation of the April 30 rule, we have carefully considered each of the EPAA objectives and believe that such repromulgation best furthers those objectives. We have considered those objectives both as if we were acting in April 1974 looking toward the future and in light of the fact that we are acting retroactively, *see infra*.

As described in the background section, the April 3, 1974 rule through oversight allowed crude oil cost increases to be passed through on covered products in accordance with the previously existing volumetric apportionment provided for by the "V factor." The denominator of the "V factor," however, was the volume of "covered products," a defined term. Under the Economic Stabilization Act virtually all refinery output was within the term "covered products". Thus, the volumetric apportionment formula prior to April 3, 1974, assured that there would be no double recovery of increased costs, and that "special products" would bear the increased cost of crude oil only in the same proportion as their volume to total refinery output volume. When the term "covered products" was limited to residual fuel oil and refined petroleum products on April

3, 1974, pursuant to the EPAA's narrower scope, the failure to change the denominator of the "V factor" resulted in a change to the volumetric apportionment formula. That is, because the denominator was determined by reference to the defined term "covered products," which now no longer comprehended the entire refinery output, the denominator was a smaller number, resulting in the "V factor" being a larger number. In short, all the increased costs of crude oil could be passed through on "covered products," even though now "covered products" did not constitute the entire refinery output.

Thus, increased costs of crude oil passed through on asphalt and other exempt products could also be passed through on covered products for a double recovery.

The EPAA contains objectives requiring, to the maximum extent practicable, maintenance of public health, safety, welfare, the national defense, public services, and agricultural operations. These essential services are heavily reliant on refined petroleum products that were subject to price controls in 1974, and on gasoline that is still subject to price controls. To allow costs of crude oil not associated with residual fuel oil and refined petroleum products to be passed through on these products would result in higher than necessary prices for these products. The effect of these higher prices on the essential services and operations designated for special protection in the EPAA would likely be to diminish those services and operations unnecessarily. Thus, to allow crude oil costs associated with asphalt and other exempt products to be passed through on covered products frustrates the objectives in section 4(b)(1)(A)-(C) of the EPAA, because it would not maintain those essential services and operations to the maximum extent practicable.

Section 4(b)(1)(F) sets the objective of equitable distribution of residual fuel oil and refined petroleum products "at equitable prices." While the term "equitable prices" includes the concept of equity between purchasers, it also includes the concept of a price that is fair and reasonable *per se*. *See Air Transport Association of America v. FEO*, 382 F. Supp. 439 (D.D.C. 1974), *aff'd*, 520 F.2d 1339 (TECA 1975). We do not believe that it is fair and reasonable to allow a second recovery in prices of some products of crude oil costs associated with and recoverable in the prices of other products. In a shortage situation this practice is no more than

price gouging. Thus, the April 30 amendment, and its proposed repromulgation here, would serve the objective of assuring equitable prices.

Having considered these and the other objectives of the EPAA, we have tentatively concluded that the proposal, if adopted, will achieve those objectives to the maximum extent practicable. This view is reinforced by the action taken by Congress to amend the EPAA in 1975 generally to require the volumetric apportionment of costs. See Section 4(b)(2)(D).

IV. Proposed Retroactivity

Retroactive rulemakings are generally sustained if reasonable. The courts consider such factors as whether retroactive application of a rule is consistent with the underlying statute and whether it represents an abrupt departure from prior practice or merely fills in a void in an unsettled area of law. In addition, equitable considerations are routinely evaluated. These include the extent of the reliance upon the rule being retroactively revised and the hardship to the affected firms resulting from the retroactive change. See, e.g., *Retail, Wholesale, and Department Store Union v. National Labor Relations Board*, 466 F.2d 380 (D.C. Cir. 1972).

In the instant situation ERA believes that all these factors militate in favor of the proposed retroactive rule. First, as described above, ERA has tentatively concluded that the cost allocation formula adopted on April 30, 1974, and proposed for repromulgation here, furthers the objectives of the EPAA. In addition, ERA believes that the application of this formula for the period April 30, 1974, and as amended thereafter, to the present in necessary to maintain the integrity of price controls under the EPAA for the duration of the price control program. This is due to the fact that under present regulations if refiners were able to bank all the increased costs to which they claim they are entitled because of the court decision, then such banks would be so great as to eliminate effectively any controls on future prices of gasoline. Moreover, refiners that violated price controls in the past (with respect to matters totally unrelated to the issues involved in this rulemaking) might assert a right to avoid any real liability by merely offsetting the amounts in violation against their costs associated with uncontrolled products, which costs have probably already been recovered in sales of those uncontrolled products. Not to make the proposed regulation retroactive would effectively vitiate all the purposes of the EPAA that the price

control system furthers, and, therefore, there is a strong statutory interest in retroactive application of the proposed rule.

Second, the retroactive application of the proposed rule would not represent an abrupt departure from well established practice. Indeed, the retroactive application of the proposed rule would conform to the well established practice taken in reliance upon the April 30, 1974 rule. By repromulgating that rule, ERA is literally filling in a void in an unsettled area of the law that resulted from the judicial action; to wit, what the rule was after April 30, 1974.

Third, as described above, ERA is not aware of any refiner that relied on any contrary rule as to the volumetric apportionment of costs. To the extent there has been reliance, it has been on the rule that was overturned by the court and which is proposed here for retroactive repromulgation. Finally, there would not appear to be any burden imposed on any refiner by the retroactive application of the proposed rule. Again, because refiners have acted in reliance upon the April 30, 1974 rule, there is no need for them to alter any behavior in the future and there is no unforeseen financial penalty or liability for past actions.¹

Moreover, we believe that the retroactive rulemaking proposed here falls within the terms of the Supreme Court decision in *Addison v. Holly Hill Fruit Products*, 322 U.S. 607 (1944). There too the lower court had invalidated a regulation integral to the regulatory scheme some years after its adoption. The Supreme Court, however, recognized the need for and validity of a retroactive rule to reinstitute a provision that would give effect to the statutory purposes. The Court stated: "[i]t]o be sure this will be a retrospective judgment, and law should avoid retroactivity as much as possible. But other possible dispositions likewise involve retroactivity (here, the effect of the lower court's decision is to apply retroactively the 'V factor' as it was before its amendment on April 30, 1974), with the added mischief of producing a result contrary to the statutory design." 322 U.S. at 620. We believe these considerations are particularly apt in this instance.

¹ Mobil has by court order been granted exception relief from the April 30, 1974 rule. The repromulgation of that rule would not vitiate that exception relief, if upheld on appeal.

V. Written Comment and Public Hearing Procedures

A. Written Comments. You are invited to participate in this notice of rulemaking by submitting data, views or arguments with respect to the issues set forth in this Notice. Comments should be identified on the outside envelope and on documents submitted with the designation "V Factor Amendment" Docket No. ERA-R-80-30. Ten copies should be submitted. All comments received will be available for public inspection in the DOE Freedom of Information Office, Room GA-145, James Forrestal Building 1000 Independence Avenue, SW, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Comments regarding the proposed amendments should be received within 60 days after this notice appears in the *Federal Register* in order to ensure consideration.

B. Public Hearing—1. Procedure for Requesting Participation. The times and places for the hearings are indicated in the "Dates" and "Addresses" section of this Notice. If necessary to present all testimony, hearings will be continued at 9:30 a.m., on the next business day following the first day of the hearing.

You may make a written request for an opportunity to make an oral presentation at the hearings. The requests should contain a phone number where you may be contacted through the day before the hearing.

We will notify each person selected to be heard at the Washington, D.C. hearing before 4:30 p.m., October 10, 1980. Persons scheduled to speak at the hearing are requested to bring 100 copies of their statement to Room 2105, 2000 "M" Street, NW., Washington, D.C. 20461, by 4:30 p.m., October 15, 1980.

2. Conduct of the Hearing. We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearings, which will not be judicial in nature. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked by the presiding officer of any person making a statement at the hearings. Such questions should be submitted to the address indicated above for requests to speak, for the location concerned, before 4:30 p.m. on the day prior to the hearing. If at the hearing you decide that you would like to ask a question of a witness, you may submit the question, in writing, to the presiding officer. In either case the presiding officer will determine whether the question is appropriate and if the time limitations permit it to be presented for a response.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

Transcripts of the hearings will be made, and the entire record of the hearings, including the transcripts, will be retained by the DOE and made available for inspection at the Freedom of Information Office, Room GA-145, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for us to cancel a hearing, we will make every effort to publish advance notice in the *Federal Register* of such cancellation. Moreover, we will give actual notice to all persons scheduled to testify at the hearings. However, it is not possible to give actual notice of cancellations or changes to persons not identified to us as participants. Accordingly, persons desiring to attend a hearing are advised to contact DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

VI. Procedural Requirements.

A. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment.

The EPA suggested that we "ask for comments on an alternative proposal to simultaneously make gasoline tilt

retroactive to 1974, while reinstating [our] desired definition of the 'V' factor." EPA believes this would allow appropriate costs to be allocated for gasoline and would provide appropriate incentives for investments in gasoline equipment, including equipment to manufacture unleaded gasoline.

We are not proposing to make the gasoline tilt retroactive to 1974. First, we do not believe that such an action would in fact provide incentives for investments in gasoline equipment because of the limited time left before gasoline price and allocation controls expire. To make the tilt retroactive would merely enable refiners to increase their banks substantially without any necessary investments. If those banks were passed through, the price of gasoline could be increased substantially. Had it been appropriate to adopt the tilt retroactively, the original tilt rule could have done so. The purpose of the rule, however, was to affect future conduct by removing a possible disincentive to increased gasoline production. That disincentive has been removed, and the purpose of the tilt rule would not be served by making it retroactive.

Second, we are doubtful that the factors, described above, that govern the appropriateness of retroactive regulation would support retroactive application of the gasoline tilt.

B. Section 404 of the DOE Act

Pursuant to the requirements of section 404(a) of the Department of Energy Organization Act ("DOE Act" Pub. L. 95-91), this proposed rule has been referred, concurrently with the issuance hereof, to the Federal Energy Regulatory Commission for a determination as to whether the proposed rule might significantly affect any function within the Commission's jurisdiction under section 402(c) of the DOE Act. The Commission will have until the scheduled close of the public comment period on the proposal, to make such determination.

C. Regulatory Analysis

A regulatory analysis as required for proposed rulemakings pursuant to Executive Order 12044, entitled "Improving Government Regulations" (43 FR 12661, March 24, 1978) and DOE's implementing procedures, has been prepared by ERA. The proposed regulatory analysis is available at ERA's Office of Public Information, Room B-210, 2000 "M" Street, NW., Washington, D.C. You are invited to comment on the proposed regulatory analysis. A summary of the proposed regulatory analysis is set forth below.

Summary of Regulatory Analysis²

1. Statement of Problem

The effect of the TECA decision in *Mobil v. DOE*, 610 F. 2d 796 (1979), is to exclude retroactively the volumes of non-covered products from the denominator of the "V factor" of the refiner cost allocation formulae. Refiners are now attempting to refile FEO-96's and in some cases FEA P-110's on the basis of the *Mobil* decision, so as to claim retroactively and bank costs, which they never previously claimed, and which, in many instances have already been recouped in sales of exempt products. These filings, if accepted, would permit the inclusion in current selling prices of covered products of increased product costs volumetrically attributable to exempt products refined and sold up to six years ago at free market prices. It could also permit refiners to offset violations for the prior period with newly and retroactively claimed increased costs. The DOE has two regulatory alternatives as a consequence of the TECA decision: (1) Take no action; or (2) Propose to re-adopt retroactively the voided rule.

2. Description of Alternatives

a. Alternative 1: No Action.

Under this alternative, DOE would not retroactively amend its regulations concerning the "V factor" of the refiner cost allocation formulae. Without such retroactive amendment, the denominator of the "V factor" would be retroactively deemed to include only volumes of covered products. Refiners would thereby be permitted to increase retroactively their banks with costs previously allocated to exempt products, and attempt to use these increased banks to offset prior regulatory violations. Market conditions permitting, refiners could also pass through in current prices for current covered products (primarily gasoline) a substantial portion of those newly claimed costs. Some refiners might also attempt to utilize their newly-claimed costs to offset violations of agency regulations which would otherwise have resulted in refunds.

If the DOE were to choose Alternative 1, gasoline prices could be increased substantially with little or no economic

²The draft regulatory analysis was prepared prior to the most recent District Court decision and reflects DOE's view of TECA's decision that only crude oil costs associated with the five exempt products prior to 1976 would be able to be passed through on covered products. The most recent District Court decision with respect to *Mobil*, if given effect as to all refiners, would substantially more than double the impacts described in the draft regulatory analysis and this summary.

justification. As a result, the Department has concluded tentatively to reject this alternative.

b. *Alternative 2: Promulgation of Retroactive Amendment to "V factor" of Refiner Cost Allocation Formula.*

The effect of this alternative would be to conform the regulations to the original and consistent language and intent of the Department of Energy. The Department has determined preliminarily that the retroactive amendment of the "V factor" formula best comports with policy and statutory requirements.

3. Economic Impact

The maximum possible economic impact of Alternative 1 on motor gasoline prices would result if all the costs previously apportioned to exempt products were retroactively banked by refiners pursuant to retroactive refilings based upon the *Mobil* decision and subsequently passed through. The impact is assumed to take place between August 1, 1980, and September 30, 1981, the latter being the date when all remaining refined covered products (motor gasoline and propane) are to be deregulated.

Based upon an analysis of available data, it is concluded that the No Action alternative would result in a potential increase in motor gasoline prices of approximately \$5.1 billion.³ Dividing the total average monthly gasoline production of refiners into the total cost allocated to exempt products, yields a potential increase in gasoline prices of 57.9¢ per gallon, if all these increased costs are passed through in a single month.⁴ If the amount were passed through evenly in the fourteen month period noted, it would result in a per gallon increase in gasoline prices of just over 4¢ each month for this 14 month period. The potential price increases for the companies analyzed ranged from a minimum of forty-three cents to a high of ninety-five cents per gallon if the total amount allocable for each company was passed through in a single month. The total per gallon increases, assuming the costs are spread out over fourteen

³ This estimate is derived by dividing the calculated increased costs of companies analyzed (\$2,190,545,000) for the period through January 1978 by their fraction of the gasoline market (43 percent). Refiners' possible requests for refilings based upon the most recent District Court decision, if allowed, could increase this figure to an amount well in excess of \$50 billion.

⁴ There are several regulatory limitations that would restrict the amount of increased costs that could be passed through in a given period. For example, with respect to costs which have been in banks longer than 60 days, refiners may generally pass through only ten percent of these costs in any given month.

months, ranged from approximately 3¢ to 7¢, each month.

Currently, some oil refiners have been unable to pass through all of the recent increases in crude oil costs, with the result that these refiners' banked costs have risen during 1980. The additional costs applicable to the exempt products would be added to their existing banked costs. Accordingly, depending upon future market developments, it is possible that the maximum impact described above may not occur.

Alternative 2 would reimpose the requirement that the denominator of the "V factor" of the refiner cost allocation formulae include the volumes of both covered and exempt products. If the "V factor" is permitted to include only volumes of covered products, then refiners will be able to distribute all of their increased crude oil costs to covered products, even though some of these costs are actually incurred to produce exempt products. Refiners relied on the validity of the requirement that volumes of covered and exempt products be included in their "V factor" computations, and have, indeed, been able generally to increase their profits despite such reliance. Absent this retroactive amendment, costs previously allocated to exempt products by refiners would, upon proper application to refile and DOE acceptance, be retroactively allocated to prior covered product banks. Any refilings retroactively excluding volumes of exempt products from a refiner's "V factor" computations would represent newly claimed increased costs. Some of these newly-claimed costs could then be passed through to the consumer in the form of current gasoline price increases. Since refiners neither previously claimed such costs nor relied on the ability to retroactively claim such costs, the economic impact of Alternative 2, which merely reimposes the rule on which refiners did in fact rely, has been determined to be \$0.

(Emergency Petroleum Allocation Act of 1973, (15 U.S.C. 751 *et seq.*), Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, (15 U.S.C. 787 *et seq.*), Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, (42 U.S.C. 6201 *et seq.*), Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, (42 U.S.C. 7101 *et seq.*), Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46287)

In consideration of the foregoing, Part 212 of Chapter II, title 10 of the Code of Federal Regulation, is proposed to be amended as set forth below.

Issued in Washington, D.C., August 28, 1980.

Hazel R. Rollins,
Administrator, Economic Regulatory
Administration.

§ 212.83 [Amended]

1. Effective April 30, 1974, 10 CFR 212.83(c)(2), as published in 39 FR 1924 (January 15, 1974), is amended by revising the definition of "Vn" to read as follows:

Vn = The total volume of all covered products and all products refined from crude petroleum other than covered products sold in the period "n" (the consecutive three-month period of the preceding year such that the middle month of the period corresponds to the current month "u").

2. The subsequent amendments to the definition of "Vn," its deletion and the substitution of the definition of "Vu," the subsequent amendments to the definition of "Vu," the definition of "Rt," and subsequent amendment to that definition are hereby repromulgated as published in the following Federal Register notices, effective on the dates indicated therein:

39 FR 30838 (August 26, 1974)
39 FR 42368 (December 5, 1974)
40 FR 10444 (March 6, 1975)
41 FR 5111 (February 4, 1976)
41 FR 15330 (April 12, 1976)
42 FR 5023 (January 27, 1977)
42 FR 39195 (August 3, 1977)

[FR Doc. 80-27216 Filed 9-4-80; 8:45 am]
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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 336

Employee Responsibilities and Conduct; Proposed Amendments

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

ACTION: Proposed rules.

SUMMARY: The FDIC proposes to adopt amendments to its regulations governing employee responsibilities and conduct, Part 336 of FDIC Rules and Regulations. The proposed amendments to Part 336 would only affect examiners and assistant examiners. They would relax the FDIC's current policy on loans to examiners and assistant examiners.

ADDRESS: Interested persons are invited to submit written comments regarding the proposed amendments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. All written comments will be made available for public inspection during normal business hours in Room 6108.

DATE: Comments must be received no later than November 4, 1980.

FOR FURTHER INFORMATION CONTACT: B. Shelby Baetz or Joseph A. DiNuzzo, Attorneys, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429, telephone (202) 389-4384.

SUPPLEMENTARY INFORMATION: The FDIC regulates or supervises all insured State-chartered banks that are not members of the Federal Reserve System ("insured State nonmember banks"). To accomplish its regulatory function, the FDIC sends bank examiners and assistant examiners ("examiners") to examine banks subject to its regulatory jurisdiction. The examiner reviews records maintained by the bank and interviews bank officers and employees concerning its operations. The examiner is instructed to assess the bank's financial condition, to determine whether it is engaged in unsafe or unsound banking practices, and to determine whether it is in compliance with applicable laws and regulations. The findings of the examiner are then written up in a report of examination. The FDIC takes supervisory actions—such as the issuance of a cease-and-desist order or the termination of deposit insurance—on the basis of the examiner's findings.

Section 212 of title 18, United States Code, prohibits any officer, director, or employee of a bank the deposits of which are insured by the Federal Deposit Insurance Corporation from making a loan to any governmental examiner "who examines or has authority to examine" such bank. Section 213 of title 18, United States Code, in turn, prohibits a governmental bank examiner from accepting a loan from "any bank, corporation, association or organization examined by him or from any person connected therewith." Executive Order 11222 prohibits Federal employees from having direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their official duties and responsibilities. To implement the two aforementioned Federal criminal statutes, and to guard against conflicts of interest or the appearance of conflicts of interest as required by Executive Order 11222, the FDIC's current policy on loans to examiners prohibits examiners from becoming obligated on any extension of credit (including credit extended through the use of a credit card) by: (1) An insured State nonmember bank (a bank examined by the FDIC) or (2) a national bank (a bank examined by the Office of the Comptroller of the Currency) or a

State bank which is a member of the Federal Reserve System (a bank examined by the Federal Reserve Board) that is an affiliate of an insured State nonmember bank. If a merger, acquisition, or other transaction results in a credit extension to an examiner being from an insured State nonmember bank or its affiliate, the obligation has to be removed unless the FDIC Ethics Counselor determines that removal would be an undue hardship on the employee. When retention is permitted, the obligation must be paid according to its existing terms, without any renegotiation, and the employee is disqualified from examining and participating in decisions having an economic impact on the lender or an affiliate of the lender.

The proposed amendments to Part 336 concerning loans to examiners would still be consistent with 18 U.S.C. 212 and 213, would still further the goals of E.O. 11222, would still promote examiner objectivity, and yet would give greater deference to the legitimate credit needs of examiners. The proposed amendments would liberalize current policy in four major ways:

1. They would permit examiners to obtain credit through the use of a credit card from national banks and State banks which are members of the Federal Reserve System ("member banks") affiliated with an insured State nonmember bank, provided the total extension of credit at no time exceeds \$5,000 and is on terms no more favorable than those available to other bank customers. Such extension of credit would be reported to the examiner's Regional Director and to the Ethics Counselor. The examiner would *not* be disqualified from examining or participating in any decision having an impact on an insured State nonmember bank affiliated with the member bank issuer. This would be a marked departure from the current blanket prohibition against taking out a credit card from an affiliate of an insured State nonmember bank.

2. The revision would provide that when a member bank becomes affiliated with an insured State nonmember bank after an extension of credit is made, the examiner would not be precluded from continuing to liquidate the extension of credit pursuant to its terms, without any renegotiation. In the case of credit extended through the use of a credit card where the total extension of credit exceeds \$5,000 at the time of affiliation, however, the credit card could not be used again until the existing indebtedness on the card was, under the terms agreed to when the card was

issued, reduced to below \$5,000. The examiner with an extension of credit over \$5,000 extended through the use of a credit card or the examiner with any extension of credit not extended through the use of a credit card would be disqualified from examining the insured State nonmember bank affiliated with the lender or from participating in any decision having an impact on it. As it stands now, an examiner has to divest himself/herself of all extensions of credit which, after their making, become extensions of credit from affiliates of insured State nonmember banks *unless* the Ethics Counselor decides this would cause undue hardship. The revision allows, *in all cases*, retention of an extension of credit made by member bank which subsequent to its making becomes affiliated with a State nonmember bank.

3. The revision would provide that when a member bank converts to or merges into a State nonmember bank, any extension of credit made by such bank to an examiner prior to the conversion or merger may be retained and liquidated in accordance with the original terms of the extension of credit. In the case of credit extended through the use of a credit card, however, the credit card would have to be returned to the issuer. The existing indebtedness on the card, though, could be liquidated under the terms agreed to when the card was issued. The examiner would be disqualified from examining the resultant insured State nonmember bank or from participating in any decision having an impact on it. This revision departs from present policy since it allows, *in all cases*, retention of an extension of credit from a member bank which subsequent to the extension of credit's making becomes an insured State nonmember bank. Present policy would only allow retention if the Ethics Counselor determined that divestiture would cause undue hardship to the examiner.

4. Finally, the revision would permit a newly appointed examiner to retain any outstanding extension of credit from an insured State nonmember bank and liquidate it in accordance with its original terms. In the case of credit extended through the use of a credit card, however, the credit card would have to be returned to the issuer. The existing indebtedness on the card, though, could be liquidated under the terms agreed to when the card was issued. Further, a newly appointed examiner would be allowed to retain any outstanding extension of credit from a member bank affiliated with an insured State nonmember bank if it is

liquidated in accordance with its original terms. In the case of credit extended through the use of a credit card where the total extension of credit exceeds \$5,000, however, the credit card could not be used again until the existing indebtedness on the card was, under the terms agreed to when the card was issued, reduced to below \$5,000. A loan would be "outstanding" if it was made prior to the date on which the new appointee officially commenced employment by reporting for duty. When the newly appointed examiner remains obligated on an extension of credit (other than credit extended through the use of a credit card, the total extension of which is \$5,000 or less and is on terms no more favorable than those available to other bank customers), the examiner would be disqualified from examining or participating in any decision having an impact on the lender or its affiliate. Currently, the FDIC has no written policy in this area. The Ethics Counselor decides, on a case-by-case basis, whether divestiture of existing indebtedness is required. Normally, however, a newly appointed examiner is not required to relocate any existing indebtedness.

The proposed amendments have been reviewed and approved by the Department of Justice ("DOJ"). All changes in FDIC regulations concerning loans to examiners must be reviewed and approved by the DOJ in order to insure that the changes do not violate sections 212 and 213 of title 18 of the United States Code (18 U.S.C. 212 and 213), statutes which DOJ is responsible for enforcing. These two sections of the United States Code impose certain limitations on the types of credit an examiner can obtain.

Since the proposed amendments to Part 336 under consideration only affect FDIC examiners, the proposed changes will not affect the recordkeeping or reporting requirements or the competitive status of insured State nonmember banks. Because of this neither a cost-benefit analysis nor a small bank impact statement was prepared.

Interested persons are also invited to comment on the manner in which the FDIC should treat demand loans maintained by examiners and assistant examiners with affiliates of insured State nonmember banks; these comments should be in light of the intent

behind the amendments proposed herein.

The proposed revision of Part 336 would amend Part 336 as follows:
§ 336.735-11 [Amended]

1. Paragraph (i) of § 336.735-11(b)(5), which currently reads as:

* * * * *

(b) * * *

(5) * * *

(i) A Corporation examiner or assistant examiner may not accept any gratuity from, or accept or become obligated on any extension of credit (including credit extended through the use of a credit card) by an insured State nonmember bank or its affiliate.

* * * * *

would be amended to read:

* * * * *

(b) * * *

(5) * * *

(i) A Corporation examiner or assistant examiner may not, after his or her appointment, directly or indirectly accept or become obligated on any extension of credit, including credit extended through the use of a credit card, from an insured State nonmember bank. Further, a Corporation examiner or assistant examiner may not, after his or her appointment, directly or indirectly accept or become obligated on any extension of credit from a member bank affiliated with an insured State nonmember bank unless the credit is extended through the use of a credit card, does not exceed \$5,000 at any time, and is on terms no more favorable than those available to other bank customers. An examiner who has received an extension of credit through the use of a credit card permitted by this subsection shall not be disqualified from participating in any examination of or any decision having an impact on an insured State nonmember bank affiliated with the bank which issued the card.

* * * * *

§ 336.735-13 [Amended]

2. Subparagraph (7) of § 336.735-13(a), which currently reads:

(a) * * *

(7) In the event a merger, acquisition, or other transaction results in the existence of a credit extension prohibited by § 336.735-11(b)(5)(i), (ii), or (iii), the obligation will be removed unless the Ethics Counselor determines that removal would be undue hardship on the employee. In such cases, the obligation will be paid according to its

existing terms, without any renegotiation, and the employee will be disqualified under § 336.735-13(a) from participating in decisions having an economic impact on the lender, or any affiliate of the lender. If the employee is an examiner or assistant examiner, he or she will not be permitted to examine the lender or an insured State nonmember bank affiliated with the lender.

* * * * *

would be amended to read:

(a) * * *

(7) If a merger, acquisition, or other transaction results in a credit extension to an examiner or assistant examiner prohibited by § 336.735-11(b)(5)(i), that extension of credit may be retained if it is liquidated under its original terms, without any renegotiation. In the case of credit extended through the use of a credit card issued by an insured State nonmember bank, however, the credit card must be returned to the insured State nonmember bank. The existing balance of indebtedness on the card, however, may be liquidated under the terms agreed to when the card was issued. In the case of credit extended through the use of a credit card issued by a member bank affiliated with an insured State nonmember bank where the total extension of credit exceeds \$5,000, the credit card may not be used again until the existing indebtedness on the card is, under the terms agreed to when the card was issued, reduced to below \$5,000. If a merger, acquisition, or other transaction results in a credit extension to an examiner or assistant examiner prohibited by § 336.735-11(b)(5)(i) and that extension of credit is retained in accordance with this subsection, the examiner or assistant examiner is disqualified from examining or participating in any decision having an impact on the insured State nonmember bank lender or its affiliate. If a merger, acquisition, or other transaction results in the existence of a credit extension prohibited by § 336.735-11(b)(5)(ii) or (iii) the obligation will be removed unless the Ethics Counselor determines that removal would be an undue hardship on the employee. When an obligation prohibited by § 336.735-11(b)(5)(ii) or (iii) may be retained, the obligation will be paid according to its existing terms, without any renegotiation, and the employee will be disqualified under § 336.735-13(a) from participating in any examination of, or any decision having an economic impact

on the lender or any affiliate of the lender.

* * * * *

§ 336.735-13 [Amended]

3. Subparagraph (8) of § 336.735-13(a), which currently reads:

(a) * * *

(8) An examiner or assistant examiner may become obligated on any extension of credit (including credit extended through use of a credit card) by a bank other than an insured State nonmember bank if—

(i) The lending bank is not affiliated with an insured State nonmember bank; and

(ii) Full disclosure of the obligation and the date the obligation is fully repaid is made in writing to the Regional Director on an official Corporation form designated for this purpose. The Regional Director shall also be notified of the repayment of the obligation. In the case of a bank credit card, these disclosure requirements are met if the Regional Director is notified in writing of the date of receipt of the card, the name of the bank acting as principal, and the date of the discontinuance if the card is destroyed or returned to the bank. Regional Directors will forward copies of the disclosures by examiners or assistant examiners to the Ethics Counselor.

* * * * *

would be amended to read:

(a) * * *

(8) An examiner or assistant examiner who is newly appointed may remain obligated on any outstanding extension of credit from an insured State nonmember bank if the obligation is liquidated under its original terms, without any renegotiation. In the case of credit extended through the use of a credit card, however, the credit card must be returned to the insured State nonmember bank. The existing balance of indebtedness on the card, however, may be liquidated under the terms agreed to when the card was issued. Further, an examiner or assistant examiner who is newly appointed may remain obligated on any extension of credit from a member bank affiliated with an insured State nonmember bank if the obligation is liquidated under its original terms, without any renegotiation. In the case of credit extended through the use of a credit card where the total extension of credit exceeds \$5,000, however, the credit card may not be used again until the existing indebtedness on the card is, under the terms agreed to when the card was issued, reduced to below \$5,000. An

extension of credit would be "outstanding" if it was made before the date on which the new appointee officially commenced employment by reporting for duty. When the newly appointed examiner or assistant examiner remains obligated on an extension of credit (other than an extension of credit extended by a member bank through the use of a credit card, the total extension of which does not exceed \$5,000 and is on terms no more favorable than those available to other customers), he or she is disqualified under § 336.735-13 from participating in any examination or any decision having an impact on the lender or an affiliate of the lender. An examiner or assistant examiner may not, after his or her appointment, directly or indirectly become obligated on any extension of credit (including credit through the use of a credit card) from an insured State nonmember bank. An examiner or assistant examiner may not, after his or her appointment, become obligated on an extension of credit from an affiliate of an insured State nonmember bank unless the extension of credit is extended through the use of a credit card, does not exceed \$5,000 at any time, and is on terms no more favorable than those available to other bank customers. Full disclosure of any obligation to a bank and the date the obligation should be fully repaid must be made in writing to the Regional Director on an official Corporation form designated for the purpose. The Regional Director shall also be notified of the repayment of the obligation. For bank credit cards, these disclosure requirements are met if the Regional Director is notified in writing of the date of receipt of the card, the name of the bank acting as principal and the date of the discontinuance if the card is destroyed or returned to the bank. Regional Directors will immediately forward copies of the disclosures by examiners or assistant examiners to the Ethics Counselor. All disclosure statements received by Regional Directors shall be treated as confidential. The information on the disclosure statements submitted to a Regional Director shall also be reported on annual disclosure statements submitted to the Ethics Counselor. The Ethics Counselor shall treat all disclosure statements as confidential.

* * * * *

By order of the Board of Directors dated August 25, 1980.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 80-27406 Filed 9-4-80; 8:45 am]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE
COMMISSION

17 CFR Part 249

[Release No. 34-17101]

Registration of Municipal Securities
Dealers

AGENCY: Securities and Exchange
Commission.

ACTION: Withdrawal of proposed
amendment to form.

SUMMARY: The Commission is withdrawing a proposed amendment to Form MSD, the registration form used by municipal securities dealers which are banks or separately identifiable departments or divisions of banks. The amendment would have explicitly required a bank municipal securities dealer to list on the form all members of its board of directors, and the directors of its parent bank holding company, if any.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT:

Thomas G. Lovett, Office of Self
Regulatory Oversight, Division of
Market Regulation, Securities and
Exchange Commission, 500 North
Capitol Street, Washington, D.C. 20549,
(202) 272-2411.

SUPPLEMENTARY INFORMATION: In a companion release¹ issued today, the Commission is adopting certain amendments to Form MSD, the form used by municipal securities dealers which are banks or separately identifiable divisions or departments of banks. As part of this action, the Commission is withdrawing a proposed amendment to the instruction to item 6 of Form MSD.

The proposed amendment would have explicitly required a bank municipal securities dealer to list on Form MSD all members of its board of directors, and the directors of its parent holding company, if any, in response to a request for disclosure of persons directly or indirectly controlling the municipal securities dealer. For the reasons stated in the companion release, the Commission is withdrawing the proposed amendment to the instruction to item 6.

By the Commission.

George A. Fitzsimmons,
Secretary.

August 28, 1980.

[FR Doc. 80-27292 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

¹ Securities Exchange Act Release No. 17100
(August 28, 1980).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 80N-0322]

Exemptions From Food Labeling Requirements for Food Labeling Experiments

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing a procedure under which a firm that undertakes a labeling experiment may be exempted from certain requirements. This action would encourage industry to participate in authorized labeling experiments.

DATE: Comments by November 4, 1980.

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

FOR FURTHER INFORMATION CONTACT: Raymond E. Newberry, Bureau of Foods (HFF-314), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1428.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 21, 1979 (44 FR 75990), the Food and Drug Administration (FDA), the Department of Agriculture (USDA), and the Federal Trade Commission announced their tentative positions on a variety of food labeling issues. The agencies announced that FDA would conduct a research program, supported by USDA, to help decide what labeling format is the most comprehensible to consumers. The notice further stated that "the agencies encourage industry to experiment voluntarily, under controlled conditions and in collaboration with FDA and USDA, with graphics and other formats" for presenting nutrition and other information on or off the label that is consistent with the current quantitative system (44 FR 76015). Some experiments may require exemptions from the current requirements governing nutrition labeling and other related food labeling regulations. Accordingly, FDA is proposing a procedure under which a firm that undertakes a labeling experiment may be exempted during the duration of the experiment from the requirements in §§ 101.9, 101.25, 105.66, 105.67, and 105.69 (21 CFR 101.9, 101.25, 105.66, 105.67, and 105.69).

In the Federal Register of July 8, 1980 (45 FR 45962), FDA announced its intent to undertake, in cooperation with FTC

and USDA, a comprehensive research program to develop alternative food label formats. As part of that research program, a series of public meetings will be held starting October 6, 1980 to solicit industry and others' participation in design and testing of new labeling formats. It is anticipated that most labeling experiments sanctioned by FDA under the criteria presently being proposed will take place in the context of this research program. However, this proposal also recognizes that some labeling experiments in advance or outside the context of the upcoming research program might provide useful information to the agencies, and so is not limited to the labeling research plan discussed in the July 8, 1980 notice.

Any firm that intends to undertake a labeling experiment which requires exemptions from §§ 101.9, 101.25, 105.66, 105.67, and 105.69 should submit to FDA a written proposal containing the following information:

1. A description of the labeling format to be tested;
2. A statement of the criteria to be used in the experiment for assigning foods to categories (e.g. nutrient values defining "low" and "reduced");
3. A draft of the material to be used in the store, e.g., shelf tags, booklets, posters, etc.;
4. The dates on which the experiment will begin and, together with a commitment not to continue the experiment beyond the termination date without FDA approval and to conclude the experiment, if necessary, upon request by FDA following the passage of new food labeling legislation;
5. The geographic local in which the experiment is to be conducted;
6. The mechanism to measure the effectiveness of the experiment;
7. The method for providing consumers with required nutrition and other labeling information that is exempted from the label during the experiment;
8. The method by which the actual nutritional characteristics of foods for which a claim is made will be determined;
9. A commitment to report the results of the experiment to FDA promptly; and
10. A statement of the sections of the regulations for which an exemption is sought.

FDA will review the proposal, consult with USDA if necessary, and comment on it if appropriate. The agency recognizes that the preparation of such experiments is difficult, and it is prepared to meet with firms desiring to undertake experiments in order to provide them with assistance. However, because of the agency's workload, it

may take a period of time before a proposed experiment is reviewed and authorized. Firms should take this fact into consideration in planning experiments.

In deciding whether to approve a proposed experiment, the agency may consider whether a similar experiment is being conducted by one or more other firms and if so, whether an essentially repetitive experiment will provide significant additional information regarding nutrition and other food information formats. In those cases when firms propose different approaches for providing consumers with the same type of information, FDA may establish criteria for categories, (e.g., numerical values which define "low" and "reduced") in the interests of uniformity and of relieving consumer confusion.

Authorization to undertake an experiment will be given by FDA in writing. A copy of the proposal, agency comments, correspondence, memoranda of meetings and telephone calls concerning the proposal, and the agency's authorization letter will be placed on file in the Hearing Clerk's office when an experiment is approved.

The agency had determined under 21 CFR 25.24(b)(12) (proposed December 11, 1979; 44 FR 71742), that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403(a), 701(a), 52 Stat. 1041 as amended, 1047 as amended, 1055 (21 U.S.C. 321(n), 343(a), 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 101 be amended by adding new § 101.108 to read as follows:

§ 101.108 Temporary exemptions for purposes of conducting authorized labeling experiments.

(a) In the Federal Register of December 21, 1979 (44 FR 75990), the Food and Drug Administration, the Department of Agriculture, and the Federal Trade Commission announced their tentative positions on a variety of food labeling issues. The agencies announced that they encouraged industry to experiment voluntarily, under controlled conditions and in collaboration with FDA and USDA, with graphics and other formats for presenting nutrition and other information that is consistent with the current quantitative system in §§ 101.9 and 101.25 and §§ 105.66, 105.67, and 105.69 of this chapter.

(b) Any firm that intends to undertake a labeling experiment that requires exemptions from certain requirements in §§ 101.9 and 101.25 and §§ 105.66, 105.67, and 105.69 of this chapter should submit a written proposal containing the following information:

(1) A description of the labeling format to be tested;

(2) A statement of the criteria to be used in the experiment for assigning foods to categories (e.g., nutrient values defining "low" and "reduced");

(3) A draft of the material to be used in the store, e.g., shelf tags, booklets, posters, etc.;

(4) The dates on which the experiment will begin and end, together with a commitment not to continue the experiment beyond the termination date without FDA approval and to conclude the experiment, if necessary, upon request by FDA following the passage of new food labeling legislation;

(5) The geographic locale in which the experiment is to be conducted;

(6) The mechanism to measure the effectiveness of the experiment;

(7) The method for providing consumers with the required nutrition and other labeling information that is exempted from the label during the experiment;

(8) The method by which the actual nutritional characteristics of foods for which a claim is made will be determined;

(9) A commitment to report the results of the experiment to FDA promptly; and

(10) A statement of the sections of the regulations for which an exemption is sought.

(c) The proposal should be sent to the Associate Director for Nutrition and Consumer Science (HFF-200), Food and Drug Administration, 200 C St., SW., Washington, DC 20204.

(d) Approval of the proposal will be given by FDA in writing. Any experiment that is undertaken without an FDA-approved exemption from existing regulations that would otherwise be violated will be subject to regulatory action.

Interested persons may, on or before November 4, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This action will not result in a significant regulatory impact, as defined by Executive Order 12044, because it imposes no requirements and is entirely voluntary. The selective nature of these exemptions will not result in manufacturing or marketing distortions because of the limited scope, temporary nature, and narrowly defined purpose to be identified for each labeling experiment.

Dated: August 29, 1980.

Joseph P. Hile,
Associate Commissioner for Regulatory
Affairs.

[FR Doc. 80-27170 Filed 9-4-80; 8:45 am]
BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1928

[Docket H-112B]

Access to Employee Exposure and Medical Records in Agricultural Employments; Extension of the Comment Period

AGENCY: Occupational Safety and Health Administration of the Department of Labor (OSHA).

ACTION: Proposed rule; extension of the deadline for submission of comments and information.

SUMMARY: This notice extends the comment period for written responses on the proposed standard entitled, "Access to Employee Exposure and Medical Records in Agricultural Employments" (45 FR 35298, May 23, 1980).

DATE: Written comments must be submitted by October 31, 1980.

ADDRESS: Written comments should be submitted, in quadruplicate, to the Docket Officer, Docket No. H-112B, Room S-6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523-7894.

FOR FURTHER INFORMATION CONTACT: Dr. Flo Ryer, Director, Office of Special Standards Programs, Directorate of Health Standards Programs, Room N-3663, Occupational Safety and Health Administration, 200 Constitutional Avenue, NW., Washington, D.C. 20210, (202) 523-7174.

SUPPLEMENTARY INFORMATION: On May 23, 1980, OSHA published in the *Federal Register* (45 FR 35298) a notice of proposed rulemaking entitled, "Access

to Employee Exposure and Medical Records in Agricultural Employments." This proposal would extend the provisions of OSHA's rule, "Access to Employee Exposure and Medical Records" (45 FR 35212; May 23, 1980), to agricultural employments. In the notice of proposed rulemaking, OSHA requested that written comments on the proposal be submitted by August 21, 1980.

OSHA is extending the comment period of the proposed regulation to ensure that all interested parties have sufficient time to compile data and prepare comments. The written comment period is extended to October 31, 1980.

Signed at Washington, D.C., this 28th day of August, 1980.

Eula Bingham,
Assistant Secretary of Labor.

[FR Doc. 80-26928 Filed 9-4-80; 8:45 am]
BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1592-1]

Proposed Rulemaking on Approval of Colorado State Implementation Plan (SIP)

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: EPA today is proposing to approve portions of the amended Colorado State Implementation Plan, Regulation No. 3 "Regulation Requiring Air Pollutant Emission Notice, Emission Permits and Fees." Regulation No. 3 has been amended to meet the requirements of Sections 172 and 173 of the Clean Air Act.

DATES: Comments due October 6, 1980.

ADDRESSES: Comments should be addressed to: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3471.

Copies of the materials submitted by the Governor of Colorado and comments received on this proposal may be examined during normal business hours at:

Environmental Protection Agency, Air Programs Branch, Region VIII, Suite 200, 1860 Lincoln Street, Denver, Colorado 80295.

Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), Mail Code PM-213, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Eliot Cooper, Air Programs Branch,
Environmental Protection Agency, 1860
Lincoln Street, Denver, Colorado 80295,
(303) 837-3711.

SUPPLEMENTARY INFORMATION:**Background**

In our October 5, 1979 Final Rulemaking (44 FR 57405 and 57406) on the Colorado SIP, EPA noted the following deficiencies in Colorado's requirements for permits to construct for major sources and modifications (Regulation No. 3).

1. The State statutory requirements for the automatic issuance of an emission permit when statutorily defined time limits have been exceeded is inconsistent with the requirements of Sections 110 and 173 of the Act. EPA stated that all permits issued for this reason will be invalid and disapproved that portion of Regulation No. 3.

2. The exemption for sources increasing emission by less than 10% could exempt major modification for new source review and therefore, it is inconsistent with Sections 171 and 172 of the Act.

3. The exemption from offset requirements in nonattainment areas for sources with "actual" emissions less than the 50 tons per year, 1,000 pounds per day or 100 pounds per hour cutoffs must be revised to be "allowable" emissions.

4. As required by Section 173(1)(A), offsets, in addition to being greater than one-for-one, must represent reasonable further progress, when considered with the revised plan.

5. The definition of "source" and "facility" must be the same as defined by EPA's Emission Offset Interpretative Ruling (44 FR 3274, January 16, 1979).

6. "Significant" as defined in Section (D)(3)(d) must be the same as defined by EPA's Emission Offset Interpretative Ruling, Section (II)(D).

7. It did not provide for a program consistent with Section 172(b)(11)(A) of the Act.

With the exception of the first deficiency EPA conditionally approved Regulation No. 3 with the understanding that these deficiencies would be satisfied by March 1, 1980 (44 FR 57428 and 45 FR 7802).

State Submittal

On June 20, 1980, the Governor of Colorado submitted to EPA the following amended rules:

Repeal and repromulgation of regulation No. 3 "A Regulation Requiring Air Pollutant Emission Notice, Emission Permits and Fees."

Revisions to common provisions regulation as they relate to changes in Regulation No. 3.

Regulation No. 3, in general, requires emission offsets and lowest achievable emission rate technology (LAER) for major new sources and modifications that will significantly affect nonattainment areas. It also provides for banking of offsets and alternative emission reductions ("bubble").

Regulation No. 3 was written from both the Emission Offset Interpretative Ruling and EPA's September 5, 1979, proposed changes (44 FR 51924) to this ruling. In meeting the combination of the old and new requirements, Regulation No. 3 is not less stringent than would be allowed under either the old or new set of requirements. However, on August 7, 1980 (45 FR 52676), EPA promulgated final rules amending the Emission Offset Interpretative Ruling and the new source review regulation. Since the State will have nine months to submit regulations consistent with the recent rules, EPA is not proposing to disapprove any portion of the State's regulation which is consistent with previous guidance, but not consistent with the recent promulgation.

Proposed Action

The automatic issuance of a permit when statutorily defined time limits have been exceeded was disapproved in our October 5, 1979, Final Rulemaking. This provision remained unchanged in the revised Regulation No. 3. A legislative amendment will be needed before this deficiency can be remedied.

EPA finds the amended rules have resolved deficiencies 2 through 7. However, in amending these rules the Colorado Air Quality Control Commission made additional changes to Regulation No. 3 which EPA finds unacceptable. These changes are as follows:

1. Section IV.D.2.b.ii.(G) exempts from the major modification definition, a "change of an existing oil-fired or gas-fired boiler to use of a coal/oil mixture, shale oil, or coal-derived fuels provided that such change would not interfere with reasonable further progress (RFP) towards attainment of any National Ambient Air Quality Standard."

EPA is proposing to disapprove this exemption since it does not include a requirement that the source was capable of accommodating such a change prior to December 21, 1976.

2. Section IV.D.2.b.iii., Major Modification and the definition of major stationary source in the Common Provisions Regulation provide that fugitive emissions of particulate matter from any of the 26 listed source

categories will be excluded in determining whether a source is major, even though quantifiable, if the owner or operator of the source demonstrates to the satisfaction of the Colorado Air Pollution Control Division that such emissions are of a size and substance that will not adversely affect public health or welfare.

EPA is proposing to disapprove this exclusion based on size and substance of particulate matter since this demonstration regarding public health impact cannot be made with the health effects data now available. At this time, it is EPA's position that particulate matter, regardless of size and substance, shall be included in the applicability determination, since the existing National Ambient Air Quality Standard (NAAQS) for total suspended particulates (TSP) was established to protect public health and does not provide for this type of exemption. The particulate standard is currently being reviewed and the possibility of a new size specific standard exists. However, until the review of the particulate standard is complete, 1981, EPA is proposing to disapprove this exemption. In addition, even if such an exemption were permissible under existing federal standards and regulations, this portion of the regulation provides no criteria for the Division's decision, and thus, is too vague to be acceptable.

3. Under Section IV.H.6., the Division may grant an applicant a period greater than six months to bring a source into compliance. EPA is proposing to disapprove this extension since it would not meet the requirements of Section 110(i) of the Act.

4. Regulation No. 3 also lacked a definition of a "reconstruction." In our Emission Offset Interpretative Ruling, EPA defines "reconstruction" as improvements at an existing source which equal 50% or more of the capital cost for replacing the source.

The Administrator included this approach in accordance with Congressional intent to subject new construction in nonattainment areas to requirements such as LAER even though a replacement of an older unit would result in a net reduction from previous emission levels.

This was premised on the fact that nonattainment areas require very stringent permitting procedures to overcome the inertia of the nonattainment problem. Having a reconstruction provision would promote maximum air quality improvements by requiring more construction projects to meet LAER and bring other sources in the State under common control into compliance with the attainment plan.

If any major source is "reconstructed" in a nonattainment area in Colorado and escapes review under Section IV.D.2., Requirements Applicable To Nonattainment Areas, its State permit will not be deemed valid by EPA and will be subject to enforcement action.

5. Section IV.D.2.(iii)(AA) requires fugitive emissions being regulated under Regulation No. 6, Standards of Performance for New Stationary Sources, and Regulation No. 8, The Control of Hazardous Air Pollutants, to be included in the determination of whether a major modification has occurred. This provision also appears in the definition of Major Stationary Source in the Common Provisions Regulation.

EPA has provision which appears in the definition of "potential to emit" and provides that fugitive emissions shall be included in determining "potential to emit" for any stationary source being regulated under Section 111. New Source Performance Standards (NSPS), and Section 112, National Emission Standards for Hazardous Pollutants (NESHAPS). Colorado's Regulation No. 6 and No. 8 are not up to date with current additions to EPA's NSPS and NESHAPS regulations and therefore, sources could be exempted from review under IV.D.2 until the State updates their regulations.

Therefore, if any source escapes review under Section IV.D.2. because its fugitive emissions were not subject to Regulation No. 6 or No. 8, even though EPA had made revisions to NSPS or NESHAPS, which apply to the source, the State permit will be deemed invalid by EPA, and the source will be subject to enforcement action.

EPA today solicits comments on our proposed disapproval of these additional changes.

Section IV.D.2.b.(ix) provides that with respect to sources locating in nonattainment areas without an approved implementation plan or a plan which is "incomplete," the significant net increase in potential to emit, provided for in Major Modifications, Section IV.D.2.b., shall be determined only with respect to increases and decreases that have occurred at the particular piece of process equipment which has been modified (i.e., the "bubble concept" shall be applied only to the individual piece of process equipment (facility) rather than to the entire stationary source).

In EPA's final new source review regulations published on August 7, 1980, this distinction between complete and incomplete SIPs has been eliminated. Therefore, this provision in the State regulation is no longer necessary, since

the dual definition now applies across the entire nonattainment area.

Regulation No. 3 also has provisions for banking of emission offsets and the "bubble" approach. In both provisions, SIP revisions are required. EPA will base our approval of these SIP revisions on the demonstration of RFP for banking, and conformity with the conditions set forth in our Alternative Emission Reduction Options Policy Statement ("Bubble Policy," December 11, 1979, Federal Register).

Although EPA has noted these additional deficiencies in Regulation No. 3 and set forth conditions when EPA would take necessary enforcement action should invalid State permits be issued, we do find Regulation No. 3 to be adequate to satisfy the requirements of Sections 172 and 173 of the Act.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore, subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Sections 110, 172, and 173 of the Clean Air Act as amended.

Dated: July 29, 1980.

Gene A. Lucero,
Deputy Regional Administrator.

[FR Doc. 80-27152 Filed 9-4-80; 8:46 am]
BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1597-4]

California State Implementation Plan Revision: Sacramento Valley Air Basin Nonattainment Area Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the California State Implementation Plan (SIP) were submitted to the Environmental Protection Agency (EPA) by the Governor's designee. These revisions consist of a Control Strategy and regulations for the Sacramento Valley Air Basin and constitute the Nonattainment Area Plan (NAP) for ozone (O₃), carbon monoxide (CO) and total suspended particulates (TSP). This air basin includes the following Counties: Butte, Colusa, Glenn, Sacramento, Sutter, Tehama, Yuba,

Yolo, and portions of Placer, Solano, and Shasta. The intended effect of the revisions is to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas" for the Air Basin.

This notice addresses only those portions of the SIP revisions concerning Butte, Placer, Sacramento, Solano, Sutter, Yolo, and Yuba Counties. A separate Federal Register notice will address the remaining portions of the revisions concerning Colusa, Glenn, Tehama, and Shasta Counties.

The EPA invites public comments on the SIP revision, the identified deficiencies, the suggested corrections and associated proposed deadlines, and whether the overall NAP or certain portions of the NAP should be approved, conditionally approved, or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATES: Comments may be submitted up to October 6, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch (A-4-2), Regulatory Section, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed SIP revision and EPA's associated evaluation report are contained in Document File NAP-CA-16 and are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Air Resources Board, 1102 "Q" Street,
P.O. Box 2815, Sacramento, CA 95812.
Butte County Air Pollution Control
District, 316 Nelson Avenue, Oroville,
CA 95965.

Butte County Association of
Governments, 1859 Bird Street,
Oroville, CA 95965.

Placer County Health Department,
11491 "B" Avenue, Auburn, CA 95603.
Sacramento County Air Pollution
Control District, 3701 Branch Center
Road, Sacramento, CA 95827.

Sacramento Regional Area Planning
Commission, 800 "H" Street, Suite 300,
Sacramento, CA 95814.

Sutter County Air Pollution Control
District, 142 Garden Way, Yuba City,
CA 95991.

Yolo-Solano Air Pollution Control
District, P.O. Box 1006, Woodland, CA
95659.

Yuba County Air Pollution Control
District, 938 14th Street, Marysville,
CA 95901.

FOR FURTHER INFORMATION CONTACT:
Douglas Grano, Chief, Regulatory
Section, Air Technical Branch, Air and

Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, (415) 556-2938.

Supplementary Information:

EPA Proposed Actions

The portions of the Sacramento Valley Air Basin (SVAB) NAP for the seven counties addressed in this notice have been evaluated for conformance with Part D of the Clean Air Act. This notice provides a description of the NAP, summarizes the applicable Clean Air Act requirements, compares the NAP to those requirements, and proposes approval, conditional approval, or disapproval for portions of the NAP concerning the seven counties.

EPA's review indicates that the portions of the SVAB NAP concerning these seven counties are consistent with the Part D requirements, with certain exceptions, as noted below. EPA is proposing to approve the consistent portions and incorporate them into the SIP.

Certain portions of the NAP for the seven counties contain minor deficiencies with respect to Part D. EPA is proposing to approve these portions and incorporate them into the SIP, with the condition that each minor deficiency be corrected by a specified deadline. The portions of the NAP containing minor deficiencies for each county/nonattainment pollutant are as follows:

Butte/CO—annual report and permit program; Butte, Sutter, and Yuba/O₃—legally enforceable measures and permit program; Placer, Sacramento, Solano, and Yolo/O₃ and CO—emission inventory, emission reduction estimates, permit program, resources, and extension requirements for volatile organic compounds; Sacramento/TSP—emission inventory, modeling, attainment provision, reasonable further progress, legally enforceable measures, annual report, permit program, and resources.

Portions of the NAP for O₃ in Placer, Sacramento, Solano and Yolo Counties and for CO in Sacramento County constitute major deficiencies with respect to Part D. The major deficiencies are the result of the lack of legal authority from the California State Legislature to implement a vehicle emission control inspection and maintenance program in the Sacramento Metropolitan Area. Therefore, the following portions of the NAP for these four counties are proposed to be disapproved: legally enforceable measures and extension requirements.

EPA is proposing in this notice to conditionally approve the Butte, Sutter,

and Yuba County portions of the NAP. In addition, EPA is proposing to conditionally approve the portion of the NAP concerning TSP in Sacramento County. Upon final rulemaking, this additional approval would be sufficient to lift the construction sanction in Butte, Sutter, and Yuba Counties and, with respect to TSP only, in Sacramento County.

However, EPA is also proposing in this notice to disapprove the portions of the NAP concerning O₃ in Sacramento, Yolo, and portions of Placer and Solano Counties and CO in Sacramento County. This disapproval action would result in the continuation of the construction prohibition on certain sources in the parts of these four counties that are within the

Background

New provisions of the Clean Air Act, amended in August 1977, Pub. L. No. 95-95, require States to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS).

On April 4, 1979 (44 FR 20372), EPA published a General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. In addition, EPA published Supplements to the General Preamble on July 2, August 28, September 17 and November 23, 1979 (44 FR 38583, 50371, 53761 and 67182). The General Preamble supplements this notice by identifying the major considerations that will guide EPA's evaluation of the plan submittal.

The entire Sacramento Valley Air Basin is currently designated nonattainment for O₃ and TSP (except Glenn County, which is unclassified for TSP). In addition, Butte and Sacramento Counties are nonattainment for CO.

In a September 24, 1979 letter, the California Air Resources Board (ARB) requested EPA to redesignate (1) Colusa, Glenn and Shasta (SVAB portion) Counties to unclassifiable for O₃; (2) Tehama County to attainment for O₃; and (3) Tehama, Shasta (SVAB portion), Butte, Solano (SVAB portion), Sutter, Yuba and Yolo Counties to unclassifiable for TSP.

On April 10, 1980 EPA published a notice in the *Federal Register* proposing to approve the requested redesignations. As a result, EPA is deferring the review of the portions of the SVAB NAP concerning O₃ and TSP plans in those counties. Action will be taken for those counties after a final rulemaking notice on the redesignation request.

Description of Proposed SIP Revisions

On November 13, 1979, the Governor's designee submitted the SVAB Control

Strategy (Chapter 13 of the Comprehensive Revisions to the State of California Implementation Plan for the Attainment and Maintenance of Ambient Air Quality Standards) to EPA. Preparation of the Control Strategy was coordinated by the Sacramento Regional Area Planning Commission, Sutter County Air Pollution Control District (APCD), Yuba County APCD, Butte County Association of Governments and ARB.

The SVAB NAP includes the following documents: "Sacramento Valley Air Basin Control Strategy," (Chapter 13); locally adopted plans for Butte, Colusa, Glenn, Shasta, Sutter and Yuba County APCDs; a plan for the Sacramento Metropolitan Area (which consists of Sacramento County and those portions of Placer, Solano and Yolo Counties within the Sacramento Air Quality Maintenance Area); ARB staff reports on each plan; SIP Revision for TSP in the SVAB; ARB Resolutions concerning county plans and TSP Revision; rules adopted and amended concerning these APCDs; the ARB EKMA/Isopleth Analysis; and Notices of Public Hearings for this SIP revision.

However, as discussed above, EPA is deferring action on that portion of the November 13, 1979 submittal concerning O₃ plans for Colusa, Glenn, Shasta and Tehama County APCDs. A separate *Federal Register* notice will address that portion of the November 13 SIP revision.

Chapter 13 provides a summary of the pollutant control strategy for the SVAB and identifies and discusses which portions of the NAP meet Clean Air Act requirements.

The plans for Butte, Sutter, and Yuba Counties, and the Sacramento Metropolitan Area, addressed in this notice consist of the following major components:

- A basic description of the nonattainment area including topography, air monitoring network and air quality standards;
- A list of the Federal NAP requirements;
- A discussion of the public participation process;
- A discussion of the control measures selected for the purpose of reducing pollutant emissions;
- A list of future requirements and recommendations;
- A discussion of the impacts of pollutants on public health, and on vegetation and materials.

The ARB Staff Reports and Resolutions provide the following information:

- A summary of the attainment or nonattainment status for each pollutant in the air basin;

—A description of the projected emission reductions resulting from implementation of the Control Strategies contained in the plans.

The SIP Revision for TSP summarizes the particulate problem in the air basin and recommends specific actions.

The major strategies of the NAP to attain and maintain the O₃ standard in the Sacramento Metropolitan Area are:

—California's motor vehicle standards on new vehicles;

—An inspection program to reduce pollution from in-use vehicles;

—Increased control of industrial sources;

—Transportation measures to reduce the use of automobiles;

—A program to control new industrial sources.

The controls listed above that affect motor vehicle emissions will also aid in attainment of the CO standard.

Chapter 13 also indicates that attainment of the TSP standard in the Metropolitan Area will require the development of a more extensive plan.

In addition to the November 13, 1979 submittal, this notice considers amendments to APCD rules submitted by the Governor's designee prior to March 1, 1980 which affect the NAP. The rules being considered in this notice are listed below with the submittal dates.

Butte County—December 17, 1979

Rule 2.12a—Transfer of Gasoline into Stationary Storage Containers.

Rule 2.12b—Transfer of Gasoline into Tank Trucks, Trailers, and Rail Carts.

Rule 2.12c—Storage of Gasoline Products at Terminals and Bulk Loading Facilities.

Rule 2.12d—Dry Cleaning.

Rule 2.12f—Architectural Coatings (November 13, 1979).

Placer County (Mountain Counties Air Basin portion)—November 13, 1979

Rule 212—Storage of Petroleum Products.

Rule 217—Cutback Asphalt.

Rule 218—Architectural Coatings.

Rule 215—(Bulk Plant) Transfer of Gasoline (October 15, 1979).

Rule 219—Organic Solvents (October 15, 1979).

Rule 212—Storage of Petroleum Products (October 13, 1977).

Sacramento County—November 13, 1979

Rule 6—Valves and Flanges at Chemical Plants.

Rule 10—Petroleum Solvent Dry Cleaning.

Rule 11—(Amendment) Storage of Petroleum Products.

Rule 12—Organic Liquid Loading.

Rule 13—Gasoline Transfer into Stationary Storage Containers.

Rule 14—Transfer of Gasoline into Vehicle Fuel Tanks.

Rule 16—Architectural Coatings.

Rule 17—Surface Coatings—Manufactured Metal Parts/Products (February 25, 1980).

Rule 19—Cutback Asphalt Paving Materials.

Rule 20—Solvent Degreasing.

Sutter County—November 13, 1979

Rule 2.16—Storage and Transfer of Gasoline (February 25, 1980).

Rule 2.21—Architectural Coatings.

Rule 2.22—Solvent Degreasing (February 25, 1980).

Yuba County—November 13, 1979

Rule 2.25—Storage and Transfer of Gasoline (February 25, 1980).

Rule 2.29—Organic Solvents (October 15, 1979).

Rule 2.31—Architectural Coatings.

Yolo—Solano County—February 25, 1980

Rule 2.14—Architectural Coatings (November 13, 1979).

Rule 2.13(h)(6)—Organic Solvents (December 17, 1979).

Rule 2.21—Vapor Control for Organic Liquid Transfer and Storage.

Rule 2.21.1—Storage of Organic Liquids.

Rule 2.24—Solvent Cleaning Operations (Degreasing).

Rule 2.25—Surface Coating of Manufactured Metal Parts and Products.

Criteria for Approval

The following list summarizes the basic requirements for NAPs. The citations which follow, referring to portions of the Clean Air Act, provide the basis for those requirements.

1. An accurate inventory of existing emissions (172(b)(4)).
2. A modeling analysis indicating the level of control needed to attain by 1982 (172(a)).
3. Emission reduction estimates for each adopted control measure (172(a)).
4. A provision for expeditious attainment of the standards (172(a)).
5. Provisions for reasonable further progress as defined in section 171 of the Act (172(b)(3)).
6. Adoption in legally enforceable form of all measures necessary to provide for attainment or, in certain circumstances, where adoption by 1979 is not possible, a schedule for development, adoption, submittal, and implementation of these measures (172(b)(2), (8) and (10)).
7. An identification of an emission growth increment (172(b)(5)).

8. Provisions for annual reporting with respect to items (5) and (6) above (172(b)(3) and (4)).

9. A permit for major new or modified sources (172(b)(6) and 173).

10. An identification of and commitment to the resources necessary to carry out the plan (172(b)(7)).

11. Evidence of public, local government, and State involvement and consultation (172(b)(9)).

12. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing (172(b)(1)).

13. For CO and O₃ SIP revisions that provide for attainment of the primary standard later than 1982:

a. A permit program for major new or modified sources requiring an evaluation of alternative sites and consideration of environmental and social costs (172(b)(11)(A)).

b. A provision for implementation of all reasonably available control measures for mobile and transportation sources (172(a)(2)).

c. A commitment to establish, expand, or improve public transportation to meet basic transportation needs (110)(a)(3)(B) and 110(C)(5)(B)).

d. In addition to the above, for major urbanized areas, a specific schedule and legal authority for implementation of a vehicle emission control inspection and maintenance program (172(b)(11)(B)).

14. For O₃ nonattainment areas requiring an extension beyond 1982, the revision must also provide for adoption of legally enforceable regulations to reflect the application of reasonably available control technology (RACT) to those volatile organic compound (VOC) stationary sources for which EPA has published a Control Techniques Guideline by January 1978, and a commitment to adopt RACT regulations for additional sources to be covered by future guidelines (172(a)(2)). For rural areas and urban areas that demonstrate attainment by 1982, only large sources (more than 100 tons/year emissions) must be so regulated.

Discussion

The paragraph numbers below correspond to the Part D NAP requirements discussed in the preceding section, CRITERIA FOR APPROVAL. EPA policy for approval of NAP's submitted as 1979 SIP revisions, as discussed in the General Preamble, differentiates between rural and urban ozone nonattainment areas. Based on the definition of a rural area and the policy, the Butte, Sutter and Yuba Counties' ozone plans have been reviewed against the rural requirements, and the Sacramento Metropolitan Area

(AQMA) ozone plan has been reviewed against the urban requirements. As referenced in the General Preamble, EPA's minimum requirements for an approvable 1979 rural ozone plan do not require that all of the fourteen CRITERIA FOR APPROVAL listed above be fully met. However, the rural/urban distinction does not affect the CRITERIA with respect to the other pollutants, CO and TSP, considered in this notice. Each criterion is discussed in depth below for: the Sacramento Metropolitan Area plan submittal, the Butte, Yuba and Sutter plan submittals and the TSP plan submittal for Sacramento County.

In this section the word "plan(s)" means the overall NAP or portions of the NAP, specific to certain area(s) and pollutant(s). As noted in the SUMMARY Section, EPA reviewed each of the plans for conformance with the CRITERIA FOR APPROVAL. Also in this Section, EPA identifies the portions of each plan that (1) are approvable, (2) are conditionally approvable, or (3) contain a major deficiency which causes disapproval of that portion of the plan and the overall plan with respect to Part D. Where a plan discrepancy is identified, recommendations for revision of the plan are specified. As a result of this analysis, EPA proposes to disapprove the overall plan for the Sacramento Metropolitan Area for CO and O₃, to conditionally approve the Butte, Sutter and Yuba County plans for O₃ and the Butte County plan for CO, and to conditionally approve the Sacramento County plan for TSP, all with respect to Part D requirements.

With respect to the rules submitted, EPA proposes to approve them (with the exception of Placer County APCD Rule 212, submitted on October 13, 1977) since they strengthen the SIP, and they are consistent with the Clean Air Act, EPA policy and 40 CFR Part 51. Placer County APCD Rule 212 (October 13, 1977 submittal) is proposed to be disapproved.

A. Sacramento Metropolitan Nonattainment Area

1. Emission Inventory

Ozone and Carbon Monoxide. The plan includes emission inventories of hydrocarbons (HC) and CO for a portion of the nonattainment areas. These plan inventories were based on emissions data collected on three summer days in 1976.

Due to the failure of the inventories to include the entire nonattainment area and due to the time of year of data collection, certain source categories may not be properly represented. Motorcycle

emissions are not included at all. Also, the documentation and calculations used in developing the emission projections are not contained in the SIP submittal.

These deficiencies are considered minor, however, and EPA proposes to approve this portion of the O₃ and CO plans with the condition that the State submit corrected CO and HC emission inventories by October 1, 1980. These corrections must include:

- (1) Emissions for the total nonattainment areas, with adequate documentation to represent average daily emissions;
- (2) Motorcycle emissions;
- (3) A CO emission inventory which takes into account winter conditions;
- (4) Supporting documentation for emission factors and projections.

2. Modeling

Ozone. Using a City Specific Empirical Kinetic Modeling Approach (EKMA), the plan estimated that attainment of the NAAQS for O₃ would require approximately a 50% reduction in reactive organic gases. The analysis included a design value of .19 ppm and assumed a transport value of .10 ppm. EPA finds this modeling to be acceptable for the 1979 plan and proposes to approve this portion of the O₃ plan.

Carbon Monoxide. The plan, as modified by the State, uses linear rollback modeling to calculate that emission reductions of approximately 46% are required to meet the NAAQS for CO. Rollback is considered an acceptable modeling technique for the 1979 SIP revision and thus EPA proposes to approve the modeling portion of the CO plan.

3. Emission Reduction Estimates

The plan contains two sets of HC emission reduction estimates for individual control tactics. One is calculated as a percent of the base year emission inventory; another provides the percent of control per tactic from the proposed implementation date. These estimates, however, do not correspond to the projected emission inventories nor to the Reasonable Further Progress (RFP) emission reduction estimates.

Estimated HC emission reductions are also unclear due to the State's deletion and revision of several control tactics contained in the locally adopted plan and by the fact that the emission inventory is not for the total nonattainment area. Further, the 14% reduction in HC emissions credited to the implementation of an NSR rule lacks documentation to substantiate it.

Finally, the plan does not contain any emission reduction estimates for CO.

EPA proposes to approve the Emission Reduction Estimates portion of the Sacramento Metropolitan Area plan for O₃ and CO with the condition that the State submit, by October 1, 1980, upgraded estimated reductions for both O₃ and CO and the supporting documentation. These estimates must be for each year through the attainment year and for each tactic (including the new source review rule) in the plan for which implementation is scheduled to begin prior to July 1, 1982.

4. Attainment Provision

Section 172(a) of the Act requires that the plan provide for the attainment of the primary NAAQS as expeditiously as practicable but not later than December 31, 1982. However, Section 172(a) also provides that where the State demonstrates that the standards for O₃ and/or CO cannot be attained by December 31, 1982, despite the implementation of all reasonably available control measures, an extension may be granted and the State must demonstrate attainment by no later than December 31, 1987.

The plan demonstrates that the O₃ and CO standards cannot be achieved by December 31, 1982 despite the implementation of all reasonably available control measures, and therefore requests an extension. EPA finds that the requested extension of the attainment date for O₃ and CO is justified and proposes to grant the extension.

The submitted plan does not quantitatively demonstrate attainment of the O₃ and CO standards by December 1987. However, EPA proposes to approve the attainment portion of the CO and O₃ plans for the Sacramento Metropolitan Area, since the plan includes a commitment to prepare a 1982 SIP revision that will provide a quantitative demonstration of attainment of the O₃ and CO standards by December 31, 1987.

5. Reasonable Further Progress (RFP)

Figures 13-1 and 13-2 of Chapter 13 in the plan submittal represent the annual incremental reductions needed for attainment by 1987 of the O₃ and CO standards, respectively. This generalized representation is sufficient for the 1979 SIP revision, as it addresses the requirements of Sections 172(b)(3) and 171(1) of the Act with respect to reasonable further progress. The RFP schedule must additionally be supported by the implementation of a process for monitoring and verification of transportation related emission

reductions. EPA proposes to approve this portion of the Sacramento Metropolitan Area O₃ and CO plans.

6. Legally Adopted Measures/Schedules

The plan does not indicate that all necessary control measures have been adopted at the State or local level, as required by Sections 172(b)(2), 172(b)(8), and 172(b)(10). Specifically, the plan fails to contain in legally enforceable form (1) all of the necessary reasonably available control technology (RACT) for volatile organic compound (VOC) sources, and (2) all reasonably available control measures identified in the plan for implementation, including a motor vehicle emission inspection and maintenance program. For all other measures, either adopted control strategies or schedules and commitments for strategy development, adoption and implementation have not been submitted.

The plan must include adoption of reasonably available control measures in legally enforceable form. A motor vehicle emission inspection and maintenance (I/M) program is a reasonably available transportation control measure and is provided for in the plan. However, due to the absence of legal authority to implement the I/M program set forth in the plan because of the lack of State authorizing legislation, I/M cannot be considered to be adopted in legally enforceable form. As a result of this major deficiency, EPA proposes to disapprove this portion of the O₃ and CO plans and to disapprove the overall O₃ and CO plans with respect to Part D requirements.

The plan contains 5 transportation control measures that are presently found to be reasonable in the Sacramento Metropolitan nonattainment area. However, there is no evidence in the plan that all of these transportation control measures are currently adopted or committed for implementation in legally enforceable form. The requirements of Section 172(b)(10) are not met, since the plan does not include written evidence that the agencies identified as responsible for transportation related measures have formally committed, and where appropriate, have adopted statutes, regulations, ordinances or other legally enforceable documents, to implement and, where appropriate, enforce the necessary transportation control measures, nor have they established implementation schedules with milestones dates for planning, programming, implementing, operating, enforcing and monitoring each transportation control measure, consistent with a demonstration of

reasonable further progress. EPA proposes to approve this portion of the O₃ and CO plans with the condition that the State submit the commitments and schedules discussed above by October 1, 1980.

Sections 172(b)(11)(C), 172(b)(2) and 172(b)(10) require the identification and implementation of all other reasonably available control measures (including, but not limited to, those contained in Section 108(f) of the Act) necessary to provide for attainment. The plan does not contain commitments to implement expeditiously all measures found to be reasonably available after analysis performed in accordance with the schedule required in Criterion 13 below. Therefore, EPA proposes to approve this portion of the O₃ and CO plans with the condition that these commitments be submitted by October 1, 1980.

The O₃ plan must also include adopted regulations reflecting RACT for all applicable stationary source categories for which EPA has published a Control Techniques Guideline (CTG) document by January 1978. As discussed in detail in Criterion 14, adequate legally enforceable regulations for 3 of the 15 CTG categories (degreasing operations, surface coating of cans and coils) have not been submitted by the State for certain counties. EPA has determined that the absence of such rules is a minor deficiency because these categories appear to make up a small portion of the HC emission inventory. This portion of the O₃ plan is therefore proposed to be approved under the same conditions stated in Criterion 14. Specifically, EPA proposes to approve this portion of the O₃ plan with the condition that the State submit by October 1, 1980, adopted rules consistent with the CTG's, for the 3 stationary source categories mentioned above, or provide certification that no sources in these categories exist in the planning areas.

The plan contains (in Table 13-2) stationary source control measures for certain source categories which are not addressed by the CTG documents published by EPA, as of January 1978. These control measures are not adopted in legally enforceable form, although the plan contains a commitment that those measures deemed reasonably available will be adopted as rules by the Sacramento, Placer, and Yolo-Solano APCDs and/or the ARB. EPA proposes to approve this portion of the O₃ plan with the condition that the State submit by October 1, 1980 a schedule providing for the adoption and submittal to EPA of all such control measure rules as expeditiously as practicable and not later than July 1, 1982. Such rules must

be adopted and submitted in accordance with the schedule, and each annual report must provide a status of adoption of such rules.

40 CFR Part 52. In addition to the proposed rulemaking actions, the following Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52, are proposed to be rescinded or amended because they have been replaced by a revised set of control measures or regulations contained in the plan, and/or they have been invalidated by previous legal action:

Section 52.222—Extensions. Paragraph (b): The attainment date for the national standards for carbon monoxide and photochemical oxidants for the Sacramento Valley Intrastate should be changed in accordance with the submitted plan.

Section 52.233—Review of new sources and modifications. Paragraph (b) and subparagraphs (d)(6)(iii), (d)(6)(vi), (d)(6)(ix), (f)(1)(i)(b), (g)(1)(vi)(h), and (g)(1)(vi)(f) should be rescinded when the State adopts and officially submits approvable New Source Review regulations; also, paragraphs (h) and (i) should be rescinded because they have been invalidated by the Clean Air Act Amendments of 1977.

Section 52.238—Attainment dates for national standards. The attainment dates in this section are proposed to be changed in accordance with the submitted plan.

The sections below should be rescinded in their entirety because they have been invalidated by the court action of *Brown vs. EPA* 521 F.2d 827 (1975):

Section 52.242—Inspection and maintenance program.

Section 52.243—Motorcycle limitation.

Section 52.244—Oxidizing catalyst retrofit.

Section 52.245—Control of oxides of nitrogen, hydrocarbon, and carbon monoxide emissions from in-use vehicles.

Section 52.247—Definitions for parking management regulations.

Section 52.251—Management of parking supply.

Section 52.257—Computer carpool matching.

Section 52.266—Monitoring transportation mode trends.

The following section should be rescinded as it is replaced by revised control strategies for the pollutants:

Section 52.269—Control strategy and regulations: Photochemical oxidants (hydrocarbons) and carbon monoxide.

7. Emissions Growth. The plan must include either (1) an expressed

identification and quantification of an emission growth increment for the construction and operation of major new or modified stationary sources, or (2) provisions to offset the emissions from such sources in a new source review rule. The plan does contain an adopted new source review rule which provides for emission offsets. Therefore, EPA proposes to approve this portion of the O₃ and CO plans as satisfying the requirements of section 172(b)(5) of the Act.

8. Annual Reporting

The Sacramento Metropolitan Area plan includes a commitment for submittal of annual reports of reasonable further progress, and thus, EPA proposes to approve this portion of the O₃ and CO plans.

9. Permit Program

The Sacramento Metropolitan Area plan contains an NSR Rule that was adopted by the ARB for the entire SVAB.

EPA's criteria for approval of a new source permitting program are contained in Section 173, which also references essential portions of Sections 171 and 172. EPA has established further guidance based on Section 173: EPA's Emission Offset Interpretative Ruling in the January 16, 1979 Federal Register (44 FR 3274), and EPA's proposed amendments to regulations for NSR and to the Emission Offset Ruling in September 5, 1979 Federal Register (44 FR 51924). The permitting program must be consistent with Section 173 and one or the other notice.

EPA's review indicates that the NSR regulations are not fully consistent with EPA criteria. The rules use less stringent source definitions, allow exclusion of modifications from Lowest Achievable Emission Rate and offset requirements in cases which EPA does not allow, have weaknesses in emission offset application and requirements, and do not require full stateside compliance certification. These and other deficiencies are described in the Evaluation Report. EPA has determined that the deficiencies in the NSR regulation are minor deficiencies, with respect to Section 173. Therefore, EPA proposes to approve and incorporate into the SIP the NSR regulation with the following condition. The regulations must be revised and submitted as a SIP revision by March 1, 1981 and must satisfy Section 173 and must be consistent as a whole with either the January 16, 1979 Interpretative Ruling, or the September 5, 1979 proposal. An additional option, if EPA's final rulemaking on the September 5, 1979

proposal has been promulgated, would be for the revised regulation to be consistent with that rulemaking. However, it should be noted that when EPA does take final action on its September 5, 1979 proposal, the State will be under a statutory obligation to revise its NSR regulation within nine months to be consistent with that final action.

10. Resources

The plan does not specifically identify the personnel and financial resources which the implementing agencies must commit, nor does it provide commitments on the part of all implementing agencies to the resources necessary for plan implementation. The plan must provide such identifications and commitments to satisfy the requirements of Sections 110(a)(2)(F) and 172(b)(7). EPA proposes to approve this portion of the O₃ and CO plans with the conditions that the State submit by October 1, 1980, the identification and commitments described above.

11. Public and Government Involvement

The plan provides evidence of public, local government, and State involvement and consultation in the planning process, and documents the process used in designating responsible entities for preparing and implementing the plan.

The plan identifies air quality, health, welfare, economic, energy and social effects of the plan provisions. In addition, the plan contains a summary of public comments and the tapes of the ARB hearing held on the plan.

EPA proposes to approve this portion to the CO and O₃ plans as meeting the requirements of Section 172(b)(9) of the Act.

12. Public Hearing

The plan meets the requirements of Section 172(b)(1) since it includes evidence that the plan was adopted by the State after reasonable notice and public hearing. Therefore, EPA proposes to approve this portion of the O₃ and CO plan submittals.

13. Extension Requirements

Since the State has demonstrated that the NAAQS for O₃ and CO cannot be attained by December 1982, despite the application of reasonably available control measures, and the state has requested an extension of the attainment date beyond December 1982, for O₃ and CO, the plan must meet the requirements of Sections 172(b)(11)(A), 110(a)(3)(D), and 110(c)(5)(B).

Under Section 172(b)(11)(A) the State must submit, in conjunction with the

NSR permit program, a procedure and requirement for an analysis of alternative sites, sizes, processes, and controls, which demonstrate that the benefits of a major emitting facility outweigh environmental costs. While the State has adopted a policy that the California Environmental Quality Act (CEQA) procedure is equivalent to that required by Section 172(b)(11)(A) of the Act, official submittal of relevant portions of CEQA as part of the plan is needed to satisfy the requirements of that Section. Therefore, EPA proposes to approve this portion of the Sacramento Metropolitan Area CO and O₃ plans with the condition that the State submit the relevant portions of CEQA by October 1, 1980.

Under Section 172(b)(11)(B) the plan must establish a specific schedule for the implementation of a vehicle emission control inspection and maintenance program. The requirement of Section 172(b)(11)(B) has not been met since the California Legislature has filed to authorize the legal authority to implement such a program. Therefore, EPA proposes disapproval of this portion of the CO and O₃ plans and the CO and O₃ overall plans with respect to Part D requirements.

Sections 110(a)(3)(D) and 110(c)(5)(B) require that the plan contain commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs. These basic transportation needs must be met as expeditiously as practicable using Federal grants and State and local funds to implement public transportation programs. The plan does not provide a commitment to develop a plan to meet basic public transportation needs. The plan must document basic policy level commitments to improve public transportation to meet basic transportation needs. The plan must also commit to the use of Federal grants and State and local funds as necessary to meet such needs. EPA proposes to approve the O₃ and CO plans with respect to the requirements of sections 110(a)(3)(D) and 110(c)(5)(B), with the condition that the State submit the commitments specified above by October 1, 1980.

Section 172(b)(11)(C) requires that other measures (including but not limited to those listed in Section 108(f) of the Act) that may be necessary to provide for attainment of the NAAQS no later than December 31, 1987, must be identified in the plan. The Sacramento Metropolitan Area plan does identify a number of measures, and the State has committed to the development of a work

program for transportation control measures which will assign targets for reduction of emissions, motor vehicles trips and vehicle miles traveled for these measures. This work plan can form the basis for a study of alternative packages of measures. Schedules and commitments for implementation must be part of the work plan and must be incorporated into the SIP. Additionally, several 108(f) measures have not been fully analyzed; these must be included in the plan for further study. This portion of the O₃ and CO plans is proposed to be approved with the condition that the State submit by October 1, 1980 an expanded list of measures, and a schedule for analysis of the alternative packages of measures.

To assure that the requirements of Section 176c and 176d are met EPA policy requires that the plan contain procedures for the determination of conformity with the SIP of any project, program, or plan over which the metropolitan planning organization has approval authority, and that the plan contain procedures to ensure that priority is given to the implementation of those portions of any plan or program with air quality related transportation consequences that contribute to the attainment and maintenance of the primary NAAQS. Specifically, these procedures should address the granting of priority to projects in the Transportation Improvement Program which contribute to the attainment and maintenance of the NAAQS. EPA policy requires that these procedures be submitted in the 1980 Annual Report.

14. Extension Requirements for VOC RACT

Since the State has demonstrated that attainment of the 0.12 ppm ozone standard is not possible by December 1982, the plan must contain adopted, legally enforceable regulations which reflect the application of RACT for those stationary source categories of VOC which exist within the Sacramento Metropolitan nonattainment area for which EPA had published a CTG document by January 1978 (i.e., Category I CTGs). In addition, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents.

The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendations,

for any source or groups of sources. Therefore, the basis for an EPA decision to approve a regulation as satisfying the requirements of the Act for RACT consists of the applicable CTG document, any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

The Sacramento Metropolitan Nonattainment Area is under the jurisdiction of three separate APCDs, the Sacramento County APCD and portions of the Yolo-Solano APCD and the Placer County APCD. Therefore, regulations for each of the 15 source categories addressed by the Group I CTG's must be submitted by each of these Districts, for those geographical portions that are included in the Sacramento Metropolitan Nonattainment Area, or the plan must certify that no sources exist for a category in that District. A review of the RACT regulations for each of these three APCD's follows:

Sacramento County APCD. The plan indicates that 10 of the 15 Group I CTG categories exist in the Sacramento County APCD jurisdiction. The 10 categories include service station Stage I gasoline vapor recovery (GVR), bulk gasoline plants, bulk gasoline terminals, fixed-roof tanks, degreasing operations, cutback asphalt, and the surface coating of cans, coils, large appliances, and metal furniture. (There are no petroleum refineries or surface coating operations for paper, fabric, automobiles, or magnet wire.) The following regulations were submitted on the dates listed for eight of the applicable source categories:

November 13, 1979

- Rule 11, "Storage of Petroleum Products"
- Rule 12, "Organic Liquid Loading"
- Rule 13, "Gasoline Transfer into Stationary Storage Containers"
- Rule 19, "Cutback Asphalt Paving Materials", and
- Rule 20, "Degreasing Operations"

February 25, 1980

- Rule 17, "Surface Coating of Manufactured Metal Parts and Products"

Adopted regulations have not been submitted for can and coil coating operations.

EPA has reviewed the submitted regulations listed above in relation to the respective CTG for each of the eight categories. Based on the information in the CTG's, EPA believes that the

regulations are adequate to fulfill the requirements for RACT, except as noted below.

1. Rule 13, "Gasoline Transfer into Stationary Storage Containers," (Stage I GVR) contains an exemption for tanks in existence prior to July 1, 1975, with offset full pipes. This exemption is not supported by information in the CTG.

2. Rule 19, "Cutback Asphalt Paving Material," contains an exemption allowing the use of cutback asphalt from November 1 through March 30. The State must either provide documentation that ambient temperatures during this period do not typically exceed 50°F, or this exemption must be rescinded.

Major sources of can and coil coating operations exist within the APCD jurisdiction and yet regulations have not been submitted for inclusion in the SIP. Therefore the plan does not satisfy the requirements of Section 172 (b)(2) and (3) of the Act. However, this is considered a minor deficiency since emissions from can and coil coating operations make up a small portion of the base year emission inventory.

In response to the minor deficiencies enumerated above, EPA proposes approval of the Sacramento County VOC-RACT portion of the O₃ plan with the condition that the State submit the following by October 1, 1980:

- (1) For Rule 13, Stage I GVR, either:
 - (a) An adequate demonstration that the regulations represent RACT or
 - (b) An adequate demonstration that the regulations would render emission reductions within 5% of those achievable through the implementation of the CTG recommendations, or
 - (c) An amended regulation consistent with the CTG.
- (2) For Rule 19, Cutback Asphalt, documentation supporting the five month exemption or a revision to the rule eliminating the exemption.
- (3) An adopted rule representing RACT for can and coil coating operations. The State has submitted a model rule which contains control requirements sufficient to fulfill the requirement for RACT. Therefore an adopted rule which is similar and equivalent to the model rule would satisfy this condition.

As stated above, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The plan contains a resolution committing to implement all other reasonably available control measures needed to attain the standard as expeditiously as practicable. It is concluded that this commitment is adequate provided that the State submit adopted regulations for the following applicable source

categories by July 1, 1980: refinery fugitive leaks, gasoline tank trucks, perchloroethylene dry-cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, and the surface coating of flatwood paneling. If no sources for a particular category exist in the County, the State must certify so in writing.

The District's Rule 17, "Surface Coating of Manufactured Metal Parts and Products", contains control requirements sufficient to fulfill the requirement for RACT for Miscellaneous Metal Parts, a Group II CTG category. The District's Rule 11, "Storage of Petroleum Products," also contains control requirements sufficient to fulfill the requirement for RACT for Floating-Roof Tanks (another Group II category). Therefore, no additional control requirements are needed for these source categories.

The State has also submitted the following rules for inclusion in the SIP on November 13, 1979. These rules implement other control tactics included in the plan:

Rule 6, "Valves and Flanges at Chemical Plants"

Rule 10, "Petroleum Solvent Dry Cleaners"

Rule 14, "Transfer of Gasoline into Vehicle Fuel Tanks, and

Rule 16, "Architectural Coatings".

These regulations are proposed to be approved for inclusion in the SIP since they will strengthen the SIP.

The submitted regulations for service stations and bulk gasoline plants applies to sources also regulated by the Federal Regulation 40 CFR 52.255, "Gasoline Transfer Vapor Control." Since the submitted regulation adequately controls those sources covered by the Federal Regulation, and since the District regulation is presently in effect, the Federal Regulation should be rescinded applicable to these sources. Additionally, the Federal Regulation 40 CFR 52.256, "Control of Evaporative Losses from the Filling of Vehicular Tanks," should be rescinded, since the District's Rule 14 adequately controls sources subject to the Federal Regulation.

Placer County APCD. The State has submitted regulations for the Mountain Counties Air Basin portion of Placer County. This area includes the part of Placer County which lies in the Sacramento Metropolitan Nonattainment Area.

The plan indicates that only eight of the fifteen Group I CTG categories exist in the Mountain Counties Air Basin portion of the Placer County APCD (there are no petroleum refineries, or surface coating operations for paper,

fabric, large appliances, metal furniture, automobiles, or magnet wire.) The source categories that do exist include service station Stage I GVR, bulk gasoline plants, bulk gasoline terminals, fixed-roof tanks, cutback asphalt, degreasing operations, and surface coating operations for can and coils. The following regulations were submitted on the dates indicated for five of the eight categories.

October 13, 1977

Rule 212, "Storage of Petroleum Products"

October 15, 1979

Rule 215, "Transfer of Gasoline into Tank Trucks, Trailers, and Railroad Tank Cars at Loading Facilities",

November 13, 1979

Rule 212, "Storage of Petroleum Products", and

Rule 217, "Cutback Asphalt".

Adopted regulations have not been submitted for degreasing, or the surface coating of cans and coils.

Rule 212, as submitted on October 13, 1977, does not contain control requirements sufficient to fulfill the requirement for RACT for gasoline bulk plants or service station Stage I GVR. The rule is considerably less stringent than the Federal Regulation 40 CFR 52.255, which is currently in effect for this District. EPA proposes to disapprove Rule 212, as submitted on October 13, 1977, and to retain the Federal Regulation for these source categories.

EPA has reviewed the rules submitted on October 15, 1979 and November 13, 1979 in relation to the CTG's for bulk gasoline terminals, fixed-roof tanks and cutback asphalt. Based on the information in the CTG's, EPA believes that the regulations are adequate to fulfill the requirement for RACT, except for the provision contained in Rule 217, "Cutback Asphalt", which allows the use of cutback asphalts between October 1 and May 1. EPA believes that such a provision may be appropriate if the ambient temperature during those months does not typically exceed 50°F.

The State has not submitted regulations for can and coil coating operations, or solvent metal degreasing for the Placer County portion of the nonattainment area. Therefore, the plan does not satisfy the requirements of Sections 172(b)(2) and (3) of the Clean Air Act. However, this is considered a minor deficiency in view of the small emission reductions that are likely to occur with the implementation of such rules in the Placer County portion of the

Sacramento Metropolitan Nonattainment Area.

In response to the minor deficiencies enumerated above, EPA proposes approval of the Placer County VOC RACT portion of the O₃ plan on the condition that the State submit the following by October 1, 1980:

(1) Adopted rules representing RACT for the gasoline bulk plants, service station Stage I GVR, can and coil coating operations and solvent metal degreasing source categories. The State has submitted model rules for these categories which contain control requirements sufficient to fulfill the requirement for RACT. Therefore, adopted rules which are similar and equivalent to the model rules would satisfy this condition.

(2) For Rule 217, Cutback Asphalt, documentation supporting the seven month exemption or a revision to the rule eliminating the exemption.

As stated above, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The plan contains a resolution committing to implement all other reasonably available control measures needed to attain the standard as expeditiously as practicable. It is concluded that this commitment is adequate provided that the State submit adopted regulations for the following applicable source categories by July 1, 1980: refinery fugitive leaks, gasoline tank trucks, perchloroethylene dry-cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, and the surface coating of flatwood paneling. If no sources for a particular category exist in the County, the State must certify so in writing.

The District's Rule 212, as submitted on November 13, 1979, "Storage of Petroleum Products", contains control requirements sufficient to fulfill the requirement for RACT for Floating-Roof Tanks (a Group II CTG category). EPA proposes to approve Rule 212. Therefore, no additional control requirements are needed for this source category.

The State has also submitted the following regulations on the dates indicated. These regulations implement control tactics included in the plan, or replace Federal regulations currently in effect.

November 13, 1979

Rule 218, "Architectural Coatings".

October 15, 1979

Rule 219, "Organic Solvents".

These regulations should be approved for inclusion in the SIP, since they strengthen the SIP. The Federal

Regulations 40 CFR 52.246, "Control of Dry Cleaning Solvent Vapor Losses," 40 CFR 52.252, "Control of Degreasing Operations," 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer," and 40 CFR 52.254, "Organic Solvent Usage" should be rescinded when these regulations become effective.

Yolo-Solano APCD. The plan indicates that eight of the fifteen Group I CTG source categories exist in the Yolo-Solano APCD. These include service station Stage I GVR, gasoline bulk plants, gasoline bulk terminals, fixed-roof tanks, degreasing operations, cutback asphalt, and surface coating of large appliances and metal furniture. (There are no petroleum refineries, or surface coating operations for cans, coils, paper, fabric, automobiles, or magnet wire.) The following regulations for each of these source categories were submitted on the following dates:

December 17, 1979

Paragraph (h)(6) of Rule 2.13, "Organic Solvents".

February 25, 1980

Rule 2.21, "Vapor Control for Organic Liquid Transfer and Storage",

Rule 2.21.1, "Storage of Organic Liquids",

Rule 2.24, "Solvent Cleaning Operations (Degreasing)",

Rule 2.25, "Surface Coating of Manufactured Metal Parts and Products".

EPA has reviewed the submitted regulations and the previously approved regulations listed above in relation to the respective CTG for each of the eight categories. Based on the information in the CTG's EPA believes that the regulations are adequate to fulfill the requirement for RACT, except as noted below.

(1) Paragraph (h)(6) of Rule 2.13 for cutback asphalt does not place a limit on the VOC content of emulsified asphalts, and does not specify the length of time stockpiling is to occur in order to qualify for an exemption. Also, the District's regulation is structured such that if a source was not in compliance with the specific requirements for cutback asphalt, the source would be required to meet general solvent limitations. The State has not provided any justification that the general solvent limits represents RACT for cutback asphalt.

(2) Rule 2.24, "Solvent Cleaning Operations (Degreasing)", contains control requirements believed to be equivalent to those recommended in the CTG for degreasing, but those controls would only apply to degreasers using saturated halogenated hydrocarbons

and perchloroethylene. The majority of degreasing operations would be subject to the District's Rule 2.13, which requires sources to meet either a 40 lb/day or a 3000 lb/day emission limit depending on the reactivity of the solvent used. This level of control is not considered adequate since many degreasing operations could meet the daily emission rates in Rule 2.13 without using any controls.

In response to the minor deficiencies enumerated above, EPA proposes approval of the O₃ plan with respect to the Yolo-Solano VOC RACT portion of the Sacramento Metropolitan Area O₃ plan with the condition that the State submit the following by October 1, 1980:

(1) Adequate demonstration that Rule 2.13(h)(6) represents RACT or that the Rule requires emission reductions which are within 5% of the controls recommended by the CTG or a revised rule consistent with the CTG.

(2) An adequate demonstration that Rule 2.13 is RACT or a revised rule that extends the control requirements of Rule 2.24 to all degreasers.

The submitted regulation for service stations and bulk gasoline plants applies to sources also regulated by the Federal Regulation 40 CFR 52.255, "Gasoline Transfer Vapor Control." Since the submitted regulation adequately controls those sources covered by the Federal Regulation, and since the District regulation is presently in effect, the Federal Regulation should be rescinded applicable to these sources.

The submitted regulation for the surface coating of miscellaneous metal parts and products applies to sources which are regulated by Federal Regulation 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer." Since the District's regulation is future-effective, the Federal Regulation should be retained applicable to the sources covered by the District regulation until such sources achieve full compliance with the respective District regulation. The Federal Regulation, 40 CFR 52.252, "Control of Degreasing Operations", contains control requirements which are more stringent than those contained in the District's rule for certain degreasers (primarily those using trichloroethylene). Therefore, it is proposed that the Federal Regulation remain in effect for those sources.

As stated above, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The plan contains a resolution committing to implement all other reasonably available control measures needed to attain the standard as expeditiously as practicable. It is concluded that this

commitment is adequate provided that the State submit adopted regulations for the following applicable source categories by July 1, 1980: refinery fugitive leaks, gasoline tank trucks, perchloroethylene dry-cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, and the surface coating of flatwood paneling. If no sources for a particular category exist in the County, the State must certify so in writing.

The District's Rule 2.25, "Surface Coating of Manufactured Metals Parts and Products", contains control requirements sufficient to fulfill the requirement for RACT for Miscellaneous Metal Parts, (a Group II CTG category). The District's Rule 2.21.1, "Storage of Petroleum Products", also satisfies the requirement for RACT for Floating-Roof Tanks (another Group II category). EPA proposes to approve Rules 2.25 and 2.21.1. Therefore, no additional control requirements are needed for those source categories.

The State has also submitted Rule 2.14, "Architectural Coatings," on November 13, 1979. This rule implements a control tactic included in the plan, and is proposed to be approved, since it will strengthen the SIP.

B. Yuba and Sutter Counties—Ozone Plans; Butte County Ozone and Carbon Monoxide Plans

1. Emission Inventory

The Yuba, Sutter and Butte County plans include HC emission inventories and the Butte County Plan includes a CO emission inventory. These inventories were found to be reasonably comprehensive, current, and accurate at the time they were developed. Therefore, EPA proposes to approve the inventory portion of the Yuba, Sutter and Butte O₃ plans and the Butte CO plan.

2. Modeling

Ozone. The plans do not contain air quality models that allow calculation of emission reductions needed to project attainment of the 0.12 ppm primary O₃ standard by 1982. However, as referenced in the General Preamble, EPA policy does not require a specific demonstration of attainment by rural O₃ areas in the 1979 SIP revisions. Thus, the absence of such a model is not considered a deficiency, and EPA proposes to approve this portion of the Butte, Yuba, and Sutter O₃ plans.

Carbon Monoxide. The Butte County plan uses linear rollback modeling to calculate that a 22.2% reduction in CO emissions will be required to meet the NAAQS in Butte County. This is an

acceptable method for estimating required reductions in emissions for the 1979 SIP. Therefore, EPA proposes to approve this portion of the Butte County CO plan.

3. Emission Reduction Estimates

Emission reduction estimates are contained in the plans for each control measure for HC and CO reductions. EPA finds these estimates adequate and proposes to approve this portion of the O₃ and CO plans.

4. Attainment Provision

Ozone. The plans do not quantitatively provide for attainment of the primary O₃ standard by the statutory dates. However, EPA policy for rural O₃ plans does not require a specific demonstration of attainment. Thus, EPA proposes to approve the O₃ attainment portions of the Butte, Sutter and Yuba plans.

Carbon Monoxide. The Butte County plan indicates that the CO standard can be achieved by December 31, 1982, based on reductions from the State motor vehicle emission standards. This provision for attainment is acceptable, and EPA proposes approval of this portion of the Butte County CO plan.

5. Reasonable Further Progress

Ozone. The plans do not contain a demonstration of reasonable further progress for attainment of the O₃ standard. As referenced in the General Preamble, the 1979 O₃ SIP revision for rural areas need not provide for annual incremental reductions in emissions which would demonstrate reasonable further progress. Thus, EPA proposes to approve this portion of the O₃ plans for Butte, Sutter and Yuba Counties.

Carbon Monoxide. Figure 13-3 of the Sacramento Valley SIP Revision represents the annual incremental reductions needed for attainment of the CO standard by 1982 in Butte County. This representation meets the requirements of Section 172(b)(3) and 171(1) of the Act with respect to reasonable further progress, and EPA proposes to approve this portion of the Butte CO plan.

6. Legally Adopted Measures

Carbon Monoxide. The Butte County Plan for CO contains one control tactic, the California Motor Vehicle Emission Standards, which has been adopted by the State and is legally enforceable. Therefore, EPA proposes to approve this portion of the Butte CO plan.

Ozone. The present SIP submittal does not indicate that all required plan elements have been adopted at either the state or local level. Specifically, for

Butte and Yuba Counties, a VOC Reasonably Available Control Technology (RACT) rule for cutback asphalt has not been submitted.

The plans must provide for the minimum levels of control technology that are required by the Act. For rural O₃ nonattainment areas such as Butte, Yuba, and Sutter Counties, the plans must include adopted, legally-enforceable regulations which reflect the application of RACT for those major stationary source categories (i.e., those with over 100 tons/year potential emissions) for which EPA has published a CTG Document by January, 1978, (i.e., Category I CTGs). In addition, the plans must contain a commitment to adopt RACT regulations for major sources in categories to be addressed by future CTG documents.

The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for an EPA decision to approve the regulation as satisfying the requirements of the Act for RACT consists of the applicable CTG document, any material which must be submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular source being regulated), and public comment on the submitted regulation and supporting material.

Yuba County. The plan indicates that of the fifteen source categories (addressed by eleven CTG documents) for which adopted regulations are required, only five exist in the nonattainment areas. There are no petroleum refineries, large fixed-roof tanks, or surface coating operations for large appliances, metal furniture, cans, coils, paper, fabric, automobiles, or magnet wire. The source categories that do exist in the nonattainment areas include service stations, bulk plants, bulk terminals, degreasing operations, and cutback asphalt. Of these five categories, there appear to be major sources for only bulk gasoline terminals and cutback asphalt.

Rule 2.25 "Storage and Transfer of Gasoline" was submitted by the State on February 25, 1980 for the bulk terminals source category. EPA has evaluated Rule 2.25 and has determined that this rule would satisfy the requirements for RACT if Section c.2 of

the rule were modified to insure that the rule requires at least 90% emission reductions. EPA proposes to approve this portion of the O₃ plan with the condition that the State submit a revised rule correcting the deficiency noted above, by October 1, 1980.

Rule 2.25 also requires controls for service stations and bulk gasoline plants. EPA proposes that these controls be approved and incorporated into the SIP, as they will strengthen the SIP.

A regulation has not been submitted for cutback asphalt, however, and therefore the requirements of Sections 172(a)(2) and (b)(3) are not met. The absence of such a rule is considered a minor deficiency in view of the minimal emission reductions that are likely to occur with the implementation of such rules in Yuba County. Therefore, EPA proposes to approve this portion of the Yuba O₃ plan with the condition that the State submit by October 1, 1980 either (1) a legally adopted adequate rule for cutback asphalt or (2) a certification that cutback asphalt does not constitute a major source in Yuba County. The State has submitted a model rule for this category which contains control requirements sufficient to fulfill the requirement for RACT. Therefore, an adopted rule equivalent to the model rule would satisfy this condition.

The State also submitted the following regulations on the dates indicated.

October 15, 1979

Rule 2.29, "Organic Solvents".

November 13, 1979

Rule 2.31, "Architectural Coatings".

It is proposed that these rules be approved for inclusion in the SIP, since they will strengthen the SIP. The Federal Regulations 40 CFR 52.246, "Control of Dry Cleaning Solvent Vapor Losses", 40 CFR 52.252, "Control of Degreasing Operations", 40 CFR 52.253 "Metal Surface Coating Thinner and Reducer", and 40 CFR 52.254, "Organic Solvent usage," are proposed to be rescinded effective immediately.

Sutter County. The plan indicates that of the fifteen source categories (addressed by eleven CTG documents) for which adopted regulations are required, only five exist in the nonattainment area. There are no petroleum refineries, large fixed-roof tanks, or surface coating operations for large appliances, metal furniture, cans, coils, paper, fabric, automobiles, or magnet wire. The source categories that do exist in the nonattainment area include service stations, bulk plants, bulk terminals, degreasing operations, and cutback asphalt. Of these five

categories, there are major sources for only bulk gasoline terminals.

Rule 2.16, "Storage and Transfer of Gasoline," was submitted by the State on February 25, 1980 for the bulk terminals source category. EPA has evaluated Rule 2.16 and has determined that this rule would satisfy the requirement for RACT if section c.2 of the rule were modified to insure that the rule requires at least 90% emission reductions. EPA proposes to approve this portion of the O₃ plan with the condition that the State submit a revised rule correcting the deficiency noted above, by October 1, 1980.

Rule 2.16 also requires controls for service stations, large fixed-roof tanks and bulk gasoline plants. EPA proposes that these controls be approved and incorporated into the SIP, as they will strengthen the SIP.

For Sutter County, the State has submitted Rule 2.21, "Architectural Coating," on November 13, 1979, and Rule 2.22, "Solvent Degreasing," on February 25, 1980. It is proposed that these rules be approved for inclusion in the SIP, since they will strengthen the SIP. EPA also proposes that paragraph (m) of the Federal Regulation 40 CFR 52.254, "Organic Solvent Usage," be rescinded for Sutter County when sources achieve compliance with Rule 2.21.

Butte County. The plan indicates that of the fifteen source categories (addressed by eleven CTG documents) for which adopted regulations are required, major sources exist in the County in only two source categories: bulk gasoline terminals and cutback asphalt. The following regulations were submitted by the State on December 17, 1979. These regulations control bulk gasoline terminals, as well as bulk gasoline plants, fixed-roof tanks, and service stations (Stage I GVR).

Rule 2-12.a, "Transfer of Gasoline into Stationary Storage Containers,"

Rule 2-12.b, "Transfer of Gasoline into Tank Trucks, Trailers, Railroad Tank Cars at Loading Facilities,"

Rule 2-12.c, "Storage of Gasoline Products at Terminals and Large Bulk Loading Facilities."

These regulations are proposed to be approved for inclusion in the SIP, since they will strengthen the SIP. In addition, EPA has reviewed Rule 2-12-b in relation to the CTG for Bulk Gasoline Terminals. Based on the information in the CTG, EPA believes that Rule 2-12.b is adequate to fulfill the requirement for RACT.

Regulations for cutback asphalt have not been submitted, and therefore the requirements of Sections 172 (a)(2) and (b)(3) are not met. The absence of such a

rule is considered a minor deficiency, in view of the minimal emission reduction that are likely to occur with the implementation of such a rule in Butte County.

EPA proposes to approve this portion of the Butte County ozone plan with the condition that the State submit by October 1, 1980 (1) an adopted rule that is equivalent to RACT for cutback asphalt or (2) a certification that cutback asphalt does not constitute a major source for Butte County. The State has submitted a model rule for this category which contains certain control requirements sufficient to fulfill the requirement for RACT. Therefore, an adopted rule which is similar and equivalent to the model rule would satisfy this condition.

It is proposed that the Federal Regulation 40 CFR 52.255 "Gasoline Transfer Vapor Control" be rescinded, since the submitted regulations adequately control sources subject to the Federal Regulation.

The State also submitted the following rules on the dates indicated:

Rule 2-12d, "Dry Cleaning" (December 17, 1979).

Rule 2-12e, "Cold Solvent Degreasing" (February 25, 1980).

Rule 2-12f, "Architectural Coatings" (November 13, 1979).

These rules implement a control tactics included in the plan. It is proposed that these rules be approved for inclusion in the plan, since they will strengthen the SIP. Paragraph (m) of the Federal Regulation 40 CFR 52.254, "Organic Solvent Usage," should be rescinded for Butte County for sources in compliance with Rule 2-12.f.

As stated earlier, the plans must contain a commitment to adopt regulations that are consistent with future CTG documents.

The plans contain resolutions that commit to implement all other reasonably available control measures needed to attain the O₃ standard as expeditiously as possible. This commitment is adequate provided that the State submits adopted regulations by July 1, 1980, for major sources in the following applicable source categories: petroleum refinery leaks, gasoline tank trucks, perchloroethylene dry cleaning, pharmaceutical manufacture, miscellaneous metal parts and products, graphic arts, pneumatic rubber tire manufacture, flat wood paneling, and floating-roof tanks, (i.e., Category II CTGs). If no major sources exist for a particular category, the State must so certify.

7. Emissions Growth

The plans contain adopted New Source Review rules which use emission offsets for major new or modified stationary sources to limit emissions growth. This approach is acceptable and EPA proposes to approve this portion of the Ozone plans for Butte, Sutter and Yuba and this portion of the Butte County CO Plan.

8. Annual Reporting

The plans do not specifically contain provisions for annual reports of reasonable further progress, including an updated emission inventory. EPA policy for rural O₃ plans does not specifically require the 1979 plans to contain all of the above items. Thus, EPA proposes to approve this portion of the O₃ plans.

The Butte County CO plan also does not contain a provision for Annual Reports of reasonable further progress including an updated emission inventory. EPA proposes to approve this portion of the CO plan with the condition that the State submit the first Annual Report for CO for Butte County, by July 1, 1981.

9. Permit Program

The Butte, Yuba and Sutter Plans contain a New Source Review Rule that was adopted by the ARB for the entire Sacramento Valley Air Basin.

EPA's criteria for approval of a new source permitting program are contained in Section 173, which also references essential portions of Sections 171 and 172. EPA has established further guidance based on Section 173: EPA's Emission Offset Interpretative Ruling in the January 16, 1979 Federal Register (44 FR 3274), and EPA's proposed amendments to regulations for New Source Review and to the Emission Offset Ruling in the September 5, 1979 Federal Register (44 FR 51924). The permitting program must be consistent with Section 173 and one or the other notice.

EPA's review indicates that the NSR regulations are not fully consistent with the above criteria. EPA has determined that the deficiencies in the NSR regulations are minor deficiencies, with respect to Section 173. Therefore, EPA proposes to approve and incorporate into the SIP the NSR regulations with the following condition. The regulations must be revised and submitted as a SIP revision by March 1, 1981 and must satisfy Section 173 and must be consistent as a whole with either the January 16, 1979 Interpretative Ruling, or the September 5, 1979 proposal. An additional option, if EPA's final

rulemaking on the September 5, 1979 proposal has been promulgated, would be for the revised regulation to be consistent with that rulemaking. However, it should be noted that when EPA does take final action on its September 5, 1979 proposal, the State will be under a statutory obligation to revise the NSR regulations within nine months to be consistent with that final action.

The rules use less stringent source definitions, allow exclusion of modifications from Lowest Achievable Emission Rate and offset requirements in some cases, and do not require full statewide compliance certification. These and other deficiencies are described in the Evaluation Report.

10. Resources

The plans identify the agencies responsible for implementing the necessary control strategies. This identification is acceptable and EPA proposes to approve this portion of the Butte, Yuba, and Sutter plans.

11. Public and Government Involvement

The plans provide evidence of public, local government, and State involvement and consultation in the planning process, and document the process used in designating responsible entities for preparing and implementing the plans.

The official SIP submittal also identifies air quality, health, welfare, economic, energy, and social effects of the plan provisions. In addition, the plans contain a summary of public comments.

Therefore, EPA proposes to approve this portion of the Butte, Sutter and Yuba plans.

12. Public Hearing

The plans meet the requirements of Section 172(b)(10) since they include evidence that the plans were adopted by the local lead agencies and by the State, after reasonable notice and public hearing. EPA proposes approval of this portion of the O₃ plan submittals for Butte, Sutter and Yuba, and the CO plan submittal for Butte.

13. Extension Requirements for O₃, CO

14. Extension Requirements for VOC RACT

Ozone. As referenced in the General Preamble, the 1979 O₃ SIP revision for rural nonattainment areas need not contain a specific demonstration of attainment. Therefore, the extension requirements of Criteria 13 and 14 identified above do not apply to the O₃ portion of the plans.

Carbon Monoxide. The Butte County plan demonstrates attainment of the primary CO standard by 1982. Therefore, the extension requirements with respect to CO do not apply.

C. Sacramento County—Total Suspended Particulates

Based on a request from the State of California, EPA has proposed in an earlier notice, to redesignate all of the SVAB, except for Sacramento County, from nonattainment to unclassifiable for TSP. Thus, the following evaluation pertains only to the Sacramento County nonattainment area. Additionally, the State has submitted a plan which addresses both the primary and secondary TSP standards. The existing TSP designation for Sacramento County is nonattainment with respect to only the secondary standard. EPA's review of the plan reflects this designation.

The TSP Plan for Sacramento County is proposed to be conditionally approved. EPA invites public comment on this proposal, the appropriateness of the present designation, and the specific items that are proposed to be conditionally approved.

1. Emission Inventory

The plan includes an emission inventory of TSP for the total SVAB, using a 1976 base year. However, as stated earlier, the State has requested, and EPA proposes to approve, redesignation of a major portion of the Sacramento Valley from nonattainment to unclassifiable for TSP. Only Sacramento County will remain nonattainment for TSP and only for the secondary standard. As required by section 172(b)(4), the State must submit a revised TSP emission inventory for only the Sacramento County nonattainment area. This inventory must include secondary aerosol emissions as a source category, and also must identify and quantify all subcategories of the nontraditional source category.

EPA proposes to approve the emission inventory portion of the Sacramento County TSP plan with the condition that the State submit an emission inventory for Sacramento County by October 1, 1980.

2. Modeling

The plan does not contain a modeling analysis which would determine the emission reduction estimates needed to attain the NAAQS. A design value must be selected and documented, and a modeling analysis must be submitted. Justification for using either the 24-hour standard or the annual geometric mean standard must also be submitted. EPA proposes to approve this portion of the

Sacramento County TSP plan with the condition that the State submit a modeling analysis for Sacramento County for TSP by October 1, 1980.

3. Emission Reduction Estimates

The TSP plan contains a general commitment to the study of fugitive dust and other nontraditional control measures (see ATTAINMENT PROVISION discussion). Therefore, EPA proposes to approve this portion of the plan.

4. Attainment Provision

The plan identifies adopted regulations which reflect an emission limit that requires RACT for existing major source categories. In addition, the plan indicates that fugitive dust emissions appear to comprise a major portion of the TSP inventory, and that reductions in these emissions will be necessary to attain the NAAQS. Due to (1) the unavailability of precise emission factors for the fugitive dust sources and (2) the need to further study potential control measures for these sources, the TSP plan cannot, at this time, quantify the expected emission reduction.

In such cases where study and implementation of nontraditional control measures is necessary to attain the standards, it is EPA policy that the plan need not provide a quantitative demonstration of attainment. Instead, the plan may provide a commitment and a schedule for the development, adoption, and implementation of those control measures necessary for the attainment of the secondary TSP standards as expeditiously as practicable.

The TSP plan contains a commitment by the ARB to attain the secondary TSP standard as expeditiously as practicable. However, the plan does not contain commitments and schedules to perform specific studies, nor does it contain a commitment and schedules to implement those measures found to be reasonable. If the schedule and these commitments are submitted, a demonstration of attainment could be approved based on future implementation of nontraditional source control measures. EPA proposes approval of the TSP plan for Sacramento County with the condition and the State submit the schedules and commitments noted above by October 1, 1980.

5. Reasonable Further Progress

The plan indicates that RFP cannot be quantified due to analytical problems and to a lack of information on measured TSP concentrations. However, if the nontraditional source study tasks, schedule, commitment and milestones

were included in the plan, the plan would appear to be consistent with the requirements of Section 172(b)(3) and 171(1), since it would provide for regular incremental reductions needed for expeditious attainment, based on future implementation on nontraditional and secondary particulate source control measures. EPA proposes to approve this portion of the TSP plan on the same condition as outlined in the ATTAINMENT PROVISION discussion: the submittal of adequate schedules and commitments by October 1, 1980.

6. Legally Adopted Measures

The TSP plan, as noted above, identifies adopted regulations which reflect an emission limit that is equivalent to RACT for major source categories. In addition, the State has committed to develop and submit by December 31, 1981, a plan containing further analysis and control measures needed to attain the secondary standard as expeditiously as possible.

As discussed in the ATTAINMENT DEMONSTRATION section of this notice, the TSP plan contains a minor deficiency since it does not contain a commitment and schedule for the development, adoption, and implementation of those control measures necessary for attainment as expeditiously as practicable. The LEGALLY ADOPTED MEASURES section is deficient for the same reason, and is therefore proposed to be approved under the same conditions stated in the ATTAINMENT DEMONSTRATION section.

7. Emissions Growth

To satisfy the requirements of Section 172(b)(5) of the Act, the plan must provide either an emission growth increment or an offset requirement for those emissions resulting from major new stationary source growth.

The plan contains an adopted NSR rule which requires emission offsets from major new or modified stationary sources. Therefore, EPA proposes to approve this portion of the plan.

8. Annual Reporting

The plan must contain a commitment for annual reports of RFP including an updated emission inventory. A commitment to such annual reporting is not included in the plan. EPA proposes to approve this portion of the plan with the condition that the State submit the first Annual Report, including the information noted above, on July 1, 1981 and a commitment to submit annual reports hereafter.

9. Permit Program

As discussed in this Notice's evaluation of the Sacramento Metropolitan Area plan for CO and O₃, a legally adopted preconstruction review permit program has been submitted to fulfill the requirements of Sections 172(b)(6) and 173 of the Act. Deficiencies in the program necessitate conditional approval is described in Criterion 9 of the CO and O₃ discussion. This portion of the TSP plan is deficient for the same reason, and EPA therefore proposes to approve this portion of the TSP plan with the same condition stated in the CO and O₃ discussion.

10. Resources

The plan does not specifically identify and commit to all financial and personnel resources needed for plan implementation, nor does the plan provide commitments to these resources on the part of all implementing agencies to satisfy the requirements of Section 172(b)(7). EPA is proposing to approve this portion of the TSP plan with the condition that the State submit these commitments by October 1, 1980.

11. Public and Government Involvement

Through the State hearing process, the plan provides evidence of public, local government, and State involvement. The plan documents the process used in designating responsible entities for preparing and implementing the plan.

The plan identifies air quality, health, welfare, economic, energy and social effects of the plan provisions. In addition, the plan contains a summary of public comments and the tapes of the ARB hearing held on the plan.

EPA proposes to approve the Public and Government Involvement portion of the Sacramento County TSP plan submittal as meeting the requirements of Section 172(b)(9) of the Act.

12. Public Hearing

The plan meets the requirements of Section 172(b)(1) since it includes evidence that the plan was adopted by the State after reasonable notice and public hearing. Therefore, EPA proposes to approve this portion of the plan submittal.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State.

The Regional Administrator hereby issued this notice setting forth the SIP revision described above as proposed rulemaking and advises the public that interested persons may participate by

submitting written comments to the Region IX Office.

This proposal also includes draft regulations which have been adopted as model rules after public hearing by the State. All of these model rules have not yet been adopted and submitted to EPA by the State as legally enforceable regulations. However, the State has requested EPA to review these model rules and invites public comments on whether these draft regulations meet the requirements of Part D of the Clean Air Act. EPA may proceed to final rulemaking without providing further opportunity for public comment if the State submits regulations equivalent to these model rules.

The EPA Region IX Office specifically invites public comment on whether to conditionally approve the items identified in this notice as deficiencies in the nonattainment area plan. EPA is further interested in receiving comments on the specified dates for the State to submit the corrections, in the event of conditional approval.

Comments received on or before October 6, 1980 will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the Addresses Section of this notice.

EPA believes the available period for comment is adequate because:

(1) The Control Strategy has been available for inspection and comment since January 29, 1980.

(2) EPA's notice of receipt and availability of the November 13, 1979 SIP submittal indicated that the comment period would be 30 days; and

(3) EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979 on that portion of the SIP that addresses the requirements of Part D.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revision will be based on the comments received and on a determination whether the revisions/scheduled revisions meet the requirements of Section 110(a)(2) and Part D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

The EPA has determined that this action is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

Secs. 110, 129, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. sections 7410, 7429, 7501 to 7508, and 7601(a))

Dated: June 23, 1980.

Sheila M. Prindiville,
Acting Regional Administrator.

[FR Doc. 80-27189 Filed 9-4-80; 9:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1597-7]

Approval and Promulgation of Nonattainment Plan for Illinois

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes rulemaking and solicits public comment on specified changes in regulations which were submitted by the State of Illinois to satisfy the requirement of Part D of the Clean Air Act (Act). These changes to the Illinois rules for issuance of permits to new or modified air pollution sources affecting nonattainment areas were made after publication of a Notice of Proposed Rulemaking on July 2, 1979 (44 FR 38587). On February 21, 1980, (45 FR 11472), the United States Environmental Protection Agency (USEPA) published final rulemaking on the unchanged portions of the regulations as revisions to the federally approved Illinois State Implementation Plan (SIP).

DATE: Comments on this revision and on the proposed USEPA action must be received by October 6, 1980.

ADDRESSES: Copies of the revisions, supporting material and public comments received in response to this notice may be inspected and copied (for appropriate charges) during the normal business hours 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
(EPA Library), 401 M Street SW.,
Washington, D.C. 20460.

Illinois Environmental Protection
Agency, 2200 Churchill Street,
Springfield, Illinois 62706.

Written comments should be sent to:

Mr. Gary Gulezian, Air Programs
Branch, Regulatory Analysis Section,
U.S. Environmental Protection Agency,
230 South Dearborn Street, Chicago,
Illinois 60604.

FOR FURTHER INFORMATION CONTACT:
Mary Gade, Assistant Regional Counsel,
U.S. Environmental Protection Agency,
230 South Dearborn Street, Chicago,
Illinois 60604, (312) 886-6073.

SUPPLEMENTARY INFORMATION: Part D of the Clean Air Act, as amended in 1977, requires each State to revise its SIP to meet specific requirements for areas designated as not attaining the National Ambient Air Quality Standards (NAAQS). These SIP revisions must demonstrate attainment of the NAAQS by December 31, 1982, and in certain circumstances no later than December 31, 1987 for ozone and/or carbon monoxide. The requirements for an approvable SIP are described in a Federal Register notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

On April 3, 1979, the State of Illinois submitted a draft SIP to USEPA to satisfy the requirements of Part D of the Act. USEPA published a notice of proposed rulemaking on these draft SIP revisions on July 2, 1979 (44 FR 38587) and a correction notice on September 20, 1979 (44 FR 54500). In the July 2, 1979 notice, USEPA indicated that the regulations in the State's submittal were preliminarily adopted by the Illinois Pollution Control Board (IPCB) and would be finally adopted after completion of necessary State administrative procedures. USEPA stated that until all State administrative requirements were satisfied, it would not complete federal rulemaking on the SIP revisions. USEPA also indicated that any substantive changes in the final SIP which were not discussed or anticipated in the Notice of Proposed Rulemaking would be addressed in additional Notices of Proposed Rulemaking. On December 21, 1979, and January 25, 1980, USEPA received letters from the State of Illinois which demonstrated that, with one exception, all regulations were finally adopted by the State on January 16, 1980. USEPA's review of these finally enacted regulations indicated that changes were made in some of the regulations after the publication of the Notice of Proposed Rulemaking on July 2, 1979. Therefore, in the February 21, 1980 Federal Register (45 FR 11472), in which USEPA conditionally approved Illinois' New Source Review rules, USEPA took no rulemaking action in regard to those portions of regulations which were significantly changed between the submittal of the draft State Implementation Plan on April 3, 1979 and the submittal of the final State Implementation Plan. In addition, on June 18, 1980, the State submitted to USEPA two sections of the Rules which were previously reserved by the State.

USEPA in this Notice of Proposed Rulemaking is requesting comments on its proposed actions: (1) Approval of the addition to Section 4.7 (Reconstruction), (2) disapproval of the addition to Section 4.11 (Allowable Emissions) (3) approval of the additions to Section 5.1 (Conditions for the Issuance of Permits), and (4) disapproval of Sections 10.1 and 10.2 (Procedure for Determination of Emission Offsets) as discussed below:

Section 4.7—Reconstruction

Section 4.7 of the final rules is a new definition under Section 4 (Section 3 of the April draft submittal) defining reconstruction and listing factors to be considered in determining whether an activity is routine repair or reconstruction or equipment or operation. The definition provides further that "if an item of equipment or an operation undergoes reconstruction, it will be considered new for the purpose of [the new source review] rules."

USEPA proposes to approve Section 4.7 Reconstruction of the State's New Source Review rules.

Section 4.11

Section 4.11 (Section 3.10 of the draft submittal) of the final rules included the following new material in the paragraph entitled *Allowable Emissions*: "Allowable emissions shall also include a reasonable estimate of emissions in excess of applicable standards during startup, malfunction, or breakdown as appropriate."

USEPA proposes to disapprove this addition to the definition of allowable emissions. USEPA policy, as reflected in the Federal malfunction regulations promulgated in the April 27, 1977 Federal Register (42 FR 21472), recognizes the possibility of malfunctions but defines all periods of excess emissions as violations of the applicable emission standard in order to reduce the frequency of such episodes by encouraging good maintenance procedures. According to this policy, the source then has the burden to demonstrate that the violation was due to an unavoidable malfunction in which case enforcement discretion may be exercised. The Federal malfunction regulations detail the enforcement procedure which will be followed when a period of excess emissions occurs and indicate how this discretion will be exercised. Therefore, USEPA proposes to disapprove this addition to the definition of allowable emissions.

Sections 5.1(a)(2)(ii), 5.1(a)(2)(iii)

Section 5 of the New Source Rules addresses conditions for issuance of

permits to new or modified sources. Section 5.1(a)(2) gives a new source permit applicant the option of providing emission offsets or demonstrating an absolute air quality improvement (defined as constant or improved air quality at all modeled receptors) or both. Section 173(1)(A) of the Clean Air Act, in setting forth the requirements for approving construction permits, does not address air quality impact analysis but does require reductions in allowable emissions to accommodate the new sources. It is USEPA's position that the demonstration of an absolute air quality improvement at all modeled receptors will guarantee that sufficient offsetting emissions have been obtained. Therefore, USEPA proposes to approve Section 5.1(a)(2)(ii).

Section 5.1(a)(2)(iii) allows the issuance of a construction permit if the applicant provides an offset ratio of at least 1.25 and demonstrates that no substantial worsening of air quality will occur. Since Section 173 of the Act does not address air quality impact analysis, the State, in setting its requirement with respect to what "substantial worsening of air quality" means, must ensure that the reasonable further progress requirements of Section 10.3 are met. USEPA proposes to approve this Section.

Sections 10.1, 10.2

Sections 10.1 and 10.2 (Sections 9.1 and 9.2 of the April submittal) contain a procedure by which external sources may provide offsets to a new source by the submission of the external source's operating permit to the State agency so that "a new operating permit may be issued for the 'offsetting' source with the reduced rate as a condition of the permit."

USEPA proposes to disapprove this external offset procedure unless the State makes a commitment to USEPA within the thirty day comment period to submit the revised or new operating permits to USEPA as SIP revisions. The submission of the operating permits to USEPA for approval as SIP revisions is necessary to make the operating permits federally enforceable.

The proposed action of USEPA on the above sections of the New Source Review Rules is subject to the conditional approval of the rules which appeared in the February 21, 1980 Federal Register at 45 FR 11472, 11492 and is codified at page 11495 of the notice as 40 CFR Part 52 § 52.736. The New Source Review Rules were conditionally approved in the February 21, 1980 notice on the condition that "Illinois submit within one hundred eighty days of the notice (February 21, 1980) a

determination signed by the Illinois Attorney General that the promulgation of the New Source Review Rules is consistent with Illinois law; or, in the alternative, submit to USEPA for approval another nonattainment area New Source Review plan which is consistent with Illinois law and meets the requirements of Sections 172(b)(6) and 173 of the Clean Air Act."

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels proposed regulations as "specialized." I have reviewed these proposed regulations pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of September 5, 1980. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by USEPA to enforce these requirements.

The proposed rulemaking is issued under the authority of Sections 110, 172 and 301(a) of the Clean Air Act (42 U.S.C. 7410, 7502, and 7602).

Dated: August 6, 1980.

John McGuire,
Regional Administrator.

[FR Doc. 80-27254 Filed 9-4-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1597-6]

San Joaquin Valley Air Basin Nonattainment Area Plan; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the California State Implementation Plan (SIP) were submitted to the Environmental Protection Agency (EPA) by the Governor's designee. These revisions consist of a Control Strategy and regulations for the San Joaquin Valley

Air Basin (SJVAB) and constitute the Nonattainment Area Plan (NAP) for carbon monoxide, ozone and total suspended particulates. This Air Basin includes the counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare. The intended effect of the revisions is to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas" for this air basin.

This notice addresses only that portion of the SIP revision concerning the Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare County nonattainment areas for ozone and carbon monoxide. A separate Federal Register notice will address the remaining portion of the revision, which concerns carbon monoxide, ozone and sulfur dioxide in Kern County and total suspended particulates throughout the Air Basin.

The EPA invites public comments on these revisions, the identified deficiencies, the suggested corrections and associated proposed deadlines, and whether these revisions should be approved, conditionally approved or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATES: Comments must be received on or before October 6, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed Revision and EPA's associated Evaluation Report are contained in document file NAP-CA-04 and are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

California Air Resources Board, 1102 Q Street, Sacramento, CA 95812.
Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460.

In addition copies of the applicable Nonattainment Plans are available at the following locations:

Fresno County Air Pollution Control District, 1246 "L" Street, Fresno, CA 93721.

Kern County Board of Supervisors, 1700 Flower Street, Bakersfield, CA 93305.

Kings County Air Pollution Control Board, 1221 West Lacey Boulevard, Hanford, CA 93230.

Madera County Air Pollution Control Board, 135 W. Yosemite Avenue, Madera, CA 93637.

Merced County Board of Supervisors,
210 E. 15th Street, Merced, CA 95340.
San Joaquin County Board of
Supervisors, 1810 East Hazelton
Avenue, Stockton, CA 95202.
Stanislaus Area Assoc. of Governments
(SAAG), 814 14th Street, Modesto, CA
95354.
Tulare County Association of
Governments, County Civic Center,
Visalia, CA 93277.

FOR FURTHER INFORMATION CONTACT:

Douglas Grano, Chief, Regulatory
Section, Air Technical Branch, Air and
Hazardous Materials Division,
Environmental Protection Agency,
Region IX, (415) 556-2938.

SUPPLEMENTARY INFORMATION:

EPA Proposed Actions

The portions of the NAP for the seven counties addressed in this notice have been evaluated for conformance with Part D of the Clean Air Act. This notice provides a description of the NAP, summarizes the applicable Clean Air Act requirements, compares the NAP to those requirements, and proposes approval, conditional approval, or disapproval for the portions of the NAP concerning the seven counties.

The following portions of the NAP for ozone and/or CO in Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare counties have been determined to be consistent with Part D and are proposed to be approved and incorporated into the SIP: emission inventory, modeling, emission reduction estimates, attainment provision, reasonable further progress, emissions growth, annual reporting, resources (except Fresno County as noted below), public and intergovernmental consultation, and public hearing.

The following portion of the NAP for each county except Fresno and San Joaquin (as noted below), contain minor deficiencies with respect to Part D and are proposed to be approved and incorporated into the SIP with the condition that each deficiency be corrected by a specified deadline: legally adopted measures, permit program, and with respect to the San Joaquin County portion of the NAP for CO, the extension requirement.

The following portions of the NAP for carbon monoxide and ozone in Fresno County contain minor deficiencies with respect to Part D and are proposed to be approved and incorporated into the SIP with the condition that each deficiency be corrected by a specified deadline: legally adopted measures, permit program, resources, and extension requirements for volatile organic compounds.

Portions of the NAP for ozone and carbon monoxide in Fresno County constitute major deficiencies with respect to Part D due to the lack of legal authority from the California State legislature to implement a vehicle emission control inspection and maintenance program. Therefore, the following portions of the NAP for Fresno County are proposed to be disapproved: legally adopted measures and extension requirements.

EPA is proposing in this notice to conditionally approve the Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare portions of the NAP. Upon final rulemaking action conditional approval would be sufficient to lift the construction prohibition in these counties.

However, EPA is also proposing in this notice to disapprove the Fresno County portion of the NAP due to the major deficiencies noted above. This disapproval action would result in the continuation of the construction prohibition in Fresno County.

Background

New provisions of the Clean Air Act, amended in August 1977, Public Law No. 95-95, require States to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each state to submit to the Administrator a list of the attainment status for all areas within the state. The Administrator promulgated these lists with certain modifications, on March 3, 1978 (43 FR 8962), and November 16, 1979 (44 FR 65986). State and local governments were required to develop, adopt and submit to EPA revisions to their SIP, for nonattainment areas, by January 1, 1979 which meet the requirements of Part D of the Clean Air Act and which provide for attainment of the NAAQS as expeditiously as practicable.

On April 4, 1979 (44 FR 20372) EPA published a General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. In addition, EPA published Supplements to the General Preamble on July 2, August 28, September 17 and November 23, 1979 (44 FR 38538, 50371, 53761 and 67182). The General Preamble supplements this notice by identifying the major considerations that will guide EPA's evaluation of the plan submittal.

EPA's evaluation of the transportation portion of the plan is also guided by the EPA Department of Transportation (DOT) Transportation-Air Quality Planning Guidelines and EPA's Office of Transportation and Land Use Policy SIP-Transportation Checklist. EPA-DOT

Guidelines describe the acceptable element that satisfy the Clean Air Act requirements for the transportation portion of an approvable SIP.

The entire San Joaquin Valley Air Basin has been designated as nonattainment for ozone and total suspended particulates (TSP). The following counties of the San Joaquin Valley Air Basin are also identified as nonattainment areas for carbon monoxide and sulfur dioxide:

Carbon Monoxide

San Joaquin County
Stanislaus County
Fresno County
Kern County

Sulfur Dioxide

Kern County

In addition, EPA received from the California Air Resources Board (ARB) on September 24, 1979 a request for redesignation of the boundaries for the Kern County Sulfur Dioxide Nonattainment Area and the Fresno County Carbon Monoxide Nonattainment Area. This request will be addressed in a separate Federal Register Notice.

Description of Proposed SIP Revisions

On October 12, 1979 the Executive Officer of the California Air Resources Board (ARB), the Governor's official designee, submitted the "San Joaquin Valley Air Basin Control Strategy" (covering Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare Counties) to EPA. Preparation of the proposed SIP revision was coordinated by the lead planning agencies as designated by the ARB.

The San Joaquin Valley Air Basin NAP submitted as a SIP revision includes the "San Joaquin Valley Air Basin Control Strategy" (Chapter 16) and those portions of the locally adopted plans, the ARB's TSP Plan, and the ARB Staff Reports and Resolutions concerning these plans which are listed in Tables 16-1a, 16-1b and 16-c of Chapter 16. Nonreferenced portions of these documents have not been submitted by the State for incorporation into the SIP, but for informational purposes only. This notice addresses only that portion of the NAP for Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare Counties. A separate Federal Register notice will address the other parts of the October 12, 1979 submittal.

Chapter 16 provides an overview of the pollutant control strategies for the San Joaquin Valley Air Basin and identifies and discusses which portions

of the NAP meet Clean Air Act requirements.

Each of the locally adopted plans are attached as appendices to Chapter 16 and include the following information:

—A basic description of the nonattainment area including topography, air quality standards and the local air quality history.

—An examination of air quality trends through the use of growth projections and emission inventories;

—A discussion of alternative air quality control measures that examines feasibility, costs, technical effectiveness, and enforcement aspects;

—An examination of the impact that new, modified, or relocated sources will have on air quality;

—A discussion of the specific strategy for photochemical oxidants (ozone) that describes the implementation mechanisms, schedules for reasonable further progress, and continuing planning requirements, as well as the environmental, social and economic impacts for the strategies;

—A discussion of the planning process including: how the plan was prepared, the agencies involved in the process, public participation and intergovernmental consultation.

—A summary of the costs of implementing and enforcing the plan.

The ARB Staff Reports and Resolutions provide the following information:

—The Attainment/Nonattainment designation for each area and pollutant.

—A summary of the locally adopted plans which includes a discussion of the strategies and requirements for an adequate nonattainment area plan, and a summary of findings and recommended Air Resources Board action.

—In addition, staff findings and proposed ARB amendments are included which discuss ozone, carbon monoxide and TSP control strategies, new source review programs, air quality analyses and transportation control measures.

Chapter 16 indicates that ozone is one of the more serious problems in the basin. The main components of the strategy to reach and maintain the ozone standard are:

—California's motor vehicle standards on new vehicles;

—Increased control of industrial sources, including oil production;

—An inspection program to reduce pollution from in-use vehicles;

—A program to ensure that new industrial sources do not make the problem worse;

—Transportation measures to reduce the use of automobiles in urban areas.

Fresno, San Joaquin, and Stanislaus Counties are nonattainment for carbon monoxide. Since the carbon monoxide problem is caused by motor vehicles, the controls listed above for motor vehicles are also projected to attain the carbon monoxide standard.

In addition to those portions of the October 12, 1979 submittal, this notice considers amendments to the Air Pollution Control Districts' rules and regulations submitted to EPA by the Governor's designee on January 2, May 7 and 23, and October 12 and 15, 1979 as SIP revisions. In order to expedite EPA's review of the San Joaquin Valley Air Basin Nonattainment Area Plan, this notice addresses only those District regulations which appear to relate to applicable Part D requirements, and thus support the NAP.

The rules being considered in this notice are listed below.

Fresno County—October 15, 1979 (unless otherwise indicated).

- Rule
409.1 Architectural Coatings—January 2, 1979
210.1 Standards for Authority to Construct
210.2 Standards for Permit to Operate
409.5 Cutback Asphalt
409 Organic Solvents
409.3 Organic Solvent Degreasing Operation
409.4 Surface Coating of Manufactured Metal Parts and Products
411 Gasoline Transfer into Stationary Storage Containers

Kings County—October 15, 1979 (unless otherwise indicated).

- Rule
410.1 Architectural Coatings
410.2 Cutback Asphalt
410.3 Can and Coil Coatings
410.5 Organic Solvent Metal Cleaning
412.1 Transfer of Gasoline into Stationary Storage Containers
412.2 Transfer of Gasoline into Vehicle Fuel Tanks
413 Transfer of Gasoline into Tank Trucks, Trailers and Railroad Tankcars at Loading Facilities
414.1 Valves and Flanges at Petroleum Refineries and Chemical Plants
414.2 Refinery Process Vacuum Producing Devices and Systems
414.4 Manufactured Metal Parts and Products Coatings—October 12, 1979
411 Storage of Organic Liquids—October 12, 1979
414 Wastewater Separators—October 12, 1979
414.3 Refinery Process Unit Turnaround—October 12, 1979
210.1 Standards for Authority to Construct
210.2 Standards for Permit to Operate
Madera County—October 15, 1979 (unless otherwise indicated).

- Rule
210.1 Standards for Authority to Construct—October 12, 1979
210.2 Standards for Permit to Operate

- Rule
410.4 Surface Coating of Manufactured Metal Parts and Products—October 12, 1979
410.1 Architectural Coatings
410.3 Organic Solvent Degreasing Operations
410.5 Cutback Asphalt Paving Material
411 Storage of Petro. Distillate or Light Crude Oil
412 Gasoline Transfer into Stationary Storage Containers—Phase I
412.1 Transfer Gas into Vehicle Fuel Tanks
Merced County—October 15, 1979 (unless otherwise indicated).
- Rule
409.5 Cutback Asphalt
411 Gasoline Transfer into Stationary Storage Containers
210.1 Standards for Authority to Construct
210.2 Standards for Permits to Operate
409.3 Degreasing—October 12, 1979
409.4 Manufactured Metal Parts and Products Coatings—October 12, 1979
410 Storage of Organic Liquids—October 12, 1979
409.1 Architectural Coatings—May 7, 1979
San Joaquin County—May 23, 1979 (unless otherwise indicated).

- Rule
409.1 Architectural Coatings—May 23, 1979
411.2 Transfer to Gasoline into Vehicle Fuel Tanks—May 23, 1979
209.1 Standards for Authority to Construct
209.2 Standards for Permit to Operate
409.3 Organic Solvent Degreasing Operations
410 Storage of Organic Liquids
411.1 Transfer of Gasoline into Stationary Storage Containers
413 Refinery Oil-Water Separators
413.1 Valves and Flanges at Petroleum Refineries and Chemical Plants
413.2 Refinery Vacuum Producing Devices or Systems
413.3 Refinery Process Unit Turnaround
409.5 Cutback Asphalt
409.4 Manufactured Metal Parts and Products Coatings—October 12, 1979
Stanislaus County—October 15, 1979 (unless otherwise indicated).

- Rule
409.1 Architectural Coatings—May 23, 1979
411.1 Transfer of Gasoline into Vehicle Fuel Tanks—May 23, 1979
209.1 Standards for Authority to Construct
209.2 Standards for Permit to Operate
409.5 Cutback Asphalt
411 Transfer Gasoline into Stationary Storage Containers
409.3 Degreasing—October 12, 1979
409.4 Manufactured Metal Parts and Products Coatings—October 12, 1979
Tulare County—May 23, 1979 (unless otherwise indicated).

- Rule
410.1 Architectural Coatings
412 Transfer of Gasoline into Stationary Storage Containers—October 15, 1979
413 Organic Liquid Loading
210.1 Standards for Authority to Construct
210.2 Standards for Permits to Operate
410.5 Cutback Asphalt Paving Materials—October 15, 1979

Rule

410.3 Degreasing—October 12, 1979

410.4 Manufactured Metal Parts and Products Coatings—October 12, 1979

Criteria for Approval

The following list summarizes the requirements for nonattainment area plans. The citations which follow referring to portions of the Clean Air Act, provide the bases for those requirements.

1. An accurate inventory of existing emissions (172(b)(4)).
2. A modeling analysis indicating the level of control needed to attain by 1982 and, in the case of an extension request, by 1987 (172(a)).
3. Emission reduction estimates for each adopted control measure (172(a)).
4. A provision for expeditious attainment of the standards (172(a)).
5. Provisions for reasonable further progress as defined in Section 171 of the Clean Air Act (172(b)(3)).
6. Adoption in legally enforceable form of all measures necessary to provide for attainment or, in certain circumstances where adoption by 1979 is not possible, a schedule for development, adoption, submittal, and implementation of these measures (172(b)(2), (8) and (10)).
7. An identification of an emissions growth increment (172(b)(5)).
8. Provisions for annual reporting with respect to items (5) and (6) above (172(b)(3) and (4)).
9. A permit program for major new or modified sources (172(b)(6) and 173)).
10. An identification of and commitment to the resources necessary to carry out the plan (172(b)(7)).
11. Evidence of public, local government, and state involvement and consultation (172(b)(9)).
12. Evidence that the proposed SIP revisions were adopted by the state after reasonable notice and public hearing (172(b)(1)).
13. For carbon monoxide and ozone SIP revisions that provide for attainment of the primary standard later than 1982:
 - a. A permit program for major new or modified sources requiring an evaluation of environmental and social costs (172(b)(11)(A)).
 - b. A provision for implementation of all reasonably available control measures for mobile and transportation sources (172(a)(2)).
 - c. A commitment to establish, expand, or improve public transportation to meet basic transportation need (110(a)(3)(D) and 110(c)(5)(B)).
 - d. In addition to the above, for major urbanized areas, a specific schedule and legal authority for implementation of a vehicle emission control inspection and maintenance program (172(b)(11)(B)).

14. For ozone nonattainment areas requiring an extension beyond 1982, the revision must also provide for adoption of legally enforceable regulations to reflect the application of reasonably available control technology (RACT) to those volatile organic compound (VOC) stationary sources for which EPA has published a Control Techniques Guideline by January 1978, and a commitment to adopt RACT regulations for additional sources to be covered by future guidelines (172(a)(2)). For rural areas and urban areas that demonstrate attainment by 1982, only large sources (more than 100 tons/year potential emissions) must be so regulated.

Discussion

The paragraph numbers below correspond to the Part D nonattainment area plan requirements discussed in the preceding section, "Criteria for Approval." EPA policy for approval of ozone (O₃) plans differentiates between rural and urban O₃ nonattainment area plans. EPA's policy, including the definition of a rural area is discussed in the General Preamble. Based upon the population cut-off contained in the General Preamble, Kings, Madera, Merced, Tulare, San Joaquin, and Stanislaus Counties are considered to be rural areas; Fresno County is considered an urban area. As referenced in the General Preamble, EPA's minimum requirements for an approvable 1979 rural O₃ nonattainment area plan do not require that all of the 14 Criteria for approval be fully met. However, unlike some other rural areas, San Joaquin and Stanislaus Counties' O₃ concentrations have not been demonstrated to be significantly impacted by emissions from a major urban area, and therefore, reliance on EPA's rural O₃ policy is not completely appropriate for San Joaquin and Stanislaus Counties. Thus, EPA is strongly supportive of State and local efforts to develop a sound demonstration of attainment and to insure reasonable further progress. The rural/urban distinction does not affect the CRITERIA with respect to the other pollutant considered in this notice—carbon monoxide (CO).

In this section the word "plan(s)" means the overall NAP or portions of the NAP, specific to certain area(s) and pollutant(s). As noted in the Summary section, EPA reviewed each of the plans for conformance with these requirements and, in this Section, identifies the portions of each plan that 1) are approvable, 2) are conditionally approvable, or 3) contain a major deficiency which causes disapproval of that portion of the plan and the overall plan with respect to Part D. As a result

of this analysis, EPA proposes to disapprove the overall plan for Fresno County for CO and O₃; to conditionally approve the overall plans for San Joaquin and Stanislaus Counties for CO and O₃; and to conditionally approve the overall plans for Kings, Madera, Merced, and Tulare Counties for O₃ with respect to Part D of the Act. Where a plan deficiency is identified, recommendations for revisions of the plan are specified.

Fresno County**1. Emission Inventory**

The plan includes an emission inventory for hydrocarbons (HC) and carbon monoxide (CO), identifying emission source categories and their estimated emissions for the base years of 1975 for CO and 1976 for O₃.

These inventories were found to be reasonably comprehensive, current and accurate at the time they were developed, thus, EPA proposes to approve this portion of the CO and O₃ plans for Fresno County.

2. Modeling

Ozone. The plan used a city specific Empirical Kinetic Modeling Approach (EKMA) to determine a 46% reduction in reactive hydrocarbons needed to attain the ozone standard. The analysis included a design value of 0.19 ppm, and reasonable estimates of the transport concentration and the ratio of non-methane hydrocarbons to nitrogen oxides. EPA finds the modeling analysis to be acceptable for the 1979 plan, and proposes to approve this portion of the Fresno County O₃ plan.

Carbon Monoxide. The plan uses county-wide linear rollback modeling to calculate that a 56% emission reduction is required to meet the CO standard. Rollback is an acceptable method for the 1979 plan in estimating required reductions of emissions, and EPA proposes to approve the modeling portion of the CO plan for Fresno County.

3. Emission Reduction Estimates

Ozone. The plan includes adequate emission reduction estimates for stationary source control strategies and certain mobile source strategies. Therefore, EPA proposes to approve this portion of the Fresno County O₃ plan.

Carbon Monoxide. The only new CO control measure contained in the plan is I/M. Adequate emission reduction estimates are given for this control measure, and therefore, EPA proposes to approve this portion of the CO plan.

4. Attainment Provision

Section 172(a) of the Act requires that the plan provide for the attainment of the primary standard for O₃ and CO as expeditiously as practicable but no later than December 31, 1982. Where the State demonstrates that the standards for O₃ and/or CO cannot be attained by December 31, 1982, despite the implementation of all reasonably available control measures, an extension may be granted and the State must demonstrate attainment by no later than December 31, 1987. The plan demonstrates that the O₃ and CO standards cannot be achieved by December 31, 1982, despite the implementation of all reasonably available control measures and therefore requests an extension. EPA finds that the requested extension of the attainment date is justified and proposes to grant the extension.

Ozone. The plan demonstrates attainment of the O₃ standard by December 31, 1987, and therefore EPA proposes to approve the ATTAINMENT PROVISION portion of the O₃ plan.

Carbon Monoxide. The plan does not quantitatively demonstrate attainment of the CO standard by December 31, 1987, as required by Section 172(a)(2). EPA proposes to approve the ATTAINMENT PROVISION portion of the CO plan since the plan includes a commitment to prepare the 1982 SIP which will provide for a quantitative attainment demonstration of the CO standard by no later than December, 1987.

5. Reasonable Further Progress

The plan provides a schedule for reasonable further progress (RFP) which indicates annual incremental reductions in emissions needed to provide for attainment of the O₃ and CO standards by 1987. This schedule must be supported by the implementation of a process for monitoring and verifying transportation related emission reductions. This representation is sufficient for the 1979 SIP revision as it addresses the requirements of Sections 172(b)(3) and 171(1) with respect to reasonable further progress. Thus EPA proposes to approve this portion of the CO and O₃ plans.

6. Legally Adopted Measures

The SIP submittal does not indicate that all necessary control measures have been adopted at the State or local level, as required by Sections 172(b)(2), 172(b)(8), and 172(b)(10). The plan fails to contain adoption, in legally enforceable form, of all reasonably available control measures which

include a motor vehicle inspection and maintenance program. For all other measures, the plan must contain either adopted control strategies or schedules and commitments for strategy development, adoption, and implementation.

Ozone. The plan must include adoption of reasonably available control measures in legally enforceable form. A motor vehicle inspection and maintenance (I/M) program is a reasonably available control measure and is provided for in the plan. However, due to the absence of legal authority to implement the I/M program set forth in the plan because of the lack of State authorizing legislation, I/M cannot be considered to be adopted in legally enforceable form. As a result of this major deficiency, EPA proposes to disapprove this portion of the O₃ plan and to disapprove the overall O₃ plan with respect to Part D.

Carbon Monoxide. As discussed for O₃, the I/M program cannot be considered to be adopted in legally enforceable form. EPA proposes to disapprove this portion of the CO plan and to disapprove the overall CO plan with respect to Part D requirements. All 18 Section 108(f) transportation control measures (TCMs) are identified for further study with the exception of cold-start controls which is not applicable to the Fresno area. However, there are no schedules or commitments to support further study. EPA proposes to approve this portion of the CO plan on the condition that the State submit these commitments and schedules of further study of transportation control measures by October 1, 1980.

The plan contains 5 transportation control measures that are presently found to be reasonable for Fresno County. However, there is no evidence in the plan that any of the 5 transportation control measures are committed for implementation in legally enforceable form. The requirements of Section 172(b)(10) are not met, since the plan does not include written evidence that the agencies identified as responsible for transportation related measures have formally committed to implement and (where appropriate) enforce the necessary transportation control measures, nor have they adequately identified the specific measures to be implemented and established implementation schedules with milestone dates for planning, programming, implementing, operating, enforcing and monitoring each transportation control measure. EPA proposes to approve this portion of the NAP with the condition that the State

submit these specific measures, commitments, and schedules from the responsible agencies by October 1, 1980.

Supporting regulations. The State has submitted Rule 409.1, Architectural Coatings. EPA believes this regulation should be approved for inclusion in the SIP, since it will strengthen the SIP by implementing a control tactic included in the plan.

The O₃ plan for Fresno County contains commitments (Table 16-3, SIP Chapter 16) to further study certain stationary source control measures for several source categories which are not addressed by the CTG documents published by EPA as of January 1978. EPA proposes to approve and incorporate these commitments into the SIP with the condition that the State submit by October 1, 1980 a detailed schedule for the further study and adoption of these measures.

40 CFR Part 52

In addition to the proposed rulemaking actions discussed in this section, this notice proposes to remove certain Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52, which concern (in part) the Fresno County nonattainment area. The following Federally promulgated regulations or specified portions are proposed to be rescinded or amended because they have been replaced by the revised set of control measures/regulations contained in the plan and/or they have been invalidated by previous legal action:

A. § 52.233 *Review of new sources and modifications:* Subparagraphs (d)(10)(vii), and (g)(1)(viii) are proposed to be rescinded; also, subparagraphs (h), (i), and (j) are proposed to be rescinded since they have been invalidated by the Clean Air Act Amendments of 1977

B. § 52.238 *Attainment dates for national standard:* The attainment dates in this section are proposed to be changed in accordance with the submitted plan.

C. The sections below are proposed to be rescinded in their entirety since they have been invalidated by the court action of *Brown vs. EPA*, 521 F2d 827 (1975):

- § 52.242 *Inspection and maintenance program;*
- § 52.243 *Motorcycle limitation;*
- § 52.244 *Oxidizing catalyst retrofit;*
- § 52.245 *Control of Oxides of Nitrogen, Hydrocarbon, and CO emissions from In-use vehicles;*
- § 52.247 *Definitions for parking management;*
- § 52.251 *Management of parking supply;*
- § 52.257 *Computer carpool matching;*

§ 52.265 *Mass transit and Transit Priority Planning;*

§ 52.266 *Monitoring transportation mode trends;*

D. The section below is proposed to be rescinded as it is replaced by revised control strategies for the pollutant:

§ 52.269(a) *Control Strategy and Regulations.*

7. *Emission Growth*

The plan must either include 1) an express identification and quantification of an emissions growth increment for the construction and operation of major new or modified stationary sources, or 2) provisions to offset the emissions from such sources in a New Source Review rule. The plan does contain a New Source Review rule which provides for emissions offsets. Therefore EPA proposes to approve the EMISSIONS GROWTH portion of the Fresno County plan for O₃ and CO.

8. *Annual Reporting*

A commitment to submit annual reports of reasonable further progress, including an updated emission inventory is included in the plan. Therefore, EPA proposes to approve this portion of the O₃ and CO plans.

9. *Permit Program*

The Fresno County Plan contains a New Source Review regulation, Rules 210.1 and 210.2, that were adopted at the local level.

EPA's criteria for approval of a new source permitting program are contained in Section 173 of the Act, which also references essential portions of Sections 171 and 172. EPA has established further guidance based on Section 173: EPA's Emission Offset Interpretative Ruling in the January 16, 1979 Federal Register (44 FR 3274), and EPA's proposed amendments to regulations for New Source Review and to the Emission Offset Ruling in the September 5, 1979 Federal Register (44 FR 51924). The permitting program must be consistent with Section 173 and one or the other notice.

EPA's review indicates that the NSR regulation is not fully consistent with the above criteria. The submitted rules contain many substantial exemptions from lowest achievable emission rate and offset requirements. The definition of source is less stringent, and offset requirements are weak. These and other deficiencies are described in the Evaluation Report. EPA has determined that the deficiencies in the NSR regulation are minor deficiencies, with respect to Section 173. Therefore, EPA proposes to approve and incorporate into the SIP the NSR regulation with the

following condition. The regulations must be revised and submitted as a SIP revision by March 1, 1981 and must satisfy Section 173 and must be consistent as a whole with either the January 16, 1979 interpretative ruling, or the September 5, 1979 proposal. An additional option, if EPA's final rulemaking on the September 5, 1979 proposal has been promulgated, would be for the revised regulation to be consistent with that rulemaking. However, it should be noted that when EPA does take final action on its September 5, 1979 proposal, the State will be under a statutory obligation to revise its NSR regulation within nine months to be consistent with the final action.

10. *Resources*

The plan identifies annualized costs of control tactics as a sum of capital, operation, maintenance, administrative, and regulatory costs. The plan also identifies sources of available funding. However, the plan neither specifically identifies the personnel and financial resources to which the implementing agencies must commit, nor does it provide commitments on the part of all implementing agencies to the resources necessary for plan implementation. The plan must contain such identifications and commitments to satisfy requirements of Sections 110(a)(2)(F) and 172(b)(7). EPA proposes to approve this portion of the O₃ and CO plan on the condition that the State submit these identifications and commitments by October 1, 1980.

11. *Public and Government Involvement*

The plan provides evidence of public, local government, and State involvement and consultation in the planning process and documents the process used in designating responsible entities for preparing and implementing the plan.

The plan identifies air quality, health, welfare, economic, energy, and social effects of the plan provisions. Additionally the plan contains a summary of public comments and the tapes of the ARB hearing held on the plan. EPA proposes to approve this portion of the O₃ and CO plan submittals, as satisfying the requirements of Section 172(b)(9).

12. *Public Hearing*

The plan meets the requirements of Section 172(b)(1) since it includes evidence that the plan was adopted by the State after reasonable notice and public hearing. EPA proposes approval of this portion of the O₃ and CO plan submittals.

13. *Extension Requirements*

Since the State has demonstrated that the standards for O₃ and CO cannot be attained by December 1982, despite the application of reasonably available control measures, and has requested an extension of the attainment date beyond December 1982 for O₃ and CO, the plan must meet the requirements of Sections 172(b)(11), 110(a)(3)(D), and 110(c)(5)(B).

Under Section 172(b)(11)(A) the State must submit, in conjunction with the NSR permit program, a procedure and requirement for an analysis of alternative sites, sizes, processes, and controls, which demonstrate that the benefits of a major emitting facility outweigh the environmental costs. While the State has adopted a policy that the California Environmental Quality Act (CEQA) procedure is equivalent to that required by Section 172(b)(11)(A) of the Act, official submittal of relevant portions of CEQA as part of the plan is needed to satisfy the requirements of Section 172(b)(11)(A). EPA proposes to approve this portion of the CO and O₃ plans with the condition that the State submit as a SIP revision the relevant portions of CEQA by October 1, 1980.

Under Section 172(b)(11)(B) the plan must establish a specific schedule for the implementation of a vehicle emission control inspection and maintenance (I/M) program. The requirement of Section 172(b)(11)(B) has not been met since the State Legislature has failed to authorize the legal authority to implement such a program. Therefore, EPA proposes disapproval of the I/M portion of the CO and O₃ plans, and the CO and O₃ overall plans with respect to Part D requirements.

Sections 110(a)(3)(D) and 110(c)(5)(B) require that the plan contain commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs. These basic transportation needs must be met as expeditiously as practicable using Federal grants, State, and local funds to implement public transportation programs. The plan contains discussions of current and planned public transportation improvements and gives evidence of adoption of transit improvement as a concept at the regional level but does not commit to the use of Federal grants and State and local funds as necessary to meet basic transportation needs. EPA proposes to approve the O₃ and CO plans with respect to the requirements of Sections 110(a)(3)(D) and 110(c)(5)(B), with the condition that the State submit as an SIP

revision the commitments specified above, by October 1, 1980.

Section 172(b)(11)(C) requires that other measures (including but not limited to those listed in Section 108(f) of the Act) that may be necessary to provide for attainment of the standards by no later than December 31, 1987, must be identified in the plan. Although the plan identifies a number of measures, no schedules are included for the study of alternative packages of measures. This portion of the O₃ and CO plans is proposed to be approved with the condition that the State submit, by October 1, 1980, an expanded list of measures and a schedule for analysis of the alternative packages of measures.

To assure that the requirements of Section 176c and 176d are met EPA policy requires that the plan contain procedures for the determination of conformity with the SIP of any project, program, or plan over which the metropolitan planning organization has approval authority, and that the plan contain procedures to ensure that priority is given to the implementation of those portions of any plan or program with air quality related transportation consequences that contribute to the attainment and maintenance of the primary NAAQS. Specifically, these procedures should address the granting of priority to projects in the Transportation Improvement Program which contribute to the attainment and maintenance of the NAAQS. EPA policy requires that these procedures be submitted in the 1980 Annual Report.

14. Extension Requirements for VOC RACT

Since the State has demonstrated that attainment of the 0.12 ppm ozone standard is not possible by December 1982, the plan must contain adopted, legally enforceable regulations which reflect the application of reasonably available control technology (RACT) for those stationary source categories of volatile organic compounds (VOC) which exist within the Fresno County nonattainment area for which EPA had published a Control Techniques Guideline (CTG) document by January 1978 (i.e., Category I CTGs). In addition, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents.

The CTGs provide information on available air pollution control techniques, and certain recommendations of what EPA calls the "presumptive norm" or RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-

by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for an EPA decision to approve a regulation as satisfying the requirements of the Act for RACT consists of the applicable CTG document, any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

The plan indicates that of the 15 source categories (addressed by 11 CTG documents) for which adopted regulations are required, only 8 exist in the nonattainment area. There are no petroleum refineries, or surface coating operations for cans, coils, paper, fabric, automobiles, or magnet wire. The source categories that do exist in the nonattainment area include service stations, bulk plants, bulk terminals, fixed roof tanks, degreasing operations, cutback asphalt, and the surface coating of large appliances and metal furniture. The following regulations were submitted by the State on October 15, 1979 in response to the requirement for RACT for these 8 source categories:

Rule	
409.3	"Organic Solvent Degreasing Operations"
409.4	"Surface Coating of Manufactured Metal Parts and Products"
409.5	"Cutback Asphalt Paving Materials"
411	"Gasoline Transfer into Stationary Storage Containers"
409	"Organic Solvents"

The following regulations are currently part of the approved SIP for this District. These regulations have also been evaluated, since they contain control requirements for some of the above-noted source categories:

Rule	
410	"Storage of Petroleum Products" (submitted June 30, 1972)
412	"Organic Liquid Loading" (submitted June 30, 1972).

EPA has reviewed the submitted regulations and the previously-approved regulations listed above in relation to the respective CTG for each of the 8 categories. The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes that the regulations are adequate to fulfill the requirement for RACT, except as noted below:

1. Rule 409.5, "Cutback Asphalt Paving Materials", contains an exemption for cold laid surfaces using a graded aggregate or sand, and does not contain a limit on the solvent content of emulsified asphalts prior to January 1, 1985. These provisions are not supported by information in the CTG (or in EPA guidance addressing cutback asphalt usage).

2. Rule 411, "Gasoline Transfer into Stationary Storage Containers" exempts tanks with offset fill pipes from the requirement for a vapor recovery system and submerged loading. This exemption is not supported by information in the CTG.

3. Rule 410, "Storage of Petroleum Products" contains control requirements which are equivalent to the CTG for fixed-roof tanks, but the rule may not apply to as many sources as covered by the CTG. The CTG applies to sources storing petroleum liquids with a true vapor pressure greater than 1.5 psi. The District's rule only applies to the control of gasoline or petroleum distillates with true vapor pressures greater than 1.5 psi. The CTG would therefore also cover crude oil, but the District's rule would not.

EPA proposes to approve the VOC RACT portion of the O₃ plan with the condition that the State submit one of the following to EPA for each of the three rules as a SIP revision by October 1, 1980: 1) amended rules eliminating the above noted deficiencies, 2) justification that these rules represent RACT, or 3) documentation which demonstrates that the emission reductions achievable with the regulation are within 5% of the reductions achievable with the controls recommended in the CTG.

The Federal Regulation, 40 CFR 52.252, "Control of Degreasing Operations", contains control requirements which are more stringent than those contained in the District's rule for certain degreasers (primarily those using trichloroethylene). It is proposed that the Federal Regulation remain in effect for those sources.

The submitted regulation for the surface coating of miscellaneous metal parts and products applies to sources which are regulated by Federal Regulations 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer," and 40 CFR 52.254, "Organic Solvent Usage." Since the District's regulation is future-effective, EPA proposes to retain the Federal Regulations applicable to the sources covered by the District regulations until such sources achieve full compliance with the respective District regulation.

As stated above, the plan must contain a commitment to adopt RACT

regulations for source categories to be covered by future CTG documents. The plan contains a resolution committing to implement all other reasonably available control measures needed to attain the standard as expeditiously as practicable. This commitment is adequate provided that the State submit adopted regulations for the following applicable source categories by July 1, 1980: refinery fugitive leaks, gasoline tank trucks, perchloroethylene dry-cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, floating roof tanks, and surface coating of flatwood paneling.

The District's Rule 409.4, "Surface Coating of Manufactured Metal Parts and Products", contains control requirements sufficient to fulfill the requirements for RACT for miscellaneous Metal Parts (a Group II CTG category). Therefore, no additional control requirements are needed for this source category.

San Joaquin and Stanislaus Counties

1. Emission Inventory

The plans for San Joaquin and Stanislaus Counties include emission inventories for both HC and CO. EPA finds these inventories to be reasonably comprehensive, accurate, and current and proposes to approve this portion of these plans.

2. Modeling

The plans for San Joaquin and Stanislaus Counties both utilized city-specific EKMA analyses to determine the emission reductions needed to attain the standard for O₃ and linear rollback modeling to determine the emission reductions needed to attain the standard for CO. EPA finds these approaches acceptable for the 1979 SIP revision and proposes to approve this portion of these CO and O₃ plans.

3. Emission Reduction Estimates

The San Joaquin and Stanislaus plans contain annual HC emission reduction estimates for the HC control measures and CO emission reduction estimates for a vehicle inspection/maintenance program. EPA finds these estimates acceptable and proposes to approve this portion of these CO and O₃ plans.

4. Attainment Provisions

The State has requested an extension of the statutory 1982 attainment date until December 31, 1987 for O₃ and CO for San Joaquin County, and for O₃ for Stanislaus County. EPA proposes to approve these requests for San Joaquin and Stanislaus Counties.

The O₃ plans for San Joaquin and Stanislaus Counties provide demonstrations of attainment of the O₃ standard prior to 1987. EPA proposes to approve the O₃ attainment portions of both of these plans.

The CO plan for San Joaquin County provides a demonstration of attainment of the standard prior to 1987. The CO plan for Stanislaus County demonstrates attainment of the CO standard by December 31, 1982. EPA proposes to approve the CO attainment portions of both of these plans.

5. Reasonable Further Progress

The CO and O₃ plans for both San Joaquin and Stanislaus Counties contain acceptable schedules for RFP for CO and O₃ and EPA proposes to approve this portion of these plans. These schedules must be supported by the implementation of a process for monitoring and verifying transportation related emission reductions.

6. Legally Adopted Measures

The plans for San Joaquin and Stanislaus Counties do not indicate that all necessary control measures have been adopted in legally enforceable form.

Inspection/Maintenance. The demonstration of attainment in the CO plan for San Joaquin County relies in part upon a vehicle inspection and maintenance I/M program. The State Legislature has failed to provide the necessary legal authority to implement the I/M program and EPA cannot approve the I/M program without such legislative authority. However, because EPA policy has established that I/M is not a mandatory control measure in an urbanized area with a population of less than 200,000, such as San Joaquin County, the San Joaquin CO plan is not required to include I/M. Therefore, EPA is deferring action on this control measure until such time as legal authority is adopted.

In this notice, EPA proposes to approve the legally adopted measures portion of the CO plan absent I/M for San Joaquin County and to approve the CO plan with the condition that the State provide by October 1, 1980, substitute control measures to demonstrate attainment.

Although the Stanislaus plan includes an I/M program, the CO demonstration of attainment does not rely on I/M and the above condition does not apply to the Stanislaus CO plan.

Transportation Control Measures. Of the 18 transportation control measures identified in Section 108(f) of the Act, the San Joaquin County O₃ plan contains 5 measures proposed for

implementation. These five measures are: 1) express bus service, 2) passenger shelters at bus stops, 3) improved transit marketing, 4) bicycle facilities, and 5) traffic management strategies. Although adopted at the regional level, these measures are not adopted or committed to by the implementing agencies nor are schedules established for implementation.

The Stanislaus County O₃ plan contains 6 transportation control measures proposed for implementation. These six measures are: 1) improved public transit, 2) employer incentives, 3) long-range transit improvements, 4) bicycles, 5) carpool program, and 6) staggered work hours. While adopted at the regional level, these measures are not adopted or committed to by the implementing agencies nor are schedules established for implementation.

For both O₃ plans, the transportation control measures proposed for implementation must be adopted by those agencies responsible for implementation and submitted with schedules for implementation in order to be approved as part of the SIP.

Reasonably Available Control Technology (RACT). The Clean Air Act requires that minimum levels of control technology be provided for in the plan. For rural ozone nonattainment areas such as San Joaquin and Stanislaus Counties, the plans must include adopted, legally enforceable regulations which reflect the application of reasonably available control technology (RACT) for those major stationary source categories (i.e., those with over 100 tons/year potential emissions) for which EPA has published a Control Technique Guideline (CTG) document by January 1978 (i.e., Group I CTGs). In addition, the plans must contain a commitment to adopt RACT regulations for major sources in categories to be addressed by future CTG documents.

The CTGs provide information on available air pollution control techniques and contain certain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for EPA's decision to approve a regulation as satisfying the Act's requirement for RACT consists of the applicable CTG document, any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical

circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

San Joaquin County

The plan indicates that of the 15 source categories (addressed by 11 CTG documents) for which adopted regulations are required, only 11 exist in the nonattainment area. There are no surface coating operations for paper, fabric, automobiles, or magnet wire. The source categories that do exist in the nonattainment area include service stations, bulk plants, bulk terminals, fixed-roof tanks, degreasing operations, cutback asphalt, petroleum refineries, and the surface coating of cans, coils, large appliances and metal furniture.

The following regulations were submitted by the State on the dates indicated in response to the requirement for RACT for these source categories:

October 12, 1979

Rule

409.4 "Surface Coating of Manufactured Metal Parts and Products".

October 15, 1979:

Rule

409.3 "Organic Solvent Degreasing Operations",

409.5 "Cutback Asphalt Paving Materials",

410 "Storage of Organic Liquids",

411.1 "Transfer of Gasoline into Stationary Storage Containers",

413 "Refinery Oil-Water Separators",

413.2 "Refinery Vacuum Producing Devices or Systems", and

413.3 "Refinery Process Unit Turnaround".

The following regulation is currently part of the approved SIP for San Joaquin County. This regulation has also been evaluated, since it contains control requirements for some of the above noted source categories:

Rule

412 "Organic Liquid Loading", submitted on June 30, 1972.

EPA has reviewed the submitted regulations and the previously-approved regulation listed above in relation to the respective CTG for each of the 11 categories.

Based on the information in the CTGs, EPA believes that the regulations are adequate to fulfill the requirements for RACT, except for Rule 409.5 (cutback asphalt). The lack of a limit on the volatile organic compound (VOC) content for emulsified asphalts prior to January 1, 1985 constitutes a minor deficiency. EPA believes that appropriate limits effective prior to January 1, 1985 must be placed on emulsified asphalts. Therefore, EPA proposes to approve the VOC RACT

portion of the San Joaquin County O₃ plan with the condition that the State submit either of the following by October 1, 1980: 1) adequate justification for why limits cannot be set prior to January 1, 1985, or 2) an amended Rule 409.5 that includes a limit effective at an earlier date with an adequate justification of that earlier date.

The State has also submitted the following regulations on the dates indicated which implement control tactics included in the plan:

May 23, 1979

Rule

409.1 "Architectural Coatings", and

411.2 "Transfer of Gasoline into Vehicle Fuel Tanks".

October 15, 1979

Rule

413.1 "Valves and Flanges at Petroleum Refineries and Chemical Plants".

EPA proposes to approve these regulations for inclusion in the SIP, since they will strengthen the SIP. Rule 413.1 for valves and flanges at refineries and chemical plants applies to sources addressed by a Group II CTG document. The regulation does not contain many of the controls recommended in the CTG, and therefore, revised regulations need to be submitted by July 1, 1980.

Rule 411.2 requires vapor recovery systems for the refueling of motor vehicles (Stage II Vapor Recovery). Similar controls are required in the Federal Regulation 40 CFR 52.256, "Control of Evaporative Losses from the Filling of Vehicular Tanks". Since the District's regulation adequately controls this source, EPA proposes to rescind 40 CFR 52.256 for San Joaquin County.

Stanislaus County

The plan indicates that of the 15 source categories (addressed by the 11 CTG documents) for which adopted regulations are required, only 10 exist in the nonattainment area. There are no petroleum refineries, or surface coating operations for paper, fabric, automobiles, or magnet wire. The source categories that do exist in the nonattainment area include service stations, bulk plants, bulk terminals, the surface coating of cans, coils, large appliances and metal furniture, fixed-roof tanks, degreasing operations, and cutback asphalt. The following regulations were submitted by the State on the dates indicated in response to the requirement for RACT for these source categories:

October 12, 1979

Rule

409.3 "Organic Solvent Degreasing Operations", and

Rule

409.4 "Surface Coating of Manufactured Metal Parts and Products".

October 15, 1979

Rule

409.5 "Cutback Asphalt Paving Materials", and

411 "Gasoline Transfer into Stationary Storage Containers—Phase I".

The following regulations are currently part of the approved SIP for Stanislaus County. These regulations have also been evaluated, since they contain control requirements for some of the above-noted source categories:

June 30, 1972

Rule

410 "Storage of Petroleum Products",

412 "Organic Liquid Loading".

The regulations listed above address each of the 10 applicable source categories, except for the surface coating of cans and coils. EPA has reviewed the submitted regulations and the previously-approved regulations listed above in relation to the respective CTG for each of the remaining categories.

Based on the information in the CTGs, EPA believes that the regulations are adequate to fulfill the requirement for RACT, except for the following:

(1) Rule 409.5, "Cutback Asphalt Paving Materials" does not regulate the solvent content of emulsified asphalts prior to January 1, 1985. EPA believes a limit must be in effect prior to January 1, 1985.

(2) Rule 410, "Storage of Petroleum Products" contains control requirements which are equivalent to those recommended in the CTG for fixed-roof tanks, but the rule may not apply to as many sources as covered in the CTG. The CTG applies to the control of sources storing petroleum liquids with a true vapor pressure greater than 1.5 psi. The District's rule only applies to the control of gasoline or petroleum distillates with true vapor pressures greater than 1.5 psi, and therefore would not apply to all petroleum liquids.

(3) Rule 409.3, "Organic Solvent Degreasing Operations", contains control requirements believed to be equivalent to those recommended in the CTG for degreasing, but those controls would only apply to degreasers using saturated halogenated hydrocarbons and perchloroethylene. The majority of degreasing operations would be subject to the District's Rule 409, which requires sources to meet either a 40 lb./day or a 3,000 lb./day emission limit depending on the reactivity of the solvent used. This level of control is not considered adequate since many degreasing operations could meet the daily

emission rates in Rule 409 without using any controls.

EPA proposes to approve this portion of the O₃ plan for Stanislaus County with the condition that the State submit either of the following by October 1, 1980: (1) adequate justification that these rules represent RACT, (2) amended rules eliminating the above noted deficiencies, or (3) documentation which demonstrates that the emission reductions achievable with the regulation are within 5% of the reductions achievable with the controls recommended in the CTG.

The State has also submitted the following regulations on the date indicated which implement control tactics included in the plan:

May 23, 1979

Rule
409.1 "Architectural Coatings", and
411.1 "Transfer of Gasoline into Vehicle Fuel Tanks".

EPA proposes to approve these regulations for inclusion in the SIP, since they will strengthen the SIP.

San Joaquin and Stanislaus Counties

The plans for these counties contain (Table 16-3, SIP Chapter 16) commitments to further study certain stationary source control measures and to adopt certain stationary source control measures for several source categories which are not addressed by the CTG documents published by EPA as of January 1978. The State has found that these additional measures are reasonably available control measures. Therefore, EPA proposes to approve and incorporate these commitments into the SIP.

The submitted regulations for service stations and bulk gasoline plants apply to sources also regulated by the Federal Regulation 40 CFR 52.255, "Gasoline Transfer Vapor Control." Since the submitted regulations adequately control those sources covered by the Federal Regulation, and since the Districts' regulations are presently in effect, EPA proposes to rescind the Federal Regulation applicable to these sources. Similarly, the submitted regulations for the surface coating of miscellaneous metal parts and products apply to sources which are regulated by Federal Regulations 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer," and 40 CFR 52.254, "Organic Solvent Usage." Since the Districts' regulations are future-effective, EPA proposes to retain the Federal Regulations applicable to the sources covered by the Districts' regulations until such sources achieve full

compliance with the respective Districts' regulations.

The Federal Regulation, 40 CFR 52.252, "Control of Degreasing Operations", contains control requirements which are more stringent than those contained in the Districts' regulations for certain degreasers (primarily those using trichloroethylene). Therefore, EPA proposes to retain the Federal Regulation for those sources.

Regulations have not been submitted for inclusion in the SIP for can and coil coating operations for San Joaquin and Stanislaus Counties. Therefore, the plans do not fully satisfy the requirements of Sections 172(b) (2) and (3) of the Clean Air Act. However, this is considered a minor deficiency since emissions from can and coil coating operations make up a small portion of the base year emission inventories. Therefore, EPA proposes to approve the VOC RACT portion of the San Joaquin and Stanislaus O₃ plans with the condition that one of the following be submitted by July 1, 1980: (1) adopted regulations for can and coil coatings for Stanislaus and San Joaquin Counties that meet the requirements for RACT, or, (2) a certification that no major sources exist. The State has submitted a model rule for can and coil coating which contains control requirements sufficient to fulfill the requirements for RACT. Therefore, submittal of an adopted rule equivalent to the model rule would satisfy the condition.

The model rule for can and coil coating controls sources which are presently controlled under the following two Federal Regulations: 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer," and 40 CFR 52.254, "Organic Solvent Usage." If the State submits an adequate regulation for can and coiling which would control sources subject to the Federal Regulations, EPA proposes that the Federal Regulations applicable to such sources which remain in effect only until such time as the newly revised regulations become effective, and the source achieves full compliance with its provisions.

As stated above, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The San Joaquin and Stanislaus county plans both contain resolutions committing to implement all other reasonably available control measures needed to attain the standard as expeditiously as practicable. This commitment is adequate provided the State submits adopted regulations for the following applicable source categories by July 1, 1980 for San Joaquin and Stanislaus Counties: refinery fugitive leaks,

gasoline tank trucks, perchloroethylene dry-cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, and surface coating of flatwood paneling; and for Stanislaus County only: floating roof tanks.

The San Joaquin and Stanislaus Rule 409.4, "Surface Coating of Manufactured Metal Parts and Products", contains control requirements sufficient to fulfill the requirements for RACT for miscellaneous Metal Parts (a Group II CTG category). The San Joaquin Rule 410, "Storage of Organic Liquids," contains control requirements sufficient to fulfill the requirement for RACT for floating-roof tanks (a Group II CTG category). No additional control requirement are needed for these source categories.

40 CFR Part 52

In addition to the proposed rulemaking actions discussed in this section, this notice proposes to remove certain Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52, which concerns (in part) the San Joaquin and Stanislaus County nonattainment areas. The following portions are proposed to be rescinded or amended because they have been invalidated by previous legal action:

A. § 52.233 *Review of new sources and modifications.* Subparagraphs (C)(3) and (d)(10) (i) and (ii), are proposed to be rescinded; also, subparagraphs (g)(viii), (i) and (j) are proposed to be rescinded since they have been invalidated by the Clean Air Act Amendments of 1977.

B. § 52.238 *Attainment dates for national standards.* The attainment dates in this section are proposed to be changed in accordance with the submitted plan.

C. The sections below are proposed to be rescinded in their entirety since they have been invalidated by the court action of *Brown vs. EPA*. 521 F2d 827 (1975):

- § 52.242 *Inspection and maintenance program;*
- § 52.243 *Motorcycle limitation;*
- § 52.244 *Oxidizing catalyst retrofit;*
- § 52.245 *Control of Oxides of Nitrogen Hydrocarbon, and CO emissions from in-use vehicles;*
- § 52.247 *Definitions for parking management;*
- § 52.251 *Management of parking supply;*
- § 52.257 *Computer carpool matching;*
- § 52.265 *Mass transit and Transit Priority Planning;*
- § 52.266 *Monitoring transportation mode trends;*

D. The section below is proposed to be rescinded as it is replaced by revised control strategies for the pollutants: § 52.269(a) *Control Strategy and Regulations*;

7. Emissions Growth

The submitted New Source Review rules use emissions offsets to limit emissions growth. This approach is acceptable and EPA proposes to approve this portion of both the San Joaquin and Stanislaus plans for O₃ and CO:

8. Annual Reporting

The San Joaquin and Stanislaus County plans provide for an annual report of reasonable further progress. EPA proposes to approve this portion of these plans.

9. Permit Program

The San Joaquin and Stanislaus County plans contain adopted New Source Review (NSR) rules to fulfill the Part D requirements for a new source permitting program.

EPA's criteria for approval of a new source permitting program are contained in Section 173, which also references essential portions of Sections 171 and 172. EPA has established further guidance based on Section 173; EPA's Emission Offset Interpretative Ruling in the January 16, 1979 Federal Register (44 FR 3274), and EPA's proposed amendments to regulations for New Source Review and to the Emission Offset Ruling in the September 5, 1979 Federal Register (44 FR 51924). The permitting program must be consistent with Section 173 and one or the other notice.

EPA's review indicates that the NSR rules are not fully consistent with the above mentioned criteria. The submitted rules contain exemptions from the application of lowest achievable emission rate and offsets which are not consistent with EPA's criteria. The rules use less stringent source definitions, and, have weak offset requirements. These and other deficiencies are described in the Evaluation Report. EPA has determined that the deficiencies in the NSR rules are minor deficiencies, with respect to Section 173. Therefore, EPA proposes to approve and incorporate into the SIP these NSR rules with the following condition. The regulations must be revised and submitted as a SIP revision by March 1, 1981 and must satisfy Section 173 and must be consistent as a whole with either the January 16, 1979 Interpretative Ruling, or the September 5, 1979 proposal. An additional option, if EPA's final rulemaking on the September 5,

1979 proposal has been promulgated, would be for the revised regulation to be consistent with that rulemaking. However, it should be noted that when EPA does take final action on its September 5, 1979 proposal, the State will be under a statutory obligation to revise its NSR rules within nine months to be consistent with that final action.

10. Resources

The O₃ and CO plans for San Joaquin and Stanislaus Counties commit the financial and personnel resources necessary for plan implementation with respect to stationary sources and EPA proposes to approve this portion of these plans.

11. Public and Government Involvement

The CO and O₃ plans for both San Joaquin and Stanislaus Counties provide evidence of public, local government, and State involvement and consultation in the planning process, and documents the process used in designating responsible entities for preparing and implementing the plans. Both plans identify the air quality, health, welfare, economic, energy, and social effects of the plans' provisions. In addition, the plans contain summaries of public comments on the plans and those effects. The requirements of Section 172(b)(9) have been satisfied and EPA proposes to approve this portion of the CO and O₃ plans for both San Joaquin and Stanislaus Counties.

12. Public Hearing

The plans meet the requirements of Section 172(b)(1) of the Act since they include evidence that the plans were adopted by the State after reasonable notice and public hearing. EPA proposes to approve this portion of the CO and O₃ plan submittals for both San Joaquin and Stanislaus Counties.

13. Extension Requirements for O₃ and CO

As referenced in the General Preamble, the 1979 O₃ SIP revision for rural areas need not contain a specific demonstration of attainment. Therefore the extension requirements of Criteria 13 do not apply to this SIP revision with respect to O₃ for both San Joaquin and Stanislaus Counties.

CO—San Joaquin County

Since the State has demonstrated that the CO standard cannot be attained in the San Joaquin County nonattainment area by December 1982, and has requested an extension of the attainment date beyond December 1982 for CO, the plan must meet the

requirements of Sections 172(b)(11), 110(a)(3)(D) and 110(c)(5)(B).

Under Section 172(b)(11)(A) the State must submit, in conjunction with the NSR permit program, a procedure and requirement for an analysis of alternative sites, sizes, processes, and controls, which demonstrates that the benefits of a major emitting facility outweigh the environmental and social costs. While the State has adopted a policy that the California Environmental Quality Act (CEQA) procedure is equivalent to that required by Section 172(b)(11)(A) of the Act, official submittal of relevant portions of CEQA as part of the plan is needed to satisfy the requirements of Section 172(b)(11)(A). EPA proposes to approve this portion of the CO plan for San Joaquin County with the condition that the State submit the relevant portions of CEQA by October 1, 1980.

Section 172(b)(11)(B) of the Act requires that the plan establish a specific schedule for the implementation of a vehicle emission control inspection and maintenance program (I/M). The plan does contain an I/M program although the State Legislature has failed to provide the necessary legal authority to implement such a program. As discussed in the General Preamble, EPA policy provides for acceptance of rural plans without an I/M program or a schedule in the 1979 SIP revision. Since San Joaquin County is a rural nonattainment area, lack of the necessary legal authority and a specific schedule to implement an I/M program is not a deficiency with respect to the 172(b)(11)(B) extension requirement of Part D of the Act. However, it is a deficiency with respect to Criteria 6, Legally Adopted Measures and is discussed above in that section.

Sections 110(a)(3)(D) and 110(c)(5)(B) require that the plan contain commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs. These basic transportation needs must be met as expeditiously as practicable using Federal grants, State, and local funds to implement public transportation programs. The plan does not provide a commitment to develop a plan to meet basic public transportation needs. Nor does the plan commit to the use of Federal grants and state and local funds as necessary to meet basic transportation needs. EPA proposes to approve this portion of the CO plan for San Joaquin County, with the condition that the State submit the needed commitments by October 1, 1980.

Section 172(b)(11)(C) requires that other measures (including but not limited to those listed in Section 108(f)

of the Act) that may be necessary to provide for attainment of the standards no later than December 31, 1987, must be identified in the plan. Although the plan identifies a number of measures, no schedules are included for the study of alternative packages of measures. Several Section 108(f) measures have been included in the plan for further study. Specifically, measures identified for further study are: transit by employers, reduction in bus fares, downtown shuttle, express bus routes, increased hours of bus system, carpool programs, ride-sharing incentives, incentives for light duty vehicles to use diesel engines, fleet vehicle fuel conversion, vehicle pollution disincentive taxes, gasoline rationing, traffic management studies, and parking programs for Stockton. EPA proposes to approve this portion of the CO plan for San Joaquin County with the condition that the State submit an expanded list of measures, including those specified above, with a schedule for analysis of the alternative packages of measures, by October 1, 1980.

CO—Stanislaus County

The Stanislaus County CO plan demonstrates attainment of the CO standard by 1982. Therefore, the Extension Requirements of Criteria 13 with respect to CO do not apply.

14. Extension Requirements for VOC/RACT

As referenced in the General Preamble, the 1979 O₃ SIP revision for rural areas need not contain a specific demonstration of attainment. Therefore the extension requirements of Criteria 14 do not apply to the SIP revisions for San Joaquin and Stanislaus Counties.

Kings, Madera, Merced, and Tulare Counties

1. Emission Inventory

The plans for Kings, Madera, Merced, and Tulare Counties each includes reasonably comprehensive, accurate, and current emission inventories for hydrocarbons. EPA proposes to approve this portion of the O₃ plans for Kings, Madera, Merced, and Tulare Counties.

2. Modeling

Of the four plans, none contain an air quality model that allows calculation of emission reductions needed to project attainment of the 0.12 parts per million primary O₃ standard by 1982. However, as referenced in the General Preamble, EPA policy does not require a specific demonstration of attainment by rural areas in the 1979 SIP revisions. Thus, the absence of such a model is not

considered a deficiency, and EPA proposes approval of the Kings, Madera, Merced, and Tulare Counties' plans with respect to the modeling requirements.

3. Emission Reduction Estimates

Annual emission reduction estimates are contained in each plan for hydrocarbon control measures through 1987. These estimates are acceptable and EPA proposes to approve this portion of these plans.

4. Attainment Provisions

The plans do not quantitatively provide for attainment of the primary O₃ standard by the statutory dates. However, as referenced in the general Preamble, EPA policy for rural O₃ plans does not require a specific demonstration of attainment and EPA proposes to approve this portion of these plans.

5. Reasonable Further Progress

The plans do not contain a demonstration of reasonable further progress for attainment of the O₃ standard. However, as referenced in the general Preamble, the 1979 O₃ SIP revision for rural areas does not require a demonstration of reasonable further progress. Therefore, EPA proposes to approve this portion of these plans.

6. Legally Adopted Measures

The Clean Air Act requires that minimum levels of control technology be provided for in the plan and that these minimum levels of control be adopted in a legally enforceable form. For rural ozone nonattainment areas, the plan must include adopted, legally enforceable regulations which reflect the application of reasonably available control technology (RACT) for volatile organic compound (VOC) major stationary source categories (i.e., those with over 100 tons/year potential emissions) for which EPA had published a Control Techniques Guideline (CTG) document by January 1978 (i.e., Group I CTGs). In addition, the plan must contain a commitment to adopt regulations for major stationary sources in categories to be addressed by future CTG documents.

The CTGs provide information on available air pollution control techniques and contain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation for any source or group of sources. Therefore, the basis for EPA's decision

to approve a regulation as satisfying the Act's requirement for RACT consists of the applicable CTG document, any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

A detailed discussion by county of the regulations submitted to meet the RACT requirement follows. EPA proposes to conditionally approve this portion of each of the four plans since certain provisions of certain regulations are not supported by information contained in the CTGs or in supporting material submitted by the State. The conditions of this conditional approval are specified below.

Kings County

The plan for Kings County indicates that of the 15 source categories (addressed by the 11 CTG documents) for which adopted regulations are required, only 11 exist in the nonattainment area. There are no surface coating operations for paper, fabric, automobiles or magnet wire. The source categories that do exist in Kings County include service stations, bulk plants, bulk terminals, fixed-roof tanks, degreasing operations, cutback asphalt, petroleum refining, and the surface coating of cans, coils, large appliances, and metal furniture.

The following regulations were submitted by the State on the dates indicated in response to the requirement for RACT for these source categories:

October 15, 1979

Rule

- 410.2 "Cutback Asphalt Paving Materials",
- 410.3 "Can and Coil Coating Operations",
- 410.5 "Organic Solvent Metal Cleaning",
- 412.1 "Gasoline Transfer into Stationary Storage Containers",
- 413 "Transfer of Gasoline into Tank Trucks, Trailers, and Railroad Cars at Loading Facilities", and
- 414.2 "Refinery Vacuum Producing Devices or Systems".

October 12, 1979

Rule

- 410.4 "Surface Coating of Manufactured Metal Parts and Products",
- 411 "Storage of Organic Liquids",
- 414 "Waste-water Separators", and
- 414.3 "Refinery Process Unit Turnaround".

EPA has reviewed the submitted regulations listed above in relation to the respective CTG for each of the 11 categories.

Based on the information in the CTGs, EPA believes that the regulations are

adequate to fulfill the requirement for RACT, except as noted below:

1. Rule 410.2, "Cutback Asphalt Paving Materials" allows for the use of cutback asphalts for cold laid surfacing using graded aggregate or sand.

2. Rule 414, "Waste Water Separators" exempts sources which recover less than 200 gallons per day and units handling products with an RVP of less than 0.5 psi.

3. Rule 411, "Storage of Organic Liquids" would not apply to tanks storing crude oil prior to lease custody transfer if the daily throughput is greater than 6300 gallons.

The provisions of rules 410.2, 414, and 411 noted above are not supported by information contained in the respective CTGs. EPA proposes to approve the VOC RACT portion of the Kings County O₃ plan with the condition that the State submit one of the following to EPA for each of the three rules as an SIP revision by October 1, 1980: 1) amended rules eliminating the above noted provisions of these rules, 2) justification that these rules represent RACT, or 3) documentation which demonstrates that the emission reductions achievable with the regulation are within 5% of the reductions achievable with the controls recommended in the CTG.

EPA has reviewed the submitted regulations for their enforceability pursuant to 40 CFR Part 51 and Section 172(b) of the Act and believes that the regulations are adequate, except that Rule 410.2 "Cutback Asphalt Paving Materials" allows an indefinite number of delays for compliance with the limit on VOC content of emulsified asphalts. Allowance for such delays will be based on a determination of the technological or economic feasibility of applying the asphalt. EPA believes, therefore, that the final compliance dates are unenforceable. Delays beyond the final compliance date must be submitted in accordance with the provisions of the Act and EPA policy and approved as part of the SIP. An additional condition of approval of the VOC RACT portion of the Kings County plan with respect to the cutback asphalt rule is the State's submittal by October 1, 1980 of a revised rule which does not allow for compliance date extensions without SIP approval.

The State has also submitted on October 15, 1979 the following regulations which implement control tactics included in the plan:

- Rule
410.1 "Architectural Coatings",
412.2 "Transfer of Gasoline into Vehicle Fuel Tanks, Phase II", and

- Rule
414.1 "Valves and Flanges at Petroleum Refineries and Chemical Plants."

EPA proposes to approve these regulations for inclusion in the SIP, since they will strengthen the SIP. Rule 414.1 for valves and flanges at petroleum refineries and chemical plants applies to sources addressed by a Group II CTG document. The regulation does not contain many of the controls recommended in that CTG, and therefore, revised regulations need to be submitted by July 1, 1980.

Rule 412.2 requires vapor recovery for the refueling of motor vehicles (Stage II vapor recovery). Similar controls are required in the Federal Regulation 40 CFR 52.256, "Control of Evaporative Losses from the Filling of Vehicular Tanks". Since the District's regulation adequately controls this source, EPA proposes that 40 CFR 52.256 be rescinded for Kings County.

Madera County

The plan for Madera County indicates that of the 15 source categories (addressed by the 11 CTG documents) for which adopted regulations are required, only 8 exist in the nonattainment area. There are no petroleum refineries, or surface coating operations for cans, coils, paper, fabric, automobiles, or magnet wire. The source categories that do exist in the nonattainment area are service stations, bulk plants, bulk terminals, fixed-roof tanks, degreasing operations, cutback asphalt, and the surface coating of large appliances and metal furniture. The following regulations were submitted by the State on the dates indicated in response to the requirement for RACT for these source categories:

October 15, 1979

- Rule
410.3 "Organic Solvent Degreasing Operations",
410.5 "Cutback Asphalt Paving Materials",
411 "Storage of Petroleum Distillate or Light Crude Oil", and
412 "Gasoline Transfer into Stationary Storage Containers—Phase I".

October 12, 1979

- Rule
410.4 "Surface Coating of Manufactured Metal Parts and Products".

The following regulation is currently part of the approved SIP for this District. This regulation has also been evaluated, since it contains control requirements for gasoline bulk terminals:

- Rule
412 "Organic Liquid Loading", submitted on October 10, 1975.

EPA has reviewed the submitted regulations and the previously approved regulation listed above in relation to the respective CTG for each of the 8 categories.

Based on the information in the CTGs, EPA believes that the regulations are adequate to fulfill the requirement for RACT, except as noted below:

1. Rule 410.5, "Cutback Asphalt Paving Materials" does not contain a limit on the VOC level in emulsified asphalts prior to January 1, 1985. The rule does limit the VOC level to 3% by volume after January 1, 1985. EPA believes that an appropriate limit must be included in the regulation effective prior to January 1, 1985.

2. Rule 411, "Storage of Petroleum Distillates and Light Crude Oil" may not apply to all the sources which are addressed in the CTG for fixed-roof tanks. The rule does not apply to crude oils with true vapor pressures of 1.5 psi or greater if they are in storage containers with an average daily throughput of less than 6300 gallons.

The provisions of Rules 410.5 and 411 noted above are not supported by information contained in the respective CTG document. EPA proposes to approve the VOC RACT portion of the Madera County O₃ with the condition that the State submit one of the following to EPA for each of the two rules as an SIP revision by October 1, 1980: 1) amended rules eliminating the above noted deficiencies, 2) justification that these rules represent RACT, or 3) documentation which demonstrates that the emission reductions achievable with the regulation are within 5% of the reductions achievable with the controls recommended in the CTG.

The State has also submitted on October 15, 1979 the following regulations which implement control tactics included in the plan:

- Rule
410.1 "Architectural Coatings", and
412.1 "Transfer of Gasoline into Vehicle Fuel Tanks".

EPA proposes to approve these regulations for inclusion in the SIP, since they will strengthen the SIP. Rule 412.1 requires vapor recovery systems for the refueling of motor vehicles (Stage II Vapor Recovery). Similar Controls are required in the Federal Regulation 40 CFR 52.256, "Control of Evaporative Losses from the Filling of Vehicular Tanks". Since the District's regulation adequately controls this source, EPA proposes to rescind the Federal Regulation 40 CFR 52.256 for Madera County.

Merced County

The plan for Merced County indicates that of the 15 source categories (addressed by the 11 CTG documents) for which adopted regulations are required, only 8 exist in the nonattainment area. There are no petroleum refineries, or surface coating operations for cans, coils, paper, fabric, automobiles, or magnet wire. The 8 source categories that do exist in the nonattainment area include service stations, bulk plants, bulk terminals, fixed-roof tanks, degreasing operations, cutback asphalts, and the surface coating of large appliances and metal furniture. The following regulations were submitted by the State on the dates indicated in response to the requirement for RACT for these source categories.

October 15, 1979:

Rule

- 411 "Gasoline Transfer into Stationary Storage Containers—Phase I", and
409.5 "Cutback Asphalt Paving Materials".

October 12, 1979:

Rules

- 410 "Storage of Organic Liquids",
409.4 "Surface Coating of Manufactured Metal Parts and Products", and
409.3 "Organic Solvent Degreasing Operations".

The following regulation is currently part of the approved SIP for this District. This regulation has also been evaluated, since it contains control requirements for some of the above noted source categories:

Rule

- 412 "Organic Liquid Loading" submitted on August 2, 1978.

EPA has reviewed the submitted regulations and the previously approved regulation listed above in relation to the respective CTG for each of the 8 categories.

Based on the information in the CTGs, EPA believes that the regulations are adequate to fulfill the requirement for RACT, except as noted below:

1. Rule 409.5, "Cutback Asphalt Paving Materials" does not contain a limit on the VOC level in emulsified asphalts prior to January 1, 1985. The rule does limit the VOC level to 3% by volume after January 1, 1985. EPA believes that an appropriate limit must be included in the regulation effective prior to January 1, 1985.

2. Rule 409.3, "Organic Solvent Degreasing Operations", contains control requirements believed to be equivalent to those recommended in the CTG for degreasing, but those controls would only apply to degreasers using

saturated halogenated hydrocarbons and perchloroethylene. The majority of degreasing operations would be subject to the District's Rule 409, which requires sources to meet either a 40 lb./day or a 3,000 lb./day emission limit depending on the reactivity of the solvent used. This level of control is not considered adequate since many degreasing operations could meet the daily emission rates in Rule 409 without using any controls.

The provisions of Rules 409.5 and 409.3 noted above are not supported by information contained in each respective CTG document. EPA proposes to approve the VOC RACT portion of the Merced County O₃ plan with the condition that the State submit one of the following to EPA for each of the two rules as a SIP revision by October 1, 1980: 1) amended rules eliminating the above noted deficiencies, 2) justification that these rules represent RACT, or 3) documentation which demonstrates that the emission reductions achievable with the regulation are within 5% of the reductions achievable with the controls recommended in the CTG.

The State has also submitted on May 7, 1979 the following regulation which implements a control tactic included in the plan:

Rule

- 409.1 "Architectural Coatings".

EPA proposes to approve this rule for inclusion in the SIP, since the rule will strengthen the SIP.

Tulare County

The plan for Tulare County indicates that of the 15 source categories (addressed by the 11 CTG documents) for which adopted regulations are required, only 8 exist in the nonattainment area. There are no petroleum refineries, or surface coating operations for cans, coils, paper, fabric, automobiles, or magnet wire. The source categories that do exist in the nonattainment area include service stations, bulk plants, bulk terminals, fixed-roof tanks, degreasing operations, cutback asphalt and the surface coating of large appliances and metal furniture. The following regulations were submitted by the State on the dates indicated in response to the requirement for RACT for these source categories:

May 23, 1979

Rule

- 413 "Organic Liquid Loading",

October 15, 1979

Rule

- 410.5 "Cutback Asphalt Paving Materials", and
412 "Gasoline Transfer into Stationary Storage Containers".

October 12, 1979

Rule

- 410.4 "Surface Coating of Manufactured Metal Parts and Products", and
410.3 "Organic Solvent Degreasing Operations".

The following regulation is currently part of the approved SIP for this District. This regulation has also been evaluated, since it contains control requirements for fixed-roof tanks.

Rule

- 411 "Storage of Petroleum Products", submitted on October 23, 1974.

EPA has reviewed the submitted regulations and the previously approved regulation listed above in relation to the respective CTG for each of the 8 categories.

Based on the information in the CTGs, EPA believes that the regulations are adequate to fulfill the requirement for RACT, except as noted below:

1. The District's rule for fixed-roof tanks (Rule 411) only applies to gasoline and petroleum distillates, whereas the CTG recommends controls for all petroleum liquids. Thus, the District's rule may not cover as many sources as addressed by the CTG (crude oil storage for example).

2. Rule 410.3, "Organic Solvent Degreasing Operations", contains control requirements believed to be equivalent to those recommended in the CTG for degreasing, but those controls would only apply to degreasers using saturated halogenated hydrocarbons and perchloroethylene. The majority of degreasing operations would be subject to the District's Rule 410, which requires sources to meet either a 40 lb./day or a 3,000 lb./day emission limit depending on the reactivity of the solvent used. This level of control is not considered adequate since many degreasing operations could meet the daily emission rates in Rule 410 without using any controls.

The provisions of Rules 410.3 and 411 noted above are not supported by information contained in each respective CTG document. EPA proposes to approve the VOC RACT portion of the Tulare County O₃ plan with the condition that the State submit one of the following to EPA for each of the two rules as a SIP revision by October 1, 1980: 1) amended rules eliminating the above noted deficiencies, 2) justification that these

rules represent RACT, or 3) documentation which demonstrates that the emission reductions achievable with the regulation are within 5% of the reductions achievable with the controls recommended in the CTG.

EPA has reviewed the submitted regulations for their enforceability pursuant to 40 CFR Part 51 and Section 172(b) of the Act and believes that the regulations are adequate, except that Rule 410.5 "Cutback Asphalt Paving Materials" allows an indefinite number of delays for compliance with the limit on VOC content of emulsified asphalts. Allowance for such delays will be based on a determination of the technological or economic feasibility of applying the asphalt. EPA believes, therefore, that the final compliance dates are unenforceable. Delays beyond the final compliance date must be submitted in accordance with the provisions of the Act and EPA policy and approved as part of the SIP. An additional condition of approval of the VOC RACT portion of the Tulare County plan with respect to the cutback asphalt rule is the State's submittal by October 1, 1980 of a revised rule which does not allow for compliance date extensions without SIP approval.

The State has also submitted on May 23, 1979 the following regulation which implements a control tactic included in the plan:

Rule
410.1 "Architectural Coatings".

EPA proposes to approve Rule 410.1 for inclusion in the SIP, since the rule will strengthen the SIP.

Kings, Madera, Merced, and Tulare Counties

The plans for these Counties contain (Table 16-3, SIP Chapter 16) commitments to further certain study stationary source control measures and to adopt certain stationary source control measures for several source categories which are not addressed by the CTG documents published by EPA as of January 1978. The State has found that these additional measures are reasonably available control measures. Therefore, EPA proposes to approve and incorporate these commitments into the SIP.

The submitted regulations for service stations and bulk gasoline plants apply to sources also regulated by the Federal Regulation, 40 CFR 52.255, "Gasoline Transfer Vapor Control." Since the submitted regulations adequately control those sources covered by the Federal Regulation, and since the Districts' regulations are presently in effect, EPA proposes to rescind the

Federal Regulation applicable to these sources. Similarly, the submitted regulations for the surface coating of miscellaneous metal parts and products (and can and coil coating for Kings County only) apply to sources which are also regulated by Federal Regulations 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer," and 40 CFR 52.254, "Organic Solvent Usage." Since the Districts' regulations are future effective, EPA proposes to retain the Federal Regulations applicable to the sources covered by the Districts' regulations until such sources achieve full compliance with the Districts' regulations.

The Federal Regulation, 40 CFR 52.252, "Control of Degreasing Operations", contains control requirements which are more stringent than those contained in the Districts' regulations for certain degreasers (primarily those using trichloroethylene). EPA proposes that the Federal Regulation remain in effect for those sources.

As stated above, the plans must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The plans contain resolutions committing to implement all other reasonably available control measures needed to attain the standard as expeditiously as practicable. This commitment is adequate provided the State submits adopted regulations for the following applicable source categories by July 1, 1980: refinery fugitive leaks, gasoline tank trucks, perchloroethylene dry-cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, and surface coating of flatwood paneling.

The State has submitted regulations for each of the four Districts for miscellaneous metal parts and products (a Group II CTG category). These regulations are adequate to fulfill the requirement for RACT for this source category. No additional control requirements are needed for this source category. Regulations have also been submitted for each District for floating roof tanks (a Group II CTG category). The floating-roof tank regulation for Merced County (Rule 410) contains control requirements which are sufficient to fulfill the requirement for RACT. No additional control requirements are needed for this source category for Merced County. The floating-roof tank regulations for Kings and Madera Counties do not contain control requirements which are sufficient to fulfill the requirement for RACT, since they contain the same

deficiencies noted earlier for fixed-roof tanks. In addition, the floating-roof tank regulation for Tulare County contains the same deficiencies noted earlier for fixed-roof tanks, plus other deficiencies. Therefore, amended regulations for floating-roof tanks must be submitted to EPA.

7. Emission Growth

The submitted New Source Review rule for each County uses emissions offsets to limit emissions growth. This approach is acceptable and EPA proposes to approve this portion of each of these plans.

8. Annual Reporting

The plans do not specifically contain provisions for annual reports of reasonable further progress, including an updated emission inventory. EPA policy for rural O₃ plans does not specifically require the 1979 plans to contain all of the above items. Thus, EPA proposes to approve this portion of these plans. However, appropriate items from above for Kings, Madera, Merced, and Tulare Counties are expected to be included in the State's first Annual Report for nonattainment areas due July 1, 1980.

9. Permit Program

The plans provide for a permit program as required by Sections 172(b)(6) and 173 of the Act through the submittal of New Source Review (NSR) rules which have been adopted in a legally enforceable manner as required by Section 172(b)(10). EPA has reviewed the Kings, Madera, Merced, and Tulare NSR rules against EPA's criteria for a new source permitting program.

EPA's criteria for approval of a new source permitting program are contained in Section 173, which also references essential portions of Sections 171 and 172. EPA has established further guidance based on Section 173: EPA's Emission Offset Interpretative Ruling in the January 16, 1979 *Federal Register* (44 FR 3274), and EPA's proposed amendments to regulations for New Source Review and to the Emission Offset Ruling in the September 5, 1979 *Federal Register* (44 FR 51294). The permitting program must be consistent with Section 173 and one or the other notice.

EPA's review indicates that the NSR regulations are not fully consistent with the above criteria. The submitted rules contain substantial exemptions from the application of lowest achievable emission rate and offsets which are not consistent with EPA's criteria. The rules also use less stringent source definitions, and have weak offset

requirements. These and other deficiencies are described in the Evaluation Report. EPA has determined that the deficiencies in the NSR rules are minor deficiencies, with respect to Section 173. Therefore, EPA proposes to approve and incorporate into the SIP the NSR rules for Kings, Madera, Merced, and Tulare Counties with the following condition. The rules must be revised and submitted as a SIP revision by March 1, 1981 and must be consistent with Section 173 and one of the following: (1) the January 16, 1979 Interpretative Ruling, (2) the September 5, 1979 proposal, or (3) EPA's final rulemaking on the September 5, 1979 proposal, if it has been promulgated. However, it should be noted that when EPA does take final action on its September 5, 1979 proposal, the State will be under a statutory obligation to revise its NSR rules within nine months to be consistent with that final action.

10. Resources

The plans outline the financial and personnel resources to implement the measures of each of the adopted plans. EPA proposes to approve this portion of these plans.

11. Public and Government Involvement

The plans provide evidence of public, local government, and State involvement and consultation in the planning process, and documents the process used in designating responsible entities for preparing and implementing the plans.

The official SIP submittal also identifies air quality, health, welfare, economic, energy and social effect of each plan's provisions. In addition, the plans contain a summary of public comments. Therefore the requirements of Section 172(b)(9) have been satisfied and EPA proposes to approve this portion of these plans.

12. Public Hearing

The plans meet the requirements of Section 172(b)(1) of the Act since they include evidence that the plans were adopted by the State after reasonable notice and public hearing. EPA proposes to approve this portion of these plans.

13. Extension Requirements for O₃

14. Extension Requirements for VOC RACT

As referenced in the General Preamble, the 1979 O₃ SIP revision for rural nonattainment areas need not contain a demonstration of attainment. Therefore, the extension requirements of Criteria 13 and 14 identified above do not apply to this SIP revision.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State. The Regional Administrator hereby issues this notice setting forth the SIP revision described above as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office.

This proposal also includes draft regulations which have been adopted as model rules after public hearings by the State. All of these model rules have not yet been adopted and submitted to EPA by the State as legally enforceable regulations. However, the State has requested EPA to review these model rules and invite public comment on whether these draft regulations meet the requirements of Part D of the Clean Air Act. EPA may proceed to final rulemaking without providing further opportunity for public comment if the State submits regulations equivalent to these model rules.

The EPA Region IX Office specifically invites public comment on whether to conditionally approve the items identified in this notice as deficiencies in the NAP. EPA is further interested in receiving comment on the specified deadlines for the State to submit the corrections, in the event of conditional approval.

Comments received on or before October 6, 1980 will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the Addresses Section of this notice.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions/scheduled revisions meet the requirements of Section 110(a)(2) and Part D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA believes the available period for comment is adequate because:

(1) The SJVAB Control Strategy has been available for inspection and comment since December 4, 1979.

(2) EPA's notice published in the December 4, 1979 Federal Register (44 FR 69684) indicated that the comment period would be 30 days; and

(3) EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979 on that portion

of the SIP that addresses the requirements of Part D.

EPA has determined that this action is "specialized" and therefore not subject to the procedural requirements of Executive Order 12044.

(Sections 110, 129, 171, to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410, 7429, 7501 to 7508 and 7601(a)).)

Dated: June 19, 1980.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 80-27192 Filed 9-4-80; 8:45 am]

BILLING CODE 6580-01-M

40 CFR Part 52

[FRL 1597-5]

Nonattainment Area Plan; Approval and Promulgation of Implementation Plans, South Central Coast Air Basin

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the California State Implementation Plan (SIP) were submitted to the Environmental Protection Agency (EPA) by the Governor's designee. These revisions consist of a Control Strategy and Regulations for the South Central Coast Air Basin and constitute the Nonattainment Area Plan (NAP) for ozone (O₃), carbon monoxide (CO), and total suspended particulates (TSP). This air basin includes the following Counties: Santa Barbara, San Luis Obispo, and Ventura. The intended effect of the revisions is to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas" for Santa Barbara and Ventura Counties. The portion of these revisions concerning O₃ in San Luis Obispo County will be addressed in a separate Federal Register notice.

The EPA invites public comments on these revisions, the identified deficiencies, the suggested corrections and associated proposed deadlines, and whether these revisions should be approved, conditionally approved, or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATES: Comments may be submitted up to October 6, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed Revision and EPA's associated Evaluation Reports are contained in document files NAP-CA-23 (Santa Barbara County) and NAP-CA-30 (Ventura County) and are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Office of Air Quality Planning, Santa Barbara County, 1100 Anacapa St., Santa Barbara, CA 93101.

Santa Barbara Air Pollution Control District, 4440 Calle Real, Santa Barbara, CA 93110.

Ventura County Air Pollution Control District, 800 South Victoria Avenue, Ventura, CA 93009.

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812.

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IX, 415-556-2938.

SUPPLEMENTARY INFORMATION:

EPA Proposed Actions

The portions of the NAP for O₃, CO and TSP in Santa Barbara and Ventura Counties have been evaluated for conformance with Part D of the Clean Air Act. This notice provides a description of the NAP, summarizes the applicable Clean Air Act requirements, compares the NAP to those requirements, and proposes approval, conditional approval, or disapproval for each portion of the NAP for Santa Barbara and Ventura Counties.

The following portions of the NAP for O₃, CO and TSP in Santa Barbara County have been determined to be consistent with Part D of the Clean Air Act and are proposed to be approved and incorporated into the SIP: Emission inventory (except TSP), modeling, emission reduction estimates, attainment provision (except TSP), reasonable further progress, public and local government involvement, and public hearing requirements.

The following portions of the NAP for O₃, CO, and TSP in Santa Barbara County contain minor deficiencies with respect to Part D and are proposed to be approved and incorporated into the SIP, with the condition that each deficiency be corrected by a specified deadline: Emission inventory for TSP, attainment provision for TSP, legally adopted measures, permit program, and resources.

The following portions of the NAP for O₃ and TSP in Ventura County have

been determined to be consistent with Part D of the Clean Air Act and are proposed to be approved and incorporated into the SIP: Emission inventory, attainment provision (except TSP), reasonable further progress (except TSP), emission growth, annual reporting, public and government involvement, and public hearing requirements.

The following portions of the NAP for O₃ and TSP in Ventura County contain minor deficiencies with respect to Part D and are proposed to be approved and incorporated into the SIP, with the condition that each deficiency be corrected by a specified deadline: Modeling, emission reduction estimates, attainment provision (except O₃), reasonable further progress (except O₃), legally adopted measures/schedules (except O₃), permit program, resources, and extension requirements for volatile organic compounds.

The following portions of the NAP for O₃ in Ventura County constitute major deficiencies with respect to Part D: Legally adopted measures and extension requirements. The major deficiencies are the result of the lack of legal authority from the California State Legislature to implement a vehicle emission control inspection and maintenance program.

Approval or conditional approval of all portions of the NAP for these Counties would be sufficient to lift the current prohibition on construction of certain major new or modified sources. This prohibition is required by the Clean Air Act and is discussed in detail in the July 2, 1979 Federal Register notice (44 FR 38471).

EPA is proposing in this notice to conditionally approve the NAP for O₃, CO, and TSP in Santa Barbara County and for TSP in Ventura County. Upon final rulemaking action conditional approval would be sufficient to lift the construction prohibition in those Counties, except as noted below in Ventura County.

However, EPA is also proposing in this notice to disapprove the portions of the NAP concerning O₃ in Ventura County. This disapproval action would result in the continuation of the prohibition on construction of certain major sources in Ventura County which emit hydrocarbons that contribute to the formation of O₃.

Background

New provisions of the Clean Air Act, amended in August 1977, Pub. L. No. 95-95, require States to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). On April 4, 1979 (44 FR 20372), EPA published a General

Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. In addition, EPA published Supplements to the General Preamble on July 2, August 28, September 17, and November 23, 1979 (44 FR 38583, 50371, 53761 and 67182). The General Preamble supplements this notice by identifying the major considerations that will guide EPA's evaluation of the plan submittal.

Santa Barbara County is designated nonattainment for O₃. The Air Quality Maintenance Area (AQMA) portion of Santa Barbara County is designated nonattainment for CO and the western portion of the non-AQMA portion of Santa Barbara County is designated nonattainment for TSP. Ventura County is designated nonattainment for O₃ and the primary standard for TSP. San Luis Obispo County is designated nonattainment for O₃ and the secondary TSP standard.

On September 24, 1979, the State requested that EPA redesignate San Luis Obispo County to attainment for O₃. The requested redesignation reflects the revision of the national ambient air quality standard by EPA on February 8, 1979 (44 FR 8202) and that adequate data is available to show that less than 1.0 exceedance per year occurred.

EPA proposed to approve the redesignation in the April 10, 1980 Federal Register notice. Thus, this notice does not address the O₃ portion of the San Luis Obispo County plan with respect to the requirements of Part D of the Clean Air Act.

Description of Proposed SIP Revision

On October 18, 1979, the Governor's designee submitted the South Central Coast Air Basin Control Strategy (Chapter 17 of the Comprehensive Revisions to the State of California Implementation Plan for the Attainment and Maintenance of Ambient Air Quality Standards) to EPA. Preparation of the Control Strategy was coordinated by the ARB, Santa Barbara County Board of Supervisors, Ventura County Board of Supervisors, Southern California Association of Governments (SCAG), and San Luis Obispo County Area Council of Governments.

However, only portions of the South Central Coast Air Basin Control Strategy (Chapter 17) have been submitted by ARB as revisions to the SIP. Other portions have been submitted for informational purposes only. Those portions submitted for incorporation into the SIP are: (1) Sections I-IV of Chapter 17 and (2) portions of the locally adopted plans and the ARB Staff Reports and Resolutions which are

contained in Section V of Chapter 17 and are listed in tables 17-1 and 17-2.

Those portions of the locally adopted plans, Staff Reports, and Resolutions which are not listed in Tables 17-1 or 17-2, have not been submitted by the State for incorporation into the SIP, but for information purposes only. Further, as noted above, this notice does not address the portion of the October 18, 1979 revision concerning O₃ in San Luis Obispo County.

Sections I-IV of Chapter 17 provide an overview of the pollutant control strategies for the South Central Coast Air Basin, identify and discuss which portions of the NAP meet Clean Air Act requirements and include a demonstration that the Basin cannot meet the NAAQS for O₃ by 1982.

The locally adopted plans for the South Central Coast Air Basin addressed in this notice, consist of the following major components:

- A basic description of the nonattainment area including topography, air monitoring network, and air quality standards;
- A list of the Federal nonattainment plan requirements;
- A discussion of the public participation, and intergovernmental consultation and continuing planning processes;
- An examination of air quality trends;
- A listing of potential control measures and an analysis of each measure's technical and economic impacts;
- A discussion of the specific control strategies selected from the listing of potential control measures and incorporated into the plan which includes schedules for reasonable further progress, adopted stationary source control measures, and commitments to adopt additional control measures; and
- A discussion of the new source review provisions.

The ARB Staff Reports and Resolutions provide the following information for the South Central Coast Air Basin:

- The Attainment/Nonattainment designation for each area pollutant and consequent schedule for the review, adoption and approval of the SIP revision.
- A summary of each locally adopted plan which includes a discussion of the control strategy and requirements for an adequate Nonattainment Plan, and a summary of findings and recommended ARB action.

Chapter 17 indicates that attainment by 1982 of the O₃ standard in Santa Barbara and Ventura Counties is not possible despite the implementation of

all reasonably available control measures. An extension of the O₃ date until no later than December 31, 1987 has been requested. The control measures described in the Chapter include:

- California's motor vehicle standards for new vehicles;
- A vehicle emission control inspection and maintenance program;
- Stationary source control measures;
- Transportation measures to reduce the use of automobiles by expanding and improving public transit, instituting an areawide carpool program, an employer incentive program, a parking program, implementing on street parking measures, park-and-ride, fringe parking lots, bicycle lanes, and storage facilities, and
- A new source review program.

Chapter 17 also indicates that attainment of the total suspended particulate standards by 1982 will be very difficult to achieve, despite the implementation of all reasonably available control measures. Therefore, the State has requested additional time to study and develop control measures, and submit a revised control strategy.

In addition to those portions of the October 18, 1979 submittal described above, this notice considers certain amendments to the Santa Barbara County Air Pollution Control District (APCD) and Ventura County APCD rules and regulations submitted to EPA as revisions to the SIP by the Governor's designee as of June 2, 1980. These rule revisions were submitted by the ARB on October 18, 1979 as Appendix AA to Chapter 17, and in separate submittals on May 7 and 23, December 17 and 24, 1979 and February 25, May 1, and June 2, 1980. These rules support the Control Strategy and are listed below:

Santa Barbara County

October 18, 1979

- Rule 201.C Application Information and Processing Requirements
- Rule 205.C New Source Review
- Rule 320 Petroleum Solvent Dry Cleaners
- Rule 321 Control of Degreasing Operations
- Rule 323 Architectural Coatings
- Rule 327 Organic Liquid Cargo Vessel Loading
- Rule 329 Cutback Asphalt Paving Materials
- Rule 330 Surface Coating of Manufactured Metal Parts
- Rule 331 Refinery Valves and Flanges
- Rule 332 Petroleum Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds

December 24, 1979

- Rule 316 Storage and Transfer of Gasoline

May 1, 1980

- Rule 325 Storage of Petroleum and Petroleum Products

Ventura County

May 7, 1979

- Rule 71 Crude Oil and Organic Liquids
- Rule 71.2 Storage of Organic Liquids
- Rule 71.3 Transfer of Organic Liquids

October 18, 1979

- Rule 26 New Source Review
- Rule 74.2 Architectural Coatings
- Rule 74.4 Cutback Asphalt
- Rule 74.5 Drycleaning
- Rule 74.7 Valves and Flanges at Petroleum Refineries and Chemical Plants
- Rule 74.8 Refinery Vacuum Producing Systems, Wastewater Separators, and Process Turnarounds

December 17, 1979

- Rule 74.3 Paper, Fabric and Film Coating Operations

December 24, 1979

- Rule 70 Storage and Transfer of Gasoline

February 25, 1980

- Rule 71.1 Crude Oil Production and Separation

May 1, 1980

- Rule 74.6 Surface Cleaning and Degreasing

June 2, 1980

- Rule 2 Definitions

Criteria for Approval

The following list summarizes the basic requirements for Nonattainment Area Plans. The citations which follow referring to portions of the Clean Air Act, provide the bases for those requirements.

1. An accurate inventory of existing emissions (172(b)(4)).
2. A modeling analysis indicating the level of control needed to attain by 1982 (172(a)).
3. Emission reduction estimates for each adopted control measure (172(a)).
4. A provision for expeditious attainment of the standards (172(a)).
5. Provisions for reasonable further progress as defined in Section 171 of the Act (172(b)3).
6. Adoption in legally enforceable form of all measures necessary to provide for attainment or, in certain

circumstances where adoption by 1979 is not possible, a schedule for development, adoption, submittal, and implementation of these measures (172(b)(2), (8) and (10)).

7. An identification of an emissions growth increment (172(b)(5)).

8. Provisions for annual reporting with respect to items (5) and (6) above (172(b)(3) and (4)).

9. A permit program for major new or modified sources (172(b)(6) and (7)).

10. An identification of and commitment to the resources necessary to carry out the plan (172(b)(7)).

11. Evidence of public, local government, and State involvement and consultation (172(b)(9)).

12. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing (172(b)(1)).

13. For carbon monoxide and ozone SIP revisions that provide for attainment of the primary standard later than 1982:

a. A permit program for major new or modified sources requiring an evaluation of alternative sites and consideration of environmental and social costs (172(b)(11)(A)).

b. A provision for implementation of all reasonably available control measures for mobile and transportation sources (172(a)(2)).

c. A commitment to establish, expand, or improve public transportation to meet basic transportation needs (110(a)(3)(D) and 110(c)(5)(B)).

d. In addition to the above, for major urbanized areas, a specific schedule and legal authority for implementation of a vehicle emission control inspection and maintenance program (172(b)(11)(B)).

14. For O_3 nonattainment areas requiring an extension beyond 1982, the revision must also provide for adoption of legally enforceable regulations to reflect the application of reasonably available control technology (RACT) to those volatile organic compound (VOC) stationary sources for which EPA has published a Control Techniques Guideline by January 1978, and a commitment to adopt RACT regulations for additional sources to be covered by future guidelines 172(a)(2). For rural areas and urban areas that demonstrate attainment by 1982, only large sources (more than 100 tons/year emissions) must be so regulated.

Discussion

The paragraph numbers below correspond to the Part D nonattainment area plan requirements described in the preceding section, Criteria for Approval. EPA policy for approval of nonattainment area plans submitted as 1979 SIP revisions differentiates

between rural and urban O_3 nonattainment areas and is discussed in the General Preamble. Based upon the population cut-off contained in the General Preamble, Santa Barbara County is considered to be a rural area and Ventura County is considered to be an urban area. As referenced in the General Preamble, EPA's minimum requirements for an approvable 1979 rural O_3 nonattainment area plan do not require that all of the 14 Criteria for Approval be fully met. However, unlike some other rural areas, Santa Barbara County's O_3 concentrations have not been demonstrated to be significantly impacted by emissions from a major urban area, and therefore, reliance on EPA's rural O_3 policy is not completely appropriate for Santa Barbara County. Thus, EPA is strongly supportive of State and local efforts to develop a sound demonstration of attainment and to insure reasonable further progress. The rural/urban distinction does not affect the Criteria with respect to the other pollutants considered in this notice (CO and TSP).

In this section, the word "plan(s)" means the overall NAP or portions of the NAP, specific to certain area(s) and pollutant(s).

As noted in the SUMMARY section, EPA reviewed the plans for conformance with the pertinent requirements and, in this section, identifies portions of the plans which (1) are approvable, (2) are conditionally approvable, or (3) contain major deficiencies which cause disapproval of that portion of the plan and the overall plan with respect to Part D. As a result of this analysis, EPA proposes to conditionally approve the Santa Barbara O_3 , CO and TSP plans, as well as the Ventura TSP plan. EPA proposes to disapprove the Ventura O_3 plan. Where a plan deficiency is identified, recommendations for revisions of the plan are specified.

EPA also proposes to grant an extension until July 1, 1980, to San Luis Obispo for submitting a plan which demonstrates attainment of the secondary TSP standard. This extension is granted in accordance with 40 CFR 51.31, in that attainment of the standard would require emission reductions exceeding those which can be achieved through the application of reasonably available control technology.

Santa Barbara County

1. Emission Inventory

The plan includes a countywide emission inventory for hydrocarbons (HC), carbon monoxide (CO), and total suspended particulates (TSP) identifying

emission source categories and their estimated emissions for 1977, 1982, and 1987. The HC and CO inventories are reasonably comprehensive, current, and accurate. Therefore, EPA proposes to approve this portion of the O_3 and CO plans.

The TSP countywide inventory is subdivided into three regions. However, source categories are only represented in the countywide inventory. Since only the western portion of the north county is nonattainment for TSP, the source categories which make up the north county TSP inventory should be identified. Additionally, the countywide TSP inventory differs considerably from the Air Resources Board's inventory. Therefore, this portion of the TSP plan is proposed to be approved with the condition that the State submit by October 1, 1980 a more comprehensive inventory indicating source categories by region and justifying the conflicting TSP inventories.

2. Modeling

Ozone. The plan uses the Empirical Kinetic Modeling Approach (EKMA) with a design value of .19 ppm in the south coast region and a NMHC/ NO_x ratio of 11.67 to 1. For the Santa Ynez/Lompoc region a design value of .14 ppm and a NMHC/ NO_x ratio of 9.5 to 1 were used. Modeling was not done for the Santa Maria region since the plan states that the Santa Maria region is currently attaining the .12 standard. EKMA is an acceptable method for the 1979 SIP revision. Therefore, EPA proposes to approve this portion of the O_3 plan.

Carbon Monoxide and Total Suspended Particulates. The CO and TSP plans use linear rollback modeling which is an acceptable method for the 1979 SIP revision. Therefore, EPA proposes to approve this portion of the CO and TSP plans.

3. Emission Reduction Estimates

Ozone and Carbon Monoxide. Emission reduction estimates are contained in the plan for the State vehicle emission standards, inspection and maintenance (I/M), and stationary source control measures for 1980, 82, 85, 87, 90, and 95. Therefore, EPA proposes to approve this portion of the O_3 and CO plans.

Total Suspended Particulates. The plan contains a workplan for the study of nontraditional particulate matter sources and development of a control strategy (see Attainment Provision discussion). Therefore, EPA proposes to approve this portion of the TSP plan.

4. Attainment Provision

Ozone. The plan demonstrates that the O₃ standard cannot be achieved by December 31, 1982 despite the implementation of all reasonably available control measures. Therefore, EPA finds that the requested extension of the attainment date for O₃ is justified, proposes to grant the extension, and proposes to approve this portion of the O₃ plan.

Carbon Monoxide. The plan indicates that the CO standard can be achieved by December 31, 1982 based on reductions from State vehicle emission standards and I/M. Therefore, EPA proposes to approve this portion of the CO plan.

Total Suspended Particulates. The plan identifies State and locally adopted regulations which reflect an emission limit that requires reasonably available control technology for existing major source categories. In addition, the plan indicates that fugitive dust emissions comprise a major portion of the TSP inventory, and that reductions in these emissions will be necessary to attain the NAAQS. Due to (a) the unavailability of precise emission factors for the fugitive dust sources and (b) the need to further study potential control measures for these sources, the TSP plan cannot, at this time, quantify the expected emission reductions. In such cases where study and implementation of nontraditional control measures is necessary to attain the NAAQS, it is EPA policy that the plan need not provide a quantitative demonstration of attainment. Instead, the plan may provide a commitment and a schedule for the development, adoption, and implementation of those control measures necessary for the attainment of the primary TSP standards by December 31, 1982. The plan includes a schedule to study, develop, adopt, and implement nontraditional source control measures. However, the plan does not include a commitment to adopt and implement measures necessary to achieve the primary TSP standard by December 31, 1982. If the necessary commitment were included in the plan, a demonstration of attainment could be approved based on future implementation of the resulting control measures. Therefore, this portion of the TSP plan is proposed to be approved with the condition that the State submit by October 1, 1980 a commitment to adopt and implement nontraditional source measures found necessary after study.

With respect to the secondary TSP standard, the State has not submitted a nonattainment plan. Due to the fact that

attainment of the secondary standard will require emission reductions greater than those that would result from the expeditious application of reasonably available control technology, EPA proposes to extend the submittal deadline from January 1, 1979 to July 1, 1980.

5. Reasonable Further Progress

Ozone and Carbon Monoxide. Figures 17-2, 17-3, and 17-8 of the plan represent the annual incremental reductions needed for attainment of the ozone standard by 1987 and the carbon monoxide standard by 1982. These generalized representations are sufficient for the 1979 SIP revision. Therefore, EPA proposes to approve these portions of the O₃ and CO plans.

Total Suspended Particulates. EPA proposes to approve this portion of the TSP plan since the plan provides for regular incremental reductions needed for expeditious attainment based on a study of nontraditional source control measures.

6. Legally Adopted Measures/Schedules

The plan does not indicate that all necessary control measures have been adopted in a legally enforceable form as discussed below.

Inspection and Maintenance. The demonstration of attainment in the CO plan relies in part upon a vehicle inspection and maintenance (I/M) program. The State Legislature has failed to provide the necessary legal authority to implement the I/M program and EPA cannot approve the I/M program without such legislative authority. However, because EPA policy has established that I/M is not a mandatory control measure in an urbanized area with a population of less than 200,000, such as Santa Barbara County, the CO plan is not required to include I/M. Therefore, EPA is deferring action on this control measure until such time as legal authority is adopted.

In this notice EPA proposes to approve the legally adopted measures portion of the CO plan, absent I/M for Santa Barbara County and to approve the CO plan with the condition that the State provide by October 1, 1980, substitute control measures to demonstrate attainment.

Transportation Control Measures. Of the 17 transportation control measures identified in Section 108(f) of the Act, the plan contains 5 measures for Santa Barbara County. Though the plan contains a general commitment by the Board of Supervisors to implement the transportation control measures, the plan does not include written evidence that the agencies identified as

responsible for transportation related measures have adopted commitments to implement the necessary transportation control measures nor have they established implementation schedules consistent with a demonstration of reasonable further progress. A detailed schedule and commitment for implementation and (where appropriate) enforcement of each of these adopted transportation control measures must be submitted in order for these measures to be approved as part of the SIP under Section 110 of the Act.

Control of Total Suspended Particulates. As discussed in the Attainment Provision section of this notice, the TSP plan contains a minor deficiency since it does not contain a commitment to implement those nontraditional source control measures found reasonable after study. This portion of the Legally Adopted Measures section is deficient for the same reason, and is therefore proposed to be approved under the same condition stated in the Attainment Provision section.

VOC RACT. Section 172 of the Clean Air Act requires that minimum levels of control technology be provided for in the nonattainment plan. For rural O₃ nonattainment areas such as Santa Barbara County the plan must include adopted, legally enforceable regulations which reflect the application of reasonably available control technology (RACT) for those major stationary source categories (i.e., those with over 100 tons per year potential emissions) of volatile organic compounds (VOC) which exist within the Santa Barbara County nonattainment area for which EPA had published a Control Techniques Guideline (CTG) document by January 1978 (i.e., Category I CTGs). In addition, the plan must contain a commitment to adopt RACT regulations for major sources in categories to be addressed by future CTG documents.

The CTGs provide information on available air pollution control techniques, and contain certain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for EPA's decision to approve a regulation as satisfying the Act's requirement for RACT consists of the applicable CTG document, any material which must be submitted by the State justifying that the regulation satisfies the requirements of the Act for

RACT (based on the economic and technical circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

The plan indicates that of the 15 source categories (addressed by 11 CTG documents) for which adopted regulations are required, only 9 exist in the nonattainment area. There are no surface coating operations for cans, coils, paper, fabric, automobiles, or magnet wire. The source categories that exist in the nonattainment area include service stations, bulk plants, bulk terminals, fixed-roof tanks, degreasing operations, cutback asphalt, petroleum refineries, and the surface coating of large appliances and metal furniture.

The following regulations were submitted by the State on the dates indicated in response to the requirement for RACT for these source categories:

October 18, 1979

- Rule
321 "Control of Degreasing Operations",
329 "Cutback Asphalt Paving Materials",
330 "Surface Coating of Manufactured Metal Parts" and
332 "Petroleum Refinery Vacuum Producing Systems, Wastewater Separators, and Process Turnarounds".

December 24, 1979

- Rule
316 "Storage and Transfer of Gasoline".

May 1, 1980

- Rule
325 "Storage of Petroleum and Petroleum Products".

EPA has reviewed the submitted regulations in relation to the respective CTG for each of the categories.

Based on the information in the CTGs, EPA believes that the regulations are adequate to fulfill the requirement for RACT, except as noted below:

(1) Rule 329, "Cutback Asphalt Paving Materials" contains an exemption which allows for the use of cutback asphalts if the location of use is 25 miles from the nearest commercial plant for mixed surfacing materials.

(2) Rule 321, "Control of Degreasing Operations", contains an exemption for Department of Defense and NASA missile launch operations.

(3) Rule 332, "Petroleum Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds" exempts wastewater separators installed prior to May 18, 1979 and located in the North County from any of the control requirements for wastewater separators.

None of these exemptions is supported by information in the CTGs.

Additionally, EPA has reviewed the submitted regulations for their enforceability pursuant to 40 CFR Part 51 and section 172(b) of the Act and believes that the regulations are adequate, except as noted below:

(1) Rule 329 "Cutback Asphalt Paving Materials" requires final compliance dates. However, it allows an indefinite number of delays for compliance with the limit on VOC content of emulsified asphalts. Allowance for such delays will be based on a determination of the technological or economic feasibility of applying the asphalt. EPA believes, therefore, that the final compliance dates are unenforceable. Delays beyond the final compliance date must be submitted in accordance with the provisions of the Clean Air Act and EPA policy and approved as part of the SIP.

(2) Rule 330, "Surface Coating of Manufactured Metal Parts", does not meet 40 CFR Part 51 compliance schedule requirements since a compliance schedule is not specified. The rule must be amended to include a compliance schedule.

The six deficiencies noted above are minor and EPA proposes to approve the VOC RACT portion of the O₃ plan with the following three conditions:

(1) With respect to the cutback asphalt rule, the degreasing rule, and the refinery wastewater separator rule the State must submit by October 1, 1980 either (a) adequate justification for the noted exemptions, or (b) amended regulations which eliminate the exemptions or (c) documentation that the current regulations' emission reductions are within 5% of the reductions achievable with the controls recommended in the CTG.

(2) With respect to the cutback asphalt rule, the State must submit by October 1, 1980 a revised rule which does not allow for compliance date extensions without SIP approval.

(3) With respect to the surface coating rule, the State must submit by October 1, 1980 a revised rule providing for a compliance schedule.

The submitted regulation for service stations and bulk gasoline plants applies to sources also regulated by the Federal Regulation, 40 CFR 52.255, "Gasoline Transfer Vapor Control." Since the submitted regulations adequately control those sources covered by the Federal Regulation, and since compliance is currently required by the District regulation, effect, EPA proposes to rescind the Federal Regulation applicable to these sources. Similarly, the submitted regulation for the surface coating of miscellaneous metal parts and products applies to sources which are also regulated by Federal Regulation

40 CFR 52.253, "Metal Surface Coating Thinner and Reducer." Since the District's regulation is future effective, EPA proposes to retain the Federal Regulation applicable to the sources covered by the District regulation until such sources achieve full compliance with the District regulation.

The District's Rule 321, "Control of Degreasing Operations", contains control requirements which are as effective as the Federal Regulation 40 CFR 52.252, "Control of Degreasing Operations." Since compliance is currently required by Rule 321 which is similar to 40 CFR 52.252, EPA proposes to rescind Federal Regulation 52.252.

As stated above, the Plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The plan contains a resolution committing to implement all other reasonably available control measures needed to attain the standard as expeditiously as practicable. The State must submit adopted regulations by July 1, 1980 for the following eight applicable source categories (Category II CTGs): Refinery fugitive leaks, gasoline tank trucks, perchloroethylene drycleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, and the surface coating of flat wood paneling.

The District's Rule 330, "Surface Coating of Manufactured Metal Parts", and Rule 325, "Storage of Petroleum and Petroleum Products", contain control requirements sufficient to fulfill the requirements for RACT for Miscellaneous Metal Parts and for Floating Roof Tanks, respectively (Group II CTG categories). Therefore, no additional control requirements are needed for these source categories.

The State submitted the regulations listed below on October 18, 1979. The rules implement other hydrocarbon control tactics included in the plan:

- Rule
320 "Petroleum Solvent Dry Cleaning",
323 "Architectural Coating",
327 "Organic Liquid Cargo Vessel Loading",
and
331 "Refinery Valves and Flanges".

These regulations are proposed to be included in the SIP, since they will strengthen the SIP, and they are consistent with 40 CFR Part 51, the Clean Air Act and EPA Policy. Rule 331 contains control requirements for refinery fugitive leaks (a Group II CTG source category). The regulation does not, however, satisfy all of the requirements for RACT for this source category. Appropriate revisions need to be made to the regulation and submitted

to EPA by July 1, 1980. Specific comments are included in the evaluation report notes.

The District's Rule 316, "Storage and Transfer of Gasoline" contains control requirements for the refueling of motor vehicles (Phase II Gasoline Vapor Recovery). Since the District's rule adequately controls this source category, and since the Federal Regulation 40 CFR 52.256, "Control of Evaporative Losses from the Filling of Vehicular Tanks" is not presently in effect, EPA proposes to rescind the Federal Regulation.

40 CFR Part 52

In addition to the rulemaking actions discussed in this section, this notice proposes to remove certain Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52 which concerns (in part) Santa Barbara County. The following Federally promulgated regulations or specified portions are proposed to be rescinded or amended because they have been replaced by a revised set of control measures, regulations contained in this plan, and/or they have been invalidated by previous legal action:

A. § 52.229—Control Strategy and regulations; Photochemical oxidants (hydrocarbons), Metropolitan Los Angeles Intra-state Region: Subparagraph (a) should be rescinded due to the revised attainment dates in the nonattainment plan and in accordance with the Clean Air Act Amendments of 1977.

B. § 52.233—Review of new sources and modifications: Subparagraph (c)(1)(i), (2)(i), (f)(1)(i)(a)(2), and (d)(1) can be rescinded when EPA approves new source review regulations. Also, subparagraphs (h), (i), and (j) should be rescinded since they have been invalidated by the Clean Air Act amendments of 1977.

C. § 52.238—Attainment dates for national standards: The attainment dates in this section are proposed to be changed in accordance with the submitted plan.

D. The sections below should be rescinded in their entirety since they have been invalidated by the court action of *Brown vs. EPA*, 521 F2d 827 (1975):

§ 52.242—*Inspection and maintenance program;*

§ 52.243—*Motorcycle limitation;*

§ 52.244—*Oxidizing catalyst retrofit;*

§ 52.247—*Definitions for parking management regulations;*

§ 52.251—*Management of parking supply;*

§ 52.257—*Computer carpool matching;*

§ 52.263—*Priority treatment for buses and carpools;*

§ 52.266—*Monitoring transportation mode trends.*

7. Emission Growth

The State's proposed New Source Review rule (see Permit Program discussion) uses emissions offsets to limit emissions growth. This approach is acceptable and EPA proposes to approve this portion of the O₃, CO, and TSP plans.

8. Annual Reporting

A commitment to submit annual reports of reasonable further progress is included in the plan. Therefore, EPA proposes to approve this portion of the O₃, CO, and TSP plans.

9. Permit Program

The O₃, CO, and TSP plans contain a New Source Review Rule for the entire county.

EPA's criteria for approval of a new source permitting program are contained in Section 173, which also references essential portions of Sections 171 and 172. EPA has established further guidance based on Section 173: EPA's Emission Offset Interpretative Ruling in the January 16, 1979 *Federal Register* (44 FR 3274), and EPA's proposed amendments to regulations for New Source Review and to the Emission Offset Ruling in the September 5, 1979 *Federal Register* (44 FR 51924). The permitting program must be consistent with Section 173 and one or the other notice.

EPA's review indicates that the NSR regulation is not fully consistent with the above criteria. The submitted rule contains exemptions from the application of lowest achievable emission rate (LAER) and offsets which are not consistent with EPA criteria. Other deficiencies include an inadequate stationary source definition, allowance of the use of interpollutant offsets, and failure to regulate fugitive dust emissions. These and other deficiencies are described in detail in the Evaluation Report.

EPA has determined that the deficiencies in the NSR regulation are minor deficiencies, with respect to Section 173. Therefore, EPA proposes to approve and incorporate into the SIP the NSR regulation with the following condition. The regulation must be revised and submitted as a SIP revision by March 1, 1981 and must satisfy Section 173 and must be consistent as a whole with either the January 16, 1979 interpretative ruling, or the September 5, 1979 proposal. An additional option, if EPA's final rulemaking on the

September 5, 1979 proposal has been promulgated, would be for the revised regulation to be consistent with that rulemaking. However, it should be noted that when EPA takes final action on its September 5, 1979 proposal, the State will be under a statutory obligation to revise its NSR regulation within nine months to be consistent with that final action.

10. Resources

The plan commits to general funding and implementation. However, the plan does not specifically identify and commit all financial and personnel resources necessary for plan implementation, nor does the proposed plan provide resource commitments on the part of all implementing agencies. Documentation delineating these essential commitments must be submitted in order to fully meet the provisions of Section 172(b)(7) of the Act. This portion of the O₃, CO, and TSP plans is proposed to be approved with the condition that the State submit documentation delineating such commitments to EPA by October 1, 1980.

11. Public and Government Involvement

The plan provides evidence of public, local government and State involvement and consultation in the planning process, and documents the process used in designating responsible entities for preparing and implementing the plan.

The plan identifies air quality, health, welfare, economic, energy, and social effects of the plan provisions. In addition, the plan contains a summary of public comments

Therefore, the requirements of 172(b)(9) have been satisfied and EPA proposes to approve this portion of the O₃, CO, and TSP plans.

12. Public Hearing

The plan contains documentation which indicates that the plan was adopted by the State after reasonable notice and public hearing as required by Section 172(b)(1). Therefore, EPA proposes to approve this portion of the O₃, CO, and TSP plan submittals.

13. Extension Requirement for Ozone and CO

As referenced in the General Preamble, the 1979 O₃ SIP revision for rural nonattainment areas need not contain a specific demonstration of attainment. Therefore, the extension requirements of Criterion 13 identified above do not apply to this SIP revision with respect to O₃. The plan includes a demonstration of attainment of the CO standard by 1982. Therefore, the

extension requirements with respect to CO do not apply.

14. Extension Requirements for VOC/ RACT

As referenced in the General Preamble, the 1979 O₃ SIP revision for rural areas need not contain a specific demonstration of attainment. Therefore the extension requirements of Criterion 14 identified above do not apply to this SIP revision.

Ventura County

1. Emission Inventory

The plan contains a 1977 base year and projected emissions inventory summary for reactive organic hydrocarbons (RHC) and oxides of nitrogen (NO_x) which are precursors to the formation of ozone (O₃). A 1976 base year emissions inventory for direct sources of particulate matter is included in the plan. The plan also includes an emissions inventory for each regional statistical area (RSA), which is to be used with the emissions allocation system (discussed later).

EPA finds the inventories to be reasonably comprehensive, current, and accurate, and proposes to approve this portion of the O₃ and TSP plans.

2. Modeling

Ozone. The plan used the Empirical Kinetic Modeling Approach (EKMA) to estimate the emission reduction needed to attain the standard. This approach is considered an acceptable modeling technique for the 1979 SIP revision. However, the validity of the design value used could not be determined because information supporting the effect of transport from outside Ventura County was not included in the plan, and because measurements from the Ventura, Port Hueneme, and Point Mugu monitoring stations were not considered in determining the design value. EPA proposes to approve this portion of the O₃ plan with the condition that the State submit by October 1, 1980 documentation for the design value.

Total Suspended Particulates. The plan used the linear rollback modeling technique to determine the percent emission reduction needed to attain the standard. This approach is considered an acceptable modeling technique for the 1979 SIP revision. However, the validity of the design value used is questionable because data from 4 monitoring stations were excluded inappropriately. Although the plan indicates that exclusion of the data was based on the effect of salt from ocean spray, the monitors are also located in close proximity to 2 power plants.

Therefore, EPA proposes to approve this portion of the TSP plan with the condition that the State submit by January 1, 1981 a revised air quality analysis.

3. Emission Reduction Estimates

The plan presents, by stationary source category, the amount of emission in 1982 and 1987 remaining after application of control tactics. However, the sum of the reduction estimates calculated by EPA for each tactic does not correspond to the projected inventory. Annual emission reduction estimates per control tactic are necessary to justify a demonstration of attainment and to serve as a basis for a projection and tracking of reasonable further progress in emission reductions.

Therefore, EPA proposes to approve this portion of the O₃ and TSP plans with the condition that the State submit by October 1, 1980 estimated annual reductions per pollutant, free from the uncertainty mentioned above, for each tactic in the plan for which implementation is scheduled to begin prior to July 1, 1982.

4. Attainment Provision

Section 172(a) of the Act requires that the plan shall provide for the attainment of the primary NAAQS for O₃ and TSP as expeditiously as practicable but not later than December 31, 1982. Where the State demonstrates that the standard for O₃ cannot be attained by December 31, 1982, despite the implementation of all reasonably available control measures, an extension may be granted and the State must demonstrate attainment by no later than December 31, 1987. The plan does not quantitatively demonstrate attainment for either of the two nonattainment pollutants by December 31, 1982, nor does it quantitatively demonstrate attainment for O₃ by December 31, 1987. Rather the plan calls for further study and analysis to provide a more accurate quantitative demonstration of attainment. The approach for each pollutant is discussed in detail below.

Ozone. The plan demonstrates that the O₃ standard cannot be achieved by December 31, 1982 despite the implementation of all reasonably available control measures, and therefore requests an extension. EPA finds that the request is justified and proposes to grant the extension.

The plan includes a graph representing aggregate emission reductions necessary to attain the O₃ standard by 1987, but does not provide a quantitative demonstration of such emission reductions necessary to attain the standard. However, EPA proposes to

approve the attainment portion of the O₃ plan since the plan includes a commitment to prepare the 1982 SIP revision which will provide a quantitative demonstration of attainment of the O₃ standard by no later than December 1987.

Total Suspended Particulates. The plan demonstrates that despite the application of reasonably available control technology (RACT) to all traditional sources the annual geometric mean (AGM) primary TSP standard cannot be attained by December 1982.

The plan indicates that the control of gaseous precursors of secondary particulates and control of fugitive dust, in addition to the control of traditional sources, will be necessary to attain the standards. Due to the unavailability of precise emission factors for these sources, and to the need to further study potential control measures for these sources, the TSP plan cannot, at this time, quantify the expected emission reductions. In such cases, where study and implementation of nontraditional control measures are necessary to attain the standards, it is EPA policy that the plan need not provide a quantitative demonstration of attainment. Instead, the plan may provide a commitment and a schedule for the development, adoption, and implementation of those control measures necessary for attainment of the primary TSP standards by December 31, 1982. The plan provides for improving the air quality analysis and contains a work program and schedule for (1) developing and submitting by June 30, 1980 regulations for the additional control of direct TSP emissions, and (2) determining by June 30, 1980 optimum models for evaluating the impact of controls of both primary and secondary TSP formation on the county's TSP levels. However, the work program does not provide tasks and a schedule to define nontraditional sources, to characterize secondary particulate sources, and to develop, adopt, submit, and implement control measures, based on improved modeling and air quality analysis including the revised air quality analysis described in item 2 above. If the necessary tasks and schedule were included in the plan, a demonstration of attainment could be approved based on future implementation of the resulting control measures. The absence of such provisions is considered a minor deficiency. Therefore, this portion of the TSP plan is proposed to be approved with the condition that the State submit by October 1, 1980, the needed tasks and schedule.

The provisions of 40 CFR 51.31, allowing an extension of up to 18 months (July 1980) for submittal of a plan showing attainment of the secondary TSP standard, are satisfied, since the plan shows that attainment of this standard will require emission reductions greater than those that would result from the expeditious application of RACT. Therefore, EPA proposes to extend the submittal deadline from January 1, 1979 to July 1, 1980, pursuant to Section 110(b).

5. Reasonable Further Progress

Ozone. Figures V-1 and V-2 (Appendix E) and Figures 17-4 and 17-5 of the plan represent the annual incremental reductions of nitrogen oxides and reactive hydrocarbons needed for attainment by 1987 of the ozone standard. This generalized representation is sufficient for the 1979 SIP revision, as it addresses the requirements of Sections 172(b)(3) and 171(1) of the Act with respect to reasonable further progress. Therefore, EPA proposes to approve this portion of the O₃ plan.

Total Suspended Particulates. The plan indicates that reasonable further progress cannot be quantified due to analytical problems and to lack of information on measured TSP concentrations. However, as noted in Criterion 4, if the study tasks and schedule were included in the plan, the plan would be consistent with the intent of Sections 172(b)(3) and 171(1), since it would provide for regular incremental reductions needed for expeditious attainment based on future implementation of nontraditional and secondary particulate source control measures. Thus, this Reasonable further progress section is deficient for the same reason as is the Attainment provision section, and is therefore proposed to be approved with the same conditions stated in the Attainment provision section.

6. Legally Adopted Measures/Schedules

The plan does not indicate that all necessary control measures have been adopted at the State or local level, as required by Sections 172(b)(2), 172(b)(8), 172(b)(10). Specifically, the plan fails to contain in legally enforceable form (1) all reasonably available control measures identified in the plan for implementation including a motor vehicle emission inspection and maintenance program, and (2) for all other measures, either adopted control strategies or schedules and commitments for strategy development, adoption, and implementation.

Ozone. The plan must include adoption of reasonably available control measures in legally enforceable form. A motor vehicle emission inspection and maintenance program is a reasonably available transportation control measure and is provided for in the plan. However, due to the absence of legal authority to implement the I/M program set forth in the plan because of the lack of State authorizing legislation, I/M cannot be considered to be adopted in legally enforceable form. As a result of this major deficiency, EPA proposes to disapprove this portion of the O₃ plan and to disapprove the overall O₃ plan with respect to Part D.

Section 172(b)(2) and 172(b)(10) require the identification of all reasonably available transportation control measures (TCM) (including but not limited to those contained in Section 108(f) of the Act) necessary to provide for attainment. These measures must have schedules and commitments for expeditious implementation. The plan does not contain an identification of currently programmed TCMs nor the schedules and commitments for their implementation. EPA proposes to approve this portion of the O₃ plan with the condition that (a) currently programmed TCMs be submitted by the State from implementation agencies as an SIP revision prior to final rulemaking, and (b) schedules and commitments for these measures by the responsible agencies be submitted no later than January 1, 1981.

Total Suspended Particulates. The TSP plan, as noted above, identifies State and locally adopted regulations which reflect emission limits equivalent to reasonably available control technology for major source categories. As noted in the ATTAINMENT PROVISION section of this notice, the plan contains a minor deficiency since it does not contain tasks and a schedule to develop, adopt, submit and implement nontraditional and secondary particulate source control measures. This LEGALLY ADOPTED MEASURES section is deficient for the same reason, and is therefore proposed to be approved with the same condition stated in the ATTAINMENT PROVISION section.

Supporting Regulations. The State has submitted the rules listed below. EPA believes these rules should be approved for inclusion in the SIP since they will strengthen the SIP.

- Rule 74.2, Architectural Coatings
- Rule 74.5, Drycleaning
- Rule 74.7, Valves and Flanges at Petroleum Refineries and Chemicals Plants

40 CFR Part 52

In addition to the proposed rulemaking actions discussed in this section, this notice proposes to remove certain Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52, which concern (in part) the Ventura nonattainment area. The following Federally promulgated regulations or specified portions are proposed to be rescinded or amended because they have been replaced by the revised set of control measures/regulations contained in this plan and/or they have been invalidated by previous legal action:

A. § 52.229—Control strategy and regulations: Photochemical oxidants (hydrocarbons), Metropolitan Los Angeles IntraState Region: Subparagraph (a) should be rescinded due to the revised attainment dates in the nonattainment plan and in accordance with the Clean Air Act Amendments of 1977.

B. § 52.233—Review of new source and modifications: Subparagraphs (e), (f)(1)(i)(a)(1) can be rescinded when EPA approves new source review regulations; also, subparagraphs (h), (i), and (j) should be rescinded since they have been invalidated by the Clean Air Act Amendments of 1977.

C. § 52.238—Attainment dates for national standards: The attainment dates in this section are proposed to be changed in accordance with the submitted plan.

D. The sections below should be rescinded in their entirety since they have been invalidated by the court of action of *Brown v. EPA*. 521 F2d 827 (1975):

- § 52.242—Inspection and maintenance program;
- § 52.243—Motorcycle limitation;
- § 52.244—Oxidizing catalyst retrofit;
- § 52.247—Definitions for parking management regulations;
- § 52.251—Management of parking supply;
- § 52.257—Computer carpool matching;
- § 52.263—Priority treatment for buses and carpools;
- § 52.266—Monitoring transportation mode trends.

7. Emissions Growth

The plan must include either (1) an express identification and quantification of an emission growth increment for the construction and operation of major new or modified stationary sources, or (2) provisions to offset the emissions from such sources in a new source review (NSR) rule. The plan contains an emission allocation system which identifies and quantifies the emissions

which will be allowed to result from the construction and operation of major new or modified stationary sources. The plan also contains an NSR rule providing for offsets for new or modified sources emissions which would exceed the allowable emissions set forth in the emissions allocation system. The NSR rule provides a system for tracking growth and reduction in emissions allowable under the emission allocation system. Therefore, EPA proposes to approve this portion of the O₃ and TSP plans.

8. Annual Reporting

The plan contains a commitment to submit annual reports of reasonable further progress. Therefore, EPA proposes to approve this portion of the O₃ and TSP plans.

9. Permit Program

The Ventura County NAP contains a New Source Review Rule that was adopted by Ventura County for the entire Ventura County nonattainment area. EPA's criteria for approval of a new source permitting program are contained in Section 173, which also references essential portions of Sections 171 and 172. EPA has established further guidance based on Section 173: EPA's Emission Offset Interpretative ruling in the January 16, 1979 Federal Register (44 FR 3274), and EPA's proposed amendments to regulations for New Source Review and to the Emission Offset Ruling in the September 5, 1979 Federal Register (44 FR 51924). The permitting program must be consistent with Section 173 and one or the other notice.

EPA's review indicates that the NSR regulation is not fully consistent with the above criteria. The most significant deficiency is that the rule does not specifically require offsets for new or modified major sources of TSP, as required. Other deficiencies include inappropriate offset requirements, substantial exemptions from LAER and offset requirements, and the lack of provision for public comment in certain cases. The deficiencies are described in detail in the Evaluation Report.

EPA has determined that the deficiencies in the NSR regulation are minor deficiencies, with respect to Section 173. Therefore, EPA proposes to approve and incorporate into the SIP the NSR regulation with the following two conditions:

- (1) The rule must be revised and submitted as an SIP revision by September 1, 1980 to require offsets for new or modified major sources of TSP.
- (2) The regulation must be revised and submitted as a SIP revision by March 1,

1981 and must satisfy Section 173 and must be consistent as a whole with either the January 16, 1979 interpretative ruling, or the September 5, 1979 proposal. An additional option, if EPA's final rulemaking on the September 5, 1979 proposal has been promulgated, would be for the revised regulation to be consistent with that rulemaking.

However, it should be noted that when EPA does take final action on its September 5, 1979 proposal, the State will be under a statutory obligation to revise its NSR regulation within nine months to be consistent with that final action.

10. Resources

The plan identifies financial or personnel resources for plan implementation in terms of rule development, reasonable further progress reports, and determinations of consistency. In terms of rule enforcement, population-related emissions allocation, and the I/M program, the plan provides neither identification of nor commitment to the resources needed for implementation of the plan or for analysis and adoption of transportation control measures. The plan must provide such identifications and commitments, to satisfy the requirements of Sections 110(a)(2)(F) and 172(b)(7). This portion of the O₃ and TSP plans is proposed to be approved with the condition that the State submit by October 1, 1980 documentation delineating such identifications and commitments.

11. Public and Government Involvement

The plan provides evidence of public, local government, and State involvement and consultation in the planning process, and documents the process used in designating responsible entities for preparing and implementing the plan.

The plan identifies air quality, health, welfare, economic, energy and social effects of the plan provisions. In addition, the plan contains a summary of public comments and the tapes of the ARB hearing held on the plan.

Thus, all requirements of Section 172(b)(9) appear to be satisfied, and EPA proposes to approve this portion of the O₃ and TSP plans.

12. Public Hearing

Documentation submitted by the State indicates that the plan meets the requirements of Section 172(b)(1) and 40 CFR 51.4 by having been adopted by the State after reasonable notice and public hearing. Therefore, EPA proposes to approve this portion of the O₃ and TSP plan submittals.

13. Extension Requirements

Since the State has demonstrated that the NAAQS for O₃ cannot be attained by December 1982, despite the application of reasonably available control measures, and has requested an extension of the attainment date beyond December 1982, the plan must meet the requirements of Sections 172(b)(11), 110(a)(3)(D), and 110(c)(5)(B).

Under Section 172(b)(11)(A) the State must submit, in conjunction with the NSR permit program, a procedure and requirement for an analysis of alternative sites, sizes, processes, and controls, which demonstrate that benefits of a major emitting facility outweigh environmental costs. While the State has adopted a policy that the California Environmental Quality Act (CEQA) procedure is equivalent to that required by Section 172(b)(11)(A) of the Act, official submittal of relevant portions of CEQA as part of the plan is needed to satisfy the requirements of Section 172(b)(11)(A). Therefore, EPA proposes to approve this portion of the O₃ plan with the condition that the State submit by October 1, 1980 the relevant portions of CEQA.

Under Section 172(b)(11)(B) the plan must establish a specific schedule for the implementation of a vehicle emission control inspection and maintenance program. The requirement of Section 172(b)(11)(B) has not been met since the State Legislature has failed to authorize the legal authority to implement such a program. Therefore, EPA proposes to disapprove this portion of the O₃ plan and the overall O₃ plan with respect to Part D requirements. EPA would reconsider this disapproval at such time as the Legislature provides legal authority to implement an I/M program, and at such time as the State submits an SIP revision containing (1) certification of such legal authority, (2) a commitment to implement and enforce the I/M program so authorized, (3) a commitment to achieve 25% reductions in hydrocarbon exhaust emissions from light duty vehicles by December 31, 1987, and (4) a specific schedule with milestones of progress toward implementation.

Sections 110(a)(3)(D) and 110(c)(5)(B) require that the plan contain commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs. These basic transportation needs must be met as expeditiously as practicable using Federal grants, State, and local funds to implement public transportation programs. The plan discusses current and planned public transportation

improvements, and shows adoption of transit improvement as a concept at the regional level. However, there is no reference to a determination of specific needs for public transportation, nor are there explicit commitments to expand or improve planning to meet basic transportation needs and to obtain and apply funds as described above to implement the necessary improvements. Therefore, EPA proposes to approve this portion of the O₃ plan with the condition that the State submit by January 1, 1981 the needed determination and commitments.

Section 172(b)(11)(C) requires that other measures (including but not limited to those listed in Section 108(f) of the Act) that may be necessary to provide for attainment of the NAAQS no later than December 31, 1987, must be identified in the plan. Although the plan identifies all Section 108(f) measures for further study, no detailed schedules are included for the study of alternative packages of measures. The plan does not contain commitments to implement expeditiously all measures found to be reasonably available. Also, as part of the plan, the State requested the local planning agencies to submit a work program which commits to schedules for the development and implementation of additional transportation control measures. The State also directed that consideration should be given to ambitious packages of measures to achieve an emissions reduction target or percent reduction to meet the requirements of the Clean Air Act for reasonable further progress and maintenance of the ozone standard. Therefore, EPA proposes to approve this portion of the O₃ plan with the condition that the State submit by October 1, 1980 the referenced work program and detailed schedules for analysis of the alternative packages of measures and commit to implement expeditiously all measures found to be reasonably available.

To assure that the requirements of Section 176c and 176d are met EPA policy requires that the plan contain procedures for the determination of conformity with the SIP of any project, program, or plan over which the metropolitan planning organization has approval authority, and that the plan contain procedures to ensure that priority is given to the implementation of those portions of any plan or program with air quality related transportation consequences that contribute to the attainment and maintenance of the primary NAAQS. Specifically, these procedures should address the granting of priority to projects in the

Transportation Improvement Program which contribute to the attainment and maintenance of the NAAQS. EPA policy requires that these procedures be submitted in the 1980 Annual Report.

14. Extension Requirements for VOC RACT

Since the State has demonstrated that attainment of the 0.12 ppm ozone standard is not possible by December 1982, the plan must contain adopted, legally enforceable regulations which reflect the application of reasonably available control technology (RACT) for those stationary source categories of volatile organic compounds (VOC) which exist within the Ventura nonattainment area for which EPA had published a Control Techniques Guideline (CTG) document by January 1978 (i.e., Category I CTGs). In addition, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents.

The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for an EPA decision to approve a regulation as satisfying the requirements of the Act for RACT consists of the applicable CTG document, any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

The plan indicates that of the 15 source categories (addressed by 11 CTG documents) for which adopted regulations are required, only 9 exist in the nonattainment area. The following regulations contain control requirements for all 9 of the applicable categories (service stations, fixed-roof tanks, bulk gasoline plants, bulk gasoline terminals, cutback asphalt, degreasing, miscellaneous refinery processes, and surface coating of fabric and paper):

Rule 71.2, Storage of Organic Liquids (submitted May 7, 1979);

Rule 71.3, Transfer of Organic Liquids (submitted May 7, 1979);

Rule 71, Crude Oil and Organic Liquids (submitted May 7, 1979);

Rule 74.4, Cutback Asphalt (submitted October 18, 1979);

Rule 74.8, Refinery Vacuum Producing Systems, Wastewater Separators, and Process Turnarounds (submitted October 18, 1979);

Rule 74.3, Paper, Fabric and Film Coating Operations (submitted December 17, 1979);

Rule 70, Storage and Transfer of Gasoline (submitted December 24, 1979);

Rule 71.1, Crude Oil Production and Separation (submitted February 25, 1980);

Rule 74.6, Surface Cleaning and Degreasing (submitted May 1, 1980).

These regulations have been submitted to EPA for inclusion in the SIP. Based on information contained in the CTGs and on material submitted by the State, EPA believes that the submitted regulations satisfy the requirement for RACT and are approvable, except as noted below:

(1) Rule 74.4, Cutback Asphalt, places no limit on the solvent content of emulsified asphalts in the northern zone of the District. This exemption is not supported by information in the CTGs, or otherwise available to EPA.

(2) Rule 70, Storage and Transfer of Gasoline, does not require vapor recovery, or equivalent controls, for filling of tanks with offset fill pipes (installed prior to January 1, 1985); filling of tanks of between 250 and 1500 gallon capacity (regardless of the date of installation); loading delivery vessels at bulk plants with an annual throughput of less than 3,000,000 gallons; and in the northern zone of the District, all bulk terminals and the filling of delivery vessels at bulk plants. These exemptions are not supported by information in the CTGs, or otherwise available to EPA.

(3) Rule 74.3, Fabric and Film Coating Operations, specifies that compliance with the emission limit is to be determined on an inventory basis over a seven-day period. The use of a seven-day averaging period is not supported by information in the CTGs, or otherwise available to EPA, and is inappropriate for a regulation designed to protect a one-hour ozone standard.

(4) Rule 74.6, Surface Cleaning and Degreasing, exempts cold solvent cleaners using solvents with a volatility greater than 0.6 psi at 100°F (or solvents which are heated above 50°F) from the requirements for a minimum freeboard ratio or a water cover, if the surface area of the degreaser is less than 0.5 m². This exemption is not supported by information contained in the CTG. Additionally, EPA has reviewed the submitted regulations for their enforceability pursuant to 40 CFR Part 51 and section 172(b) of the Act, and

believes that the regulations are adequate, except as noted below:

(1) Rule 74.4, Cutback Asphalt, requires final compliance dates. However, it allows an indefinite number of delays for compliance with the limit on VOC content of emulsified asphalts. Allowance for such delays will be based on a determination of the technological or economic feasibility of applying the asphalt. EPA believes, therefore, that the final compliance dates are unenforceable. Delays beyond the final compliance date must be submitted in accordance with the provision of the Clean Air Act and EPA policy and approved as part of the SIP.

In response to the minor deficiencies enumerated above, EPA proposes to approve the VOC RACT portion of the O₃ plan with the condition that the State submit the following by October 1, 1980:

(1) With respect to Rules 74.4, 70, 74.3, and 74.6, either an adequate demonstration that the rules represent RACT, or amended rules to be consistent with the CTGs, or a demonstration that the rules will result in VOC emission reductions which are insignificantly different (within 5% of controlled emissions) from the reductions which would be achieved through implementation of the CTG recommendations;

(2) With respect to Rule 74.4, an amended rule which does not allow for compliance date extensions without SIP approval.

Until the needed modifications to Rule 70 (noted above) are submitted and approved, the versions of Rule 70 as submitted February 10 and November 10, 1976, and Rule 63, Organic Liquid Petroleum Product Loading, as submitted June 30, 1972 are proposed to be retained in the SIP, applicable to bulk terminals and bulk plants in the northern zone.

As stated above, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The plan contains a resolution to adopt all other reasonably available control measures needed to attain the standards as expeditiously as practicable. The State must submit adopted regulations by July 1, 1980 for the following 9 applicable source categories (Category II CTGs): Refinery fugitive leaks, gasoline tank trucks, perchloroethylene dry-cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, floating roof tanks, miscellaneous metal parts and products, and surface coating of flat wood panelling.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State.

The Regional Administrator hereby issues this notice setting forth the SIP revisions described above as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX office.

The EPA Region IX Office specifically invites public comment on whether to conditionally approve the items identified in this notice as deficiencies in the nonattainment area plan. EPA is further interested in receiving comments on the specified dates for the State to submit the corrections, in the event of conditional approval.

Comments received on or before October 6, 1980, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the Addresses Section of this notice.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions/scheduled revisions meet the requirements of Section 110(a)(2) and Part D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA believes the available period for comment is adequate because:

(1) The plan has been available for inspection and comment since December 14, 1979;

(2) EPA's notice published in the December 14, 1979 *Federal Register* (44 FR 72614) indicated that the comment period would be 30 days; and

(3) EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979 on that portion of the SIP that addresses the requirements of Part D.

EPA has determined that this action is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 129, 171 to 178, and 301(a), Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a)))

Dated: June 20, 1980.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 80-27190 Filed 9-4-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1597-8]

Wisconsin State Implementation Plan; Extension of Comment Period

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of extension of comment period.

SUMMARY: The USEPA is giving notice that the comment period on the notice of proposed rulemaking on the Wisconsin nonattainment plan for particulate matter emissions from coke oven batteries published July 3, 1980 (45 FR 45318) has been extended from August 4, 1980, to October 3, 1980.

DATE: Comments are now due on or before October 3, 1980.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Air Enforcement Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353-2082.

SUPPLEMENTARY INFORMATION: This notice extends the period for submitting comments to the notice published July 3, 1980 (45 FR 45318) proposing rulemaking on the Wisconsin nonattainment plan for particulate matter emissions from coke oven batteries. Public comments were originally due on August 4, 1980.

On July 22, 1980, the Wisconsin Department of Natural Resources and Milwaukee Solvay Coke requested a 30 day extension for filing their comments regarding USEPA's proposed action on the regulations. On August 22, 1980, these parties requested an additional 30 day extension.

The USEPA has decided that the extension of the public comment period is appropriate and hereby extends the comment period to October 3, 1980.

Dated: August 21, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-27191 Filed 9-4-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 521

[General Order 17; Docket No. 80-59]

Time for Filing and Commenting on Certain Agreements

AGENCY: Federal Maritime Commission.

ACTION: Proposed rulemaking.

SUMMARY: The proposed rules amend existing regulations governing the time within which certain modifications of agreements approved pursuant to

section 15 of the Shipping Act, 1916 should be filed with the Federal Maritime Commission. In the case of an application for extension of an approved agreement due to terminate by its own terms, the proposed rules enlarge the time for filing the application from not less than 60 days to not less than 120 days prior to the date on which the approved agreement would otherwise terminate. Similarly, in the case of a modification of an approved agreement other than an application for extension, the proposed rule enlarges the time for filing the modification from not less than 60 days to not less than 120 days prior to the date it is intended that action will begin, change or cease as a result of the modification.

DATE: Comments due October 6, 1980.

ADDRESSES: Comments (original and fifteen copies) to: Secretary, Federal Maritime Commission, 1100 L Street NW., Room 11101, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Secretary, Federal Maritime Commission; 1100 L Street NW., Room 11101, Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Commission's rules governing the "time for filing and commenting on certain agreements" (46 CFR Part 521) became effective February 1, 1966.

Subpart A of these rules specifies that: (a) Applications for extension of an approved agreement due to terminate by its own terms should be filed not less than 60 days prior to the date on which the approved agreement would otherwise terminate;

(b) Modification of an approved agreement, other than an application for extension, should be filed not less than 60 days prior to the date it is intended that action will begin, change or cease as a result of the provision(s) of the modification; and

(c) Notice of cancellation of an approved agreement should be filed not less than 60 days prior to the effective date of cancellation. The rules also provide that the failure to file such an application for extension at least 60 days in advance of the termination date could result in the approved agreement terminating prior to Commission action on the filed amendment.

These rules were promulgated to effectuate the policy set forth in 46 CFR 521.1. Essentially this provision recites the Commission's responsibility to disapprove, cancel or modify, by order, after notice and hearing, any agreement, or modification or cancellation thereof, whether or not previously approved by it, that it finds to be unjustly

discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of the Shipping Act, 1916, and to approve all other agreements, modifications, or cancellations. In order to discharge these responsibilities, sufficient time must be allowed for the Commission to comprehensively analyze and consider every agreement, modification and cancellation to determine whether or not they are lawful in the light of the above defined standards. Thus, General Order 17 was adopted to effectuate this policy.

Since the promulgation of these rules, the circumstances which gave rise to the 60 day advance notice filing period have changed. Subsequent legislation (Government in the Sunshine Act, 5 U.S.C. 552b, and the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*) and delays in obtaining appropriate data commenting on the approvability of agreements have imposed certain additional time constraints upon the processing of these agreements. To accommodate these demands for extended processing time, it is necessary to enlarge the 60 day advance notice filing period set forth in General Order 17.

The aforementioned legislation and the Commission's respective implementing rules have imposed certain procedural requirements increasing the amount of time needed to process an agreement. For example, the Government in the Sunshine Act and the Commission's relevant rules require that public announcement of each Commission meeting shall be accomplished no later than one week prior to the commencement of the meeting. The provisions of the National Environmental Policy Act impact more significantly on the time required to process an agreement. NEPA and the Commission's relevant rules provide that action on certain agreements will require a time period of at least 90 days before a decision can be made or recorded by the Commission. Although 90 days represents the statutory minimum, proper analysis and consideration of certain agreement modifications may exceed this procedural time period. With these additional procedural requirements, the amount of time needed to process agreements is increased and will, in the case of certain agreement modifications,

exceed the 60 day advance notice filing period set forth in General Order 17.

In addition to the aforementioned legislation, delays in the processing of agreements are being caused more frequently by deficient statements commenting on the approvability of agreements. Often, the filing of section 15 agreements is unaccompanied by the data necessary to a Commission decision. In order to remedy that deficiency, the Commission has found it necessary to repeatedly request further information from the parties to the agreement which would identify and explain the circumstances giving rise to the agreement and the purposes for which it is intended. The Commission has also found it necessary to make further requests for information from those who have commented on, protested, or requested a hearing on a particular agreement. These deficiencies result in delaying the disposition of the agreements.

The additional procedural requirements imposed by legislation and the deficiencies attendant to the filing and commenting on the approvability of agreements greatly increase the amount of time necessary to properly analyze and consider certain modifications of section 15 agreements. To accommodate these added demands, it is necessary to enlarge the existing 60 day advance notice filing period set forth in General Order 17. (It is not necessary to revise the time period specified for notice of agreement cancellations, as the aforementioned circumstances have negligible impact on such actions.) A realistic time frame which would permit proper analysis and consideration is 120 days. This time period accommodates the new requirements imposed by legislation enacted subsequent to the promulgation of General Order 17 and permits adequate time to obtain, analyze, and consider appropriate data concerning the approvability of certain agreement modifications.

Therefore, it is ordered, That pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 15 and 43 of the Shipping Act, 1916 (46 U.S.C. 814, and 841a), the Commission proposes to amend 46 CFR Part 521 as follows:

§§ 521.2 and 521.3 [Amended]

Delete the words "sixty (60) days" from §§ 21.2(a),(b), and 521.3 of 46 CFR Part 521 and substitute the words "one-hundred twenty (120) days" therefor.

By the Commission.

Francis C. Hurney,
Secretary

[FR Doc. 80-27290 Filed 9-4-80; 8:45 am]

BILLING CODE 6730-01-M

Notices

Federal Register

Vol. 45, No. 174

Friday, September 5, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Select Committee on Ex Parte Communications; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-163), notice is hereby given of a meeting of the Select Committee on Ex Parte Communications of the Administrative Conference of the United States, to be held at 10:00 a.m., Friday, September 19, 1980 in the library of the Administrative Conference, Suite 500, 2120 L Street, N.W., Washington, D.C.

The Committee will meet to discuss Professor Michael Asimow's study of separation of functions in federal agencies.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Jeffrey Lubbers (202-254-7065). Minutes of the meeting will be available on request.

Richard K. Berg,

Executive Secretary.

August 29, 1980.

[FR Doc. 80-27289 Filed 9-4-80; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Beaverhead National Forest Plan

Beaverhead National Forest, Beaverhead, Madison, Silver Bow, Deer Lodge, and Gallatin Counties, Mont.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for the Forest Land and Resource Management Plan for the Beaverhead National Forest. The Management Plan will encompass the entire Forest of 2,119,538 acres and 19,697 acres of the Deerlodge National Forest.

Preparation of the Plan will follow direction outlined in the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and the Secretary's Regulations of September 17, 1979.

The resulting Forest Plan will provide for multiple use and sustained yield of products and services from the Beaverhead National Forest. The Plan will guide all natural resource management activities and establish management standards and guidelines. It will determine resource management practices, harvesting levels and procedures under the principles of multiple use and sustained yield, and the availability and suitability of lands for resource management.

The Forest Plan will be selected from a range of alternatives which will include at least:

- a. A "no action" alternative which represents the most likely conditions expected to exist in the future, if current management direction would continue unchanged.
- b. Alternatives that display possible outputs of resources available to each of several expenditure levels; and
- c. Alternatives designed to resolve the identified major public issues and management concerns.

In formulating the Forest Plan, information from other government agencies, industry, and private individuals will be solicited. The plan will be responsive to public issues, and public involvement is critical to the planning and decisionmaking process.

The Forest planning steps include identifying issues and management concerns; development of planning and decisionmaking criteria; collecting and storing needed information; analyzing the existing Forest management situation; formulating alternatives; estimating the effects of each alternative; evaluating and selecting the preferred alternative; and implementing the Plan.

Tom Coston, Regional Forester, is the responsible official for the Forest Plan. A Draft Environmental Impact Statement is scheduled to be issued in late 1981, and the Final Environmental Impact Statement in early 1982. All documents related to the Forest Plan will be kept at the Beaverhead Forest Supervisor's office, 610 North Montana, Dillon, Montana 59725.

Questions or comments on the Notice of Intent or the Forest Plan should be sent to Frank Fowler, Land Management Planner, Beaverhead National Forest, 610 North Montana, Dillon, Montana 59725 (Phone 406-683-2312)

James E. Reid,
Acting Regional Forester.

August 28, 1980.

[FR Doc. 80-27201 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-11-M

Intermountain Region Land and Resource Management Plan; Revised Notice of Intent

A Notice of Intent to Prepare an Environmental Impact Statement for the Intermountain Region Land and Resource Management Plan was published in the *Federal Register*, Volume 45, No. 17, p. 5785, January 24, 1980.

The estimated dates for filing the Draft and Final Environmental Impact Statements with the Environmental Protection Agency and release to the public have been postponed. The Draft

Environmental Impact Statement is now expected in December 1980, and the Final Environmental Impact Statement is proposed for release in June 1981.

All other conditions of the original notice of intent remain the same.

Dated: August 28, 1980.

Douglas Leisz,
Acting Chief.

[FR Doc. 80-27162 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Bluegrass Tunnel Headgate Farm Irrigation R.C. & D. Measure, Wyoming; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank S. Dickson, Jr., State Conservationist, Soil Conservation Service, Room 3113, Federal Building, 100 East "B" Street, P.O. Box 2440, Casper, Wyoming 82602, telephone 307-265-5550, Ext. 5201.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bluegrass Tunnel Headgate Farm Irrigation RC&D Measure, Albany County, Wyoming.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Frank S.

Dickson, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of controls at the entrance to the Bluegrass Tunnel. The planned works of improvement include a conduit, headgates, trash racks, and other appurtenances. The planned work is a replacement of an existing structure.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Frank S. Dickson, Jr. The FNSI has been sent to various Federal, State, and local

agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 6, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

August 25, 1980.

[FR Doc. 80-27196 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-16-M

Clear Creek Critical Area Treatment R.C. & D. Measure, Oklahoma; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Office Building, Farm Road & Brumley Street, Stillwater, Oklahoma 74074, telephone 405-624-4460.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Clear Creek Critical Area Treatment RC&D Measure, McCurtain County, Oklahoma.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment for erosion control. The planned works of improvement include filling, topsoiling bermuda-grass sod mulching, fertilizing, and concrete channel liners.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Roland R.

Willis. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 6, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

James W. Mitchell,

Associate Deputy Chief for Natural Resources Projects.

August 25, 1980.

[FR Doc. 80-27197 Filed 9-4-80; 8:45am]

BILLING CODE 3410-16-M

Critical Area Treatment Measures for Coastal Erosion Control and Dune Stabilization in the South Jersey R.C. & D. Area, New Jersey; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Plater T. Campbell, State Conservationist, Soil Conservation Service, 1370 Hamilton Street, Somerset, New Jersey 08873, telephone 201-246-1205.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Critical Area Treatment Measures for Coastal Erosion Control and Dune Stabilization in the South Jersey RC&D Area, principally in the coastal areas of Ocean, Atlantic, and Cape May Counties, New Jersey.

The environmental assessment of these federally assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Plater T. Campbell, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these projects.

The measures concern plans for critical area treatment to control dune erosion. The planned works of improvement include reshaping, installation of sand fences, and the introduction and/or nourishment of

vegetative cover to stabilize eroding dune areas. Work activity will be mainly limited to the coastal areas of Ocean, Atlantic, and Cape May Counties. Each measure will be individually planned and environmentally evaluated to ensure that its effects are commensurate with the impacts described in the environmental assessment.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Plater T. Campbell. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 6, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

August 25, 1980.

[FR Doc. 80-27195 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-16-M

Sing Sing Creek Flood Prevention R.C. & D. Measure, New York; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Paul A. Dodd, State Conservationist, Soil Conservation Service, Federal Building, 100 South Clinton Street, Room 771, Syracuse, New York 13260, telephone 315-423-5521.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Sing Sing Creek Flood Prevention RC&D Measure, Chemung County, New York.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these

findings, Mr. Paul A. Dodd, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of three dikes along Sing Sing Creek. The dikes will protect residences and commercial establishments from periodic flooding.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Paul A. Dodd. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 6, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

August 25, 1980.

[FR Doc. 80-27199 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-16-M

Huerfano Hospital Critical Area Treatment R.C. & D. Measure, Colorado; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, P.O. Box 17107, Denver, Colorado 80217, telephone 303-837-4275.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Huerfano Hospital Critical Area Treatment RC&D Measure, Huerfano County, Colorado.

The environmental assessment of this federally assisted action indicates that the project will not cause significant

local, regional, or national impacts on the environment. As a result of these findings, Mr. Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for treating a critical erosion area (approximately 2 acres) near the county hospital. The planned works of improvement include shaping an eroded slope, constructing a pipeline to convey runoff water from the slope to the city storm sewer system, seeding the area to adapted grasses, and mulching.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Sheldon G. Boone. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until October 6, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

August 25, 1980.

[FR Doc. 80-27198 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Order 80-8-181, AP-5844; Docket 38654]

Airport Notice of Texas International of Its Intent To Begin Interstate Service at Love Field and Proceeding To Amend the Certificates of Southwest Airlines and Texas International Airlines in Compliance With Pub. L. 96-192

AGENCY: Civil Aeronautics Board.

ACTION: Order 80-8-181, AP-5844, and order instituting proceeding to amend the certificate of Southwest and Texas International (Order 80-8-181), Docket 38654.

SUMMARY: The Board has decided not to prohibit Texas International from inaugurating interstate service in accordance with the conditions of Section 29 of the International Air Transportation Competition Act. The Board has tentatively concluded that the

certificates of Southwest and Texas International should be amended as follows: (a) The holder may provide charter air transportation not to exceed ten flights per month; (b) The holder may provide scheduled passenger air transportation between Love Field and one or more points within the States of Louisiana, Arkansas, Oklahoma, New Mexico and Texas, if in connection with this service, (i) the holder does not offer or provide any through service or ticketing with another air carrier or foreign air carrier; and (ii) the holder does not offer for sale transportation to or from and the flight or aircraft does not serve, any point which is outside Texas or the four contiguous states. The complete text of this Order is available as noted below.

DATES: All interested parties having objections to the Board's proposed amendments shall file by September 29, 1980, with the Board and serve upon Texas International and Southwest Airlines a statement of objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 38654. This should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Susan E. Kahan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: The complete text of Order 80-8-181 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80-8-181 to that address.

By the Civil Aeronautics Board: August 29, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-27282 Filed 9-4-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 33362, 38173, and 38174]

Former Large Irregular Air Service Investigation and Applications of Eagle Aviation, Inc.; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on September 30, 1980, at 9:30 a.m. (local time), in Hearing Room 1003 B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. 20428.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the aforementioned dockets in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 29, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-27284 Filed 9-4-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 5031, et al.; Order 80-8-174]

Trans-Pacific Certificate Renewal Case; Order To Show Cause

Northwest Airlines, Inc. (Northwest), Pan American World Airways, Inc. (Pan American) and Trans World Airlines, Inc. (TWA) were first awarded temporary certificates to serve various points in China in the *Northwest Airlines, et al., Pacific Case*, 7 C.A.B. 209 (1946).¹ TWA never instituted Service and Northwest and Pan American suspended their service in 1949 because of the revolution in China and the break in diplomatic relations between the United States and the new government of the People's Republic of China (P.R.C.).

Renewal of their authority was considered in the *Trans-Pacific Certificate Renewal Case*, 20 C.A.B. 47 (1955). The Board deferred decision on their request for renewal because of the still unfavorable political situation. It noted that the carriers' authority would be continued by virtue of the provisions of Section 9(b) of the Administrative Procedure Act (now 5 U.S.C. § 558[c]), and stated that deferral would leave the Board free to appraise the situation at a later date in the light of the conditions then existing, and on that basis arrive at a long-range decision concerning the treatment that should ultimately be given these points in the overall Pacific route pattern.²

The time has finally come to take up the deferred issues in the *Trans-Pacific Case*. As we note in Order 80-8-138 (August 22, 1980), talks between the United States and the People's Republic of China on an aviation agreement have progressed far enough to warrant the

¹ Northwest's transpacific route consisted of two route segments between Tokyo and Manila—the first via Seoul and Shanghai, and the second via Harbin Mukden, Dairen, Peiking, Nanking, and Shanghai. *Id.* at 264. Pan American received Shanghai as an intermediate point between Tokyo and Hong Kong, on its transpacific route. *Id.* at 265. TWA's transatlantic route was extended beyond Ceylon (now Sri Lanka) via Hanoi and Canton to Shanghai. *Id.* at 269.

² 20 C.A.B. at 64.

institution of a proceeding to select an air carrier to provide service between the U.S. and the P.R.C. That case is expedited and we expect to issue a final decision quickly, assuming a bilateral aviation agreement is achieved.

In that connection, we find that it is in the public interest to consider *de novo* the issue of which the carrier should provide U.S.-P.R.C. service. Consequently, we tentatively decide pursuant to section 401(d) of the Act that it would not be consistent with the public convenience and necessity to renew the temporary China authority of Northwest, Pan American, and TWA. We ask interested persons to show cause why we should not make this tentative decision final.

The carriers' authority has lain dormant for over thirty years, and the record in the *Trans-Pacific Case* is now over twenty-five years old. There is neither carrier performance in the market nor a record to provide guidance to the Board under current conditions, and no carrier can claim any established stake in the market.³

Also, circumstances have changed dramatically since we last considered the renewal of the carriers' authority, not only in U.S. relations with the P.R.C. but also in U.S. aviation policy and the consequent air transportation regime in the transpacific markets. Liberal, pro-competitive bilaterals have been achieved with several countries in the Orient, and we have granted substantial transpacific authority to many carriers new to that area, by both certification and temporary exemption.⁴ New policies and competitive factors make it imperative that we take a fresh look at the U.S.-China market vis-a-vis market structure in the Pacific generally, unencumbered by long-stale and purely formal claims of "incumbency."

In light of these factors, we believe that the public interest will be served better if we make our decision in the *U.S.-P.R.C. Case* on a clean slate. All interested air carriers—including of course Northwest, Pan American, and TWA—will have an equal opportunity to demonstrate in that proceeding why their selection for China authority might

³ The potential agreement between the U.S. and the P.R.C. will allow us to authorize only one air carrier for the initial U.S.-P.R.C. route, and that route encompasses only 2 points in the P.R.C., Beijing and Shanghai. Thus, most of the temporary authority subject to renewal could not be renewed in any event.

⁴ See, e.g., *Seattle/Portland-Japan Service Investigation*, Order 78-10-42, served October 11, 1978; Orders 78-9-33, 79-4-87, 79-5-25, 79-10-13 (Guam/Pacific exemptions); Orders 79-6-117, 79-10-13, 80-3-43 (Korea/Pacific exemptions). See also *Trans-Pacific Route Investigation*, 51 C.A.B. 161 (1969).

be in the public interest. We see no point in sustaining long-dormant authority any further.

We also tentatively conclude that an oral evidentiary hearing is not needed in the circumstances of this case. Our tentative decision that the authority should not be renewed is grounded on policy considerations supported by officially noticeable information or facts that are not in dispute. We perceive no material issues of fact that require exploration through oral hearings.

Accordingly,

1. We direct all interested persons to show cause why the applications of Pan American World Airways, Inc., Northwest Airlines, Inc., and Trans World Airlines, Inc., for renewal of their temporary certificates of public convenience and necessity to provide service between points in the United States and points in the People's Republic of China should not be denied, and the *Trans-Pacific Certificate Renewal Case*, Docket 5031 *et al.*, terminated;

2. Any interested persons objecting to the issuance of an order making final the Board's tentative findings and conclusions shall, no later than September 19, 1980, file with the Board and serve on the persons named in paragraph five, a statement of objections, together with a summary of testimony, statistical data, and concrete evidence expected to be relied upon in support of the objections. If an oral evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which could not be established in written pleadings. If objections are filed, answers may be filed, but no later than September 29, 1980;

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action: *provided*, that we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in this order if we determine that there are no factual issues presented that warrant the holding of an oral evidentiary hearing;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board shall enter an order which (1) shall make final our tentative findings and conclusions set forth in this order, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, shall deny the applications of Pan American World Airways, Inc., Northwest Airlines, Inc., and Trans

World Airlines, Inc., for renewal of their U.S.-China authority in Dockets 5710, 5168, and 5065, respectively; and

5. We are serving this order upon Pan American World Airways, Inc., Northwest Airlines, Inc., Trans World Airlines, Inc., and the Departments of State and Transportation.

We shall publish this order in the *Federal Register* and shall transmit a copy of this order to the President of the United States.

By the Civil Aeronautics Board,
Phyllis T. Kaylor,⁵
Secretary.

[FR Doc. 80-27280 Filed 9-4-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 38620]

Yukon Air Service, Inc. d.b.a. Air North Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., August 29, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-27283 Filed 9-4-80; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Anhydrous Sodium Metasilicate From France; Antidumping—Preliminary Determination of Sales at Less Than Fair Value and Suspension of Liquidation

AGENCY: U.S. Department of Commerce.

ACTION: Preliminary determination of sales at less than fair value and suspension of liquidation.

SUMMARY: This notice is to advise the public that, as a result of an antidumping investigation, the Department of Commerce has determined preliminarily that anhydrous sodium metasilicate from France is being or is likely to be sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930. Sales at less than fair value generally occur when the price of merchandise exported to the United States is less than the price of such or similar merchandise sold in the home market, or to third countries, or less than the constructed value. Liquidation of

⁵All Members concurred.

entries, or withdrawals from warehouse, for consumption is being suspended, and a cash deposit, bond or other security in an amount equal to the estimated margin set forth herein shall be required at the time of each such entry or withdrawal from warehouse. Unless this investigation is extended, the Department will make a final determination not later than November 19, 1980.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: Koichi O. Beckwith, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202-377-3174).

SUPPLEMENTARY INFORMATION:

Procedural Background

On May 15, 1980, the Department of Commerce received a petition in proper form from counsel on behalf of PQ Corporation, Valley Forge, Pennsylvania, alleging that anhydrous sodium metasilicate from France is being sold at less than fair value within the meaning of section 731, Tariff Act of 1930 (19 U.S.C. 1673 *et seq.*) (the Act). After conducting a summary investigation as required under section 732 of the Act (19 U.S.C. 1673a), we determined that there were sufficient grounds to initiate a full-scale investigation, and published a Notice of Initiation of Antidumping Investigation in the *Federal Register* on June 10, 1980 (45 FR 39324).

On June 30, 1980, the United States International Trade Commission (ITC) determined that there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports of anhydrous sodium metasilicate from France allegedly sold at less than fair value. The ITC published notice of that determination in the *Federal Register* on July 9, 1980 (45 FR 46255).

Product Description

Merchandise covered by this investigation is anhydrous sodium metasilicate (ASM) classifiable under item number 421.3400, Sodium compounds: Silicates, Tariff Schedules of the United States Annotated (TSUSA).

Sodium silicates are colloidal solutions, hydrated powders or anhydrous powders and glasses. The ratio of SiO₂ to Na₂O for each type of sodium silicate can vary, and the resulting product will have distinctive characteristics. Sodium metasilicate has a definite crystalline form, a molecular

SiO₂/Na₂O ratio of 1:1 and a chemical formula of Na₂SiO₃. It is alkaline and readily soluble in water. Applications include waste paper de-inking, ore flotation, bleach stabilization, clay processing, medium or heavy duty cleaning, and compounding into other detergent formulations.

Nature of the Industry

Approximately 4,908,000 pounds of sodium silicates were imported from France in 1979, valued at \$443,000. There is only one known significant exporter of ASM from France to the United States, Rhone-Poulenc S.A. Rhone-Poulenc S.A. is a large, multi-divisional corporation which operates mainly in the production and sale of chemicals and related products. During the period of investigation, Rhone-Poulenc exported four grades of ASM to the United States: AN (58 percent of sales), AG (5 percent of sales), AS (22 percent of sales) and AST (15 percent of sales). Most of these sales are made through Rhone-Poulenc's wholly-owned U.S. subsidiary, although there are also some sales made directly from France to unrelated purchasers in the U.S. There are sufficient sales in the home market to permit the use of price to price comparison in order to determine whether or not ASM is being or is likely to be sold at LTFV.

United States Price

For transactions in which sales were made to U.S. customers through wholly-owned U.S. subsidiaries of the French producer, we used exporter's sales price (ESP), as defined in section 772(c) of the Act (19 U.S.C. 1677a) to determine the United States Price. We calculated ESP on the basis of the selling price from the subsidiary to the first unrelated purchaser in the United States, with deductions, where applicable, for ocean freight, insurance, U.S. duty, brokerage, wharfage, U.S. inland freight, U.S. warehousing, discount, and general expenses.

For transactions in which sales were made directly from France to unrelated U.S. customers, we used purchase price, as defined in section 772(b) of the Act (19 U.S.C. 1677a) to determine the United States Price. We calculated purchase price on the basis of the CIF U.S. price to unrelated U.S. purchasers with deductions, where applicable, for ocean freight, insurance, French inland freight, FOB charges, and commission.

Foreign Market Value

We calculated the Foreign Market Value (FMV), in accordance with section 773(a)(1)(A) of the Act (19 U.S.C. 1677b). Therefore, for the purposes of

this investigation, FMV is the price at which sales were made in France to the first unrelated purchaser. Where appropriate, we adjusted home market sales by deducting rebates and transportation costs. For comparisons to ESP, we deducted as an offset a portion of selling expenses not greater than selling expenses deducted from the U.S. price. Finally, we made an adjustment for differences in packing costs.

We made fair value comparisons on all exports of ASM from France to the U.S. The overall weighted-average margin on all sales of ASM during the period of investigation was 50 percent.

Verification

In accordance with section 733(b)(2) of the Act (19 U.S.C. 1673b), we determined that the information which we received during the first 60 days of this investigation appeared sufficient to provide a reasonable basis for a preliminary determination. Therefore, we disclosed to the respondent the information upon which we could base a preliminary determination, and we disclosed to the petitioner all non-confidential information upon which we could base a preliminary determination. Subsequently, in accordance with section 733(b)(2) of the Act, the petitioner furnished an irrevocable written waiver of verification of information received during the first 60 days of the investigation. Notwithstanding this waiver of verification, we will verify any information submitted after the 60th day of this investigation if that information is used as a basis for the Final Determination.

Preliminary Determination

Based upon the foregoing, and in accordance with section 733(b) of the Act (19 U.S.C. 1673b), I hereby determine preliminarily that there is a reasonable basis to believe or suspect that anhydrous sodium metasilicate from France is being, or is likely to be, sold at less than fair value within the meaning of the antidumping law. In accordance with section 733(d)(1), (2) of the Act (19 U.S.C. 1673b), Customs officers are being directed to suspend liquidation of all entries, or withdrawals from warehouse, for consumption on or after the effective date of this determination. Importers will be required to post a cash deposit, bond or other security in the amount of 50 percent of the FOB value of each such entry or withdrawal.

In accordance with section 733(d)(3) of the Act (19 U.S.C. 1673b), we are making available to the ITC the

information upon which this determination is based.

The Department will provide the ITC with all non-privileged and non-confidential information relating to this investigation. The Department will also make available to the ITC all privileged and confidential information in its files, provided that the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Department.

The Department will afford interested parties an opportunity to present oral views in accordance with section 353.47, Commerce Regulations (19 CFR 353.47, 45 Fed. Reg. 8204). This hearing is scheduled to be held, if requested, at the U.S. Department of Commerce, Room 3708, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, beginning at 10:00 a.m., Friday, October 3, 1980.

Interested parties who desire such a conference should provide a written request for a conference to the Office of the Deputy Assistant Secretary for Import Administration, Room 2800, at the address shown above. The request should contain: (1) the name, address, and telephone number of the party requesting the conference; (2) the number of participants; and (3) a list of the issues to be discussed. All requests must be received by the Deputy Assistant Secretary no later than 10 days after publication of this notice. Any written views filed in accordance with section 353.46(a), Commerce Regulations (19 CFR 353.46(a), 45 FR 8203), should be filed at the address indicated above, in at least 10 copies. Any written views should be filed not later than October 6, 1980.

This determination is published pursuant to section 353.39(a)(2), Commerce Regulations (19 CFR 353.39(a)(2), 45 Fed. Reg. 8200).

Dated: August 29, 1980.

B. Waring Partridge,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 80-27157 Filed 9-4-80; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

Change in Membership of Performance Review Board

This notice announces a change in membership of the Performance Review Board (PRB) for the Maritime Administration. The purpose of the PRB, as established by the Assistant Secretary for Maritime Affairs (44 FR 63130, Nov. 2, 1979), is to assure the equitable treatment of Maritime

Administration members of the Senior Executive Service.

The names, titles and terms of the new members of the PRB who have been appointed are set out below:

Rear Admiral Thomas A. King,

Superintendent, U.S. Merchant Marine Academy, Maritime Administration, Kings Point, New York 11024. Term—2 years. Admiral King has been a member of the PRB while serving as Eastern Region Director, Maritime Administration, New York, New York.

Mr. Leonard H. Dickstein, General Counsel, Maritime Administration, Washington, D.C. 20230. Term—continuous as long as in current position.

Mr. James G. Gross, Deputy Assistant Administrator for Commercial Development, Maritime Administration, Washington, D.C. 20230. Term—continuous as long as in current position.

The following persons no longer serve on the PRB:

Mr. C. G. Caras, former General Counsel, Maritime Administration, Washington, D.C. 20230.

Mr. Marvin Pitkin, former Assistant Administrator for Commercial Development, Maritime Administration, Washington, D.C. 20230.

Persons desiring any further information about the membership of the PRB may contact Ms. Myra R. Wells, Director, Office of Personnel, Maritime Administration, Washington, D.C. 20230, (202) 377-3616.

Dated: August 29, 1980.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80-27112 Filed 9-4-80; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Fishermen's Contingency Fund

AGENCY: National Oceanic and Atmospheric Administration/ Department of Commerce.

ACTION: Notice of agency recommendation on claim filed under title IV, Outer Continental Shelf Lands Act Amendments of 1978 (title IV).

SUMMARY: Notice is given that the Agency intends to recommend to the NOAA Office of Administrative Law Judges, which will decide the matter, that Title IV Claim No. FCF-42-79 be denied because claimant has not met his burden of proof that the loss to his shrimp trawling rig either occurred in an area affected by oil or gas energy

activities on the Outer Continental Shelf (OCS) or was caused by an item associated with such activities.

Interested persons have 15 days to request the Administrative Law Judge (ALJ) to conduct an oral hearing concerning the claim or to request to be admitted as parties to any hearing on the claim.

DATES: Requests for oral hearing or to be admitted as a party must be received by September 22, 1980.

ADDRESS: Send requests to: NOAA, Office of General Counsel (GCEL), Room 275, Page One Building, 2001 Wisconsin Avenue, NW, Washington, D.C. 20235

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell or M. Timothy Conner (address above). Telephone: (202) 254-8350.

SUPPLEMENTARY INFORMATION: Title IV, 43 U.S.C. 1841 established the Fishermen's Contingency Fund (Fund) to compensate commercial fishermen for gear damage and lost profits caused by items associated with oil or gas energy activities on the Outer Continental Shelf. On April 23, 1979, Claim No. FCF-42-79 was filed. The claim seeks compensation from the Fund of \$4,623.88 for loss of a complete shrimp trawling rig and damage to accessories (\$2,148.88), lost profits (\$2,370.00), and claim documentation expenses (\$105.00) caused by claimant's catching his gear on an obstruction on April 18, 1979, at coordinates 27°53.3'N and 96°57.0'W.

As required by the 50 CFR Part 296 regulations implementing Title IV, notice of the claim was published on April 28, 1980 (45 FR 28179) (the gear loss portion of the claim was incorrectly stated in that notice to be \$214.88 and claim documentation expenses were incorrectly given as \$500.00). That notice gave interested persons, as defined in 50 CFR 296.2, 30 days to advise the Chief of the National Marine Fisheries Service's Financial Services Division (FSD) that they wished to submit evidence concerning the claim or be admitted as parties at any hearing held in respect to the claim. No response has been received.

That notice also advised that FSD may forward to NOAA General Counsel a proposed agency recommendation concerning the claim. FSD has done so in this case, with the proposal that the Agency recommend to the ALJ that the claim be denied in full.

As provided by 50 CFR 296.8(d)(3), notice is given that NOAA General Counsel has determined that the proposal set out above will be the

official agency recommendation in this matter. A claim filed under Title IV is entitled to a presumption of validity if claimant establishes certain facts, one of which is that the loss occurred in "an area affected by Outer Continental Shelf activities." This loss did not occur on the OCS, but in State of Texas waters, and the file does not establish that the area in question was affected by OCS oil or gas energy activities, as that term is defined in 50 CFR 296.2. In the absence of a presumption of validity, a claim may be paid only if claimant meets his burden of proving by a preponderance of the evidence that the item causing the damage was associated with OCS oil or gas activity. Claimant in this case has failed to do so.

Any interested person who objects to this recommendation, or the claimant, may request that the ALJ who will be assigned to the case conduct an oral hearing concerning the claim. Any interested person may also request to be admitted as a party to any hearing concerning the claim. In either event, the request must be in writing and must be filed with General Counsel at the address and by the date set out above. If the request is for an oral hearing, the request must state the reasons why an oral hearing should be held. If the request is to be admitted as a party, the request must state why it was not filed in a timely manner under 50 CFR 296.8(a)(3)(v). The ALJ will rule on all such requests under 50 CFR 296.10(a)(3). Any interested person may obtain a copy of such portions of the claim as are disclosable by law by writing General Counsel at the above address.

At the close of the 15-day period referred to at the beginning of this notice, General Counsel will refer the claim, together with the agency recommendation and any requests received in response to this notice, to the NOAA Office of Administrative Law Judges for adjudication. It is the present intention of General Counsel to request the ALJ to decide this claim without oral hearing.

Final regulations governing the Title IV Program were published on January 24, 1980 (45 FR 6062), and July 2, 1980 (45 FR 44942).

Signed at Washington, D.C., this 2d day of September, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-27164 Filed 9-4-80; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletion from procurement list.

SUMMARY: This action deletes from Procurement List 1980 a commodity produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: October 8, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On July 11, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (45 FR 46842) of proposed deletion from Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodity is hereby deleted from Procurement List 1980:

Class 7530: Folder Set, File 7530-00-281-5905.

C. W. Fletcher,
Executive Director.

[FR Doc. 80-27159 Filed 9-4-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1980 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: October 8, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On May 16, 1980 and June 20, 1980, the Committee for Purchase from the Blind

and Other Severely Handicapped published notices (45 FR 32362 and FR 41691) of proposed additions to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities and service are hereby added to Procurement List 1980:

Class 7530

Folder, File
7530-00-926-8982
7530-00-926-8984
7530-00-043-1194

Folder Set, File
7530-00-286-6925
SIC 9199

Administrative Services to include typing, operating copiers, mail sorting, clerical and other similar office functions, and motor pool management.

Environmental Protection Agency, 26 Federal Plaza, New York, New York.

C. W. Fletcher,
Executive Director.

[FR Doc. 80-27160 Filed 9-4-80; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of a Final Environmental Impact Statement for Expanded North Boundary Containment Operations at Rock Mountain Arsenal, Colo.

AGENCY: Department of the Army.

ACTION: Notice of availability of final Environmental Impact Statement (EIS).

SUMMARY: 1. The proposed action involves construction and operation of an expanded north boundary containment/treatment system for contaminated ground water control at Rocky Mountain Arsenal, Colorado. The scope of this proposed effort calls for extending an existing pilot system. The length and depth of the proposed expanded system have been substantially increased since the circulation of the Draft EIS. This increase is due to guidance by the State of Colorado that the proposed system would be required to intercept ground water containing dibromochloropropane (DBCP) above detection limits. The proposed expanded system is not anticipated to have any significant adverse impact on the environment.

2. A Draft EIS for the proposed action was filed on July 31, 1979 and circulated for comment. The Final EIS incorporates

responses to comments from Federal, State, and local agencies.

3. The proposed action will not be implemented until October 6, 1980. Substantive comments on the proposed action will be considered during this 30 day period.

ADDRESS: Requests for copies of the Final EIS as well as questions or comments on the proposed action may be addressed to: Commander, US Army Toxic and Hazardous Materials Agency, ATTN: DRXTH-IS/Don Campbell, Aberdeen Proving Ground, MD 21010, TEL (301) 671-2041.

Dated: August 29, 1980.

Lewis D. Walker,
Deputy for Environment, Safety and Occupational Health, OASA (IL&FM).

[FR Doc. 80-27287 Filed 9-4-80; 8:45 am]

BILLING CODE 3710-08-M

Board of Visitors, U.S. Military Academy; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, United States Military Academy.

Dates of Meeting: October 2-4, 1980.

Place of Meeting: West Point, New York.

Time: At West Point: 2030-2230, Oct. 2, Organizational Meeting (Hotel Thayer); 0830-1200, Oct. 3, Briefings by Academy Officials (Bldg 600); 1330-1700, Oct. 3, Board Discussions (Eisenhower Hall); 0830-1100, Oct. 4, Board Discussions (Cadet Library).

Proposed Agenda: Inquiry into the curriculum, honor system, studies on cadet time, and other matters relating to the Military Academy that the Board decides to consider.

All proceedings are open. For further information contact Col. D. P. Tillar, Jr., United States Military Academy, West Point, New York, telephone 914-938-2785/4723.

For the Board of Visitors:

D. P. Tillar, Jr.,
Col, GS, Executive Secretary, USMA Board of Visitors.

[FR Doc. 80-27209 Filed 9-4-80; 8:45 am]

BILLING CODE 3710-08-M

Military Traffic Management Command, Military Personal Property Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Symposium. This meeting will be held on September 25, 1980 at the Quality Inn, Pentagon City, 300 Army Navy Drive, Arlington, VA, and will convene at 0900 hours and adjourn at approximately 1500 hours.

PROPOSED AGENDA: The purpose of the Symposium is to provide an open

discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation (DOD 4500.34-R), and the handling of other matters of mutual interest relating to the movement and/or storage of household goods and unaccompanied baggage, as well as proposed changes and innovations in the Department of Defense Personal Property Movement and Storage Program.

All interested persons desiring to submit topics to be discussed should submit them in writing to the Commander, Military Traffic Management Command, ATTN: MT-PPM, Washington, DC 20315. Topics to be discussed should be received on or before September 18, 1980.

Dated: August 25, 1980.

John J. Durant,

Colonel, GS, Director of Personal Property.

[FR Doc. 80-27211 Filed 9-4-80; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Defense Systems Management College; Board of Visitors Meeting

A meeting of the Defense Systems Management College (DSMC) Board of Visitors will be held in Building 202, Fort Belvoir, VA, on Thursday, October 16, 1980, from 8:30 a.m. until 5:00 p.m. The agenda will include a review of accomplishments related to the system acquisition education, system acquisition research, and information collection and dissemination missions. It will also include a review of the DSMC plans, resources and operations. The meeting is open to the public; however, because of limitations on the space available, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend the meeting should call Lieutenant Commander Judy Ray (703-664-1175) to reserve a seat.

Dated: September 2, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer,
Washington Headquarters Services,
Department of Defense.

[FR Doc. 80-27265 Filed 9-4-80; 8:45 am]

BILLING CODE 3810-70-M

Privacy Act of 1974; Deletion of Systems of Records

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Deletion of 39 systems of records.

SUMMARY: All of the activities of the Defense Civil Preparedness Agency (DCPA) have been transferred to the Federal Emergency Management Agency (FEMA). In conjunction with that and other transfers, FEMA has established new systems of records to support the mission and needs of that agency (see 45 FR 37888, June 5, 1980; 45 FR 40646, June 16, 1980; and 45 FR 51426, August 1, 1980).

In view of this transfer all 39 systems of records formerly maintained by DCPA are deleted. The specific systems to be deleted are listed below.

FOR FURTHER INFORMATION CONTACT:

Major William C. Goforth, Staff Executive, Defense Privacy Board, Room 818, Pomponio Plaza Building, 1735 N. Lynn Street, Arlington, VA 22207, telephone: (202) 694-3027; or Tom Ainora, Attorney, Office of the General Counsel, 1725 "I" Street, NW, Washington, DC 20472, telephone: (202) 634-1990.

SUPPLEMENTARY INFORMATION: The Defense Civil Preparedness Agency systems of records notices inventory subject to the Privacy Act of 1974 Pub. L. 93-579 (5 U.S.C. 552a) have been published to date in the Federal Register as follows:

FR DOC 79-37052 (44 FR 74064), December 17, 1979

These proposed deletions are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of a new or altered system report.

September 2, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer
Washington Headquarters Services
Department of Defense.

Deletions

CACC 2, 3, 5, 6

Systems name:

CACC 2, 3, 5 and 6, Payroll and Loans Accounting (44 FR 74065), December 17, 1979.

CACC 2, 3, 5, 6A

Systems name:

CACC 2, 3, 5, 6A, Travel and Transportation Accounting (44 FR 74066), December 17, 1979.

CCOM 5

Systems name:

DCPA COM 5, Radio Amateur Civil Emergency (RACE) Plans (44 FR 74066), December 17, 1979.

CEMO 1

Systems name:

DCPA EMO1, Emergency Operating Plan (44 FR 74067), December 17, 1979.

CFEA 3-1

Systems name:

DCPA FEA 3-1, Civil Rights Complaint and Compliance Files (44 FR 74067), December 17, 1979.

CIND 2

System name:

DCPA IND 2, Industrial Group Consultation (44 FR 74068), December 17, 1979.

CINF 2-3

System name:

DCPA INF 2-3, Biographies (44 FR 74068), December 17, 1979.

CINF 7

System name:

DCPA INF 7, Civil Defense Awards (44 FR 74069), December 17, 1979.

CLEG 5

System name:

DCPA LEG 5, Interest-Conflict Review (44 FR 74070), December 17, 1979.

CLEG 7-1

System name:

DCPA LEG 7-1, Claims (Litigation)—Employees (44 FR 74070), December 17, 1979.

CLEG 7-2

System name:

DCPA LEG 7-2, Claims (Litigation)—Other Than Employees (44 FR 74070), December 17, 1979.

CLEG 8-1

System name:

DCPA LEG 8-1, Enforcement, Compliance (DCPA Employees) (44 FR 74071), December 17, 1979.

CLEG 8-2

System name:

DCPA LEG 8-2, Enforcement (Compliance)—Non-DCPA Employees (44 FR 74071), December 17, 1979.

CMGT 2

System name:

DCPA MGT 2, Delegations and Designation Files (44 FR 74072), December 17, 1979.

CMGT 4*System name:*

DCPA MGT 4, Committee Management Files (44 FR 74073), December 17, 1979.

CMGT 7*System name:*

DCPA MGT 7, Defense Civil Preparedness Agency (DCPA) Central Files (44 FR 74073), December 17, 1979.

CMGT 10*System name:*

DCPA MGT 10, Program Management Information System (44 FR 74074), December 17, 1979.

COSV 5*System name:*

DCPA OSV 5, Office Services File System (44 FR 74075), December 17, 1979.

CPER 1*System name:*

DCPA PER 1, General Personnel (44 FR 74075), December 17, 1979.

CPER 1-1*System name:*

DCPA PER 1-1, Bond, Charitable and Blood Donor Drive Files (44 FR 74076), December 17, 1979.

CPER 4*System name:*

DCPA PER 4, Military Reserve Program (44 FR 74076), December 17, 1979.

CPER 5-1*System name:*

DCPA CPER 5-1, Executive Reserves (44 FR 74077), December 17, 1979.

CPER 6*System name:*

DCPA PER 6, Equal Employment Opportunity Discrimination Complaint Files (44 FR 74077), December 17, 1979.

CRAD 3*System name:*

DCPA RAD 3, Maintenance and Calibration (44 FR 74081), December 17, 1979.

CRAD 4*System name:*

DCPA RAD 4, Radiation Exposure and Radioactive Materials; Radiation Committee Records (44 FR 74082), December 17, 1979.

CSEC 2*System name:*

DCPA SEC 2, Classified Documents Control Files (44 FR 74083), December 17, 1979.

CSEC 3-4*System name:*

DCPA PER 3-4, Classified Clearances (44 FR 74083), December 17, 1979.

CSHL 3*System name:*

DCPA SHL 3, Summer Hires (44 FR 74083), December 17, 1979.

CPER 7*System name:*

DCPA PER 7, Emergency Notification Lists (44 FR 74078), December 17, 1979.

CPER 8*System name:*

DCPA PER 8, Handicapped Employees and Handicapped Veterans (44 FR 74078), December 17, 1979.

CPUB 3*System name:*

DCPA PUB 3, Publication Distribution Lists—Computer Center (44 FR 74079), December 17, 1979.

CPUB 3-2*System name:*

DCPA PUB 3-2, Standard Publication Distribution Lists (44 FR 74080), December 17, 1979.

CRAD 2-3*System name:*

DCPA RAD 2-3, Instruments and Equipment, Loaned, Radioactive Materials (44 FR 74081), December 17, 1979.

CTNG 3*System name:*

DCPA TNG 3, State and Local Civil Preparedness Instructional Program (SLCPIP) (44 FR 74084), December 17, 1979.

CTNG 8*System name:*

DCPA TNG 8, DCPA Form 1353, Appl for Enrollment in Arch & Eng Prof Dev Prog (44 FR 74085), December 17, 1979.

CTNG 8-1*System name:*

DCPA TNG 8-1, Qualified Instructor File (44 FR 74085), December 17, 1979.

CTNG 13*System name:*

DCPA TNG 13, Student Academic and Course Records, DCPA Staff College (44 FR 74085), December 17, 1979.

CTNG 14*System name:*

DCPA TNG 14, Home Study Courses, DCPA Staff College (44 FR 74086), December 17, 1979.

CWNG 2-1*System name:*

DCPA WNG 2-1, List of Custodians of Decision Info Sys (DIDS) Radio Receivers (44 FR 74087), December 17, 1979.

[FR Doc. 80-27242 Filed 9-4-80; 8:45 am]

BILLING CODE 3810-70-M

Membership of the Inter-Defense Agency Performance Review Board

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of additional membership of the Inter-Defense Agency Performance Review Board.

SUMMARY: The Department of Defense announces additional membership of the Inter-Defense Agency Performance Review Board.

EFFECTIVE DATE: August 29, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Sharon B. Brown, Chief, Senior Executive Service Division, Directorate for Personnel and Security, WHS, Office of the Secretary of Defense, Department of Defense, The Pentagon, (202) 695-4573 or 695-9313.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4) and DoD Directive 1434.2 (to be published as 32 CFR Part 57), the following are names and titles of the additional persons who have been appointed to the Inter-Defense Agency Performance Review Board.

M. S. Healy,

OSD Federal Register Liaison Officer,
Washington Headquarters Services,
Department of Defense.

August 29, 1980.

Defense Communications Agency

Helms, Robert W., Comptroller
La Vean, Gilbert E., Chief, Systems
Engineering Division

Milgram, Edith, Chief, WWMCCS
Information Systems Office

De Nucci, Robert O., Deputy WWMCCS
System Engineer (Engineering)

Defense Contract Audit Agency

Brown, James R., Assistant Director, Operations
 Della Bernarda, Harvey, Regional Director, Philadelphia Region
 Hubbard, Robert B., Regional Director, Chicago Region
 Mirch, Patrick D., Regional Director, Los Angeles Region
 Reed, William H., Regional Director, Boston Region
 Topf, Bernard, Regional Director, San Francisco Region

Defense Logistics Agency

Maclin, James F., Deputy Executive Director, Supply Operations
 Harvey, Mary E., Chief, Logistics Programs Division
 Chiesa, Raymond F., Executive Director, Contracting
 Fogle, Grover D., Chief, Contracts Division
 Moore, Donald E., Deputy Executive Director, Quality Assurance

Defense Mapping Agency

Martin, Dr. Charles F., Chief, Advanced Technology Division

Defense Nuclear Agency

Still, Dr. Edwin T., Assistant to the Director (Biomedical Efforts)

[FR Doc. 80-27178 Filed 9-4-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION**National Advisory Council on Vocational Education; Meeting**

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the Executive Committee of the National Advisory Council on Vocational Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: September 17, 1980, 10:00 a.m.—4:00 p.m.

ADDRESS: 425-13th Street, NW, Suite 412, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Virginia Solt, NACVE Staff, 425-13th Street NW, Suite 412, Washington, DC (Tel: 202/376-8873).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Vocational Education is established under section 104 of the Vocational

Education Amendments of 1968, Pub. L. 90-576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The meeting of the Executive Committee is open to the public, and the proposed agenda includes: Review of Work Plan for FY 1981-1982 Review Budgeting Process Review Practices and Policies

This notice does not meet the 15-day requirement for publication because of impossibility of finding any other date upon which a quorum could be established for this Committee prior to the next regular meeting of the full Council in Des Moines, Iowa on September 24-26, 1980.

Records are kept of all Committee proceedings, and are available for public inspection at the office of the National Advisory Council on Vocational Education, 425-13th Street NW, Suite 412, Washington, D.C. 20004.

Signed at Washington, DC on September 2, 1980.

Raymond C. Parrott,
 Executive Director.

[FR Doc. 80-27266 Filed 9-4-80; 8:45 am]

BILLING CODE 4000-01-M

National Institute of Education**Program of Research Grants on Teaching and Learning; Application Notice**

Notice is given that applications are being accepted for grants in the Program of Research Grants on Teaching and Learning according to the authority contained in section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e).

This announcement covers applications for new awards that are to be considered in Fiscal Year 1981.

Awards will be made for research which will contribute to improvement of educational practice and equity in the areas of Language and Literacy, Basic Cognitive Skills, Teaching in School Settings, and Testing and Evaluation.

Any institution of higher education, State, local, or intermediate educational agency, public or private non-profit or for-profit agency, organization, group, individual, or any combination of these, is an eligible applicant. A grant to a for-profit organization is subject to any special conditions that the Director may prescribe. Research performed outside the United States, or proposed by applicants domiciled outside the United States will be considered only if it is clearly demonstrated that the research will be of significant benefit to U.S. education and that the foreign sites are necessary for the conduct of the studies.

Closing date: January 27, 1981.

A. Application and Program Information: Persons who wish to receive a copy of the program announcement may request one by sending a self-addressed mailing label to the Grants Program Staff, Teaching and Learning Program, National Institute of Education, 1200 19th St. NW., Washington, D.C. 20208. (A stamped envelope is not usable.) Those who have requested that their names be placed on the mailing list for the program need not repeat their requests.

The program announcement includes the guidelines governing the program, information on the availability of funds, expected number of awards, eligibility and review criteria, and instructions on how to apply. The following program officers may be contacted for additional information about the FY 1981 competition:

- Language and Literacy—Ramsey Selden or Mae Chu Chang, Tel: (202) 254-5766
- Basic Cognitive Skills—Joseph Psotka, Tel: (202) 254-6572
- Teaching in School Settings—Michael Cohen, Tel: (202) 254-7946
- Testing and Evaluation—Cora Corry, Tel: (202) 254-6271

B. Estimated Distribution of Program Funds: It is anticipated that approximately \$1.8 million will be available for awards in this competition; however, only projects of the highest technical quality will be funded whether or not the program funds are exhausted. Further, nothing in the announcement will commit the Institute to award any specific amount. Based on prior competitions, it is estimated that 50-60 grants can be awarded, ranging in size from small grants of less than \$15,000 total direct and indirect costs, to larger grants with budgets averaging about

\$50,000 annually. Small grant requests (\$15,000 or less) are encouraged. Multiyear projects will be approved for a maximum of 36 months. Initial awards will be for 12 months only, with subsequent funding contingent on satisfactory technical performance, quality of the research and the availability of funds. Small grant awards will be limited to 12 months duration.

C. Applications Delivered by Mail: An application sent by mail should be securely wrapped and addressed as follows: Proposal Clearinghouse, Mail Stop 1, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208. The lower right hand corner of the package should display the words, Teaching and Learning Grants and indicate the selected area to which the application is directed. Applications will be accepted only if they are mailed on or before the closing date and proof of mailing is provided. An application must show proof of mailing consisting of one of the following:

1. A legible, dated U.S. Postal Service postmark.
2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
3. A dated shipping label, invoice or receipt from a commercial carrier.
4. Any other proof of mailing acceptable to the Director of the National Institute of Education.

If an application is sent through the U.S. Postal Service, the National Institute of Education does not accept either of the following as proof of mailing:

1. A private metered postmark, or
2. A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

Applicants are urged to use certified or other forms of mail for which receipts can be obtained.

Each applicant whose application does not meet the deadline date shown above will be notified that the late application will not be considered in the review cycle, and the application will be returned.

D. Applications Delivered by Hand: A hand-delivered application must be taken to the Proposal Clearinghouse, National Institute of Education, Room 804, 1200 19th Street NW., Washington, D.C. The Proposal Clearinghouse will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal

holidays. Applications that are hand-delivered will not be accepted after 4:30 p.m. on the closing date indicated above.

E. Applicable Regulations: The regulations applicable to this program include: (a) the NIE Basic Skills Research Grants Program Regulations, 45 CFR Part 1451, as amended and published in the Federal Register on April 3, 1980, 45 FR 22545; (b) the Education Division General Administrative Regulations (EDGAR), 45 CFR Part 100a (Direct Grant Programs) and Part 100c (Definitions), published in the Federal Register on April 3, 1980, 45 FR 22494. The NIE Consolidated Grants Program Regulations are expected to be published as final regulations after the competitive cycle begins and would supersede the NIE Basic Skills Research Grants Program Regulations.

Part I of OMB Circular No. A-95 does not apply to this grants competition.

(Catalog of Federal Domestic Assistance Number 84.117, Educational Research and Development; formerly 13.950)

Dated: August 27, 1980.

Michael Timpane,
Director, National Institute of Education.

[FR Doc. 80-27148 Filed 9-4-80; 8:45 am]

BILLING CODE 4000-05-M

DEPARTMENT OF ENERGY

Resource Applications; National Petroleum Council, Subcommittee on Environmental Conservation; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Subcommittee on Environmental Conservation of the National Petroleum Council.

Date and time: Tuesday, September 23, 1980—10:00 a.m.

Place: Madison Hotel, Executive Chambers III, 15th and M Streets, N.W., Washington, D.C.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue, S.W., Forrestal Building, Room 8G087, Washington, D.C. 20585, Telephone: 202-252-5187.

Purpose of parent committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Tentative agenda:

- Discuss the scope of the study to be conducted in response to the Secretary of Energy's request for an analysis of issues bearing on environmental conservation.
- Discuss an organizational structure for the study.

- Discuss a timetable for completion of the study.

- Discuss any other matters pertinent to the overall assignment from the Secretary.

- Public Comment (10 minute rule).

Public participation: The meeting is open to the public. The Chairperson of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on August 27, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-27135 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Coal Leasing; Availability of Preliminary Coal Production Goals for 1985, 1990, and 1995

AGENCY: Department of Energy, Office of Leasing Policy Development.

ACTION: Notice of availability of preliminary coal production goals for 1985, 1990, and 1995, and request for comments.

SUMMARY: This notice announces the availability of a Department of Energy Preliminary Coal Production Goals Report for 1985, 1990 and 1995 and requests comments on the Report. The goals are intended to guide the Secretary of the Interior in establishing and revising planning schedules for Federal coal leases and in developing leasing targets for individual coal lease sales. The coal production goals are only preliminary and have been established for the nation and each of 30 coal supply regions for the years 1985, 1990 and 1995. Final coal production goals are expected to be issued by November 8, 1980.

DATE: Written comments are due by October 8, 1980.

ADDRESS: Written comments (identify the outside of the envelope and the document with the designation "Preliminary Coal Production Goals")

should be addressed to: Dr. Anthony A. Prato, Director, Resource Analysis Division, Office of Leasing Policy Development, Department of Energy, Room 2317, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Dr. Anthony A. Prato, Director, Resource Analysis Division, U.S. Department of Energy, Room 2317, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8244.

SUPPLEMENTARY INFORMATION: The Preliminary Coal Production Goals Report has been prepared by the Department of Energy (DOE) under a Memorandum of Understanding between DOE and the Department of the Interior (DOI) and transmitted to DOI for review and comment. DOE provided DOI with coal production goals in June 1978 that were used in preparing the programmatic environmental impact statement for the Federal Coal Management Program. An interim update of the June 1978 forecast was issued by DOE in April 1979 to assist DOI in developing the initial coal leasing schedule. To ensure that the coal leasing program and the leasing targets for individual lease sales are responsive to changing national and regional coal demand, supply and market conditions, and national energy needs and policies, DOE has once again updated its coal production goals in this Report.

The Report contains DOE's preliminary 1980 national and regional coal production goals for 1985, 1990, and 1995 along with a description of the procedures and assumptions used to determine the goals. The Report provides a low, medium, and high range of goals in order to provide DOE with the flexibility to adjust the goals based on changing market conditions.

The preliminary national goals (medium) are 962.6 million short tons for 1985, 1.375 billion short tons by 1990, and 1.717 billion short tons by 1995. These goals are based on estimated demand for coal by the electric utility, industrial, synthetic fuel, and export sectors of the economy. The goals compare to actual 1979 production of 776 million tons and an estimated 1980 production of 791 million tons. The percentage distribution of the goals between the eastern and western United States is 80.3 percent and 39.7 percent for 1985, 53.5 percent and 46.5 percent for 1990, and 51.1 percent and 48.9 percent for 1995, respectively.

These national goals envision an overall annual growth rate in coal production of 5.7 percent from 1978 to 1995. Demand growth is greatest for the synthetic fuels sector, although the

electric utility sector remains the dominate user of coal. The preliminary goals are below levels established by DOE in 1978 and 1979 because of downward revisions in estimated growth rates in electricity demand. Whereas the 1978 goals were based on an estimated annual electricity growth rate of 4.5 percent from 1977 to 1990 and the 1979 goals utilized a 4.4 percent growth rate, the preliminary 1980 goals anticipate a growth rate of only 3.3 percent.

Copies of the Report describing the preliminary goals and the procedures needed to develop them are available from Dr. Anthony A. Prato listed above. DOE invites, and will consider, written comments regarding this Report. Comments should be submitted by the close of business (4:30 p.m.) on October 8, 1980, at the place indicated in the "ADDRESS" section of this notice. All comments received by this date will be considered by DOE in setting the final coal production goals.

Issued in Washington, D.C., September 2, 1980.

R. D. Langenkamp,
Acting Assistant Secretary, Resource Applications, Department of Energy.

[FR Doc. 80-27246 Filed 9-4-80; 9:45 am]

BILLING CODE 6450-01-M

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), notice is hereby provided of the following meetings:

I. A meeting of Subcommittee C of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 10, 1980, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:30 AM. The agenda for the meeting is as follows:

1. Opening remarks.
2. Pricing in an emergency.
3. Extraordinary costs.
4. Disputes Settlement Centre, including preparation of procedures.
5. Legal clearances and other legal issues:
 - A. U.S. voluntary agreement.
 - B. Legal issues regarding AST-3.
6. Legal issues involving alternate sharing systems and consultations.
7. Role of the IAB in advising IEA, including stock policies.
8. Opening of IAB meetings to the public and making available transcripts of meetings to the public.
9. Future work program.

II. A meeting of Subcommittee A of the IAB to the IEA will be held on September 11, 1980, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:30 AM. The agenda for the meeting is as follows:

1. Quantification of synthetic fuels in gasoline and other fuels for IEA data reporting system and allocation calculation purposes.
2. Relationship of national emergency allocation and international emergency allocation pursuant to IEP.
3. AST-3 preparation and test-guide: report on and discussion of meeting of AST-3 design group in Ottawa, September 4-5, 1980.
4. Company participation in National Emergency Sharing Organizations (NESO's).
5. Reduction of allocation rights after refusal by country to accept oil.
6. Possible revision of Emergency Management Manual (EMM) to provide for product allocation to countries with insufficient refining capacity.
7. Status report on naphtha/bunkers issue.
8. Submission of questionnaires A and B during AST-3.

III. A meeting of the IAB to the IEA will be held on September 12, 1980, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:30 AM. The agenda for the meeting is as follows:

1. Opening remarks.
2. Communications to and from IEA and Reporting Companies.
3. Matters arising from record note of IAB meeting of June 13, 1980.
4. Report by IEA on, and discussion of, Standing Group on Emergency Questions (SEQ) meeting of July 22, 1980.
5. Report by IEA on, and discussion of, Governing Board meeting of July 23, 1980, and other recent developments.
6. Report by IEA on, and discussion of, worldwide supply situation following July and August Questionnaire "B" submissions and outlook for 1980.
7. Subcommittee "C" report, including:
 - A. Legal Clearances.
 - (1) U.S. Voluntary Agreement and U.S. Plan of Action.
 - (2) European Economic Community (EEC) clearances for AST-3.
 - B. Other Legal Issues.
 - (1) Alternate sharing systems; consultations.
 - (2) Industry representation on NESO's.
 - (3) Role of the IAB in advising the IEA, including stock policies.
 - (4) Simplified sharing system—less than 7% trigger.

C. Dispute Settlement Centre, including preparation of procedures for arbitration.

D. Pricing in an emergency.

E. Extraordinary costs.

F. Opening of IAB meetings to the public and making transcripts of meetings available to the public.

G. Future work program.

8. Subcommittee "A" report, including:

A. Quantification of synthetic fuels in gasoline and other fuels, for purposes of IEA data reporting system and allocation calculations.

B. Relationship of national emergency allocation and international emergency allocation pursuant to the IEP.

C. AST-3 preparation and test guide; report on and discussion of meeting of AST-3 design group in Ottawa, September 4-5, 1980.

D. Company participation in NESO's.

E. Reduction of allocation rights after refusal by country to accept oil.

F. Possible revision of EMM to provide for product allocation to countries with insufficient refining capacity.

G. Status report on naphtha/bunkers issue.

H. Submission of questionnaires A and B during AST-3.

I. Future work program.

9. ISAG Manager's Report, including:

A. ISAG staffing.

B. AST-3 per diem expense allowance.

C. Schedule for AST-3.

D. Other matters.

10. Seminars in 1981:

A. The IEA emergency system.

B. ISAG training.

11. Quantification of emergency reserves to provide "90 days at all times".

12. Methods for relaxing logistical constraints that may occur during emergency sharing under the IEP system.

13. Future work program and meeting schedule.

IV. A meeting of Subcommittee A of the Industry Advisory Board to the International Energy Agency will be held on September 16, 1980 at the offices of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 10:00 AM. The purpose of this meeting is to permit attendance by representatives of Subcommittee A at a briefing session for NESO's which is being held by the IEA at Paris on that date.

The agenda for the meeting is under the control of the IEA Secretariat. It is expected that the following agenda will be followed:

1. Welcome and introductory remarks.

2. Objective of the briefing session and improvement and changes vs. AST-2.

3. Brief review of the test guide with special emphasis on:

(1) Data base and disruption.

(2) Special rules concerning AST-3.

(3) Timetable of events.

(4) Overall information flow.

4. Technique of product imbalance calculations.

5. National emergency systems and their interface to the IEA system.

6. Question and answer session.

7. Any other business.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Pursuant to section 252(c)(3) of the Energy Policy and Conservation Act, verbatim transcripts of these meetings will be made; the transcripts, with such deletions as are determined to be necessary or appropriate pursuant to E.O. 12065 (43 FR 28949, July 3, 1978), E.O. 11932 (41 FR 32691, August 5, 1976) and 22 CFR 9a.1-9a.8, will be available in the Reading Room of the Department of Energy, Room 5B-180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 AM and 4:00 PM weekdays, except Federal holidays.

As permitted by 10 CFR 209.32, the usual 7-day notice period has been shortened because the agenda only recently has been determined.

Issued in Washington, D.C., September 2, 1980.

Craig S. Bamberger,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 80-27256 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Proposed Energy Conservation Program Requirements and Guidelines To Accompany Proposed Policy and Formula To Guide Allocation of Firm Electric Energy and System Reserve Energy From the Federal Columbia River Power System

AGENCY: Bonneville Power Administration (BPA or Bonneville), Department of Energy.

ACTION: Notice of proposed energy conservation program requirements and guidelines and opportunity for public review and comment.

SUMMARY: On October 5, 1979, Bonneville published a proposed policy and formula to guide the allocation of firm electric energy and system reserve energy from the Federal Columbia River

Power System (FCRPS) (44 FR 57824). In the proposed policy, BPA included a conservation goal, and offered an incentive for individual preference customers and preference applicants to attain their respective energy conservation savings goals by providing additional allocations of firm energy for adequate energy conservation program design and implementation. BPA decided not to require uniform energy conservation programs. Instead, each customer and applicant would be asked to develop and implement a program tailored to its individual system characteristics and needs.

BPA announced in its proposed policy that it would develop and publish energy conservation program standards, including evaluation criteria, annual reporting requirements, and program progress review procedures by the time the final allocation policy is promulgated.

On the basis of analysis to date, BPA has tentatively concluded that, with the exception of the Utility System Loss-Reduction Evaluation to be required of (a) all existing preference customers which sign new contracts, (b) new preference customers, and (c) all preference applicants which are otherwise eligible for service, issuance of prescriptive standards at this time is premature. Accordingly, BPA proposes to defer issuance of such standards and, instead, issue requirements and guidelines applicable to an interim period when all affected parties are gaining experience with the various aspects of a Bonneville allocation policy. This will also permit and encourage preference customers and applicants to exercise the latitude to develop and implement the initial energy conservation programs which BPA proposes to utilize in determining preference customer and applicant eligibility for annual allocations from the prospective conservation reserve. BPA is now publishing these proposed energy conservation program requirements and guidelines for public review and comment.

BPA believes that the proposed guidelines will aid development of preference customer and applicant energy conservation programs. The guidelines specify some programs which should be considered for adoption by all preference customers and applicants. BPA considers that these programs would be effective and, if properly implemented, would result in tangible energy conservation savings contributing to phased accomplishment of the 15 percent conservation goal. If adopted as part of a final BPA allocation

policy, the guidelines would remain in effect until amended in a manner to be provided for in the contracts to be offered to existing preference customers and preference applicants eligible for service.

BPA will meet with all interested persons who may have questions concerning the proposed energy conservation program requirements and guidelines. To request such a meeting, interested persons should contact the BPA Area or District Manager in their locality or the Office of the Public Involvement Coordinator.

BPA will announce at a later date the times and locations of Public Comment Forums where interested persons may make oral comments on all aspects of the proposed allocation policy, including the proposed energy conservation program requirements and guidelines. Written comments are also encouraged and may be submitted beginning now and at any time until 15 days after the last Public Comment Forum.

Bonneville will evaluate all comments received for consideration in the development of its final allocation policy, including the proposed energy conservation program requirements and guidelines. The final policy may vary from the proposed policy as a result of the comments received from interested persons.

ADDRESSES: Written comments should be submitted to Ms. Donna Lou Geiger, Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT:

Ms. Donna Lou Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503-234-3361, Ext. 4261. Toll-free numbers for Oregon Callers 800-452-8429; for callers from Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California 800-547-6048.

Mr. John H. Jones, Jr., Area Manager, Room 288, Plaza Building, 1500 NE Irving Street, Portland, Oregon 97208, 503-234-3361, Ext. 4551.

Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-345-0311.

Mr. Ronald H. Wilkerson, Area Manager, Room 581, West 920 Riverside Avenue, Spokane, Washington 99201, 509-458-2518.

Mr. Gordon H. Brandenburger, District Manager, P.O. Box 758, Kalispell, Montana 59901, 406-755-6202.

Mr. Ronald K. Rodewald, District Manager, Room 314, 301 Yakima Street, Wenatchee, Washington 98801, 509-622-4379.

Mr. Randall W. Hardy, Area Manager, Room 250, 415 First Avenue North,

Seattle, Washington 98109, 206-442-4130.

Mr. Roy Nishi, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, Ext. 701.

Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTARY INFORMATION:

I. Proposed Energy Conservation Program Requirements and Guidelines.

On October 5, 1979, BPA published its proposed policy and formula to guide allocation of firm electric energy and system reserve energy from the Federal Columbia River Power System (44 FR 57824). BPA believes that energy conservation should be addressed in the formulation and implementation of an allocation policy, and included conservation as one of the principal features of the proposed allocation policy.

BPA has proposed to reserve 15 percent of the total firm energy available for allocation each operating year as a conservation reserve from which annual allocations would be awarded to eligible preference customers and applicants. To be eligible for such allocations, each preference customer and each preference applicant would be required to establish an energy conservation program and implementation plan designed to (a) achieve a phased reduction of at least 15 percent of what its total load would otherwise have been, absent its program, in the 1989-1990 operating year; or (b) to achieve all feasible energy conservation measures that can be instituted by the customer or applicant (if determined by BPA to be less than 15 percent) by the 1989-1990 operating year.

An existing preference customer would be required to prepare and submit its energy conservation program and implementation plan to BPA by January 1, 1982. Each preference applicant would supplement its application for an allocation of firm energy by submitting an energy conservation program and implementation plan to BPA. Customers' and applicants' programs would be implemented as soon as reasonably practicable, and BPA would review all energy conservation program/implementation plan submissions to determine the potential energy savings that could be achieved.

Allocations from the conservation reserve will be made for operating year 1984 (July 1, 1983-June 30, 1984), assuming good faith efforts to conserve. Allocations from the conservation reserve will be made for operating year

1985, assuming customers and applicants submit energy conservation programs and implementation plans to BPA by the required date. Allocations from the conservation reserve will be made for operating year 1986 and subsequent operating years, assuming customers and applicants are implementing programs which BPA determines are capable of achieving their individual energy conservation savings goals.

Apart from the Utility System Loss-Reduction Evaluation, BPA decided not to apply uniform energy conservation program criteria to all existing preference customers and preference applicants which are eligible for allocations from the conservation reserve. Instead, each preference customer and applicant would be asked to develop and implement a program tailored to its individual system characteristics and needs. BPA recognizes that each customer and applicant confronts a somewhat unique situation and set of problems and opportunities.

BPA announced in its proposed policy that it would develop and publish energy conservation program standards, including evaluation criteria, annual reporting requirements, and program progress review procedures by the time the final allocation policy is promulgated. Analysis to date has led BPA to tentatively conclude that the issuance of prescriptive standards at this time would be premature. Accordingly, BPA proposes to defer issuance of such standards and, instead, issue energy conservation program guidelines applicable for an interim period when affected parties are gaining experience with various aspects of a Bonneville allocation policy. The guidelines will permit and encourage preference customers and applicants to exercise the latitude to develop and implement their initial energy conservation programs, and will furnish a basis which BPA proposes to utilize in determining preference customer and applicant eligibility for annual allocations from the prospective conservation reserve.

BPA believes that the proposed guidelines will aid development of preference customer and applicant energy conservation programs. The guidelines specify some programs which should be considered for adoption by all preference customers and applicants. BPA considers that these programs would be effective and, if properly implemented, would result in tangible energy conservation savings contributing to phased accomplishment

of the 15 percent conservation goal. If adopted as part of a final BPA allocation policy, the guidelines would remain in effect until amended in a manner to be provided for in the contracts to be offered to existing preference customers and preference applicants.

BPA has developed and is now publishing proposed energy conservation program requirements, program review procedures, reporting requirements, evaluation criteria, program guidelines, and related material.

A. Program Review Procedures

1. *Notification of 15 Percent Energy Conservation Goal.* Initially, each preference customer's 15 percent conservation goal shall be based on the individual customer's most recent BPA-approved load forecast submitted prior to January 1, 1981. Each preference applicant shall supplement its application for an allocation of firm energy by submitting a load forecast to BPA. Following BPA approval of the load forecasts, BPA shall notify each customer and applicant, as appropriate, of its goal, to be achieved by operating year 1990 (July 1, 1989-June 30, 1990).

2. *Plan Preparation.* Each preference customer and applicant shall be responsible for preparation and amendment of its energy conservation program and implementation plan. However, upon request, BPA will assist any preference customer or applicant in preparing its initial energy conservation program and implementation plan and subsequent amendments, if any.

A list of programs which BPA considers appropriate for consideration in a customer's or applicant's conservation plan appears under *E. Energy Conservation Program Guidelines*. Examples of ineligible programs also appear in *C(3)(f) Excluded Programs*. Additional guidance for energy conservation program development shall be issued early in 1981. Such guidance shall thereafter be periodically amended to reflect improvements in conservation technology, new information concerning consumer use patterns, and other appropriate considerations. The guidance shall include:

a. An assessment procedure to assist a preference customer or applicant in reviewing its loads by end-use category in order to determine where the greatest potential for savings exists. This procedure shall include BPA estimates of potential percentage energy savings in various categories of end use.

b. A compilation of specific energy conservation programs that may be useful models.

3. *Filing of Energy Conservation Plans.* To be eligible for an allocation of energy from the conservation reserve, an existing preference customer which signs a new firm power sales contract shall submit an energy conservation program and implementation plan to BPA by January 1, 1982. (See *B. Reporting Requirements* for reporting criteria.) To be eligible for service, including an allocation of energy from the conservation reserve, a preference applicant shall submit a program and plan.

It is not mandatory that all existing preference customers participate in the conservation reserve program, if they elect not to sign new contracts. The decision to seek a share of the conservation reserve is discretionary and shall not affect the determination of an existing preference customer's base allocation.

4. *Notification of Conservation Reserve Allocation.* On July 1, 1982, and annually thereafter, BPA shall notify eligible preference customers and applicants of their respective allocations from the conservation reserve for the operating year beginning 2 years hence. (See *C. Evaluation Criteria*.) This notice shall coincide with publication of annual projections of the aggregate FCRPS firm energy resources available for allocation, by operating year, for the 10-year period ahead. It is possible that some existing preference customers and preference applicants may not qualify for their additional allocations from the conservation reserve as programmed, and additional energy from the conservation reserve may become available for reallocation within the 2-year period. Should the need arise, BPA shall determine how to dispose of any energy remaining in the conservation reserve after all allocations based on conservation have been made. Preference and priority shall be given to public bodies and cooperatives.

It is also possible that, in 1 or more future operating years, preference customers and applicants may be eligible for allocations from the conservation reserve that, in the aggregate, would exceed the 15 percent of BPA total firm energy resources which comprise the conservation reserve. Should the need arise to do so, BPA will adjust the size of the reserve in relation to the aggregate FCRPS firm energy resources available for allocation in the appropriate operating year or years.

5. *Filing of Progress Report.* On January 1, 1983, and every January 1 thereafter, each preference customer shall submit a written progress report quantifying its energy conservation

savings. (See *B. Reporting Requirements*.)

6. *Amendments.* A preference customer or applicant may submit an amendment to its energy conservation program and implementation plan at any time. BPA must receive amendments by April 1 of an operating year to insure timely consideration of the amendment in relation to fixing the customer's or applicant's allocation for the operating year beginning 2 years after the following July 1. Amendments submitted to Bonneville within 90 days of the end of the operating year may not be received in time to be evaluated and reflected in the customer's or applicant's allocation announced on July 1 of the subsequent operating year for the operating year 2 years hence. Amendments will be evaluated with the criteria shown in *C. Evaluation Criteria*.

7. *Petitions.* In the event a preference customer or applicant disagrees with Bonneville's evaluation of its energy conservation program and implementation plan, progress report, or amendments, the customer or applicant may seek reconsideration by filing a written petition with Bonneville. Petitions shall be submitted within 60 days of BPA's annual conservation reserve allocation notice, and shall be specific as to disagreements with this notice.

Bonneville shall review all petitions in a timely manner and meet with customers and applicants to attempt to resolve disagreements. The duration of the petition process may result in less than 2 years' notice of allocation from the conservation reserve for a given operating year.

B. Reporting Requirements.

1. *Conservation Implementation Plans.* Conservation implementation plans shall, at a minimum, include the following items:

a. A BPA-approved load forecast for each operating year of the period from the beginning of operating year 1983 to end of operating year 1992.

b. A summary of anticipated energy savings, by conservation program, for each operating year from 1983 to 1992.

(i) A demonstration of phased accomplishment of the 15 percent goal by the end of operating year 1990. (See *C(2) Summary of Implementation Requirements by Operating Year*.)

(ii) If appropriate, identification of the year in which it is anticipated that the 15 percent goal will be exceeded.

c. If appropriate, justification for anticipated energy savings with quantitative supporting data.

d. A description of each program included in the plan:

- (i) Details of program to be used;
- (ii) Sector or group of consumers participating in the program;
- (iii) Conservation measures/ techniques included in the program;
- (iv) Method of estimating savings.

e. Implementation schedules for programs included in the plan:

- (i) Total estimated energy savings to preference customer, by operating year;
- (ii) Quantitative data to support estimates of (e)(i), above.

2. Progress Reports.

a. *Filing Requirements.* Beginning January 1, 1984, and annually thereafter, a preference customer or applicant which has submitted an approved conservation plan shall submit a progress report quantifying energy conservation accomplishments since inception of its BPA-approved program. Customers shall also file statements of revised projected energy savings, if appropriate. A customer of Applicant shall compare the program progress described in its progress reports against its BPA-approved energy conservation program and implementation plan.

b. *Contents of Progress Reports.*

Progress reports shall include the following information:

(i) A summary of actual results (e.g., number of participating consumers, estimated average savings per consumer, etc.) for each program for the preceding operating year compared to the estimates specified in the conservation plan.

(ii) Information specified in the system loss-reduction program required in *D. Utility System Loss-Reduction Evaluation.*

(iii) An explanation of any differences between estimated program results and actual results.

(iv) A description of any new programs, if appropriate, detailing the information requested in B(1)(d), above.

(v) An updated summary of anticipated energy savings, by program, reflecting the information set forth in (i), (ii), and (iii), above, and any new programs, if appropriate.

(vi) Implementation schedules for both existing and new programs included in the plan, detailing the information requested in B(1)(e), above.

C. Evaluation Criteria.

BPA will use the following criteria to determine eligibility for allocations of energy from the conservation reserve for existing preference customers which sign new contracts, new preference customers, and preference applicants.

1. Fifteen Percent Energy Conservation Goal. A customer or applicant shall (1) achieve a phased reduction of at least 15 percent of what its total load would otherwise have been, absent an energy conservation program, in operating year 1990; or (2) achieve all feasible conservation measures which it can institute, if the projected savings are determined by BPA to be less than 15 percent. A customer or applicant is expected to achieve this energy conservation goal by operating year 1990, or earlier if reasonably practicable.

Initially, Bonneville will calculate each customer's or applicant's energy conservation savings goal based on the customer's or applicant's most recent BPA-approved load forecast. For existing preference customers, this forecast shall be submitted to BPA by January 1, 1981. Each operating year, BPA will review each customer's and applicant's current approved load forecasts and energy conservation program progress reports to determine whether the programs continue to be capable of achieving the customers' or applicants' energy conservation savings goals.

2. Summary of Implementation Requirements by Operating Year

Conservation reserve allocation by operating year	Prerequisite actions by existing preference customers which sign new contracts, new preference customers and preference applicants which qualify for service
1984.....	Customers and applicants receiving base allocations of BPA firm energy shall also receive allocations from the conservation reserve based on good faith efforts to conserve.
1985.....	Customers and applicants shall have submitted energy conservation programs and implementation plans by January 1, 1982.
1986.....	Energy conservation programs, implementation plans, and amendments shall demonstrate that each customer or applicant can reduce firm energy loads by 15 percent by operating year 1990 or demonstrate by a preponderance of fact why such reduction is not feasible, and implementation shall have already commenced.
1987-1991.....	Annual progress reports shall demonstrate preference customer or applicant compliance with energy conservation programs and implementation plans submitted to BPA in January 1982 or as subsequently modified by the customer(s) or applicant(s) and approved by Bonneville.
These reports shall demonstrate to BPA satisfactory: (1) progress toward the 15 percent goal and (2) compliance with the provisions of the preference customer's or	

2. Summary of Implementation Requirements by Operating Year—Continued

Conservation reserve allocation by operating year	Prerequisite actions by existing preference customers which sign new contracts, new preference customers and preference applicants which qualify for service
1992-1994.....	applicant's approved energy conservation programs and implementation plans. A preference customer or applicant shall not receive an allocation from the conservation reserve for one or more operating years if BPA determines that the customer or applicant (1) has failed to comply with the provisions of its energy conservation program and implementation plan and (2) does not revise its plan to describe how and when the 15 percent goal or all feasible conservation measures shall be achieved. At a minimum, a preference customer or applicant shall maintain an equivalent of its 15 percent goal for the duration of the firm power sales contract. BPA shall publish revised procedures for the period after operating year 1990, at a time and in a manner which facilitates public consideration and comment prior to implementation.

3. Program Evaluation Criteria.

a. *Conservation.* The following measures constitute energy conservation measures eligible for inclusion in a customer's or applicant's energy conservation program and implementation plan:

(i) quantifiable and cost-effective reductions in electric energy consumption which result from specific actions to increase the efficiency of energy consumption at the point of end use;

(ii) quantifiable and cost-effective reductions in percentage of electric energy losses (as a percentage of total energy requirements) which result from specific actions to increase the efficiency of transmission and distribution systems;

(iii) quantifiable and cost-effective net reductions in preference customer or applicant requirements for electric energy produced by "central-station" generation and distributed through the region's transmission system. Such net reductions must result from direct applications of renewable resource conversion or generation equipment installed by residential, commercial, and industrial consumers to reduce their electric energy demand; and

(iv) quantifiable, but not necessarily cost-effective, reductions, as described in (i) and (ii), above.

Renewable resources include solar, wind, small hydro, or geothermal

energy; forest, crop, or animal wastes; other biomass; municipal or industrial wastes; or other renewable resources obtainable in a preference customer's or applicant's service area which can be converted to useful energy. For allocation policy purposes, the use of renewable resources for direct application and generation of electric energy used at site are eligible for credit. The output of renewable resource generation equipment installed by residential, commercial, and industrial consumers that is purchased by a preference customer or applicant to displace other resources is not eligible for credit.

b. *Cost Effectiveness.* An energy conservation measure or a renewable resource shall be considered cost effective when it is forecast to be reliable and available within the time it is needed and if it would meet or reduce the electrical power demand of the consumers of a preference customer or applicant at an estimated incremental system cost no greater than that of the least-cost, similarly available measure or resource. All direct costs over the effective life of a measure or resource shall be estimated.

For allocation policy purposes, the term "direct costs" shall be those costs incurred by a preference customer or applicant and/or its end-use consumers which are the direct result of the installation, operation, maintenance, and disposal of an energy conservation measure or resource over the effective life of the measure or resource.

No later than July 1, 1981, Bonneville shall make available to preference customers and applicants a schedule of the projected costs of power from the least-cost, readily available alternative measure or resource which would be required to meet the region's incremental electrical energy requirements in a given year. The projected costs shall be used to value the projected energy savings of a conservation measure or resource in that particular year. The schedule shall be updated at least annually.

c. *Best Efforts.* If a preference customer or applicant believes that it will not be feasible to achieve its 15 percent energy conservation goal, it may request a determination from Bonneville. The customer or applicant shall detail the reasons for its belief that 15 percent savings is not feasible and present a preponderance of facts to support what it believes would constitute its "best efforts" to achieve energy conservation. Should BPA determine that 15 percent is not feasible, the customer or applicant shall implement the maximum amount of cost-

effective conservation which it and its consumers, acting individually or in concert, are capable of accomplishing, in order to receive an allocation of energy from the energy conservation reserve.

d. *Prior Conservation Efforts.* A preference customer or applicant may submit for credit, energy savings attributable to conservation programs which it has initiated prior to operating year 1984, and which it plans to continue. To determine the amount of credit to award, BPA shall treat such conservation programs as if they had been initiated on January 1, 1982, and award an amount of credit relative to BPA's estimate of the amount of energy savings which could be expected to result for specific programs of that type, irrespective of date of initial implementation.

e. *Utility Rates as an Energy Conservation Program.* Preference customers or applicants shall be credited for energy savings resulting from rate structures designed to encourage consumers to implement energy conservation measures. Bonneville shall review the proposed rate structure and customer or applicant progress reports to evaluate whether a rate design for which credit is being sought has been designed and implemented for energy conservation purposes and shall achieve the anticipated energy savings.

f. *Excluded Programs.* BPA shall not consider the following as acceptable elements of a preference customer's or preference applicant's energy conservation plan, except as noted.

(i) *Information Programs.* A preference customer or applicant shall not be credited for programs which consist solely of the distribution of energy conservation information.

(ii) *Fuel Switching.* A preference customer or applicant shall not be credited for programs which involve substitution of appliances or equipment using nonrenewable fuels for appliances or equipment using electricity.

4. Allocation Determination.

a. *Allocation from Energy Conservation Reserve.* Initially, each eligible preference customer or applicant shall receive an allocation from the conservation reserve if the customer or applicant submits to BPA an energy conservation program and implementation plan which BPA determines is capable of achieving either a 15 percent savings by operating year 1990 or the customer's or applicant's maximum feasible energy conservation. Progress reports shall be reviewed annually to assure that conservation efforts are being sustained for the term of the new firm power sales

contracts to be offered shortly after a final allocation policy is promulgated. Allocations from the energy conservation reserve shall be cancellable if BPA determines that a customer's or applicant's conservation program and implementation plan, or its program implementation, is inadequate.

b. *Bonus Conservation Allocation.* If BPA determines that a program in any operating year will result in energy savings exceeding 15 percent of what a preference customer's or applicant's total load would otherwise have been, the total annual allocation for such customer or applicant shall be increased 1 percent for each full percent by which the savings are expected to exceed 15 percent. The adjustment shall be made for the operating year in which the excess energy savings are expected to be realized. However, no preference customer or applicant shall receive allocations exceeding its net firm energy requirements eligible for allocation, regardless of the amount of energy conservation achieved.

c. *No Allocation from Energy Conservation Reserve.* Commencing with operating year 1986, a preference customer or applicant shall be ineligible to receive a conservation reserve allocation if BPA determines that: (1) the customer's or applicant's energy conservation program and implementation plan are not capable of achieving the customer's or applicant's energy conservation savings goal; or (2) the customer or applicant does not make a good faith effort to implement the energy conservation program elements specified in its BPA-approved energy conservation program in accordance with its BPA-approved implementation plan; or (3) the customer or applicant discontinues its planned energy conservation program elements without BPA approval. Such determinations shall be made annually.

The customer or applicant may submit an amendment (See A(6) Amendments) to remedy deficiencies determined by BPA in such customer's or applicant's program or submit a petition (See A(7) Petitions) for reconsideration. Amendments and petitions shall not assure that the customer or applicant will receive an allocation from the conservation reserve and may cause the customer or applicant to have less than 2 years' notice of its conservation reserve allocation for a future operating year.

D. Utility System Loss-Reduction Evaluation

A preference customer or applicant shall evaluate various loss-reduction methods for applicability to its system.

This evaluation shall be *mandatory* for all preference customers which sign new contracts, and for all preference applicants. Loss-reduction methods include energy conservation measures each customer or applicant can undertake directly, rather than measures which it must encourage others to undertake. The evaluation of loss-reduction methods shall include the following features:

1. *Analysis.* A customer shall conduct cost-effectiveness analysis of potential loss-reduction measures based on a comparison of the value of losses to be reduced to the direct costs of energy from new resources. (See *C(3)(b) Cost Effectiveness.*)

2. *Progress Reports.* A customer shall include in its progress report required under *B(2) Progress Reports:*

—The amount of actual energy consumed by the utility, if known.

—The amount of actual energy losses on its system.

—Analysis of cost effectiveness of potential loss-reduction measures using the direct costs of energy from new resources. (See *C(3)(b) Cost Effectiveness.*)

—As appropriate, updates of prior cost-effectiveness analysis reflecting significant changes in the direct costs of energy from new resources or direct costs of implementing loss-reduction measures.

—Plans for the implementation of proposed loss-reduction measures.

—Progress made toward the implementation of loss-reduction measures.

E. Energy Conservation Program Guidelines

The program guidelines are intended to aid preference customers and applicants in the development of their energy conservation programs, and will be augmented and updated periodically. The following are suggested programs BPA considers effective and which would contribute to achievement of the customers' and applicants' energy conservation savings goals. As such, they should be considered for adoption by all preference customers and applicants, subject to compliance with Federal, state and local regulations.

1. Residential Programs.

a. *Weatherization Audit and Loan Program.* A preference customer or applicant may implement a residential audit and low-cost loan program which may include the following features:

(i) *Consumer Information.* A customer or applicant may provide to all residential consumers upon request:

—Information on suggested energy conservation measures for their area, by

type of residential structure, including ceiling, wall, and floor insulation; storm doors and windows; and caulking and weatherstripping.

—Information on average or typical costs and savings of suggested measures.

—Information on availability of energy analysis, installation, and low-cost financing of measures.

(ii) *Energy Conservation Analysis.* A customer or applicant may offer to:

—Perform energy conservation analysis for all residential consumers upon request.

—Prepare written reports to each residential consumer on analysis findings and utility recommendations, and explain energy analysis and recommendations to consumers.

—Keep analyses on file for 5 years and provide energy-use information free of charge to subsequent owners.

(iii) *Assistance to Consumers in Installation and Financing of Major Energy Conservation Measures.* To electric heat consumers only, a customer or applicant may offer to:

—Obtain bids for weatherization improvements.

—Arrange installation of energy conservation measures.

—Provide or arrange low-cost financing of cost-effective weatherization improvements, unless prohibited by State law.

—Provide information on other available weatherization financing.

—Provide information on available tax credits and deductions for energy conservation measures.

—Inspect all work completed for compliance with utility-performed energy conservation analysis.

(iv) *Program Administration, Monitoring, and Evaluation.* A customer or applicant may provide contractor standards, lists of contractors meeting the standards, and specifications for materials and work performed.

(v) *Low-Cost Energy Conservation Measures.* As incentives to encourage consumer participation in its program, a customer or applicant may provide, at no charge to consumers, low-cost measures such as foundation vent covers, showerhead flow restrictors, water-heater insulation and/or electric outlet gaskets.

b. *Water-Heating Energy Conservation Program.* A customer or applicant may implement a domestic water-heating efficiency program, which may include the following features:

(i) *Consumer Information.* A customer or applicant may provide to all residential consumers upon request:

—Information on suggested water-heating efficiency measures, including

high-efficiency conventional water heaters, heat-pump water heaters, solar water heaters, in-line water heaters, and water-heater and pipe insulation.

—Information on average or typical costs, and energy and dollar savings of suggested measures.

—Information on availability of energy analysis, installation, and low-cost financing of measures.

(ii) *Assistance to Consumers in Installation and Financing of Major Energy Conservation Measures.* A customer or applicant may, upon request of consumers with electric water heaters:

—Survey residences to determine feasibility and cost effectiveness of alternative water-heating efficiency measures.

—Provide, where cost effective, financial incentives including low-cost loans for purchase and installation of the appropriate water-heating efficiency measures based on amount of water used, location of water heater, amount of insulation (rate of delivery of all direct solar energy per unit of horizontal surface), house orientation, and other factors.

—Inspect water-heating efficiency installations to assure proper installation and performance.

(iii) *Program Administration, Monitoring, and Evaluation.* A customer or applicant may provide:

—Water-heating equipment dealer/installer standards.

—Lists of dealers/installers meeting the standards.

—Specifications for equipment, locations of units within residence, and work performed.

—In the case of loans, loan balances on consumers' monthly bills.

2. Commercial Programs.

a. *Audit and Loan Program.* A customer or applicant may implement a commercial audit and low-cost loan program which may include the following features:

(i) *Consumer Information.* A customer or applicant may provide to commercial and other nonresidential and nonindustrial consumers:

—Information on potential energy conservation measures by type of user and end use.

—Information on availability of audits, design, installation, and low-cost financing of measures.

—Information on available tax credits and deductions for conservation measures.

—Information on available U.S. Department of Energy programs (e.g., the Schools, Hospitals, and Public Buildings Program).

(ii) *Energy Audits.* A customer or applicant may offer to:

—Assist eligible consumers in obtaining audits under U.S. Department of Energy programs.

—Perform audits for eligible nonresidential consumers upon request, prepare reports on audit findings, and provide explanations of both.

—Keep audit reports on file and periodically review and update.

(iii) *Assistance to Commercial Consumers in Installation and Financing of Conservation Measures.* A customer or applicant may offer to:

—Assist eligible consumers in obtaining financial assistance including low-cost loans under Federal, State, and other applicable nonutility programs.

—Provide lists of qualified and/or participating consulting engineers, vendors, and contractors.

—Arrange design and installation of measures which conserve electric energy.

For commercial consumers with electric HVAC and/or water-heating systems, a customer or applicant may offer to:

—Obtain proposals for cost-effective weatherization or water-heating efficiency improvements to electrical equipment.

—Provide or arrange low-cost financing of cost-effective weatherization or water-heating efficiency improvements to electrical equipment.

—Inspect all work completed.

b. *Lighting Reduction Program.* A customer or applicant may implement a lighting reduction program for commercial consumers which may include the following features:

(i) *Consumer Information.* A customer or applicant may provide:

—Information on ways to increase lighting efficiency.

—Information on average or typical costs and savings of suggested measures.

—Information on availability of lighting surveys or audits, installation, and financing of measures.

(ii) *Lighting Efficiency Analysis.* A customer or applicant may offer to:

—Perform lighting efficiency analysis upon request.

—Provide consumers with reports and explanations of analysis findings and recommendations.

(iii) *Assistant to Consumers.* A customer or applicant may offer to provide:

—Financial incentives including low-cost loans to encourage consumers to replace inefficient lamps and fixtures with energy-efficient lamps and fixtures.

—Inspection of work completed to ensure effective replacement and the installation of energy-efficient lamps and fixtures.

c. *Heating, Ventilation, and Air-Conditioning (HVAC) Program for Small Businesses.* A customer or applicant may offer a HVAC maintenance and thermostat replacement program to small commercial consumers, which may include the following:

(i) *Consumer Information.* A customer or applicant may provide:

—Information regarding costs and benefits of regular HVAC maintenance and automatic set-back thermostats or computer-controlled energy management systems.

—Descriptions of available automatic set-back thermostats and other devices to increase HVAC efficiency (including manufacturers' brochures).

—Information regarding local firms providing maintenance and installation of set-back thermostats and other devices to increase HVAC efficiency.

(ii) *Incentives.* For commercial consumers with electric heating/cooling equipment, a customer or applicant may offer:

—To sell a variety of set-back thermostats and other devices to increase HVAC efficiency at the cost to the utility, less discounts based on the value of the expected savings (See C(3)(b) *Cost Effectiveness*); and/or

—Rate discounts or rebates for purchase of automatic set-back thermostats and other devices to increase HVAC efficiency from nonutility vendors.

(iii) *Regular Maintenance Checkups.* For commercial consumers with electric heating/cooling equipment, a customer or applicant may offer to:

—Install a set-back thermostat.

—Periodically perform regular maintenance checkups.

d. *Programs for Large Commercial Consumers.* Bonneville expects that preference customers and applicants will develop energy conservation programs directed to their large nonresidential and nonindustrial consumers. However, due in part to the wide range in the nature and magnitude of large commercial loads among preference customers and applicants, Bonneville is continuing to analyze prospective programs in order to determine which programs are effective and would contribute to the achievement of customers' and applicants' energy conservation savings goals. Additional energy conservation program guidance shall be issued by Bonneville early in 1981 to assist preference customers and applicants in

the development of programs for large commercial consumers.

This guidance shall identify programs preference customers or applicants may implement to encourage large commercial consumers to adopt measures to increase the energy efficiency of their buildings and energy consuming equipment. Examples of such efficiency improvements include, but are not limited to, more efficient HVAC systems, enhanced thermal integrity of building envelopes (includes walls, windows, doors, and ceiling), lighting modifications, waste heat recapture, and improved energy "housekeeping."

3. *Irrigation Pump Testing Program.* A customer or applicant which serves irrigation loads may implement an irrigation pump testing program which may include the following features.

a. *Consumer Information.* A customer or applicant may provide to all irrigation consumers:

—Information on suggested energy conservation measures for their area, by type of crop and irrigation system.

—Information on average or typical costs and savings of suggested measures.

b. *Pump Efficiency Analysis.* A customer or applicant may offer to:

—Perform pump and system efficiency analyses for all irrigation consumers upon request.

—Prepare reports on analysis findings and recommendations, and explain energy analysis and recommendations to consumers.

c. *Assistance to Consumers.* A customer or applicant may offer to provide rate rebates for efficiency improvements which can be verified and quantified by the pump testing program and analysis using applicable climatological and crop data.

4. *Industrial Programs.* Bonneville expects that preference customers and applicants will develop energy conservation programs directed to their industrial consumers. However, due in part to the wide range in the nature and magnitude of industrial loads among preference customers and applicants, Bonneville is continuing to analyze prospective programs in order to determine which programs are effective and would contribute to the achievement of customers' and applicants' energy conservation savings goals. Additional program guidance shall be issued by Bonneville early in 1981 to assist preference customers and applicants in the development of industrial programs.

This guidance shall identify programs preference customers or applicants may implement to encourage industrial consumers to adopt measures to increase the energy efficiency of their

operations and production processes. Examples of such efficiency improvements include, but are not limited to, more efficient use of motors, lighting modifications, waste heat recapture, and improved industrial energy "housekeeping."

II. Legal Authority for Proposed Standards

The Bonneville Power Administrator shall make all arrangements for the sale and disposition of electric energy, consistent with the policy directives of the Bonneville Project Act to (1) encourage the widest possible use of all electric energy that can be generated and marketed, (2) provide reasonable outlets therefor, and (3) prevent monopolization by limited groups. (16 U.S.C. 832a(a)(b).) To this end, the Administrator is authorized to enter into such contracts, agreements, and arrangements as he may deem necessary and to contract with any utility engaged in the sale of electric energy to the general public on such terms and conditions as he deems necessary, desirable, or appropriate to effectuate the purposes of the Act. (16 U.S.C. 832a(f); 16 U.S.C. 832d(a).) The Administrator has preliminarily determined that an allocation of firm electric energy and system reserve energy from the Federal Columbia River Power System incorporating the energy conservation features herein proposed will serve to accomplish the purposes of these and other statutes pursuant to which BPA markets power. By the inclusion of such energy conservation features in the proposed allocation policy the Administrator expresses his belief that (1) there is a reasonable likelihood that the limited resources available to him will be more widely distributed than would otherwise be the case, and (2) such inclusion would contribute to the prevention of monopolization by a limited number of customers.

III. Studies and Analyses

The major studies and analyses which have been used will be available for review at BPA headquarters located at 1002 Northeast Holladay Street, Portland, Oregon. They are:

1. Skidmore, Owing, and Merrill (SOM) Report;
2. Northwest Energy Policy Project (NEPP) Report;
3. NRDC Alternative Scenario;
4. Power Outlook, June 1980;
5. City of Seattle Energy 1990 Study;
6. Energy Conservation Choices for the City of Portland, dated September 1977.

IV. Public Review and Comment

A. Public Review. BPA will meet with all interested persons who may have questions concerning the proposed energy conservation program requirements and guidelines. To request such a meeting, interested persons should contact the BPA Area or District Manager in their locality or the Office of the Public Involvement Coordinator.

B. Public Comment Forums. Public Comment Form to permit the public to submit oral comments on the proposed allocation policy, including the energy conservation program requirements and guidelines, will be scheduled in the fall of 1980 when the draft Environmental Impact Statement is available.

Written comments may be submitted beginning now and at any time until 15 days after the last Public Comment Forum. All comments will become part of the Official Record and will be considered in the final allocation policy that will be developed by BPA. Written comments should be submitted to the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

Dated: August 29, 1980.

Ray Foleen,

Acting Administrator.

[FR Doc. 80-27405 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 80-CERT-027]

Atlas Powder Co.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On October 3, 1979, Atlas Powder Company (Atlas), 12700 Park Central III, Suite 1700, Dallas, Texas 75251, was granted a certificate of eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) [Docket No. 79-CERT-083]. The certification involved the purchase and transportation of natural gas from Cities Service Gas Company (Cities Service) for use by Atlas at its plant in Joplin, Missouri. The ERA certificate expires on October 2, 1980.

On August 1, 1980, as amended August 19, 1980, Atlas filed an application for recertification of an eligible use of natural gas to displace fuel oil at its Joplin Plant pursuant to 10 CFR 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Docket Room 7108, 2000 M Street, N.W., Washington, D.C. 20461,

from 8:30 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays.

In its application, Atlas states that the volume of natural gas for which it requests recertification is up to 292,600 Mcf per year. This volume is estimated to displace the use of up to 2,400,000 gallons (57,143 barrels of No. 2 diesel fuel oil (0.34 to 1.0 percent sulfur)) per year at the Joplin Plant. The eligible seller and transporter of the natural gas is the Cities Service Gas Company, Oklahoma City, Oklahoma 73125.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG-57, 2000 M Street, N.W., Washington, D.C. 20461 Attention: Albert F. Bass, on or before September 15, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing on or before September 15, 1980. The request should state the person's interest, and if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Atlas and any persons filing comments and will be published in the Federal Register.

Issued in Washington, D.C., on August 29, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-27248 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Berg, Laney & Brown; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account

established pursuant to the Consent Order.

DATE: August 25, 1980. Comments by October 8, 1980.

ADDRESS: Send to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Chief, Crude Products Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. Phone (816)/374-5932.

SUPPLEMENTARY INFORMATION: On August 25, 1980, the Office of Enforcement of the ERA executed a Consent Order with Berg, Laney & Brown, ("BLB") of Smackover, Arkansas. Under 10 CFR 205.199(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

BLB, with its home office located in Smackover, Arkansas, is a firm engaged in the production and sale of crude oil, and is subject to the Mandatory Petroleum and Allocation Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of BLB the Office of Enforcement, ERA, and BLB entered into a Consent Order, the significant terms of which are as follows:

1. This Consent Order covers the production and sales of crude oil by BLB during the period September 1, 1973 through December 31, 1978.

2. The reason for the overcharges was BLB sold crude oil at prices in excess of the applicable ceiling price, as defined at 6 CFR 150.354 and at 10 CFR 212.73.

3. It is understood that BLB does not, by entering into the Consent Order, admit that it has violated any regulations of the DOE.

4. The provisions of 10 CFR 205.199], including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, BLB agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of \$240,000.00, plus interest as specified in Terms and Conditions, paragraph 1, of the Consent Order. The refund shall be made in monthly installments and completed within 37 months from the effective date of the

Consent Order. Such refund will be made to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. Potential Claimants. Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments. The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling (816) 374-5932.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Berg, Laney & Brown Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on October 8, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures at 10 CFR 205.9(f).

Issued in Kansas City, Mo. on the 26th day of August 1980.

William D. Miller,

Manager, Central Enforcement District, Economic Regulatory Administration.

David H. Jackson,

Chief Enforcement Counsel, Central Enforcement District.

[FR Doc. 80-27250 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Canadian Crude Oil Allocation Program Supplemental Allocation for the July 1 Through September 30, 1980; Allocation Period

In accordance with the provisions of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues a supplemental allocation notice to reflect the export levels of Canadian light and heavy crude oil for the month of September 1980.

Since October 1979, exports of crude oil from Canada have been authorized on a monthly, rather than a quarterly, basis. Consequently, the volumes listed in the allocation notices issued on July 11, 1980 (45 FR 48181, July 18, 1980), and August 11, 1980 (45 FR 55257, August 19, 1980), represented only volumes to be exported in August 1980. This supplemental notice lists only Canadian crude oil volumes which will be exported in the month of September 1980.

Redesignation of Priority Status

On April 17, 1980, the Department of Energy's Office of Hearings and Appeals (OHA) issued a Decision and Order with respect to appeals filed by the Mobil Oil Corporation from four allocation notices issued by ERA under the Canadian Crude Oil Allocation Program. *Mobil Oil Corporation*, Case Nos. DEA-0235, 0387, 0589, and BEA-0035. OHA concluded that ERA erred in not reclassifying Ashland and Koch's Minnesota refineries as second priority refineries for the fourth allocation quarter of 1978 and the second, third, and fourth allocation quarters of 1979.

It is ERA's belief that the legal and factual determinations made by OHA with respect to the Ashland and Koch refineries' access to non-Canadian crude oil in the allocation periods specified above are equally applicable to future allocation periods. Accordingly, on May 16, 1980, Ashland and Koch were formally advised that ERA intended to redesignate the Ashland refinery at St. Paul Park, Minnesota, and the Koch refinery at Pine Bend, Minnesota, second priority refineries for the June 1980 Supplemental Allocation Notice and, with the possible exception of the first allocation quarter in each year, in every subsequent allocation quarter. With respect to the first allocation quarter of each year, ERA intended to make a determination of the refineries' priority status at a later time.

However, in May 1980, the United States District Court for the District of Minnesota enjoined DOE from implementing reclassification of the Koch and Ashland refineries from first priority to second priority status pending a hearing and determination of the motion for a preliminary injunction. On August 18, 1980, the District Court issued a Preliminary Injunction prohibiting DOE from redesignating the Koch and Ashland refineries pending a final determination of the case. Accordingly, Ashland and Koch's Minnesota refineries will retain their first priority status for the September 1980 Allocation Notice.

Allocation of Canadian Light Crude Oil

The Canadian National Energy Board (NEB) has formally advised ERA that the total volume of Canadian light crude oil authorized for export to the United States for the month of September 1980 and, therefore, subject to allocation under Part 214, will be 50 barrels/day (B/D), all or which is operationally constrained through the Union Oil pipeline from the Reagan field in Canada to the Flying J, Inc. (formerly ICG Vista) Thunderbird refinery (second priority) at Cut Bank, Montana. Pursuant to 10 CFR 214.35, ERA will give effect to the operational constraint regarding the Thunderbird refinery in the issuance of Canadian crude oil rights for the month of September.

Allocation of Canadian Heavy Crude Oil

The NEB has advised ERA that the authorized export level of Canadian heavy crude oil for the month of September 1980 is 136,012 B/D. ERA has applied the procedures set forth in § 214.31(a)(3) in allocating Canadian heavy crude oil exports for September.

Some refiners that had submitted heavy crude oil nominations for the July 1 through September 30, 1980, allocation period, have advised ERA that they are unable to accept the full amount of their September 1980 heavy crude oil nominations and have requested that their September heavy crude oil nominations be reduced accordingly.

Since the September 1980 allocable supply of Canadian heavy crude oil is greater than the total nominations (as adjusted) of priority refiners for that crude oil, the ERA has determined,

pursuant to 10 CFR 214.31(b), that the volume of Canadian heavy crude oil to be exported in September in excess of the nominations of priority refiners (59,438 B/D) is surplus for the July 1 through September 30 allocation period and is not subject to the allocation provisions of § 214.31(a)(3).

The issuance of Canadian heavy crude oil rights, expressed in barrels/day, for September 1980 to refiners and other firms nominating for heavy crude oil for the July-September allocation period is as follows:

Refiner/refinery	Base period volumes ¹ Canadian total	Base period volumes ¹ Canadian heavy crude	Nomination ²	Allocation
Priority:				
II..... Ashland—Buffalo, NY.....	36,752	4,719	2,800	2,800
II..... Ashland—Findley, OH.....	2,198	2,165	1,300	1,300
I..... Ashland—St. Paul Park, MN.....	44,707	4,803	0	0
I..... Koch—Pine Bend, MN.....	74,383	68,692	54,000	54,000
II..... Laketon—Laketon, IN.....	141	131	0	0
II..... Mobil—Buffalo, NY.....	24,995	0	0	0
II..... Mobil—Ferndale, WA.....	45,444	0	0	0
II..... Mobil—Joliet, IL.....	14,806	12,474	12,474	12,474
I..... Murphy—Superior, WI.....	25,625	5,372	5,000	5,000
II..... Union—Lemont, IL.....	11,711	0	0	0
Total Priority I.....				60,000
Total Priority II.....				16,574
Total I and II.....				76,574

¹ Base period volume for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period (November 1, 1974, through October 31, 1975) on a barrels per day basis. For the base period volumes of all priority refineries, see Allocation Notice issued December 28, 1979 (45 FR 1664, January 8, 1980).

² The nominations reflect September 1980 adjustments made by priority refiners. See discussion p. 3.

On or prior to the thirtieth day preceding each allocation period, each refiner or other firm that owns or controls a first priority refinery shall file with ERA the supplemental affidavit specified in § 214.41(b) to confirm the continued validity of the statements and representations contained in the previously filed affidavit or affidavits, upon which the designation for that priority refinery is based. Each refiner or other firm owning or controlling a first or second priority refinery shall also file the periodic report specified in § 214.41(d)(1) on or prior to the thirtieth day preceding each allocation period, provided, however, that the information as to estimated nominations specified in § 214.41(d)(1)(i) is not required to be reported.

Within 30 days following the close of each three-month allocation period, each refiner or other firm that owns or controls a priority refinery shall file the periodic report specified in § 214.41(c)(2) certifying the actual volumes of Canadian crude oil and Canadian plant condensate included in the crude oil

runs to stills, consumed or otherwise utilized by each such priority refinery (specifying the portion thereof that was allocated under Part 214) for the allocation period.

Please note change of address. All reports and applications made under this notice should be addressed to: Chief, Crude Oil Allocation and Production Branch, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461.

TWX's may be sent to 710-822-9454 (answer back EVFTJ WSH). Also note that, effective August 15, 1980, the telephone number for the Crude Oil Allocation Branch is changed to 202-653-3420.

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before October 8, 1980.

Issued in Washington, D.C., on August 29, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-27257 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Champlin Petroleum Co.'s Application for Permission To Use Multiple Allocation Fractions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of application withdrawal.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that on August 20, 1980, Champlin Petroleum Company (Champlin) withdrew its Application for Permission to Use Multiple Allocation Fractions, which the firm had filed with the ERA on March 31, 1980. Champlin reserves its rights to refile an application at a later date.

FOR FURTHER INFORMATION REGARDING THIS ORDER CONTACT:

John A. Carlyle, Economic Regulatory Administration, Office of Petroleum Operations, Room 2104-I, 2000 M Street, N.W., Washington, D.C. 20461, Telephone: (202)653-3701.

Joel M. Yudson, Office of the General Counsel, Room 6A-127, 1000 Independence Avenue, N.W., Washington, D.C. 20585, Telephone: (202)252-6744.

Issued in Washington, D.C., on the 29th day of August 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-27253 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-80-07]

Champlin Petroleum Co.; Issuance of Proposed Decision and Order

Notice is hereby given that the Economic Regulatory Administration has issued to Champlin Petroleum Company (Champlin) a Proposed Decision and Order with regard to an application for incentive prices pursuant to 10 CFR 212.78(a) (1) and (2) of the Tertiary Enhanced Recovery Program. Under the provisions of 10 CFR 205.98, such a Proposed Decision and Order must be published in the *Federal Register*. Interested parties have until October 6, 1980 to submit objections or

comments. Upon review of any matters submitted, we may issue a final Decision and Order in the form proposed, issue a modified proposed or final Decision and Order, or take other appropriate action. All parties offering objections or comments will be notified of the action taken and will be furnished a copy of that action. Objections or comments should cite the docket number and be addressed to: Administrator, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461, Attention: Manager: Tertiary Enhanced Recovery Program.

A copy of the text of the Proposed Decision and Order together with a copy of Champlin's application is available in the Public Affairs Office, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays) and the Department of Energy Reading Room, Room 5B-180, James Forrestal Building, 1000 Independence Avenue, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays).

Issued in Washington, D.C., on August 28, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-27245 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Electric System Compliance Plans; Acceptance and Deferral of Acceptance of Certain Petitions

AGENCY: Economic Regulatory Administration.

ACTION: Notice of acceptance of certain petitions and deferral of acceptance of certain other petitions filed for approval of electric system compliance plans.

SUMMARY: The Powerplant and Industrial Fuel Use Act of 1978 (FUA) prohibits existing electric powerplants from using natural gas as a primary energy source on or after January 1, 1990, and from using natural gas as a primary energy source before 1990 unless they burned natural gas in 1977, and then in no greater proportion than the average yearly proportion used by such powerplants in the calendar years 1974 through 1976.

The Economic Regulatory Administration (ERA) on June 12, 1979, issued an interim rule, and on August 1, 1980 the final rule, 10 CFR 504.4, implementing the electric utility system compliance option authorized by Section

501 of FUA. The final rule sets forth the criteria and procedures by which owners and operators of existing powerplants may be considered in compliance with the Title III FUA prohibitions on natural gas use by obtaining ERA approval of a system compliance plan. ERA required a submission of certain elements of a proposed plan by January 1, 1980, and all additional submissions to complete a proposed plan by August 1, 1980.

ERA has received petitions for orders for the approval of system compliance plans from 39 eligible utility systems and has determined, upon preliminary review, that certain of those petitions meet the minimum requirements of 10 CFR 504.4(b) and is therefore accepting those petitions. In accordance with the provisions of Sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 10 CFR 501.33, interested persons are invited to submit written comments in regard to this matter. Because of the complexity of those petitions and the fact that the proposed compliance plans embrace entire utility systems rather than single powerplants, ERA is establishing a public comment period that is longer than the minimum 45 days for individual petitions for exemptions. Any interested person may also submit a written request during this period that ERA convene a public hearing concerning this matter.

DATES: Written comments and requests for a public hearing are due on or before February 1, 1981.

ADDRESSES: Fifteen copies of written comments and any request for a public hearing shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461. Docket Number ERA-FC-80-032 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

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

James W. Workman, Acting Director, Powerplants Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128I, Washington, D.C. 20461; (202) 653-4268.

G. Randolph Comstock, Acting Assistant General Counsel for Coal Regulations, Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Room

6G-087, Washington, D.C. 20585, (202) 252-2967.

SUPPLEMENTARY INFORMATION: On June 12, 1979, ERA issued an interim rule and on August 1, 1980 a final rule implementing the authority granted to the Department of Energy (DOE) by Section 501 of FUA.

The final rule (10 CFR 504.4) establishes the procedures that ERA will follow in implementing it authorities under Section 501 of FUA. Section 504.4(b) of the final rule contains a description of the requirements that petitioners must meet in order to obtain approval of their system compliance plans.

Approval of a system compliance plan will allow a utility system to comply with natural gas use prohibitions contained in FUA applicable to existing powerplants on a systemwide basis rather than on an individual powerplant basis. Through utilization of the system compliance option, utilities which are now heavily dependent upon natural gas will be allowed to develop a plan to accomplish an orderly phased reduction in natural gas use.

ERA has received petitions for orders for approval of system compliance plans from 39 eligible utility systems. ERA has performed an initial review of the petitions in order to meet the regulatory requirements specified in 10 CFR 501.3 (c). Upon preliminary review ERA has determined that the owners/operators of the following utility systems have submitted information sufficient to meet the minimum requirements specified in 10 CFR 504.4 (b).

Name of Petitioner and Location

Arizona Public Service Company, Phoenix, Arizona
 City of Austin, Austin, Texas
 City of Bryan, Texas, Bryan, Texas
 Western Power, a division of Central Telephone and Utilities Corporation, Great Bend, Kansas
 City of Denton, Texas, Denton, Texas
 El Paso Electric Company, El Paso, Texas
 Florida Power Corporation, St. Petersburg, Florida
 Florida Power and Light Company, Miami, Florida
 City of Garland, Garland, Texas
 City of Greenville, Greenville, Texas
 City of Lafayette, Lafayette, Louisiana
 Plains Electric Generation & Transmission Coop., Inc., Albuquerque, New Mexico
 City Public Service, San Antonio, Texas

Pursuant to 10 CFR 501.3 (d), ERA hereby accepts the petitions for orders approving system compliance plans from the above listed petitioners and is, with this Federal Register notice, announcing the commencement, in accordance with 10 CFR 501.63, of the

administrative proceeding for these petitions.

Acceptance of these petitions does not constitute or even suggest an approval of the plans by ERA, nor does it foreclose ERA from requesting further information during the course of the proceedings. Failure to provide additional information as requested could result in ERA withdrawing its acceptance of the petition or ultimately result in the denial of the request for approval of the plan.

ERA is accepting the petitions based upon the petitioners having met the minimum requirements of 10 CFR 504.4(b). In its preliminary review of the petitions ERA has not determined the appropriateness of any recommended terms and conditions set forth in the petitions nor the accuracy of any information, data or calculations provided as a part of the petitions. Such terms and conditions, contingencies, stipulations, etc. will be reviewed and analyzed by ERA during the course of the administrative proceedings and are available for public review during the public comment period.

The owners/operators of the following utility systems also submitted petitions for orders of approval of system compliance plans; however, these submissions did not meet the minimum requirements specified in 10 CFR 504.4(b).

Name of Petitioner and Location

Public Utilities Board, Brownsville, Texas
 Southern Colorado Power, a division of Central Telephone and Utilities Corporation, Pueblo, Colorado
 City of Clarksdale, Clarksdale, Mississippi
 City of Farmington, New Mexico, Farmington, New Mexico
 Fort Pierce Utilities Authority, Fort Pierce, Florida
 Gainesville Regional Utilities, Gainesville, Florida
 City of Grand Island, Nebraska Electric Department, Grand Island, Nebraska
 Greenwood Utilities, Greenwood, Mississippi
 Gulf States Utilities Company, Beaumont, Texas
 City of Lakeland, Lakeland, Florida
 Lake Worth Utilities Authority, Lake Worth, Florida
 Lea County Electric Cooperative, Inc., Lovington, New Mexico
 Mississippi Power & Light Company, Jackson, Mississippi
 Montana-Dakota Utilities Company, Bismarck, North Dakota
 Nebraska Public Power District, Columbus, Nebraska
 The Central Nebraska Public Power & Irrigation District, Holdrege, Nebraska
 Utilities Commission, City of New Smyrna Beach, New Smyrna Beach, Florida
 Oklahoma Gas & Electric Company, Oklahoma City, Oklahoma
 Orlando Utilities Commission, Orlando, Florida

Pacific Gas & Electric Company, San Francisco, California
 St. Joseph Light & Power Company, St. Joseph, Missouri
 Sebring Utilities Commission, Sebring, Florida
 Southwestern Public Service Company, Amarillo, Texas
 Sunflower Electric Cooperative, Inc., Hays, Kansas
 City of Tallahassee, Florida, Tallahassee, Florida
 City of Vero Beach Municipal Electric System, Vero Beach, Florida

ERA cannot accept these petitions at this time. Instead ERA has determined, pursuant to 10 CFR 501.3(f), that these petitions are incomplete. Each of the petitioners will be notified by ERA of the appropriate steps that they must take to cure the defects in their petitions. ERA will allow a period of ninety (90) days from the date of such notifications within which these petitioners can cure the defects in the petitions. Petitions cured within that time will be accepted by ERA and a Federal Register Notice of Acceptance will be published. Failure to cure any petitions within the allowed time period will result in automatic rejection of those petitions.

Petitions for orders approving system compliance plans, which embrace all of the existing powerplants in a utility system which would be or could be subject to the gas use prohibitions in Title III of FUA, are far more complex than a petition for an exemption for a single powerplant. With this in mind and in view of the number of petitions received, ERA will provide a longer public comment period than would be provided for petitions for individual powerplant exemptions. Accordingly, the public comment period during which interested persons may submit written comments or request a public hearing will remain open until February 1, 1981. During this time ERA will request any necessary additional information or allow the correction of deficiencies in the petitions as originally filed.

The public file, containing all documents relating to accepted petitions is available for inspection upon request at: Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C., Monday—Friday, 8:00 a.m.—4:30 p.m.

Issued in Washington, D.C. on August 29, 1980.

Robert L. Davies,
Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-27255 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Powerplant and Industrial Fuel Use Act of 1978; Rescission, Suspension, or Continued Application of Certain Forms

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Rescission, suspension, or continued application of certain forms for use by new facilities in petitioning for exemptions.

SUMMARY: By notice in the Federal Register on December 20, 1979 (44 FR 75451), the Economic Regulatory Administration (ERA) of the Department of Energy announced the issuance and mandatory use of ERA forms for petitioning for exemptions for new facilities from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) (42 U.S.C. 8301 *et seq.*). The ERA forms issued by that notice were developed for use in petitioning for exemptions under the provisions of ERA's interim rules implementing the provisions of FUA (44 FR 28530, May 15, 1979, and 44 FR 28950, May 17, 1979).

On May 30, 1980, ERA issued final Fuel Use Act rules (45 FR 38276 and 38302, June 6, 1980) applicable to new facilities, which became effective on August 5, 1980. The final rules contain revised criteria as well as general and specific evidentiary requirements associated with the filing of petitions for exemptions. Adoption of the final rules has necessitated a review of the ERA forms used under the interim rules.

ERA has reviewed the ERA forms which were required in petitioning for exemptions for new facilities and has determined that certain of them will no longer be required under the provisions of the final rules. ERA has also determined that the mandatory use of certain other new facilities forms should be suspended pending their modification to conform to the revised procedural and evidentiary requirements of the final rules. ERA Form 309, Permanent Exemption for Cogeneration, and ERA Forms 317 and 318, General and Special Cost Test, will continue to be used until further notice. Accordingly, as specified below, all ERA forms identified by ERA's Federal Register Notice of December 20, 1979, with the exception of forms ERA 309, ERA 317 and ERA 318, are rescinded or their mandatory use is suspended until further notice.

FOR FURTHER INFORMATION CONTACT: John Milanese, Chief, Management and Information Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Washington, D.C. 20461, Phone: (202) 653-3662.

SUPPLEMENTARY INFORMATION:

Provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) (42 U.S.C. 8301 *et seq.*) were implemented by the Economic Regulatory Administration (ERA) of the Department of Energy on May 8, 1979, with interim rules published on May 15 and 17, 1979 (44 FR 28530 and 28950).

Based on various criteria, as well as general and specific evidentiary requirements for exemptions established by the interim rules, ERA developed a number of forms for use in filing petitions for certain exemptions for new facilities from the prohibitions of Title II of FUA. The notice of the availability of those forms and their mandatory use by petitioners for new facilities was published December 20, 1979 (44 FR 75451).

With the publication on June 6, 1980, of final rules implementing the provisions of Title II of FUA (45 FR 38276 and 38302), certain ERA forms, which were based upon the interim rules, need to be revised. Under the provisions of the final rules the use of these forms will continue to serve a useful purpose, but until they are revised, their mandatory use will be suspended. In other instances, continued use of the form is unnecessary. Therefore, those forms are being rescinded.

Pursuant to the above determinations, and as indicated below, certain ERA forms identified by ERA's notice of December 20, 1979 (44 FR 75451), are rescinded or their use is suspended until further notice.

Form number rescinded	Title
ERA-302	Temporary Exemption for Future Use of Synthetic Fuels for New Powerplants and New Installations.
ERA-304	Exemption Due to a Lack of Alternate Fuel for New Powerplants and New Installations.
ERA-305	Temporary and Permanent Site Limitation Exemption for New Powerplants and New Installations.
ERA-306	Temporary and Permanent Exemption Due to an Inability to Comply with Applicable Environmental Requirements.
ERA-313	Permanent Exemption for Peakload Powerplants.
ERA-314	Permanent Exemption for Intermediate Load Powerplants.
ERA-315	Permanent Exemption for New Installations Necessary to Meet Scheduled Outages.
ERA-319	Schedule C—No Alternative Power Supply.
ERA-320	Schedule D—Use of Mixtures: General Requirement for New Installations and Powerplants.
ERA-321	Schedule E—General Requirement for Alternative Sites (Powerplants).

Mandatory Use Suspended Until Further Notice

ERA-301A	General Form for New Powerplant Exemption Petition.
ERA-301B	General Form for New Installation Exemption Petition.

Form number rescinded	Title
ERA-307A	Permanent Exemption for New Powerplants Due to Inability to Obtain Adequate Capital.
ERA-307B	Permanent Exemption for New Installations Due to Inability to Obtain Adequate Capital.
ERA-312	Permanent Exemption for New Powerplants Necessary to Maintain Reliability of Service.

Continued Applications of Certain Forms. ERA has also decided to continue the use of certain other forms in appropriate cases pending the outcome of further rulemaking as follows:

(1) *ERA Form 309 (Permanent Exemption for Cogeneration for New Powerplants and Installations).* As announced in the final rules, ERA did not issue a final rule with respect to the cogeneration exemption, but announced its intention to publish another Notice of Proposed Rulemaking. Pending this new rulemaking, ERA will continue to consider petitions under §§ 503.37 and 505.27 of the interim rules. Accordingly, any petitioners filing for a cogeneration exemption under the interim rules shall use form ERA 309. In completing the form, the preparer may, however, (1) disregard references to a Fuels Decision Report (FDR) or filing fees (the requirements for which were deleted in the final rules) and (2), disregard the requirement for submission of any other ERA forms identified on form ERA 309. The support documentation enumerated in Part 5.0 of form ERA 309 which would have been addressed in a FDR must be included with the petition. After adoption of a final rule on the cogeneration exemption, ERA will make a determination as to the continued need for form ERA 309.

(2) *Forms ERA 317 and 318 (General and Special Cost Test for New Powerplants and New Installations).* As stated in the final rules, ERA did not issue a final rule with respect to the cost calculation used by petitioners in petitioning for an exemption based upon the cost of building and operating a unit to burn an alternate fuel. Sections 503.5 and 505.5 of the interim rules pertaining to those cost calculations were revoked. On June 13, 1980, ERA Issued a Notice of Proposed Rulemaking (45 FR 42190, June 23, 1980) to implement certain cost calculation provisions of FUA. In that notice petitioners for an exemption based on cost were given the option of using the cost calculations in the proposed rule as guidance. Petitioners using the proposed rule as guidance in making cost calculations in connection with the filing of a petition, may use

form ERA 317 or 318, as appropriate. However, the petitioner may disregard the requirement contained on those forms for submission of any other ERA forms, and the following sections of both forms need not be completed.

Section No.	Title
3.0	Summary of Cost Ratios.
5.0	Changes in Capital Outlays.
10.0	Changes to Annual Operations and Maintenance Expenditures.
12.0	Changes to Annual Fuel Expenditures.

Issued in Washington, D.C. on August 29, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-27249 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Decision and Order Under the Tertiary Incentive and Incremental Programs

To: Champlin Petroleum Company, Wilmington, California.

Subject: Designation of Allowed Additional Expenses and Establishment and Approval of Incremental Production for the Tar Zone Segment II, Fault Block III, Wilmington Field CO₂ Injection Project (Docket Number ERA-TA-80-07).

I. Introduction

On December 19, 1979, the Champlin Petroleum Company (Champlin) submitted an application for an order under 10 CFR 212.78 (e)(1) and (e)(3) which would permit tertiary incremental production from the project to be sold at market prices and designate allowed tertiary incentive expenses in addition to those allowed in the Appendix to 212.78 for immiscible fluid flooding projects, respectively.

The application concerns an immiscible carbon dioxide (CO₂) injection project that Champlin plans to undertake in Segment II of the Fault Block III Unit of the Wilmington Field in Los Angeles County, California (Segment II Project). Champlin, a subsidiary of the Union Pacific Corporation, is the Unit Coordinator and holds the majority working interest in the Fault Block III Unit. Champlin is also the operator of Segment II of the Unit.

II. Background

Since its discovery in 1936, the Wilmington Field has been developed intensively. Even after over forty years

of production, large volumes of reserves still remain in the ground. Most of these reserves however, can only be recovered by means of enhanced oil recovery (EOR) techniques. In fact, a number of EOR projects are already underway in different portions of the Field.

The Segment II project will be located on a 95 acre Tar Zone tract in the Fault Block III Unit of the Field in an unconsolidated sand reservoir at a depth of 2,500 feet having a net pay zone of 67 feet in a gross zone of 150 feet. An estimated 2.8 million barrels of 14° API crude oil are in place in the tract where the project is to be conducted. This tract is now in the latter stage of waterflooding. The water cut is currently 98.7 percent, and production has reached the economic limit.

The decline of production from the Fault Block III Unit requires embarking on an EOR project in an attempt to recover the reserves which will otherwise be permanently foregone. Because of the urban character of the project, an environmentally acceptable technique must be chosen, and special costs associated with that choice necessarily will be incurred. Champlin has decided to use an immiscible CO₂ displacement technique, an EOR method not previously implemented in the Wilmington Field—or elsewhere in California.

Champlin proposes a water-alternating-gas (WAG) immiscible CO₂ displacement in Segment II to optimize the areal and vertical sweep of the injected CO₂. This technique offers environmental protection since all the CO₂ will be gathered, compressed and reinjected into the oil reservoir rather than discharged to the atmosphere.

Section 212.78 provides two programs to assist a producer that is undertaking an EOR project. The incremental program provides that a producer may obtain an order from the Economic Regulatory Administration (ERA) permitting the producer to sell its incremental crude oil at market prices. Incremental crude oil is the amount of crude oil which will be produced from a property in excess of the amount of crude oil ("nonincremental crude oil") which would have been produced from the property without the commencement of an EOR project.

The incentive program permits a producer which is engaged in an EOR project to recover a portion of certain allowed expenses associated with that project. These allowed expenses are seventy-five percent of an environmental expense (as defined in § 212.78(c)), seventy-five percent of an engineering and laboratory expenses (as

defined in § 212.78(c)) or seventy-five percent of an expense listed in the Appendix to § 212.78. Pursuant to § 212.78(e)(3), a producer may apply for an ERA order designating additional allowed expenses. Champlin has requested to participate in both of these programs.

III. Findings and Analysis

A. The Tertiary Incentive Application

The CO₂ WAG technique proposed by Champlin for its Segment II project falls within the self-certifiable "immiscible gas displacement" technique, as defined in § 212.78(c). Since Champlin has the major interest in the Segment II property on which the project is located and will contribute to the costs of the Segment II project, Champlin is a qualified producer with respect to the Segment II project. As such it is eligible to recover on a self-certified basis the allowed expenses for an immiscible gas displacement project which are listed in the Appendix to § 212.78.

Champlin has requested an order pursuant to 212.78(e)(3) by which it could recover additional allowed expenses under the incentive program. Before issuing such an order, the Guidelines to § 212.78 require that ERA must determine that:

1. The application of the self-certifiable technique in the petitioner's project involves high levels of risk and cost, and
2. The offset of certain cost is required to make the project an attractive investment opportunity.

The technique chosen by Champlin is classified as immiscible rather than miscible gas displacement because of the nature of the crude to be displaced in the reservoir. Tar Zone crude oil is heavy, low gravity crude (14° API). Laboratory tests have demonstrated that Tar Zone crude oil is not miscible with carbon dioxide at the maximum pressure limit at which reservoir parting is expected due to the crude oil's physical characteristics. If it were not for the physical characteristics of this Tar Zone crude oil, miscibility would be likely. In fact, Champlin has indicated that its efforts with respect to the Segment II project will involve higher levels of risks and cost than many projects that achieve miscibility. For example, under the definition of miscible fluid displacement in § 212.78(c) there is a criterion that the injected fluid must be more than 10 percent of the reservoir pore volume being served. Champlin's Segment II Project has a planned initial slug size of 31 percent pore volume and a total slug

size (including recycle) of 68 percent pore volume.

The risk of process failure is particularly high in the case of the Segment II Project. Carbon dioxide displacement methods are ordinarily deemed potentially successful in reservoirs of crude with a gravity exceeding 25° API. The Tar Zone's 14° API crude makes the Segment II Project quite experimental. In addition, Fault Block II has been waterflooded since 1959. Authoritative professional opinion (the National Petroleum Council), holds that immiscible displacement is best practiced in reservoirs that have not been waterflooded. Thus, the risks are increased and the likelihood of success is further diminished.

A number of extraordinary high cost elements are associated with the Segment II project. The unusually large CO₂ slug size was noted above. Since the Wilmington Field is an old field, many of the existing wells must be redrilled, replaced, or abandoned. Thus, one new producer and one new injector must be drilled, four injectors and three producers redrilled, two injectors repaired and one well plugged and abandoned.

Operating expenses will be extraordinarily high due to the location of the project and the environmental concerns. The CO₂ salt water mixture being circulated and recovered is highly corrosive—a corrosiveness exacerbated by the already mentioned 98.7 percent watercut. Special chemicals must be continually employed to protect the storage, pressuring, and injection equipment from corrosion. Continuing laboratory work involving core tests, tracer tests, additional oil analysis, gas analysis, water analysis, emulsion treating tests, foaming tests, corrosion tests, and the like, will be required to maintain a delicate process control to meet hazards and risks, all of which cannot be predicted with precision.

In light of these considerations, we believe that Champlin should be allowed to recover the expenses which it could recover under self-certification if miscibility were attainable since its effort resembles that associated with miscible projects. In addition, we believe that Champlin should be allowed to recover some of the operating expenses which arise from the location of the project near the ocean and a highly urban area. Without the recovery of these expenses, the Segment II project would not be an attractive investment opportunity.

Therefore, we are proposing to designate the following as allowed expenses, in addition to those allowed

for a self-certifiable immiscible fluid flooding project:

1. Well costs as defined in Section 212.78(c).

2. The costs of field facilities, including compressors, phase separators, surge tanks, a glycol dehydrator, storage tanks, the vapor recovery system, heaters and heat exchangers.

3. The costs of valves, regulators, metering and control equipment necessary to maintain the injection fluid quality of the project.

4. The costs of fuel for operation of the compressors and prime movers.

5. The costs of produced fluid treatment required to assure environmentally acceptable disposal of waste fluid from the project.

B. The Tertiary Incremental Application

Champlin also has requested that it be permitted to sell the incremental oil from the project at uncontrolled prices. Before issuing such an order, ERA must determine:

1. That the project is a bona-fide tertiary enhanced recovery project (as defined in § 212.78(c));

2. That the project would not be economic at the otherwise applicable ceiling prices, and

3. The amount of incremental and non-incremental crude oil to be produced over the life of the project.

As set forth above, Champlin proposes to inaugurate an immiscible CO₂ injection project in the Wilmington Field. Inasmuch as immiscible non-hydrocarbon gas displacement is one of the EOR techniques defined in § 212.78(c), we have determined that the Segment II project meets the first requirement for certification as a Qualified Tertiary Enhanced Recovery Project.

Champlin states that even with its participation in the incentive program, the Segment II project will be uneconomic unless it receives the market price for the incremental production from the project. Our analysis of the information supplied by Champlin indicates that the Segment II project will not be economical if the incremental production does not receive the market price. Specifically, Champlin has indicated that even with the additional revenue from its participation in the incentive program the Segment II Project will sustain a negative rate of return. Thus, we are proposing to permit Champlin to sell the incremental production from the Segment II project at market prices.

Champlin has indicated that the current level of production is twenty-eight barrels per day. Accordingly, we

are proposing to designate all production above twenty-eight barrels per day after the initiation of the project to be incremental production.

If Champlin supplies information that shows that without the EOR project the level of production would decline below twenty-eight barrels per day, we will revise the amount of incremental production when we issue a final order. Moreover, if Champlin supplies information that it will abandon production from this zone unless it receives the market price for all production (including the current twenty-eight barrels per day), we will consider classifying all production from the date of this order as incremental. Any information on this subject should take into account the effects of phased deregulation and any exception relief granted for production from this zone.

IV. Comment Procedures

10 CFR 205.98 requires this Proposed Decision and Order to be published in the Federal Register and sets forth the procedures for entering objection or comment on this Proposed Decision and Order. Objections or comments must be received by the designated Office in ERA on or before October 8, 1980. All submissions with respect to this application will be available for public inspection in the DOE Reading Room, Room 5B-180, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays) and in the Public Affairs Office, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays).

V. Order

1. The Segment II, Fault Block III, Wilmington Field Immiscible Carbon-Dioxide Displacement project undertaken by Champlin Petroleum Company in the Wilmington Field, Los Angeles County, California is declared to be a qualified tertiary enhanced recovery project.

2. Except as otherwise indicated in each subparagraph below, the following expenses in addition to environmental expenses and engineering and laboratory expenses as defined in § 212.78(c) are declared to be allowed expenses for the Segment II, Fault Block III, Wilmington Field Immiscible Carbon-Dioxide Displacement project undertaken by Champlin Petroleum Company in the Wilmington Field, Los Angeles County, California:

a. The costs of injected fluids (excluding hydrocarbons) and additives for use at the project site.

b. Well costs as defined in § 212.78(c).

c. The costs of the following field facilities: compressors, phase separators, surge tanks, glycol dehydrator, storage tanks, and the vapor recovery system.

d. The costs of regulators, valves, metering and control equipment necessary to maintain the injection fluid quality of the project.

e. The costs of fuel for operation of compressors and prime movers.

f. The costs of produced fluid treatment required to assure environmentally acceptable disposal of waste fluids from the project.

In all other respects, Champlin's application for the designation of allowed expenses is hereby denied.

3. Crude oil production in excess of twenty-eight barrels per day from the Tar Zone in the project area in Segment II in the Fault Block III Unit, separately measured from all other crude produced from the Fault Block III Unit, commencing after the initiation of the Segment II project, is not subject to the ceiling price limitations of 10 CFR, Part 212, Subpart D.

4. This Order is based on the presumed validity of statements, assertions, and documentary materials submitted by Champlin. It is further based on our understanding that all actual and projected costs reported by Champlin represent fair and reasonable market price valuations for the expenditures involved, that all actual and projected production figures have been derived from reliable records or made on the basis of generally acceptable engineering practice, and that every effort has been made to insure that all cost, revenue and production estimates are reasonably accurate. This Order may be revoked or modified upon determination that the factual basis underlying the Order is incorrect.

5. Pursuant to this Order any qualified producer with respect to the Segment II project may recover all allowed costs specified herein which were incurred and paid on or after August 22, 1979, so long as such producer is engaged in the project described in this Order.

Issued in Washington, D.C., on August 28, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-27247 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-028]

**Public Service Electric & Gas Co.;
Application for Certification of the Use
of Natural Gas To Displace Fuel Oil**

Public Service Electric and Gas Company (Public Service), 80 Park Place, Newark, New Jersey 07101, filed on August 8, 1980, an application for certification of an eligible use of natural gas to replace fuel oil at eight of its electric generating stations located in New Jersey: Bergen in Ridgefield; Essex in Newark; Hudson in Jersey City; Kearney in Kearney; Linden in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the Economic Regulatory Administration

(ERA) and available for public inspection at the ERA, Docket Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.-4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Public Service states that the volume of natural gas for which it requests certification is approximately one billion cubic feet. This volume is estimated to displace the use of approximately 151,000 barrels of No. 6 fuel oil (0.3 percent sulfur) and approximately 4,000 barrels of No. 2 fuel oil (0.2 percent sulfur) or kerosene (0.1 percent sulfur) per year.

The quantities at each location are subject to considerable variation with changes in demand and availability of the various generating units, but estimated gas usage and resulting oil displacement volumes are listed below:

Location	Estimated volume (MMCF) ¹	Estimated oil displacement (in thousands of barrels)		
		0.3 pct. sulfur No. 6 oil	0.2 pct. sulfur No. 2 oil	0.1 pct. sulfur or kerosene
1. Bergen Generating Station, Ridgefield, New Jersey	444	88		
2. Essex Generating Station, Newark, New Jersey	12			2
3. Hudson Generating Station, Jersey City, New Jersey	386	59		
4. Kearney Generating Station, Kearney, New Jersey				
5. Linden Generating Station, Linden, New Jersey				
6. Sewaren Generating Station, Sewaren, New Jersey	146	24		
7. Edison Generating Station, Edison, New Jersey	12			2
8. Mercer Generating Station, Trenton, New Jersey				
Totals	1,000	151		4

¹MMCF is million cubic feet.

The eligible seller is the Delhi Gas Pipeline Corporation, P.O. Box 1396, Houston, Texas 77001. The gas will be transported by the Transcontinental Gas Pipeline Corporation, P.O. Box 1396, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, on or before September 15, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing on or

before September 15, 1980. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Public Service and any persons filing comments and will be published in the Federal Register.

Issued in Washington, D.C., on August 28, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-27252 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-025]

Gulf States Utilities Co.; Application for Certification of the Use of Natural Gas to Displace Fuel Oil

Gulf States Utilities Company (Gulf States), 285 Liberty Street, P.O. Box 2951, Beaumont, Texas 77704, filed on July 2, 1980 an application for certification of an eligible use of natural gas to displace fuel oil at its Roy S. Nelson Generating Station in Westlake, Louisiana, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the Economic Regulatory Administration (ERA) and available for public inspection at the ERA, Docket Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.-4:30 p.m., Monday through Friday, except Federal holidays. Delay in the issuance of this notice was caused by the applicant's request that his application be held in abeyance due to the possibility of changes in it.

In its application, Gulf States indicates that the volume of natural gas for which it requests certification is up to 100,000 Mcf per day. This volume is estimated to displace the use of approximately 16,129 barrels of No. 6 residual fuel oil (0.7 percent maximum sulfur) per day.

The eligible seller is the Koch Hydrocarbon Company, 1000 Capital National Bank Building, Houston, Texas 77002. The gas will be transported by the Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77002.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, on or before September 15, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing on or before September 15, 1980. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Gulf States and any persons filing

comments and will be published in the Federal Register.

Issued in Washington, D.C., on August 28, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-27251 Filed 9-4-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1579-7]

Public Hearing: Adequacy of Attention to Conservation and the Environment by the Department of Energy

The Environmental Protection Agency (EPA) announces a Public Hearing on the Department of Energy's (DOE's) Conservation and Solar Energy Program. The Hearings will be held at the Office of Personnel Management's Auditorium, 1900 E Street NW., Washington, DC, from 9 a.m. to 5 p.m., on September 24 and 25, 1980. The public is invited.

A pre-hearing document is also available for public review and comment. Requests for copies of this document and for more information on the Hearing should be addressed to the Environmental Protection Agency at the address below.

Section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577) directs the responsible agency (formerly the Council on Environmental Quality, now EPA) to carry out a continuing analysis of the Federal nonnuclear energy research and development program. The analysis assesses the "adequacy of attention" to energy conservation methods and environmental protection, as well as to the environmental consequences of the application of nonnuclear technologies.

The 1980 hearings will focus on the adequacy of attention to energy conservation and solar energy within the Department of Energy. Aspects of the review include:

(1) *Policy.* Have the potential contributions of conservation and solar programs been considered adequately by the Department in formulating its energy policies and in planning its programs?

(2) *Programs.* Has adequate attention been given to the implementation of DOE Conservation and Solar programs at the Federal, State, and local levels to ensure their maximum effectiveness?

(3) *Evaluation.* Has the Department equipped itself well to allocate resources wisely and to maintain quality

control over the management of its programs, by providing adequately for the evaluation of the effectiveness of its programs?

Under the direction of the Act, annual public hearings are held to provide the opportunity for interested individuals or groups to testify. The September Public Hearing has been preceded by a series of Section 11 regional workshops held during June and July in Raleigh-Durham, NC; San Francisco, CA; St. Paul-Minneapolis, MN; Denver, CO; and Portland, OR. The workshops dealt with Federal conservation and solar energy policy analysis; program evaluation; research, development, and applications; and State and local assistance programs. A half day session during the two day hearing will be focused on each of these four topics.

A Report to the President and Congress, to be available in January 1981, will summarize the 1980 Section 11 program. Specific findings and recommendations will be made relative to EPA's review of DOE's conservation and solar energy program.

Further information about this Hearing and the pre-hearing document, which will summarize the regional workshops and outline the issues for discussion at the Hearing, may be obtained by contacting Gregory Ondich (202) 426-9434.

Individuals or organizations wishing to testify at the Hearing should submit, by September 15, 1980, a brief summary of their intended testimony to: Section 11 Coordinator (RD-681), Office of Environmental Engineering and Technology, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Witnesses may submit written testimony and/or deliver an oral statement of up to ten (10) minutes in length. Additional time will be available for questions and comments from a panel of experts. An open period will be provided each day for unscheduled public testimony or questions. Transcripts of the September Hearing will be available to the public.

Dated: August 15, 1980.

Kurt Riegel,

Associate Deputy Assistant Administrator, Office of Environmental Engineering and Technology.

[FR Doc. 80-25415 Filed 9-5-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1595-2]

Approval of Proprietary Fuel Additive
AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of grant of a fuel additive waiver application.

SUMMARY: Pursuant to section 211(f)(4) of the Clean Air Act (Act), as amended, 42 U.S.C. 7454(f)(4)(1977), the Administrator of EPA hereby grants the waiver requested by Texaco, Inc. (Texaco) for a proprietary non-metallic nitrogenous fuel additive, designated as TC-11064, which provides detergent and anti-corrosion performance, to be used at a maximum concentration of 60 pounds per thousand barrels (PTB) of unleaded gasoline (1 barrel equals 42 gallons). This waiver is granted based on the Administrator's determination that the information that Texaco submitted was sufficient to establish that this proprietary additive will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

PUBLIC DOCKET: Copies of information on this waiver application are available for inspection in public docket EN-80-12 at the Central Docket Section (A-130) of the Environmental Protection Agency, Gallery I—West Tower, 401 M Street, SW., Washington, D.C. 20460, between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: James J. Kohanek, Attorney-Advisor, Field Operations and Support Division (EN-397), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 472-9367.

Decision of the Administrator

I. Introduction

Section 211(f)(1) of the Act makes it unlawful, effective March 31, 1977, for any fuel or fuel additive manufacturer to first introduce into commerce or increase the concentration in use of any fuel or fuel additive for use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act. Section 211(f)(4) of the Act provides that the Administrator of EPA may waive the prohibitions of section 211(f)(1) upon application of any fuel or fuel additive manufacturer if the Administrator determines that the applicant has established that such fuel or fuel additive will not cause or contribute to a

failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. If the Administrator does not act to grant or deny an application within 180 days of its receipt, the waiver shall be treated as granted.

Texaco filed an application on March 5, 1980, for a waiver for a fuel additive designated as TC-11064 but stated that the chemical composition of the fuel additive (hereafter proprietary additive) is confidential. The 180-day review period terminates September 1, 1980. A Federal Register notice was published on June 9, 1980 (45 FR 38440), acknowledging receipt of Texaco's application. The notice also solicited comments and data from other interested parties on Texaco's proprietary additive.¹ Texaco concluded from the data it submitted that unleaded gasoline containing this proprietary additive, at the maximum concentration specified, (60 PTB of unleaded gasoline), and its emission products do not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

II. Summary of the Decision

I have determined that Texaco has met the burden under section 211(f)(4) necessary to obtain a waiver for the proprietary additive as long as the concentration of the proprietary additive does not exceed 60 PTB of unleaded gasoline.

In determining whether an applicant has established the necessary burden, the Administrator may look at all of the available information and data including that provided by persons other than the applicant. The data submitted in this matter was solely by Texaco. I find that the foregoing information is sufficient to establish that the proprietary additive and its emission products will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the

¹ The information relevant to this decision which is proprietary involves the chemical composition of the fuel additive. Texaco made the proprietary additive available to qualified and interested parties for testing purposes provided that such party would execute a confidentiality agreement with Texaco.

vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

I hereby grant the waiver to Texaco for its proprietary additive provided the proprietary additive is used at a concentration which does not exceed 60 PTB of unleaded gasoline.

III. Method of Review

In order to obtain a waiver for a fuel or fuel additive (hereinafter, "fuel or fuel additive" will be collectively referred to as "additive") the applicant must establish that the additive and its emission products will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such system or device is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. This burden, which Congress has imposed on the applicant, if interpreted literally, is virtually impossible to meet as it requires the proof of a negative proposition, i.e., that no vehicle will fail to meet emission standards with respect to which it has been certified. Taken literally, it would require the testing of every vehicle. Recognizing that Congress contemplated a workable waiver provision, some mitigation of this stringent burden was deemed necessary. For purposes of the waiver provision, EPA has previously indicated that reliable statistical sampling and fleet testing protocols may be used to demonstrate that an additive under consideration would not cause or contribute to failure of emissions standards by vehicles in the national fleet (see, Waiver Decision on Tertiary Butyl Alcohol (TBA), 44 FR 10530 (1979)).

Emissions data submitted in support of a waiver request are analyzed by appropriate statistical methods in order to characterize the effect that an additive will have on emissions.² The statistical tests applied to the emission data provided in support of a waiver request for an additive which is expected to have an instantaneous

² The tests which are appropriate to characterize the emission effects of an additive depend on whether the additive is expected to have an instantaneous effect or a long-term deteriorative effect on emissions, or both. If a long-term deteriorative effect is expected, then 50,000 mile durability testing and materials compatibility testing would be necessary. The results would be analyzed using the tests used in the MMT decision (see 43 FR 41424 (1978)). For the reasons set out under section IV(C)(1), *infra*, EPA believes that the proprietary additive at issue in this decision would probably have an instantaneous effect. Thus, the method of review set out in the decision, which is designed to test instantaneous effects, would apply.

emissions effect are: Paired Difference Test, Sign of Difference Test, and Deteriorated Emissions Test (a test which compares the deteriorated emissions with the emission standards).³ These statistical tests are described in Appendix 1 to this decision.

An alternative to providing sufficient data necessary to enable conclusive statistical results to be performed is to make judgments based upon a reasonable theory regarding emission effects. These judgments should be supported with confirmatory testing. If there exists a reasonable theory which predicts the emission effects of an additive, an applicant may only need to conduct a sufficient amount of testing to demonstrate the validity of such theory. This theory along with confirmatory testing then form the basis from which the Administrator may exercise his judgment on whether the additive will cause or contribute to a failure of any emission control device or system to achieve compliance by the vehicle with emission standards. In addition to emissions data, EPA also reviews data on materials compatibility, driveability, fuel composition and specifications. This information is necessary to fully characterize an additive, and to determine whether such additive will cause or contribute to a failure of vehicles to comply with appropriate emission standards. Such failure could result if driveability is impaired. Driveability problems such as lean misfire and repeated starting lead to increased emissions. Materials compatibility problems could lead to failure of fuel systems which are designed to precise tolerances. Deviations beyond these tolerances could result in greater emissions. Volatility specifications could demonstrate a tendency for high evaporative losses.

IV. Analysis

A. Exhaust Emission Data

Exhaust emission data were submitted on fifteen vehicles tested on a base fuel and a base fuel containing 60 PTB of the proprietary additive (hereinafter referred to as "waiver fuel").⁴ Summarized in Appendix 2 are the numerical results of the three

statistical tests. Tests 1 and 2 are designed to determine whether the proprietary additive contributes to a failure of vehicles to meet emission standards. Test 3 is designed to determine if the proprietary additive will cause the failure of vehicles to meet emission standards.

With regard to the application of the Paired Difference Test (Test 1), the hydrocarbons (HC) and carbon monoxide (CO) emissions decreased and oxides of nitrogen (NOx) emissions were not adversely affected. To be able to utilize the Paired Difference Test to arrive at a conclusion, for each pollutant, the upper bound of the confidence interval must be equal to or less than ten percent of the applicable standard, e.g., with a HC standard of 1.5 grams per mile, the upper bound of the interval must be 0.15 or less, when the interval contains zero. In this instance, the intervals for HC and CO pollutants were below zero while the NOx interval contained zero but maintained an upper bound within 10% of the applicable standard.

The results of test 2 indicate a low confidence level that CO and HC emissions will increase. A somewhat higher confidence (84.9%) of an increase in NO_x was observed. This level is still below the 90% confidence level at which we would conclude that NO_x emissions increase.

The results of the third test indicate that the proprietary additive containing fuel satisfied the criterion for this sample, and would not cause vehicles to exceed emission standards when emissions deterioration for 50,000 miles was included in the analysis.

Because tests 1 and 2 for the proprietary additive containing fuel show no adverse on emissions as a group, and the analysis under test 3 shows that emission standards were not exceeded, I conclude that the proprietary additive does not cause or contribute to the failure of vehicles to meet exhaust emission standards.

B. Materials Compatibility

Texaco addressed the issue of materials compatibility by conducting tests on metallic and non-metallic components of various test vehicles.

The non-metallic fuel system test parts were obtained from the 1979 automobiles with oxidation catalysts, and included parts from the fuel pump, and carburetor as well as the fuel line filter and hose. The parts were soaked for four weeks under ambient conditions in the base fuel and fuel containing 60 PTB of the proprietary additive. The results indicate satisfactory compatibility since no visible

differences were observed between those parts exposed to the base fuel and those parts exposed to the fuel containing the proprietary additive.⁵

The effect of the proprietary additive on steel was evaluated under the National Association of Corrosion Engineers (NACE) Test. Corrosion tests on carburetor metal was performed utilizing a fuel/distilled water mixture soak for two weeks at ambient temperature. Brass, copper and solder strips were stored in a fuel/distilled water mixture for one week at 120° F, while aluminum and magnesium strips were stored in the mixture at ambient temperature for two weeks. The data indicate satisfactory results under the particular conditions for all metallic parts tested.⁶

C. Technical Issues

The varying nature of fuels and fuel additives may alter the type of testing required to determine whether such fuels or fuel additives cause or contribute to the failure of vehicles to comply with emission standards. The following examination reviews the available data and determinations which can be made as to proprietary additive in regard to the testing of durability, evaporative emissions and driveability.

1. *Durability.* A fuel or fuel additive which is expected to affect the performance of emission control devices or systems adversely over a period of time and mileage may require 50,000 mile durability testing to determine whether such effects exist. On the other hand, a fuel or fuel additive which is expected to have only an instantaneous emission effect on a vehicle could be judged by comparing back-to-back emission tests on the same vehicle.⁷ It is possible that a fuel or fuel additive may operate to cause both an instantaneous increase and an increased deterioration of emission control systems or devices. If so, then both durability emissions data and instantaneous emissions data may be required.

Upon examination of the available data on materials compatibility and the chemistry of the fuel additive, EPA has concluded that 50,000 mile durability testing data are not essential to this waiver decision. The purpose of the detergent proprietary additive is to provide deposit control and anti-corrosion performance. The physical

³ These tests may only be performed when sufficient data are available.

⁴ The vehicles are fully described in Table 1 of the Characterization Report. (See, Characterization Report, Analysis of Data to Characterize the Impact of TC-11064 on Tailpipe and Evaporative Emissions, document number II-A, Public Docket EN 80-12 (hereinafter referred to as "Characterization Report"). Also, the physical and chemical properties of the respective fuels are presented in Tables 2 and 3 of the Characterization Report.

⁵ See Table 8 in the Characterization Report.

⁶ See Table 9 in the Characterization Report.

⁷ Back-to-back testing involves measuring sequentially, the emissions from a particular vehicle, first operated on a base fuel not containing the waiver request fuel additive and then on the base fuel containing the additive.

properties for the non-metallic proprietary additive indicate that formation of deposits as a reactant product is minimal since the percent ash is less than 0.001%.⁸

An examination of the available materials compatibility information and the low concentrations of the proprietary additive in the unleaded fuel (240 parts per million (ppm)) allows me to determine that the emissions effect, if any, of this fuel additive would be of the instantaneous and not of a deteriorative nature.⁹ A reasonable estimate of a test vehicle's emission performance on this fuel additive can be obtained using back-to-back emission test data in lieu of requiring 50,000 mile durability testing.

2. *Evaporative Emissions.* The proprietary additive is sufficiently high in molecular weight relative to commercial gasoline to possess a low vapor pressure, and at the low concentration utilized, should have a negligible effect on evaporative emissions. This is verified by comparing the Reid vapor pressures (RVP) of the base fuel and fuel with the proprietary additive.¹⁰ Also, the distillation properties of the waiver fuel are within the ASTM specifications¹¹ and are similar to the base fuel.¹²

3. *Driveability.* Poor driveability caused by a fuel or fuel additive could impact emissions either through engine malfunction or misadjustment of engine components in an effort to improve driveability. An appreciable increase in the volume of oxygen from an additive could affect the fuel to air ratio and result in lean misfire. As noted, the concentration of the proprietary additive is very small and the oxygen contributed by it in combustion will be minimal compared to the volume of oxygen already present during combustion in unleaded gasoline. The fuel to air ratio should not be affected by the low volume of oxygen. It is therefore concluded that driveability is not a significant problem provided resulting fuel is manufactured according to accepted industry practices.

V. Findings and Conclusions

I have determined that Texaco has established that its proprietary additive will not cause or contribute to a failure

⁸ See Table 4 in the Characterization Report.

⁹ See Tables 8 and 9 in the Characterization Report.

¹⁰ See Tables 2 and 3 in the Characterization Report.

¹¹ Annual Book of ASTM Standards, ASTM D-86.

¹² Two different batches of the base fuel were used as indicated by Tables 2 and 3 in the Characterization Report since the two types of catalysts were tested at differing times.

of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

I hereby grant the waiver to Texaco for its proprietary additive provided the proprietary additive is used at a concentration which does not exceed 60 pounds per thousand barrels (PTB) of unleaded gasoline.

This is a final Agency action. Jurisdiction to review this action lies exclusively in the U.S. Court of Appeals for the District of Columbia Circuit. Under section 307(b)(1) of the Act, judicial review of this action is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of September 5, 1980. Under section 307(b)(2) today's action may not be challenged later in a separate judicial proceeding brought by the Agency to enforce a statutory or regulatory requirements.

Dated: August 29, 1980.

Barbara Blum,
Acting Administrator.

Appendix 1—Statistical Criteria

The following is a brief description of the statistical tests used to characterize the emission effects of an additive:

(1) *The Paired Difference Test*

For each vehicle tested on a base fuel and on the waiver fuel or fuel additive, the difference between the waiver fuel or fuel additive emissions and the base fuel emissions is calculated. A 90% confidence interval is constructed for the mean differences. If the resulting interval lies entirely below zero it is indicative of no adverse effect from this waiver fuel or fuel additive. If the entire interval is above zero, it is indicative of an adverse effect from the waiver fuel or fuel additive. If the interval contains zero, there is arguably no difference between the base fuel and the waiver fuel or fuel additive with regard to emissions provided the confidence interval is small.

(2) *The Sign of Difference Test*

For each vehicle tested with a base fuel and the waiver fuel or fuel additive, the sign of the emission difference between the waiver fuel or fuel additive emissions and a base fuel emissions is ascertained. This test is designed to determine whether the number of vehicles demonstrating an increase (+) in emissions with the waiver fuel or fuel additive significantly (at a 90% confidence level) exceeded those

showing a decrease (-) in emissions with the waiver fuel or fuel additive.

(3) *The Deteriorated Emissions Test*

For each vehicle, the effect the waiver fuel or fuel additive had on emissions is determined. Any change in emissions, either positive or negative, attributable to the waiver fuel or fuel additive is added to the 50,000 mile certification emission value of the certification emission vehicle which the test vehicle represented. This incremented 50,000 mile emission value is compared to emission standards to determine if it did or did not exceed the standards. Either a pass or fail is assigned accordingly. The pass/fail results are analyzed using a one-sided sign test.

The Paired Difference Test and the Sign of Difference Test are designed to determine whether the waiver fuel or fuel additive has an adverse effect on emissions as compared to the base fuel. Each characterizes a different aspect of adverse effect. The Paired Difference Test determines the mean difference in emissions between the base fuel and the waiver fuel or fuel additive. The Sign of Difference Test assesses the number of vehicles indicating an increase or decrease in emissions. The two tests are considered together in evaluating whether an adverse effect exists to assure that a mean difference determination is not unduly influenced by very high or very low emission results from only a few vehicles.

The Deteriorated Emissions Test analysis indicates whether the waiver fuel or fuel additive causes a vehicle to fail to meet emission standards. This test examines each vehicle's emission performance as compared to each pollutant standard.

It is useful to perform this analysis even if the first two analyses indicate the waiver fuel or fuel additive has no adverse effect. The analysis indicates whether the emissions from any particular type of vehicles or special emission control technologies are uniquely sensitive to the waiver fuel or fuel additive, thus causing vehicles to fail to meet emission standards. This effect could be masked in the previous analyses which consider the emissions results as a group without distinguishing the emissions impact on subgroups.

Appendix 2—Numerical Summary of the Statistical Tests

1. *Paired Difference Test*

Listed below are the 90% confidence intervals around the mean difference between the base fuel and the waiver fuel emission level.

- a. Hydrocarbons (HC) -0.102 to -0.014.
- b. Carbon Monoxide (CO) -1.81 to -0.22.

c. Oxides of Nitrogen (NOx) -0.065 to 0.095.

2. Sign of Difference Test

Set out below is the percent confidence with which one could state that the proprietary additive will cause an increase in the emissions over the base fuel emissions based on the observed increases in emissions out of the total vehicles tested (in parentheses are the number of observed increases out of the total sample size).¹³

- a. HC (%s) 0.4% confidence of an increase.
- b. CO (%s) 5.9% confidence of an increase.
- c. NOx (%s) 84.9% confidence of an increase.

3. Deteriorated Emissions Test

Listed below are the number of vehicles whose incremental 50,000 mile emission values exceed emission standards.¹⁴

- a. HC—None out of fourteen.
- b. CO—None out of fourteen.
- c. NOx—One out of fourteen.

[FR Doc. 80-27179 Filed 9-4-80; 8:45 am]
BILLING CODE 6550-01-M

FRL 1600-5

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), U.S. Environmental Protection Agency.

PURPOSE: This Notice Lists the Environmental Impact Statements (EISS) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of August 25, 1980 to August 29, 1980.

REVIEW PERIODS: The 45-day Review Period for Draft EIS's listed in this notice is calculated from September 5, 1980 and will end on October 20, 1980. The 30-day review period for final EIS's as calculated from September 5, 1980 will end on October 6, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the notice. If a Federal

agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For public availability and/or hard copy reproduction of EIS's filed prior to March 1980: Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

For hard copy reproduction or microfiche: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209 (703) 558-8270.

For further information contact: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ regulations became effective. Pursuant to section 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of August 25, 1980 to August 29, 1980 the 30-day review period will be calculated from September 5, 1980. The review period will end on October 6, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of August 25, 1980 to August 29, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and county(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and county(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous notices of availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPS's attention.

Dated: September 3, 1980.

William N. Hedeman, Jr.,
Director, Office of Environmental Review (A-104).

Appendix I

EIS's Filed With EPA During the Week of August 25 Through 29, 1980

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A, Admin. Building, Washington, D.C. 20250 (202) 447-3965.

Forest Service

DRAFT

Alaska National Lands Withdrawal Request, Alaska, August 28: This EIS describes the decision of the Secretary of Agriculture through the Secretary of the Interior for a proposed withdrawal under section 204(c) of Pub. L. 94-579 Federal Land Policy and Management Act of 1978 for national forest lands in Alaska. It describes a range of three alternatives with various time options considered in identifying the action. The anticipated effects to the region's present programs and the 12 points of analysis as required by section 204(c) are presented. The rationale for the proposed action is described. (EIS Order No. 800642).

The review period for the above EIS will end on October 6, 1980. (See appendix II)
Verde Wild and Scenic River Study, Yavapai and Gila Counties, Ariz., August 28: Proposed is the inclusion of a segment of the Verde River, Yavapai and Gila Counties, Arizona, in the wild and scenic rivers system. The portion of the river to be studied is 78 miles long within the Coconino, Prescott and Tonto National Forests, of which 72.5 is recommended for designation. Of the 72.5 miles of river affected, 33 miles meet the criteria for a recreational river, 22 miles meet scenic river criteria, and the remaining 17.5 miles are suited for a wild river classification. In addition to no action, the alternatives consider designation of certain sections of the river, and designation of all 78 miles. (EIS Order No. 800835).

RURAL ELECTRIFICATION ADMINISTRATION

Final

Bear Creek, Wilson Bend and Hamilton areas, lease, several counties in Alabama, August 29: Proposed is the issuance of

¹³ For this test, an increase in emissions exists when the emission level for the waiver fuel is greater than the emission level for the base fuel and is assigned a (+). Similarly, a lower emissions level for the waiver fuel than the base fuel is a decrease in emissions and is assigned a (-).

¹⁴ The vehicle identification information was not available for one of the vehicles tested and was therefore excluded from this procedure.

financial assistance to provide long-term financing for the purchase of a leasehold interest by the Alabama Electric Corporation from the Kinlock Coal Company. The leaseholds involve three operating mines all located in Alabama. The mines are: (1) Bear Creek located in Marion and Franklin Counties, (2) Wilson Bend located in Winston County, and (3) Hamilton located in Lamar and Marion Counties. Coal reserve estimates reveal approximately 8.5 million tons in the mines to be purchased. The coal will be used for the three unit 495 MW, total net, Tombigee Station near Jackson, Alabama. The coal would be transported by rail and/or barge. (USDA-REA-EIS (ADM)-79-1-F). Comments made by: USDA, DOI, EPA, State agencies. (EIS Order No. 800650.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314 (202) 272-0121.

Final

Delta Pumping Plant, operation, Contra Costa and Alameda Counties, Calif., August 29: The California Department of Water Resources has applied for permits from the Corps for the existence and operation of the Delta Pumping Station, intake channel, Clifton Court Forebay and Appurtenant facilities. The plant is located at the head of the California Aqueduct Northwest of Tracy, California near the Contra Costa and Alameda County line. The proposed facilities will divert water to service areas in the south San Francisco Bay, San Joaquin Valley and southern California. (Sacramento District.) Comments made by: FERC, DOC, DOI, EPA, State and local agencies groups. (EIS Order No. 800645.)

Caruthersville Harbor, Navigation Channel, Pemiscot County, Mo., August 29: Proposed is the Development of a 4,680-foot navigation channel north of the city of Caruthersville, Pemiscot County, Missouri. The dredged navigation channel would be 150-foot wide, with a 300-foot turning basin in the upstream portion of the chute and a nine-foot depth. The dredged material would be used to create a raised fill area along the west bank of the chute. This fill of some 200 acres would be combined with 30 acres of fill provided by local interests for use as a harbor facility. The alternatives considered no action, alternative harbor sites, and various site harbors. (Memphis district.) Comments made by: DOI, HUD, USDA, EPA, State and local agencies. (EIS Order No. 800647.)

DEPARTMENT OF DEFENSE, ARMY

Contact: Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN-ZCE Office of the Assistant Chief of Engineers, Department of the Army, Room 1E876, Pentagon, Washington, D.C. 20310 (202) 694-4269.

Final

RMA expanded north boundary containment operations, Adams County, Colo., August 29: Proposed is the construction and operation of an expanded north

boundary containment/treatment system for contaminated groundwater control at Rocky Mountain Arsenal in Adams County, Colorado. The plan involves extending the existing pilot containment system which consists of a groundwater collection subsystem, a water purification subsystem, and a groundwater recharge subsystem. The alternatives considered are: (1) No further expansion of the pilot system, and (2) Delayed action with initiation of only source control measures. Comments made by: USDA, COE, HEW, DOI, EPA. (EIS Order No. 800651.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Steve Torok, Region III Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106 (215) 597-8334.

Final

Bushkill-Lower Lehigh/Nazareth Wastewater Mgmt., Northampton County, Pa., August 29—Proposed is the awarding of funding for the construction of wastewater management facilities for the following communities in Northampton County, Pennsylvania: Bushkill Township, Palmer Township, Plainfield Township, Stockertown Borough, Tatany Borough, and Upper Nazareth Township. The recommended action includes: (1) Gravity sewers, pump stations, and force main as means of collection and transport; (2) Treatment of wastewater from Bushkill Watershed at Easton Stp; (3) Treatment of Wastewater from the Schoeneck Creek Watershed at the RBC plant; (4) Decentralized wastewater Management; and (5) Individual Household need areas. Comments made by: TREA, HEW, HUD, USDA, DOI, FEMA, State and local agencies, groups, individuals and businesses. (EIS Order No. 800653.)

Contact: Mr. Bill Geise, Region VIII, Environmental Agency, 1860 Lincoln Street, Denver, Colorado 80295 (303) 837-4831.

Draft

Poplar R. Basin/Canadian Power Plant, agreement, Sheridan, Daniels, and Roosevelt Counties, Mont., August 26—Proposed is an agreement between the U.S. and Canada concerning the natural transboundary flow on the Poplar River, in the counties of Sheridan, Daniels, and Roosevelt, Montana. Need for the agreement results from the construction of a coal-fired power plant currently under construction on the east fork of the Poplar River in Canada, four miles north of the international boundary. The agreement will deal with flow apportionment. The alternatives address: (1) Atmospheric emissions and control, and (2) flow apportionment. (EPA-908/5-80-003). (EIS Order No. 800637.)

FEDERAL ENERGY REGULATORY COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Room 3000 S-22, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8228.

Final

Dinkey Creek Project, License, Fresno County, Calif., August 29—Proposed is the issuance of a construction license for the Dinkey Creek project in Fresno County, California. The license would authorize the construction of a conventional hydroelectric facility including: (1) a dam and reservoir on Dinkey Creek, (2) a power tunnel, (3) two powerhouses, (4) three diversion tunnels, (5) access roads, (6) recreational facilities, and (7) appurtenant facilities. The license would also authorize the operation of the facility for the production of electricity. Five alternatives are considered in the areas of rates, design, site location, forms of generating power, and denial of license. (FERC No. 2890). Comments made by: COE, DOI, AHP, USDA, DOC, HEW, State and local agencies, groups, individuals, and businesses. (EIS Order No. 800649.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6300.

Draft

HUD Assisted projects near hazardous operations, Policy, August 27: Proposed are factors for consideration when siting HUD assisted projects near hazardous operations handling conventional fuels or chemicals of an explosive or flammable nature. These factors will formulate a HUD policy for community growth patterns and programs. Implementation procedures would estimate potential intensities of thermal radiation and blast overpressure and recommend appropriate separation distances between HUD assisted projects and hazard sites. (EIS Order No. 800636.)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Pueblo downtown hotel/convention center, UDAG, Pueblo County, Colo., August 28: Proposed is the awarding of a UDAG for the Pueblo Downtown Hotel/Convention Center project in the city and county of Pueblo, Colorado. The complex will be composed of separate but integrated facilities including: (1) a conference center, (2) a hotel, (3) a retail complex, (4) a parking facility, and (5) associated on-site improvements. (EIS Order No. 800643.)

Final

White Center drainage improvement project, King County, Wash., August 29: Proposed is the awarding of a UDAG for drainage improvements within White Center located in King County, Washington. The improvements will include replacement of existing pipes, acquisition of flood-prone lands, and development of acquired lands for stormwater retention/detention and open

space use. The alternatives considered include: (1) no action, (2) nonstructural, (3) minimum structural improvement with open space, (4) minimum structural improvement with open space and a park and ride facility, (5) medium structural improvement with development, and (6) maximum structural improvement with development. Comments made by: EPA, State and local agencies. (EIS Order No. 800652.)

Final Supplement

Flower Mound New Town, termination, Denton County, Tex., August 26: This statement supplements a final EIS, No. 720664, filed 8-31-71 concerning issuance of HUD home mortgage insurance for the Flower Mound New Town located in Flower Mound, Denton County, Texas. This statement concerns the termination of title VII status and assistance and implementation of a plan to dispose of project land to various parties. Comments made by: COE, DOI, DOT, AHP, EPA, local agencies. (EIS Order No. 800638.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, environmental project review, Room 4256 Interior Bldg., Department of the Interior Washington, D.C. 20240 (202) 343-3891.

BUREAU OF LAND MANAGEMENT

Final

Greenriver/Hams Fork, Coal Lease, Several counties in Colorado and Wyoming, August 29: Proposed is the leasing of 13 tracts for coal mining in the counties of Moffat, Rio Blanc and Routt, Colorado and Albany and Carbon Counties, Wyoming. The preferred alternative would involve the production of 719.5 million tons of coal. Coal production from these tracts is expected to meet a 1987 annual shortfall of new production of 18.5 million tons and to allow existing mines to continue operation. (FES-80-27.) Comments made by: DOI AHP, USDA, DOC, EPA, DOT, DOE, State and local agencies, groups, individuals and businesses. (EIS Order No. 800648.)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Carl Bausch, Chief, Section of Energy and Environment, Interstate Commerce Commission, Room 3371, 12th & Constitution Ave., N.W., Washington, D.C. 20423 (202) 275-7658

Draft

Somerset Railroad, construction and operation, Niagara County, N.Y., August 28: Proposed is construction of a 9.9 mile rail line between Gasport and Somerset, in Niagara County, New York. The line would connect with an existing rail line in Gasport and serve an existing steam-electric generating facility in Somerset. The alternatives consider various modes of transporting coal. The cooperating agencies are, the State of New York, FWS, SCS, COE, USCG, and FAA. (Finance Docket No. 29254.) (EIS Order No. 800644.)

DEPARTMENT OF JUSTICE

Contact: Ms. Lois Schiffer, Chief, General Litigation, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 (202) 633-2704.

BUREAU OF PRISONS

Draft

Phoenix Federal Correctional Institutional, Maricopa County, Ariz., August 29: Proposed is the construction of a Federal correctional institution in Phoenix, Maricopa County, Arizona. The facility will contain an area of approximately 170,000 gross square feet of low profile buildings on 160 acres and will house approximately 300 inmates with possible future expansion to house another 200 prisoners. The alternatives consider: (1) use of other sites, (2) care of inmates at State or county institutions, and (3) no action. (BOP-223.) (EIS Order No. 800654.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 428-4357.

Federal Highway Administration

Final

NB-31 Improvement, Gretna to Louisville, Sarpy County, Nebr., August 28: Proposed is the improvement of NB-1 in the cities of Gretna and Louisville, Sarpy County, Nebraska. The improvement length extends for 11 miles from the Gretna/I-80 Interchange, through the Schramm Park State recreation area, to Louisville at the NB-31/NB-50 interchange. The project has been

divided into two portions. The first portion extends from I-80 to the north entrance of the park for 4 miles and will involve reconstruction to two lanes, and construction of a new bridge. The second portion extends from the park entrance to NB-31/NB-50, for 7 miles, and will involve reconstruction to two lanes, and relocation of the roadway through the park. (FHWA-NB-EIS-78-04-F)

Comments made by: USDA, COE, DOI, EPA, HUD, State and local agencies businesses, (EIS Order No. 800639.)

OH-2, Huron Bypass, improvement and relocation, Erie County, Ohio, August 29: Proposed is the improvement and relocation of OH-2 to bypass the city of Huron in Erie County, Ohio. The improvement would extend for 6.06 miles and link the existing OH-2 segments east and west of the project completing an 80 mile uninterrupted length of freeway serving Ohio's Lake Erie shoreline area. The facility would be a divided four lane limited access highway. The alternatives consider: (1) other corridors, (2) improvement of existing routes, (3) improvement of alternative routes, and (4) use of other transportation modes. The Cooperating agency is the State of Ohio. Comments made by: DOI, EPA, HUD, AHP, USDA, COE, State and local agencies. (EIS Order No. 800646.)

VETERANS ADMINISTRATION

Contact: Mr. Willard Sittler, Director, Office of Environmental Activities (004A), Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420 (202) 389-2526.

Final

National Memorial Cemetery of the Pacific, Honolulu County, Hawaii, August 28: Proposed is a master plan for the national VA memorial cemetery of the Pacific located in the punchbowl crater, Honolulu City and County, Hawaii. Major development elements of the plan include a visitor center/ administration building and parking facility, an addition to the maintenance facility, columbaria facilities, and major improvement to the overlook. The plan would expand burial capacity of the cemetery and improve its overall operations and appearance. Comments made by: AHP, USDA, EPA, FEMA, DOT, DOI, HUD, State and local agencies, groups and individuals. (EIS Order No. 800640.)

EIS's Filed During the Week of Aug. 25 Through 29, 1980

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Orig. Agency No.
Alabama	Several	Final	Bear Creek, Wilson Bend and Hamilton Areas, Lease	800650	08-29-80	USDA
Alaska		Draft	Alaska National Lands Withdrawal Request	800642	08-26-80	USDA
Arizona	Gila	Draft	Verde Wild and Scenic River Study	800635	08-26-80	USDA
	Maricopa	Draft	Phoenix Federal Correctional Institution	800654	08-29-80	DJUS
	Yavapai	Draft	Verde Wild and Scenic River Study	800635	08-26-80	USDA
California	Alameda	Final	Delta Pumping Plant, Operation	800645	08-29-80	COE
	Contra Costa	Final	Delta Pumping Plant, Operation	800645	08-29-80	COE
	Fresno	Final	Dinkey Creek Project, License	800649	08-29-80	FERC
Colorado		Final	Greenriver/Hams Fork, Coal Lease	800648	08-29-80	DOI
	Adams	Final	RMA Expanded North Boundary Containment Operations	800651	08-29-80	USA
	Pueblo	Draft	Pueblo Downtown Hotel/Convention Center, UDAG	800643	08-28-80	HUD
Hawaii	Honolulu	Final	National Memorial Cemetery of the Pacific (RD)	800640	08-28-80	VA
Missouri	Pemiscot	Final	Caruthersville Harbor, Navigation Channel	800647	08-29-80	COE
Montana	Daniels	Draft	Poplar R. Basin/Canadian Power Plant, Agreement	800637	08-26-80	EPA
	Roosevelt	Draft	Poplar R. Basin/Canadian Power Plant, Agreement	800637	08-26-80	EPA
	Sheridan	Draft	Poplar R. Basin/Canadian Power Plant, Agreement	800637	08-26-80	EPA

EIS's Filed During the Week of Aug. 25 Through 29, 1980

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Orig. Agency No.
Nebraska	Sarpy	Final	NB-31 Improvement, Gretna to Louisville	800639	08-26-80	DOT.
New York	Niagara	Draft	Somerset Railroad, Construction and Operation	800644	08-28-80	ICC.
Ohio	Erie	Final	OH-2, Huron Bypass, Improvement and Relocation.	800646	08-29-80	DOT.
Pennsylvania	Northampton	Final	Bushkill-Lower Lehigh/Nazareth Wastewater Mgmt.	800653	08-29-80	EPA.
Policy		Draft	HUD Assisted Projects Near Hazardous Operations	800636	08-27-80	HUD.
Texas	Denton	FSUPP	Flower Mound New Town, Termination	800638	08-26-80	HUD.
Washington	King	Final	White Center Drainage, Improvement Project	800652	08-29-80	HUD.
Wyoming		Final	Greenriver/Hams Fork, Coal Lease	800648	08-29-80	DOI.

Appendix II.—Extension/Waiver of Review Periods on EIS's Filed With EPA

Federal agency contact	Title of EIS	Filing status accession No.	Date notice of availability published in "Federal Register"	Waiver extension	Date review terminates
DEPARTMENT OF AGRICULTURE					
Mr. Barry Flamm, Director, Office of Environmental Review, Office of the Secretary, U.S. Department of Agriculture, Room 412-A, Admin. Bldg., Washington, D.C. 20250, (202) 447-3965.	Verde Wild and Scenic River Study, Yavapai and Gila Counties, Arizona.	Draft 800635	09/05/80 (See Appendix I).	Extension	12/03/80.
	Alaska National Lands, Withdrawal.	Draft 800642	09/05/80 (See Appendix I).	Waiver	10/06/80.
CORPS OF ENGINEERS					
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-2482.	Delta Pumping Plant and Related Facilities, Operation, Permits, California.	Final 800645	09/05/80 (See Appendix I).	Extension	10/13/80.
INTERSTATE COMMERCE COMMISSION					
Mr. Carl Bausch, Chief, Section of Energy and Environment, Interstate Commerce Commission, Room 3371, 12th and Constitution Ave., NW., Washington, D.C. 20423, (202) 275-7658.	Somerset Railroad, Construction and operation, Niagara County, New York.	Draft 800644	09/05/80 (See Appendix I).	Extension	11/03/80.

Appendix III.—EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency

Federal agency contact	Title of EIS	Filing status accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—Notice of Official Retraction

Federal agency contact	Title of EIS	Status No.	Date notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA

Federal agency contact	Title of report	Date made available to EPA	Accession No.
CORPS OF ENGINEERS			
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.	Ashtabula Harbor, Operation and Maintenance, Ashtabula County, Ohio.	08/28/80	800641.

Appendix VI.—Official Correction

Federal agency contact	Title of EIS	Filing status accession No.	Date notice of availability published in "Federal Register"	Correction
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT				
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6300.	White Center Drainage Improvement Project, King County, Washington.	Draft 800634	09/05/80	This EIS was not filed with the EPA at the time of distribution. The EIS should have appeared in the June 6, 1980 Federal Register. The 45 day comment period began on June 6, 1980 and was terminated on July 21, 1980.

FEDERAL MARITIME COMMISSION

[Agreement No. T-3917]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis (OEA) has determined that the environmental issues relative to the referenced agreement do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* and that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

Proposed Agreement No. T-3917 is a Terminal Operating Contract between Farrell Lines Incorporated (Farrell) and its wholly-owned subsidiary, Howland Hook Marine Terminal Corporation (the Operator). The terms and conditions of the proposed agreement are substantially the same as those of the existing contractual relationship between Farrell and the Operator as was originally set forth in Agreements Nos. T-2903, T-2903-A-1, T-2903-B and T-2903-3. The proposed new agreement is intended to incorporate into a single document the existing contractual relationship between the parent, Farrell, and the Operator, without reference to the other aforementioned agreements.

The Commission's final resolution of Agreement No. T-3917 will cause no significant adverse environmental effects in excess of those created by existing uses.

The environmental assessment is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725. Interested parties may comment on the assessment on or before September 25, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that the party has no comment to make.

Francis C. Hurney,
Secretary.

[FR Doc. 80-27158 Filed 9-4-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM**Cumming Bancshares, Inc.; Formation of Bank Holding Company**

Cumming Bancshares, Inc., Cumming, Georgia, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Bank of Cumming, Cumming, Georgia. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 26, 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, August 27, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27262 Filed 9-4-80; 8:45 am]

BILLING CODE 6210-01-M

Douglas Bancorporation, Inc.; Formation of Bank Holding Company

Douglas Bancorporation, Inc., Parker, Colorado, 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 Bank of the West, Parker, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in

writing to the Reserve Bank, to be received not later than September 29, 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, August 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27259 Filed 9-4-80; 8:45 am]

BILLING CODE 6210-01-M

Houston American Financial Corp.; Formation of Bank Holding Company

Houston American Financial Corporation, Houston, 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 100 per cent of the voting shares of American Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 29, 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, August 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27260 Filed 9-4-80; 8:45 am]

BILLING CODE 6210-01-M

Mellon National Corp.; Proposed Acquisition of Mellon Life Insurance Co.

Mellon National Corporation, Pittsburgh, Pennsylvania, has 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 acquire voting shares of Mellon Life Insurance Company, Wilmington, Delaware.

Applicant states that the proposed subsidiary would underwrite, as reinsurer, the credit life and credit accident and health insurance sold by Applicant's subsidiaries, Mellon Bank, N.A., Pittsburgh, Pennsylvania, and Freedom Financial Services Corporation, Oak Brook, Illinois, in connection with their consumer lending activities. These activities would be performed from offices of Freedom Financial Services Corporation in California, Colorado, Florida, Illinois, Indiana, Kentucky, Minnesota, Nebraska, New York, Oregon, Washington and Wisconsin, and Mellon Bank, N.A. in Allegheny, Armstrong, Beaver, Butler, Washington, and Westmoreland counties, Pennsylvania. The geographic areas to be served are California, Colorado, Florida, Illinois, Indiana, Kentucky, Minnesota, Nebraska, New York, Oregon, Washington, Wisconsin and Allegheny, Armstrong, Beaver, Butler, Washington, and Westmoreland counties, Pennsylvania. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views of 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 September 26, 1980.

Board of Governors of the Federal Reserve System, August 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27261 Filed 9-4-80; 8:45 am]

BILLING CODE 6210-01-M

Montwood Bancshares, Inc.; Formation of Bank Holding Company

Montwood Bancshares, Inc., El Paso, 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 Montwood National Bank, El Paso, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 29, 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, August 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-27258 Filed 9-4-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 28, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the

Federal Register is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB, NRC and OSM requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 23, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Civil Aeronautics Board

The CAB requests clearance of a new standard evidence request to be supplied to CAB with a proposal to provide essential air transportation under Section 419 of the Federal Aviation Act. This information request sets forth the data that are necessary to make a fitness and reliability determination and to substantiate any claim for compensation needed to support essential air service. The CAB will solicit proposals by issuing Board Orders. Although the Orders could state that proposals submitted pursuant to the solicitation must comply with the provisions of § 204.6 of Part 204 of CAB's Economic Regulations, many carriers have stated that their submissions would be easier to prepare if they were provided a standard form for submitting them. Because of this, CAB has developed the evidence request which will be attached to the Orders. The CAB estimates that potential respondents will number 60 and that time to complete the evidence request will average between 30 to 80 hours depending on whether the proposals do or do not request a subsidy.

Nuclear Regulatory Commission

The NRC requests reinstatement of the reporting and recordkeeping requirements contained in 10 CFR Part 21; specifically section 21.21, Notification of Failure to Comply or Existence of a Defect, and section 21.51, Maintenance. GAO approval for this

Part expired May 31, 1980. Section 21.21 requires directors and responsible officers and firms and organizations building, operating or owning NRC licensed facilities, or conducting NRC-licensed activities to report defects in components and failures to comply with regulatory requirements which could create a substantial safety hazard. The recordkeeping requirement in § 21.51 requires each individual or organization subject to Part 21 to prepare records in connection with the design, manufacture, fabrication, placement, erection, installation, modification, inspection or testing of any facility or to be used in any licensed activity sufficient to assure compliance with Part 21. NRC estimates that approximately 25,000 organizations are subject to the requirements in Part 21; and that about 100 will be required to prepare a report under § 21.21 which will require an average of 10 hours per report; and that 12,000 will be required to record 50 entries each as required by § 21.51 at 10 minutes per entry.

Office of Surface Mining

The OSM, Department of Interior, requests clearance of a revision to Form OSM 837-1, Coal Production and Reclamation Fee Report. The Form has been renumbered as Form OSM-1 and 1A. Form OSM-1 must be filed initially by all respondents in order for OSM to obtain identification of the report unit. Thereafter respondents may submit Form OSM-1 for each unit or may submit OSM-1A for multiple report units. The Form OSM-1 and 1A collects information from operators engaged in coal mining who remove or intend to remove more than 250 tons of coal from the earth within twelve consecutive calendar months in any one location and provides the basis for ascertaining that the appropriate reclamation fee is paid. The authority for collecting the data and fee payments is provided in Sections 401 and 402 of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87). The Act requires a notarized statement concerning the accuracy of the data and the fee submitted. Reports must be submitted within 30 days after the end of each calendar quarter. The OSM estimates that respondents will number approximately 3,000 and that time to prepare each quarterly report will average 15 minutes.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-27279 Filed 9-4-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Rape Prevention and Control Advisory Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of September 1980.

Rape Prevention and Control Advisory Committee

September 26; 9:00 a.m.—Open. Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland.

Contact: Mary Lystad, Ph. D., Executive Secretary, Room 15-99, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1910.

Purpose: The Rape Prevention and Control Advisory Committee advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape, on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problems of rape.

Agenda: The entire meeting will be open to the public. The Advisory Committee will provide input on the public education needs in the area of sexual assault; finalize the Committee recommendations to the Secretary, DHHS; as well as receive an update on legislation related to the National Center for the Prevention and Control of Rape.

Substantive information may be obtained from the contact person listed above. The NIMH Committee Management Office will furnish upon request summaries of the meeting and rosters of the Committee Members. Please address inquiries to the Office of the Associate Director for Extramural Programs, NIMH, Room 9-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4333.

Dated: August 29, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-27125 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-89-M

Food and Drug Administration

Biological In Vitro Diagnostic Devices; Transfer of Responsibility From Bureau of Biologics to Bureau of Medical Devices

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that biological in vitro diagnostic products used as aids for the detection and management of cancer in humans are now considered medical devices, and the responsibility for regulating them is transferred from the Bureau of Biologics to the Bureau of Medical Devices. This notice states which substances are transferred as transitional devices, subject to the premarket approval provisions of class III.

ADDRESS: Inquiries and applications for premarket approval or investigational device exemptions concerning in vitro diagnostic devices described in this notice to Document Control Center (HFK-20), Bureau of Medical Devices, Food and Drug Administration, Department of Health and Human Services, 8757 Georgia Ave., Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT:

Joseph L. Hackett, Bureau of Medical Devices (HFK-403), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 27, 1973 (38 FR 10488), FDA published a notice which required that biologically derived in vitro diagnostic substances represented for use in the diagnosis or management of cancer must be licensed under authority of section 351 of the Public Health Service Act (PHS Act) (42 U.S.C. 262) prior to marketing and be subject to the controls of section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) as well. The principal administrative responsibility for the regulation of these substances was delegated to the Bureau of Biologics.

The Medical Device Amendments of 1976 (the "amendments") (Pub. L. 94-295) broadened the definition of "device" in section 201(h) of the act (21 U.S.C. 321(h)) to include certain products that were once regarded as drug products. All in vitro diagnostic products for the detection or management of cancer in humans, including the products described in the April 27, 1973 Federal Register notice and other substantially equivalent products, are included in the broadened definition of device.

FDA issued a notice in the Federal Register of December 16, 1977 (42 FR 63472), explaining that under section 520(l) of the act (21 U.S.C. 360j(l)), the Bureau of Medical Devices would gradually assume responsibility for regulating, as devices, products that had been previously regulated as drug

products. The notice further stated that the lists of products were not exhaustive and could be expanded at such time as a determination could be made by the agency that other devices formerly regulated as drug products would be more appropriately regulated as devices. The notice also stated that products regulated under section 351 of the PHS Act were beyond the scope of the December 16, 1977 notice but that the agency could issue future notices on these matters.

The April 27, 1973 notice required that the marketing of biological in vitro diagnostic substances for the detection or management of cancer in humans be subject to the controls of section 505 of the act. Under section 520(l)(1)(C) of the act (21 U.S.C. 360j(l)(1)(C)), a device for which, on the enactment date of the amendments, a notice of claimed investigational exemption for a new drug (IND) was in effect under section 505 of the act, is classified in class III unless reclassified by the agency in class I or class II.

Biologically derived in vitro diagnostic substances, for the identification or analysis of carcino embryonic antigen (CEA), alpha-fetoprotein (AFP), tumor-associated antigen (TAA), and tumor-associated polypeptide antigen (TPA) all had IND's in effect on the date of enactment of the amendments and are classified by statute in class III. At the time of enactment of the amendments, one manufacturer had been licensed under section 351 of the PHS Act for commercial distribution of an anti-CEA serum. The product license for this product, together with portions of the establishment license relevant to the requirements for a new premarket approval application (PMA) will be considered as being an approved PMA. Any of these products for which a license application is pending on the effective date of this notice, if accepted, will be approved as a PMA.

Sponsors who have approved IND's for biological in vitro diagnostic products for the detection or management of cancer in humans should continue to comply with 21 CFR Part 312 until October 14, 1980, which is 90 days after the July 16, 1980 effective date for the investigational device exemption (IDE) regulations (21 CFR Part 812). A sponsor who has an effective IND and wishes to obtain an IDE to continue the investigation beyond the 90-day period should inform the Bureau of Medical Devices by letter, of the IND number, and the phases of the investigation that have been completed (phase I, II, or III). If FDA determines that the protocol and other procedures being followed under

Part 312 satisfy the requirements of Part 812, FDA may consider the investigation to have an approved IDE and may allow it to continue without changes.

PMA's should be submitted to the Bureau of Medical Devices at the address above. Decisions relating to the approval or disapproval of such applications will be made by the Director, Bureau of Medical Devices, after consultation with the appropriate device advisory panel.

In vitro diagnostic devices and accessories intended for use in the diagnosis or management of cancer in humans that do not include the biologically derived substances CEA, AFP, TAA, or TPA are not transitional devices subject to section 520(1) of the act. These nontransitional devices are subject to the other requirements of the act, such as premarket notification (21 CFR Part 807) and procedures for investigational device exemptions (21 CFR Part 812).

Effective October 6, 1980, the regulation of biological in vitro diagnostic devices used as adjunctive tools for the detection and management of cancer in humans is the responsibility of the Bureau of Medical Devices. Therefore, the April 27, 1973 notice is superseded and is withdrawn by this notice.

Dated: August 26, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-26795 Filed 9-5-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Alan L. Hoeting, District Director, Detroit District Office, Detroit, MI.

DATE: The meeting will be held at 9:30 a.m., Tuesday, September 9, 1980.

ADDRESS: The meeting will be held at the George Potter Larrick Bldg., Conference Rm., 1560 E. Jefferson, Detroit, MI 48207.

FOR FURTHER INFORMATION CONTACT: Diane M. Place, Consumer Affairs Officer, Food and Drug Administration, 1560 E. Jefferson, Detroit, MI 48207, 313-226-8260.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for

current and future health concerns, to enhance relationships between local consumers and FDA's Detroit District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: Aug 26, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-26798 Filed 9-5-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Matthew H. Lewis, District Director, Newark District Office, East Orange, NJ.

DATE: The meeting will be held at 1 p.m., Thursday, September 25, 1980.

ADDRESS: The meeting will be held at the East Orange Public Library, 21 S. Arlington Ave., East Orange, NJ 07018.

FOR FURTHER INFORMATION CONTACT: Lillie Dortch-Wright, Consumer Affairs Officer, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, 201-645-3265.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Newark District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 26, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-26797 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0381]

Advisory Committee; Supplement to Notice of Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: This document supplements the notice appearing in the August 5, 1980 Federal Register (45 FR 51922) and announces the availability of questions and data prepared by the Food and Drug Administration for consideration by the Fertility and Maternal Health Drugs Advisory Committee in its discussion of the safety of Bendectin.

DATES: September 15 and 16, 1980, beginning at 9 a.m.

ADDRESS: Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

FOR FURTHER INFORMATION CONTACT:

A. T. Gregoire, Bureau of Drugs (HFD-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD, 301-443-3542.

SUPPLEMENTAL INFORMATION: The questions to be considered by the Committee are:

1. Do the animal and human data presented to and reviewed by the Committee support the conclusion that Bendectin is associated with an increased risk for human birth defects?

a. If so, which birth defects?

b. The human epidemiologic studies were performed with the old triple combination except that some of the more recent studies included some patients on the double combination, and Merrell studies each of the ingredients alone. If the Committee believes that there is an increased risk, is it possible to determine to what component that risk can be attributed?

c. If the Committee believes that the data cannot support a conclusion that Bendectin is associated with an increased risk for human birth defects, are additional animal and/or human studies of risk indicated?

(1) If so, what types might be useful and feasible?

(2) Will studies in nonhuman primates be of value?

2. Are additional statistical and epidemiologic analyses of the human birth defects studies indicated? What kinds of analyses should be made?

3. If the Committee believes that the studies have revealed a risk of human birth defects, do the benefits of Bendectin in the treatment of nausea and vomiting of pregnancy outweigh this risk?

a. If not, please explain your reasons.

b. If so, for what patient population?

4. Taking into consideration your answers to questions 1 through 3, is the risk of Bendectin relative to its benefits such that the drug should be removed from the market?

5. Are additional clinical studies of effectiveness necessary in certain subpopulations, e.g., patients with more severe nausea and vomiting, or patients refractory to nondrug measures?

6. Taking into consideration your

answers to the previous questions:

a. Should the labeling for Bendectin be altered with regard to the indications for use?

b. In what pregnancy category should Bendectin be placed with respect to the labeling?

7. Taking into consideration the answers to questions 4 and 6, does the Committee have any recommendations on what approach FDA should take to other marketed drugs containing doxylamine, pyridoxine, or dicyclomine? Doxylamine is marketed over-the-counter (OTC) as an antihistamine and sleep-aid, and dicyclomine is marketed on prescription for gastrointestinal (G.I.) disorders.

The background information prepared by FDA is available for review between 9 a.m. and 4 p.m., Monday through Friday, in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD.

Any individual or group wishing to present information relevant to the agenda item should contact A. T. Gregoire, Ph.D., Executive Secretary (HFD-130), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3542.

Dated: August 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-27131 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0283]

Bel-Mar Laboratories, et al.; Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This document provides notice of opportunity for hearing on a

proposal to withdraw approval of 52 abbreviated new drug applications on the grounds that the applicants have failed to submit required reports.

DATE: Requests for hearing due by October 6, 1980.

ADDRESSES: Communications in response to this notice should be identified with the docket number appearing in the heading of this notice and directed to the attention of the appropriate office named below:

Request for hearing: Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

Periodic reports: Division of Generic Drugs (HFD-530), Food and Drug Administration, Rm. 16-69, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marvin Seife, Bureau of Drugs (HFD-530), Food and Drug Administration, 5600 Fishers Lane, Rockville MD 20857, 301-443-4080.

SUPPLEMENTARY INFORMATION:

Applicants are required to maintain records on drug products for which an approval is in effect, and to report to FDA periodically concerning these drugs in accordance with 21 CFR 310.300. Although in the past some exemptions from these reporting requirements have been granted, all such exemptions were rescinded as announced in the *Federal Register* of May 12, 1978 (43 FR 20556). Reports have not been submitted for the drug products listed below. Each applicant was advised by certified letter to submit the required reports within 30 days of receipt of the letter, or the agency would proceed to publish a notice of opportunity for hearing on a proposal to withdraw approval of the ANDA's on the grounds of failure to report.

The objective of this action is to close a large number of files on drugs that have been discontinued or were never marketed or whose holders are delinquent in submitting the required periodic reports.

ANDA No.	Drug	Applicant
80-761	Pyridoxine HCl Injection, 100 mg/mL	Bel-Mar Laboratories, 6-10 Nassau Ave., Inwood, Long Island, NY.
80-282	Testosterone Propionate Solution in Oil, 100 mg/mL	Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033.
80-192	Hydrocortisone Ophthalmic Ointment, 0.5%	Day-Baldwin, Inc., 1460 Chestnut Ave., Hillside, NJ 07205.
80-193	Hydrocortisone Ophthalmic Ointment, 1.5%	Do.
80-494	Hydrocortisone Lotion, 0.25%	Merit Pharmaceuticals, 8243 Telephone Rd., Houston, TX 77017.
80-226	Prednisolone Tablet, 5 mg	Fellows-Testegar, 12741 Capital Ave., Oak Park, MI 48237.
80-595	Diphenhydramine HCl Elixir, 12.5 mg/5 mL	ICN Pharmaceuticals, Inc., 5040 Lester Rd., Cincinnati, OH 45213.

ANDA No.	Drug	Applicant
80-765	Sodium Sulfacetamide Ophthalmic Ointment, 10%	Byk-Gulden, Inc., P.O. Box 730, Hicksville, NY 11802.
80-125	Aminosalicylic Acid Tablet, 0.5 g	Stanlabs, Pharmaceutical Co., P.O. Box 3108, Portland, OR 97208.
80-275	Succinylcholine Chloride Injection, 20 mg/mL	Gotham Pharmaceutical Co., 1840 McDonald Ave., Brooklyn, NY 11223.
80-529	Cyanocobalamin Injection, 30, 100, and 1,000 mcg/mL	Do.
80-527	Thiamine HCl Injection, 50 and 100 mg/mL	Do.
80-526	Sparteine Sulfate Injection, 150 mg/mL	Do.
80-528	Pyridoxine HCl Injection, 50 mg/mL	Do.
80-202	Potassium Chloride Injection, 20 and 40 mEq	Do.
80-664	Folic Acid Injection, 1 mg/mL	Do.
80-169	Isoniazid Tablet, 100 mg	Kasar Laboratories, 7313 N. Harlem Ave., Niles, IL 60648.
80-889	Folic Acid Tablet, 5 mg	Do.
80-453	Procaine HCl Injection, 1 and 2%	Medwick Laboratories, Inc., 2137 N. 15th Ave., Melrose Park, IL 60160.
80-405	Lidocaine HCl with and without Epinephrine 1:100,000 Injection, 1 and 2%	Do.
80-682	Thiamine HCl Injection, 100 mg/mL	Do.
80-739	Pyridoxine HCl Injection, 100 mg/mL	Do.
80-650	Cyanocobalamin Injection, 100 and 1,000 mcg/mL	Do.
80-771	Vitamin D Capsule, 50,000 I.U.	Stayner Pharmaceuticals, 1922 Junction Ave., San Jose, CA 95131.
80-726	Vitamin A Capsules Solubilized, 15 mg	Do.
80-851	Diethylstilbestrol Tablet, 1 mg	Do.
80-346	Prednisone Tablet, 5 mg	Do.
80-348	Prednisone Tablet, 1 mg	Do.
80-347	Prednisolone Tablet, 5 mg	Do.
80-345	Prednisone Tablet, 2.5 mg	Do.
80-579	Diphenhydramine HCl Capsule, 50 mg	Do.
80-849	Diethylstilbestrol Tablet, 5 mg	Do.
80-578	Chlorpheniramine Maleate Tablet, 4 mg	Do.
80-533	Reserpine Tablet, 0.25 mg	Do.
80-532	Reserpine Tablets, 0.1 mg	Do.
80-276	Testosterone Propionate Injection, 25, 50, and 100 mg/mL	Elkins-Sinn, Inc., 2 Esterbrook Lane, Cherry Hill, NJ 08002.
80-981	Piperazine Citrate Syrup, 500 mg/5 mL	Sperti Drug Products, 7 Sperti Drive, Fort Mitchell, KY 41017.
80-964	Vitamin A Capsule, 15 mg	Robinson Laboratory, Inc., 355 Brannan St., San Francisco, CA 94107.
80-489	Hydrocortisone Ointment, 0.25%, 0.5%	Do.
80-651	Benzyl Benzoate Lotion, 28%	Do.
80-652	Benzyl Benzoate Lotion, 50%	Do.
80-866	Vitamin A (fish liver oil) Capsule, 15 mg	Do.
80-965	Vitamin A Palmitate Capsule, 15 mg	Do.
80-917	Diphenhydramine HCl Elixir, 12.5/5 mL	Do.
80-487	Hydrocortisone Lotion, 0.1%	Do.
80-485	Hydrocortisone Cream and Ointment, 2.5%	Do.
80-478	Hydrocortisone Cream and Ointment, 0.25%	Do.
80-479	Hydrocortisone Lotion, 0.25%	Do.
80-480	Hydrocortisone Cream and Ointment, 0.1%	Do.
80-477	Hydrocortisone Cream and Ointment, 0.5%	Do.
80-486	Hydrocortisone Lotion, 0.5%	Do.
80-488	Hydrocortisone Ointment, 0.1%	Do.

Therefore notice is given to the holders of the abbreviated 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 abbreviated new drug applications and all amendments and supplements thereto on the grounds that the applicants have failed to submit the reports required under 21 CFR 310.300.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated under it (21 CFR Parts 310, 314) the applicants are hereby given an

opportunity for a hearing to show why approval of their abbreviated new drug applications should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug products named above.

An applicant who decides to seek a hearing shall file (1) on or before October 6, 1980, a written notice of appearance and request for hearing, and (2) on or before November 4, 1980, the data, information, and analyses relied on to justify a hearing as specified 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 a timely written notice of 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 for the product and constitutes a waiver of any contentions about the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will begin 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 justifies a hearing. Reports submitted to remedy the deficiencies must be complete in all respects in accord with 21 CFR 310.300. If the submission is not complete or if a request for hearing is not made in the required format or with the required reports, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests a hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice must be filed in four copies. Except for information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions 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 (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: August 8, 1980.
 Jerome A. Halperin,
Acting Director, Bureau of Drugs.
 [FR Doc. 80-27129 Filed 9-4-80; 8:45 am]
 BILLING CODE 4110-03-M

[Docket No. 80F-0312]

Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Dow Chemical Co. had filed a petition proposing that the food additive regulations be amended to provide for the safe use of vinylidene chloride/methylacrylate copolymers as articles or components of articles intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B3452) has been filed by the Dow Chemical Co., 2040 Dow Center, Midland, MI 48640, proposing that Subpart B of Part 177 (21 CFR Part 177) of the food additive regulations be amended to provide for the safe use of vinylidene chloride/methylacrylate copolymers as articles or components of articles intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that an environmental impact statement is not required, the notice of availability of the environmental assessment will be published with the regulation in the *Federal Register* in accordance with 21 CFR 25.25(b).

Dated: August 27, 1980.
 Sanford A. Miller,
Director, Bureau of Foods.
 [FR Doc. 80-27132 Filed 9-4-80; 8:45 am]
 BILLING CODE 4110-03-M

[Docket No. 75P-0014]

General Electric Co.; Approval of Variance Extension for the MMX-II Mammographic X-Ray System

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the approval of a variance extension from the performance standard for diagnostic X-ray systems and their major components for the MMX-II Mammographic X-Ray System, manufactured by the General Electric Co. The petition for the 5-year extension of Variance Number 75002 used as a basis for the documentation accompanying the original variance petition. The Bureau of Radiological Health has determined that those arguments and data previously submitted are still valid and therefore grants the extension of variance for the requested time period.

DATES: The variance become effective July 18, 1980, and ends July 17, 1985.
ADDRESS: The application and all correspondence on the application are on file in the office of the Hearing Clerk (HFA-305), Food and Drug

Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

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

SUPPLEMENTARY INFORMATION: Under 21 CFR 1010.4, General Electric Co., P.O. Box 414, Milwaukee, WI 53201, has been granted an extension of Variance Number 75002. This variance was granted from § 1020.30(m)(1) (21 CFR 1020.30(m)(1)) of the performance standards for diagnostic X-ray systems and their major components for the MMX-II Mammographic X-Ray System under the following conditions:

1. In lieu of the provisions of Table I in § 1020.30(m)(1) where a measured potential of 50 kilovolt peak (kVp) requires a minimum half-value layer (HVL) of 1.2 millimeters (mm) of aluminum and a measured potential of 60 kVp requires a minimum HVL of 1.3 mm of aluminum, the MMX-II Mammographic X-Ray System shall provide a beam quality so that, for a measured potential of 50 kVp, the HVL shall be not less than 0.7 mm of aluminum, and for a measured potential of 60 kVp, the HVL shall not be less than 0.8 mm of aluminum.

2. The MMX-II Mammographic X-Ray System shall be provided with positive means to ensure that at least the minimum filtration needed to achieve the beam quality specified in § 1020.30(m)(1), and in paragraph 1 above, is in the useful beam during each exposure.

The variance extension became effective July 18, 1980, and ends July 17, 1985. The product will bear the Variance Number 75002. The application and all correspondence on the application have been placed on public display in the Office of the Hearing Clerk, Food and Drug Administration, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

Dated: August 29, 1980.
 Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-27128 Filed 9-4-80; 8:45 am]
 BILLING CODE 4110-03-M

[Docket No. 80N-0284]

Invenex Laboratories, Inc., et al.; Abbreviated New Drug Applications and New Drug Application; Withdrawal of Approval

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This document withdraws approval of one new drug application (NDA) and 26 abbreviated new drug applications (ANDA's) based on the written request of the applicants.

EFFECTIVE DATE: September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Marvin Seife, Bureau of Drugs (HFD-530), Food and Drug Administration,

5600 Fishers Lane, Rockville, MD 20857
301-443-4080.

SUPPLEMENTARY INFORMATION: The holders of the ANDA's and NDA listed herein have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applicants. The applicants have also, by their request, waived their opportunity for a hearing.

Dated: August 8, 1980.

Jerome A. Halperin,
Acting Director, Bureau of Drugs.

[FR Doc. 80-27130 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

Leukapheresis Donor Safety Workshop; Public Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a public workshop will be held during which scientific data will be presented and discussed regarding leukapheresis donor safety.

DATE: Meeting on October 8, 1980.

ADDRESS: The workshop will be held in the Lister Hill Auditorium, Bldg. 38A, National Institutes of Health, 8600 Rockville Pike, Bethesda, MD 20209.

FOR FURTHER INFORMATION CONTACT: Joseph C. Fratantoni, Bureau of Biologics (HFB-200), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-496-2577.

SUPPLEMENTARY INFORMATION:

Leukapheresis is a procedure in which blood is removed from the donor, leukocyte concentrate is separated, and the remaining formed elements and residual plasma are returned continuously or intermittently to the donor. Leukapheresis donors are subjected to procedures which expose them to a number of risks, potential and actual.

The Bureau of Biologics of the Food and Drug Administration will hold a public workshop where experts in various fields relating to leukapheresis will present highly technical information regarding leukapheresis donor safety. Based on information provided at this workshop, the Bureau of Biologics will develop donor safety standards for the collection of leukocytes by leukapheresis intended for patient transfusion as well as for further manufacturing.

The workshop will be held from 8:30 a.m. to 5 p.m., October 8, 1980, in the Lister Hill Auditorium, Bldg. 38A, National Institutes of Health, 8600 Rockville Pike, Bethesda, MD 20209. Limited seating will be on a first-come first serve basis. Interested persons wishing to attend are requested to contact T. Rada Proehl, Bureau of Biologics (HFB-620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306, by September 30, 1980.

NDA or ANDA No.	Drug	Applicant
9-771	Reserpine Alkaloid Tablet, 0.1, 0.25, and 0.5 mg.	Invenex Laboratories, P.O. Box 122, Grand Island, NY 14072.
80-035	Sodium Aminosalicicylic Tablets, 0.5, 0.69, and 1 g; Powder, 1 lb jar.	Dorsey Laboratories, Box 83288, Lincoln, NB 68501.
80-105	Trisulfazine Tablet, 0.5 g	The Central Pharmacal Co., 110-128 E. Third St., Seymour, IN 47274.
80-130	Aldiazole M Suspension, 0.5 g/5 mL	Beecham Laboratories, 501 Fifth St., Bristol, TN 37620.
80-262	Testosterone Propionate Injection, 25, 50, and 100 mg/mL.	Invenex Laboratories.
80-361	Sodium Sulfacetamide Ophthalmic Solution, 30%.	Cooper Laboratories, Inc., 455 E. Middlefield Rd., Mountain View, CA 94043.
80-373	Meperidine HCl Injection, 50, 75, and 100 mg/mL.	Invenex Laboratories.
80-441	Maintasone Lotion, 0.5%	Owen Laboratories, Division Alcon Laboratories, P.O. Box 1959, Fort Worth, TX 76101.
80-507	Nitrofurantoin Tablet, 50 and 100 mg	ICN Pharmaceuticals, Inc., 5040 Lester Rd., Cincinnati, OH 45213.
80-511	Pyridoxine Hydrochloride Injection, 100 mg/mL.	Invenex Laboratories.
80-569	Cyanocobalamin Injection, 1,000 mcg/mL.	The Central Pharmacal Co.
80-574	Diphenhydramine HCl Elixir, 12.5 mg/5mL.	Abbott Laboratories, Abbott Park, N. Chicago, IL 60064.
80-597	Cremesone Cream, 0.5%	Biocraft Laboratories, 92 Route 46, Elmwood Park, NJ 07407.
80-881	Piperazine Citrate Tablet, 500 mg	ICN Pharmaceuticals, Inc.
90-725	Vitamin A Capsule, 15 mg	Stayner Pharmaceuticals, 1922 Junction Ave., San Jose, CA 95131.
80-769	Chlorpheniramine Maleate Tablet, 4 mg	The Dow Chemical Co., P.O. Box 68511, Indianapolis, IN 46268.
80-843	Chromic and Plain Collagen Sutures and Braided Silk and Nylon Sutures.	Sherwood Medical Industries, 1831 Olive Street, St. Louis, MO 63103.
80-856	Diethylstilbestrol Tablet, 1.0 mg	ICN Pharmaceuticals, Inc.
80-862	Diethylstilbestrol Enteric Coated Tablet, 1.0 mg.	Do.
80-863	Diethylstilbestrol Enteric Coated Tablet, 5.0 mg.	Do.
80-913	Vitamin A Capsule, 50,000 IU	Arcum Pharmaceuticals, P.O. Box 38, Vienna, VA 22180.
80-922	Vitamin A Capsule, 15 mg	Bowman Pharmaceutical Co., 119 Schroyer Ave. SW., Canton, OH 44702.
80-934	Isoniazid Tablet, 300 mg	Ciba Pharmaceutical Co., 556 Morris Ave., Summit, NJ 07901.
84-477	Sodium Pentobarbital Capsule, 100 mg	West-Ward Inc., 465 Industrial Way West, Eatontown, NJ 07724.
84-694	Diphenhydramine HCl Injection, 10 mg/mL.	Invenex Pharmaceuticals.
85-078	Phenytoin Sodium Injection, 50 mg/mL, 100 mg/2 mL.	Do.
85-679	Ammonium Chloride Injection, 100 mg/mL.	Do.

The agency has determined that, in accordance with 21 CFR 25.24(d)(2) (proposed in the Federal Register of December 11, 1979, 44 FR 71742), this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 76 Stat. 782 as amended (21 U.S.C. 355(e))), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82), approval of the new drug applications listed above, and supplements thereto, is hereby withdrawn.

This order becomes effective on September 15, 1980.

Dated: August 29, 1980.

Joseph P. Hile,
Associate Commissioner for Regulatory
Affairs.

[FR Doc. 80-27126 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 78N-0276]

Nitrites; Availability of Report

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces the availability of a reevaluation of a study on nitrites as a cancer-causing substance.

ADDRESS: Single copies of the reports are available from the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of April 3, 1979 (44 FR 19538), the agency announced, among other things, that a contract had been let with the Universities Associated for Research and Education in Pathology, Inc. (UAREP), to perform a complete review of the pathology findings in the animal studies of Technology (MIT).

The agency announces the availability of the UAREP report entitled "Re-evaluation of the Pathology findings of Studies on Nitrite and Cancer" in which it found a "much lower incidence of lymphoma" (cancers of the lymph system) than was originally reported in the MIT studies.

Also available is a Report of the Interagency working Group on Nitrite Research, which has concluded that, based on the MIT study, insufficient evidence exists to support a conclusion that nitrite induced cancer in rats.

Single copies of these reports are available from the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62 5600 Fishers Lane, Rockville, MD 20857.

Dated: August 29, 1980.

Joseph P. Hile,
Associate Commissioner for Regulatory
Affairs.

[FR Doc. 80-27127 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0005]

Safety of Electromedical Devices; Request for Data and Comments

AGENCY: Food and Drug Administration.

ACTION: Notice of intent.

SUMMARY: The Food and Drug Administration (FDA) is considering establishing uniform standards for electromedical devices and requests data, information, and comment on the need for uniform standards, how to achieve the establishment of such standards, and whether certain existing voluntary standards are suitable for use as the basis of a mandatory standard, for endorsement under the agency's proposed voluntary standards policy, or for adaptation as a guideline.

DATE: Comments, data and information by November 4, 1980.

ADDRESS: Written comments to the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857

FOR FURTHER INFORMATION CONTACT: David A. Segerson, Bureau of Medical Devices (HFK-310), Food and Drug Administration, 81757 Georgia Ave., Silver Spring, MD 20910, 301-427-7061.

SUPPLEMENTARY INFORMATION:

Class II Devices and Electrical Safety

Under section 513 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 360c) (the act), FDA's medical device advisory panels have recommended the classification of approximately 1,200 devices into class II (performance standards). A large portion of the 1,200 class II devices are electrically operated devices. During the review of class II devices, the advisory panels identified electrical safety as a concern for virtually every electrically operated device.

FDA believes objective performance standards, including device design and construction, should be established to minimize electrical hazards, especially the hazards associated with "risk current." Risk current, i.e., leakage current and sink current, is inherent in

all electromedical devices. Leakage current is the undesirable current available from the chassis or cables of an electrical device. Sink current is the amount of current a device will conduct from an externally applied electric potential through its leads to ground. Risk current can induce cardiac fibrillation or an involuntary reflex reaction in a patient or user of an electrical device, and thereby can result in injury.

Examples of device design and construction characteristics that can affect the electrical safety of electromedical devices include:

- (1) Length and diameter of ground wires, i.e., current-carrying capacity;
- (2) Use of uninsulated wire;
- (3) Accessibility of uninsulated current-carrying parts;
- (4) Quality of electrical insulation; and,

(5) Durability of the ground connection in the plug. Other general design and construction features that affect safety include:

- (1) Temperature of surface areas;
- (2) Accessibility to moving parts or gears; and
- (3) Physical stability, e.g., tipover or collapse.

Electrical safety also includes user-facility design, such as the power distribution system and user practices, such as periodic safety testing. These factors are generally outside the direct control of the device manufacturer, and therefore FDA does not plan at this time to address these aspects of electrical safety beyond possible labeling requirements in a standard.

Voluntary Standards Activities

Many groups have analyzed the risks associated with electromedical devices and have established standards intended to reduce these risks. These groups include voluntary standards organizations, independent laboratories, hospital shared-services groups, Federal agencies, and State and local governments. Some of the better known voluntary standards for electromedical devices are listed in Table I below. A single copy of each of these documents is on file and available for public review in the office of the Hearing Clerk (address above). Copies of each of these documents may be obtained from the sponsoring organization. The sponsoring organization's address can be obtained from the contact person listed above.

Table I.—Voluntary Standards Dealing With Electrical Safety

Standard	Directed at		Hazard addressed	
	Device	Facility	Electrical	Other ¹
ANSI/AAMI SCL-12/78 "Safe Current Limits for Electromedical Apparatus." (American National Standards Institute/Association for the Advancement of Medical Instrumentation.) Approved as an American National Standard, January 19, 1978. Deals with risk currents only.	X		X	
UL 544 "Medical & Dental Equipment." (Underwriters' Laboratory.) Basis for UL listing. Widely referenced in purchasing specifications. Recognized by some State and local codes.	X		X	X
NFPA 76B (Draft) "Safe Use of Electricity in Patient Care Areas of Hospitals." (National Fire Protection Association.) Widely referenced in building codes.	X	X	X	
CSA C22.2-125 "Electro-Medical Equipment." (Canadian Standards Association.) Referenced in Canadian codes. In U.S., compliance with CSA C22.2-125 is frequently accepted in lieu of UL 544.	X		X	X
CSA Z32.2 (Draft) "Use of Electricity in Patient Care Areas." (Canadian Standards Association.) Referenced in Canadian building codes.		X	X	
IEC 601-1 "General Requirements for Safety of Electrical Equipment Used in Medical Practice." (International Electrotechnical Commission.) Widely accepted and referenced internationally. U.S. manufacturers will generally have to comply with IEC standards to export electrical products. U.S. participated in development of IEC 601-1.	X		X	X
MET 501 "Standard for Performance and Safety Certification of Medical Equipment." (MET Electrical Testing Co., Inc.) Certification to MET 501 accepted in many jurisdictions as alternative to UL 544.	X		X	X
"Recommendations for Standardization of Leads and/or Specifications for Instruments in Electrocardiography and Vectorcardiography." (American Heart Association.) Not a standard per se; AHA publicly states that all medical devices should comply with the risk current requirements contained in these recommendations.	X		X	

¹Typical of hazards other than electrical are thermal, chemical, mechanical, and radiological.

Generally, voluntary standards for electromedical devices set forth requirements for device performance, including the design and construction of the device or the design of the user facility and user practices. The voluntary standards FDA is considering are concerned only with establishing uniform requirements for electromedical devices and not design of the user facility or user practices with the possible exception of labeling requirements.

Differences exist between the various electrical safety standards. For example, each of the standards listed in Table I contains different provisions concerning risk current. In most of these standards the risk current limit for isolated patient connections is 10 microamperes (μA) with the ground connections closed, but some standards allow up to 50 μA with the ground open. The risk current limits for nonisolated patient connections vary from 50 μA to 500 μA . Chassis leakage limits vary from 100 μA to 500 μA for cord-connected equipment and from 50 μA to 10,000 μA for permanently connected equipment. Differences exist both for the risk current limits and the tests to measure risk current. For example, there is a difference between the standard loads employed in IEC 601-1 and in ANSI/AAMI SCL-12/78.

State and Local Codes

Relatively few State and local codes establish safety requirements for

medical devices, including electromedical devices. Among those jurisdictions that have developed requirements are the cities of Chicago, Cleveland, Los Angeles, and New York, and the States of California, Oregon, and West Virginia.

These codes typically require that medical devices sold within the jurisdiction must be certified to a nationally recognized standard by an independent laboratory or by a laboratory operated by the State or municipal government. In some jurisdictions, such as California, the codes not only require certification, but also specify performance characteristics. The California code, which is imposed on the user rather than the manufacturer, specifies risk current limits for medical devices used in hazardous areas. The requirement is based on the 1974 AAMI Safe Current Limits standard. The State of California held hearings in 1978 to consider amending its code, including the addition of risk current limits for nonhazardous areas. All of the proposed requirements would be consistent with ANSI/AAMI SCL-12/78, except the limits for chassis leakage, which California is considering making less stringent.

User Practices

Purchasers of electromedical devices have the opportunity to specify the safety and performance characteristics

of devices. The extent to which various hospitals, clinics, or individual doctors specify these characteristics when purchasing devices varies considerably and depends upon the availability of staff, the availability of standard procurement specifications, and other factors, e.g., requirements prescribed by the Joint Commission on Accreditation of Hospitals (JCAH). To receive its accreditation, JCAH requires hospitals to establish safety programs that include the imposition on vendors of safety standards for electromedical devices. However, JCAH does not make accreditation contingent upon adherence to any specific electrical safety standard.

A procurement specification that includes all of the physical and performance characteristics which affect the safety and effectiveness of a single device is time-consuming and costly to develop. Major users of medical devices such as the Veterans Administration (VA), the Department of Defense (DOD), and hospital shared-service associations have the staff and resources to develop detailed procurement specifications. However, users with limited staff and resources will frequently employ less rigorous procurement practices. They generally use or rely on: (1) specifications developed by other hospitals; (2) Federal, e.g., VA or DOD, procurement specifications; (3) specifications provided in the manufacturers' sales literature; (4) voluntary standards; (5) existing Federal, State, and local codes; (6) the integrity of the manufacturer.

Borrowed procurement specifications may not be adequate for the particular user. Sometimes users will cite several voluntary standards, private standards, and Federal specifications, attempting to ensure the safety and effectiveness of a device without incurring the cost of developing procurement specifications. In such a case, manufacturers must then test and certify products to each standard, a process that results in increased costs to the users.

Need for Uniformity

There are many different voluntary standards for electrical safety employed by manufacturers and users of electromedical devices. This has an adverse effect on both the manufacturers and the users of devices. Manufacturers, for example, may have to comply with State and local codes, as well as hospital or other user procurement specifications. Manufacturers may be unwilling to recertify their product to a standard referred to by users where that standard differs from one to which the device has already been certified. The result is that users may be precluded from purchasing

certain devices. If manufacturers have to retest and recertify a device to different specifications established by individual users, the result may be increased production costs that ultimately are passed on to the medical user and to the public. Higher device costs may result in fewer purchased devices, which could adversely affect patient care. In States without codes for electrical safety and construction, small hospitals, clinics, and doctors' offices that cannot develop procurement specifications may be left with little or no protection from unsafe electromedical devices.

FDA believes that establishing uniform performance standards, including the design and construction of electromedical devices, will alleviate confusion and inefficiency caused by the existence of a variety of dissimilar standards.

Courses of Action

FDA may be able to reasonably assure the safe and effective performance of electromedical devices through a variety of different activities, such as:

1. Establishing a mandatory standard. Mandatory standards are established under the provisions of section 514 of the act (21 U.S.C. 360d and 21 CFR Part 861). FDA can require compliance with a mandatory standard and can take regulatory action against manufacturers that fail to comply or devices that fail to conform to that standard. Moreover, under section 521(a) of the act (21 U.S.C. 360k(a)), a mandatory standard preempts any State or local requirement with respect to a device to which the standard applies if the requirement is different from or in addition to the mandatory standard and relates to the safety or effectiveness of the device or any other matter included in the standard. However, FDA believes that section 521(a) does not preempt State or local requirements of general applicability where the purpose of the requirement relates to products in addition to devices, that is, where the requirement only incidentally applies to devices (e.g., general fire and electrical codes). See § 808.1(d)(1) of the regulations (21 CFR 808.1(d)(1)). Where preemption under section 521(a) does occur, FDA may, upon the application of a State or locality and after notice and opportunity for oral hearing, grant a State or local government an exemption from preemption with respect to a requirement in accordance with section 521(b) (21 U.S.C. 360k(b)). FDA's regulations implementing section 521 are found in Part 808 of the regulations (21 CFR Part 808). The contents of

mandatory standards and the procedures for developing them are set forth in final regulations that were published in the Federal Register of February 1, 1980 (45 FR 7474) and are found in Part 861 of the regulations (21 CFR Part 861).

2. Endorsing and promoting an existing voluntary standard or portions of existing voluntary standards. FDA's proposed voluntary standards policy for medical devices, published in the Federal Register of February 1, 1980 (45 FR 7490), explains the advantages of endorsement of voluntary standards, details the circumstances under which FDA would endorse voluntary standards, establishes the relationship between mandatory and voluntary standards, and sets forth the criteria for endorsement of voluntary standards. In contrast to mandatory standards, FDA could take regulatory action against manufacturers of devices that fail to meet a voluntary standard only if the device's labeling or advertising claims to meet that standard. Furthermore, where FDA would endorse all or part of a voluntary standard, no preemption of State and local requirements to which the standard applies would occur.

3. Establishing an FDA guideline. FDA guidelines establish procedures or standards of general applicability and do not include decisions or advice limited to particular situations. The procedure or practices stated in guidelines are not legal requirements but are acceptable to FDA for a subject matter which falls within the laws administered by the agency. A guideline represents the formal position of FDA on the matter involved, and except in unusual situations involving an immediate and significant danger to health, obligates the agency to follow it until it is amended or revoked. FDA guidelines are fully explained in § 10.90(b) of the agency's regulations (21 CFR 10.90(b)).

All devices, whether the subject of a mandatory or voluntary standard or a guideline, are subject to the act's misbranding and adulteration provisions.

FDA requests comments and supporting data and information on which of these courses of action would best provide reasonable assurance of the safe performance of electromedical devices. If FDA determines from the submissions received that uniform standards would reasonably assure the safe performance of these devices, the agency would adopt a course of action

to achieve the establishment of such standards.

FDA Action

FDA has reviewed and evaluated many of the existing electromedical device safety standards, including those listed in Table I. FDA believes that a standard combining provisions of ANSI/AAMI SCL-12/78 and IEC 601-1 would provide reasonable assurance of the safe performance of electromedical devices.

FDA favors the risk current limits contained in ANSI/AAMI SCL-12/78 because these limits are more stringent than those in IEC 601-1 and the widely recognized UL 544 standards. ANSI/AAMI SCL-12/78 does not, however, set standards for those design and construction features of electromedical devices that are unrelated to risk currents. FDA considers certain design and construction parameters, in addition to risk current limits, to be important to ensure the safe performance of electromedical devices. FDA is considering the applicability of those portions of IEC 601-1 that affect design and construction that do not conflict with ANSI/AAMI SCL-12/78. The review of international standards such as IEC 601-1 is mandated by the General Agreement on Trade and Tariff (GATT), which has been approved by the United States (Trade Agreements Act of 1979 (19 U.S.C. 2531)). The GATT Code encourages the use of international standards, thereby removing trade barriers resulting from national standards. Thus, FDA is interested in receiving comments that identify areas of conflict between IEC 601-1 and present practices and conventions in use in the United States.

FDA requests comments and supporting data and information about the suitability of ANSI/AAMI SCL-12/78 and IEC 601-1 for use as the basis of a mandatory standard, for endorsement under the proposed February 1, 1980 voluntary standards policy, or for adoption as a guideline.

Interested persons may on or before November 4, 1980, submit to the Hearing Clerk (HFA-305), Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, written comments, data, and information concerning uniform standards for electromedical devices and the use of ANSI/AAMI SCL-12/78 and IEC 601-1. Such submissions will be considered in determining FDA's course of action regarding uniform standards for electromedical devices. Four copies of any submissions are to be submitted, except that individuals may submit one

copy. Submissions are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document and may be seen in the office above, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 29, 1980.

Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-27124 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-03-M

Public Health Service

July List of Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, July list of qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and dates of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs). In addition, service area revisions and corrections are reported at the end of the list.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building—Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Regulations issued under Title XIII of the Public Health Service Act, as amended, (42 CFR 110.605(b)) require that a list and description of all newly qualified HMOs be published on a monthly basis in the Federal Register. The following entities have been determined to be qualified HMOs under Section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)):

Qualified Health Maintenance Organizations

Name, address, service area, and date of qualification

(Operational Qualified Health Maintenance Organizations: 42 CFR 110.603(a))

1. INA Healthplan of Texas, Inc., (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 6350 LB] Freeway, Suite 248, Dallas, Texas 75240. Service area: Dallas and Tarrant Counties, Texas and zip codes in the following counties:

<i>Collin</i>	<i>Denton</i>
75002	75006-7
75023-4	75028
75034	75056
75069	75065
75073-5	75067
75080-1	76052
75098	76226-7
	76247
	76262

<i>Ellis</i>	<i>Kaufman</i>
75125	75126
75141	75142
75165	75160
75172	75182

Rockwall
75087

Date of qualification: July 1, 1980.
(Achieved preoperational qualification on July 1, 1980.)

2. The Health Plan of the Upper Ohio Valley, Inc., (Individual Practice Association Model, see Section 1310(B)(2)(A) of the Public Health Service Act), Suite 900 Riley Building, 14th and Chapline Streets, Wheeling, West Virginia 26003. Service area: Ohio and Marshall Counties, West Virginia; and Belmont County, Ohio. Date of qualification: July 9, 1980.

3. Intergroup Prepaid Health Services of Indiana, Inc., (Individual Practice Association Model, see Section 1310(B)(2)(A) of the Public Health Service Act), CNA Plaza, Chicago, Illinois 60685. Service area: Adams, Allen, Blackford, DeKalb, Delaware, Grant, Huntington, Jay, Lake, Madison, Miami, Noble, Porter, Randolph, Wabash, Wells, and Whitley, Indiana. Date of qualification: July 10, 1980.

4. HMO Illinois, Inc., (Individual Practice Association Model, see Section 1310(B)(2)(A) of the Public Health Service Act), 233 North Michigan Avenue, Suite 1323, Chicago, Illinois 60601. Service area: Cook, DuPage, Fulton, Grundy, Kane, Kendall, Lake, McHenry, Peoria, Tazewell, Will, and Woodford Counties, Illinois; Lake and Porter Counties, Indiana. Date of qualification: June 15, 1980. (Transitionally qualified on June 15, 1977—inadvertently listed as operationally qualified 42 FR 3869-50 and 45 FR 13896.)

Service Area Revisions and Corrections

1. Health Maintenance Network of Southern California, dba Health Net, P.O. Box 9103, Van Nuys, California 91409. Service area: Add the following to the information contained in the cumulative list of qualified HMOs published on March 3, 1980, in the Federal Register, 45 FR 13897:

Santa Barbara County

93001	93101
93003	93103
93010	93105
93015	93108-11
93021-3	93114
93030	93252
93040-2	93254
93060	93427
93066	93436
93013	93440
93017	93460
93067	93463

Riverside County

92252	92274
92256	92277
92258	92284
92268	

Effective date: July 25, 1980.

2. Intergroup Prepaid Health Services, Inc., CNA Plaza, Chicago, Illinois 60685. Service area: The information contained in the cumulative list of qualified HMOs published on March 3, 1980, in the Federal Register, 45 FR 13897 should be revised to read as follows:

Illinois

Counties: Champaign, Cook, DuPage, Kane, Kendall, Lake, McHenry, Peoria, Tazewell, Will and Woodford.

Indiana

Counties: Lake and Porter.
Effective date: July 10, 1980.

3. CoMed, Inc., Cedar Knolls Plaza, 14 Ridgedale Avenue, Cedar Knolls, New Jersey 07927. Service area: Changes should be made in the zip codes listed in the supplement to the March list published on June 27, 1980, in the Federal Register, 45 FR 43476, as follows:

Warren County—Add 07843

Morris County—Add 07961 and 07869

Somerset County—Correct 08376 to read 08876

Passaic County—Delete 07439

Effective date: April 4, 1980.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m. on Tuesdays and Thursdays, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health and Human Services, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857.

Questions about the qualification review process or requests for information about qualified HMOs should be sent to the same office.

Dated: August 27, 1980.

Howard R. Veit,
Director, Office of Health Maintenance Organizations.

[FR Doc. 80-27202 Filed 9-4-80; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT FES 80-27]

Colorado and Wyoming; Availability of Final Green River-Hams Fork Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management (BLM), Department of the Interior, has prepared a final environmental impact statement (EIS) for the proposed development of Federal coal resources in the Green River-Hams Fork Coal Production Region of Colorado and Wyoming. Copies of the final EIS are available to the public at the addresses provided below.

In addition, in accordance with 43 CFR 3420.6-2, BLM is issuing a call for submission to the BLM of written surface owner consents given by qualified surface owners that would permit mining of Federal coal on the identified tracts where the Federal coal is overlain by privately owned surface. Qualified surface owners also have the opportunity to submit written refusals to consent. The legal descriptions of all the tracts considered for regional lease sale schedule in the final EIS are provided in Appendix A of this notice.

ADDRESSES: Single copies of the final EIS may be obtained from and are available for inspection at the following addresses:

Colorado State Office, Bureau of Land Management, Colorado State Bank Building, Room 700, 1600 Broadway, Denver, Colorado 80202.

Craig District Office, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625.

Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001.

Rawlins District Office, Bureau of Land Management, 1300 Third Street, Rawlins, Wyoming 82301.

Office of Public Affairs, Bureau of Land Management, Room 5623, 18th & C Streets, N.W., Washington, D.C. 20204.

Valid written consents or written refusals to consent are to be filed with the Colorado State Office at the address given above.

DATES: The dates for filing valid surface owner consent agreements, or evidence thereof, are contained below in the "SUPPLEMENTARY INFORMATION" section of this notice.

FOR FURTHER INFORMATION CONTACT: Cecil Roberts, Project Manager, Green River-Hams Fork Regional Coal EIS, Colorado State Office, Bureau of Land Management, 1600 Broadway, Denver, Colorado 80202, Telephone (303) 837-4325.

SUPPLEMENTAL INFORMATION: The Final Green River-Hams Fork Regional Coal EIS, which is part of the leasing process under the Federal coal management program (43 CFR 3400), analyzes the environmental impacts that would result from the development of 16 coal tracts proposed for leasing in Wyoming and Colorado. The EIS analyzes the cumulative regional environmental impacts of five leasing level alternatives, including the no action alternative, as well as other related regional developments in the Green River-Hams Fork Federal Coal Production Region.

Copies of the draft EIS were sent to approximately 800 Federal, State, and local government agencies, non-

governmental organizations, and private citizens for their review and comment. Public hearings were held in Denver and Craig, Colorado, and Rawlins and Cheyenne, Wyoming. All substantive comments on the adequacy of the draft EIS received during the public review process have been responded to in Section 5 of the final EIS.

In accordance with 43 CFR 3420.6-2 of the coal management regulations, the BLM is also requesting that written surface owner consent agreements, or evidence thereof, given by qualified surface owners for lands within the region be submitted to the BLM Colorado State Office at the address given above. Valid written consents for lands in which the ownership of the surface is held by qualified surface owners and the ownership of the underlying coal is reserved to the Federal Government will be accepted until 30 working days prior to the publication of each lease sale notice for the specific lands involved (identified in Appendix A) in accordance with the announced schedule of regional lease sales established by Secretarial decision. It is the responsibility of parties intending to file consents to be aware of pending lease sale notice dates, as set forth in an announced regional lease sale schedule.

Section 714(c) of the Surface Mining Control and Reclamation Act (SMCRA) states that, "The Secretary shall not enter into any lease of Federal coal deposits until the surface owner has given written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent."

As defined in the regulations (43 CFR 3400.0-5 (pp)), qualified surface owner "means the natural person or persons (or corporation, the majority stock of which is held by a person or persons) who:

- (1) Hold legal or equitable title to the surface of split estate lands;
- (2) Have their principal place of residence on that land, or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming and ranching operations; and;
- (3) Have met the conditions of paragraphs (1) and (2) of this subsection for a period of at least 3 years, except for persons who gave written consent less than 3 years after they met the requirements of both paragraphs (1) and (2) of this section. In computing the 3 year period the authorized officer shall include periods during which title was owned by a relative or such person by

blood or marriage if, during such periods, the relative would have met the requirements of this subsection."

Valid written consent is defined in the regulations (43 CFR 3400.0-5(z)) as "the document or documents that a qualified surface owner has signed that: (1) Permit a coal operator to enter and commence surface mining of coal; (2) describe any financial or other consideration given or promised in return for permission, including in-kind considerations; (3) describe any consideration given in terms of type or methods of operation or reclamation for the area; (4) contain any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and (5) contain a full and accurate description of the area covered by the permission."

As required by 43 CFR 3427.2(e), it is the Bureau's responsibility to review all consents received. The Bureau will verify that the named surface owner is a qualified surface owner as defined in the regulations and that the title for all split estate lands described in the filing is held by the named qualified surface owner(s). In addition, to be considered valid, consents entered into after the August 4, 1977, enactment of the Surface Mining Control and Reclamation Act must be transferable to whomever makes the successful bid in a lease sale for the tract that includes the lands to which the consent applies. A written consent shall be considered transferable only if, at a minimum, it allows that after the lease sale for the tract to which consent applies (i) payment for the consent may be made by the successful bidder or (ii) the successful bidder may reimburse, at the purchase price of the consent, the party that first obtained the consent. If a filing is from anyone other than the named qualified surface owner, the Bureau shall contact the named qualified surface owner and request confirmation, in writing, that the filed, transferable, written consent, or evidence thereof, to enter and commence surface mining has been granted and that the filing fully discloses all of the terms of the written consent.

Surface owner consents given by a qualified surface owner prior to August 4, 1977, do not need to be transferable. However, current Departmental policy allows that tracts be offered only through intertract bidding if the consent is not transferable.

To facilitate the filing and review of written consents from qualified surface owners, the person submitting the consent is asked to include a statement that the evidence submitted represents a true, accurate, and complete statement of information regarding the consent for

the area described. Such a validation statement is required by 43 CFR 3427.3. The statement is to be signed and dated by the person submitting the consent and can be either incorporated directly into the consent document or enclosed as a separate item submitted with the consent document. The statement can be worded as follows: "I (We) hereby declare that the evidence submitted, to the best of my (our) knowledge, represents a true, accurate, and complete statement of information regarding the surface owner consent for the area described." This validation statement does not have to be witnessed or notarized.

A qualified surface owner(s) that has not been contacted by or requested to enter into an agreement with a private party, who may wish to give consent to allow permission to enter and commence surface coal mining, may prepare, sign, and submit a consent document to the Colorado State Office. The consent document should include the information and requirements specified earlier in this notice in order to constitute a valid written consent as defined in the coal regulations (43 CFR 3400.0-5(z)), and must indicate any specific terms the surface owner may request to allow permission to enter and commence surface coal mining. This unilateral consent document must be signed by a private party at least 30 working days prior to the publication of the lease sale notice for the area affected, or the area affected will not be offered for lease sale.

In accordance with 43 CFR 3427.2(a)(2), written statements from qualified surface owners who refuse to consent to coal leasing may be filed with the Colorado State Office at the address given above. Early submittal of a refusal to consent by a qualified surface owner who is firmly against giving consent, thereby disqualifying the specified lands from further leasing consideration, will deter pressure from persons or parties seeking to enter into a consent agreement and will prevent continued inquiries by the BLM of the status of surface owner consent for the specified lands. Additional information on written statements of refusal or valid written surface owner consents may be obtained from the Project Manager, Green River-Hams Fork Regional EIS, at the address given above.

For the tracts analyzed in the Final Green River-Hams Fork Regional Coal EIS, the Secretary of the Interior's decision and the announcement of a final lease sale schedule is anticipated in mid-October 1980. As part of that decision, the Secretary may choose to

hold a series of sales beginning in January 1981. If the Secretary's decision should be to hold competitive lease sales in January 1981, the publication of sale notices for the specified tracts to be offered would be published approximately December 10, 1980. For those tracts specifically identified in that December notice, valid written consents would be required no later than October 27, 1980. For other tracts (identified in Appendix A) that may be offered later in 1981, valid written consents would be required at a later date, prior to the publication of each sale notice. In accordance with 43 CFR 3422.2(a), publication of each sale notice would be 30 days prior to the announced sale date.

Dated: August 28, 1980.

Ed Hastey,
Associate Director, Bureau of Land
Management.

Approved:

James H. Rathlesberger,
Special Assistant to Assistant Secretary of
the Interior.

Appendix A.—Legal Description of Federal Coal in the Hayden Gulch Tract

- T. 5 N., R. 88 W., 6th P. M.,
Sec. 18, Lot 17;
Sec. 19, Lots 7, 8, 13, 14;
Sec. 30, Lots 7, 8, 13, 14;
Sec. 31, Lot 7.
- T. 5 N., R. 89 W., 6th P. M.,
Sec. 10, Lots 7, 8, 9, 14, 15;
Sec. 11, Lots 3 through 8, 15 through 18;
Sec. 13, Lots 6, 10 through 17;
Sec. 14, Lots 1 through 17 and all of Tract
52 lying within Section 14, whether or not
contained in such lots (All);
Sec. 15, Lots 1 through 18;
Sec. 16, Lots 3, 4, 8, 9, 10;
Sec. 21, N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 22, All;
Sec. 23, All;
Sec. 24, All;
Sec. 25, All;
Sec. 26, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 27, N $\frac{1}{2}$ NE $\frac{1}{4}$.

Containing 6,015.99 acres in Routt County,
Colorado.

Legal Description of Federal Coal in Iles Mountain Tract

- T. 5 N., R. 92 W., 6th P. M.,
Sec. 3, Lot 17;
Sec. 10, Lot 3, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$;
Sec. 11, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$,
SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 13, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 14, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$,
S $\frac{1}{2}$;
Sec. 15, All;
Sec. 22, Lot 1, E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 23, N $\frac{1}{2}$, SE $\frac{1}{4}$;
Sec. 24, All;
Sec. 25, N $\frac{1}{2}$ N $\frac{1}{2}$.

Containing 3,782.10 acres, more or less, in
Moffat County.

Legal Description of Federal Coal in the Lay Tract

- T. 8 N., R. 92 W., 6th P. M.,
Sec. 19, Lot 8, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 30, Lots 5 through 8, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$ (All);
Sec. 31, Lot 5, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$.
- T. 8 N., R. 93 W., 6th P. M.,
Sec. 20, Lots 1, 2, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 21, Lots 5 through 8, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 22, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 24, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 25, All;
Sec. 26, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
Sec. 27, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
Sec. 28, Lots 1 through 4, N $\frac{1}{2}$ NW $\frac{1}{4}$,
S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$, (All);
Sec. 29, Lots 1, 3 through 10, 12, NE $\frac{1}{4}$,
N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 30, Lots 3, 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 31, Lots 1 through 4, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$ (All);
Sec. 32, Lots 1, 2, 4, through 10, 12, 13, 15,
NW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 35, N $\frac{1}{2}$ NE $\frac{1}{4}$.
- T. 7 N., R. 94 W., 6th P. M.,
Sec. 1, Lots 6, 7, 8, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
Sec. 2, Lots 5 through 8, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ (All);
Sec. 3, Lots 5 through 8, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ (All);
Sec. 4, Lot 5, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$.
- T. 8 N., R. 94 W., 6th P. M.,
Sec. 25, S $\frac{1}{2}$;
Sec. 26, S $\frac{1}{2}$;
Sec. 27, SE $\frac{1}{4}$;
Sec. 33, All;
Sec. 34, All;
Sec. 35, All.

Containing 10,730.45 acres, more or less, in
Moffat County.

Legal Description of Federal Coal in the Pinnacle Tract

- T. 4 N., R. 86 W., 6th P. M.
Section 7: Lots 5, 6
- T. 5 N., R. 87 W., 6th P. M.
Section 36: Lots 6 thru 9, 14, 15
- Containing 273.22 Acres in Routt County

Legal Description of Federal Coal in the Grassy Creek Tract

- T. 5 N., R. 87 W., 6th P. M.
Section 20: NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$
Section 29: NE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$,
NW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$
- Containing 520.00 Acres, More or Less, in
Routt County

Legal Description of Federal Coal in the Williams Fork Mountains Tract

- T. 5 N., R. 89 W., 6th P. M.
Section 4: Lots 1 thru 4, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ (All)
Section 5: Lots 5 thru 19 (All)
Section 6: Lots 1, 2, 4, 6, 7, S $\frac{1}{2}$ NE $\frac{1}{4}$,
E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$
Section 7: Lots 1, 2, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$
Section 8: Lots 1 thru 17 (All)
Section 9: Lots 1 thru 13
Section 10: Lots 1 thru 6, 10 thru 13
Section 16: Lots 1, 2, 5, 6, 7
Section 17: All
Section 18: SE $\frac{1}{4}$
Section 19: N $\frac{1}{2}$ NE $\frac{1}{4}$
Section 20: N $\frac{1}{2}$ N $\frac{1}{2}$
Tract 43 (which lies in what would
otherwise be parts of Sections 5 and 8)
- T. 5 N., R. 90 W., 6th P. M.
Section 1: Lots 5 thru 20 (All)
Section 2: Lots 5 thru 20 (All)

Section 3: Lots 5 thru 20 (All)
 Section 4: Lots 5, 6, 7, 10 thru 15, 18, 19, 20
 Section 9: Lots 1, 2, 3, 6, 7, 8
 Section 10: Lots 1 thru 10, 15, 16
 Section 11: Lots 1 thru 16 (All)
 Section 12: Lots 1 thru 16 (All)
 Section 13: Lots 1 thru 8
 Section 14: Lots 1 thru 8
 Containing 10,120.04 Acres, More or Less,
 in Moffat and Routt Counties

Legal Description of Federal Coal in the Bell Rock Tract

T. 6 N., R. 91 W., 6th P.M.
 Section 30: Lot 8
 T. 6 N., R. 92 W., 6th P.M.
 Section 25: Lots 1, 2, N $\frac{1}{2}$
 Containing 431.40 Acres in Moffat County

Legal Description of Federal Coal in Danforth Hills No. 1 Tract

T. 3 N., R. 93 W., 6th P.M.
 Section 11: Lots 3, 5, 6, 8, 13, 14, 16, NW $\frac{1}{4}$,
 N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$
 Section 14: Lots 4, 5
 Section 15: Lots 1, 3, 5, 11, 12, 14, NW $\frac{1}{4}$,
 W $\frac{1}{2}$ SW $\frac{1}{4}$
 Containing 876.20 Acres, More or Less, in
 Moffat County

Legal Description of Federal Coal in Danforth Hills No. 2 Tract

T. 3 N., R. 93 W., 6th P.M.
 Section 5: Lots 1, 2, S $\frac{1}{2}$ NE $\frac{1}{4}$
 Section 7: Lots 4, 5, 6, 9, 10, NE $\frac{1}{4}$ NE $\frac{1}{4}$,
 S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$
 Section 8: All
 Section 17: All
 Section 18: Lots 1 thru 6, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$ (All)
 Containing 2,613.67 Acres, More or Less, in
 Moffat County

Legal Description of Federal Coal in Danforth Hills No. 3 Tract

T. 3 N., R. 93 W., 6th P.M.
 Section 19: Lots 1 thru 4, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$ (All)
 Section 20: Lot 1, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$,
 SW $\frac{1}{4}$ SE $\frac{1}{4}$
 Section 21: Lots 1, 3, 5 thru 8, 10, N $\frac{1}{2}$,
 N $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$
 Section 28: Lots 4 thru 8, 12, 13, 15
 Section 29: Lots 2, 3, 5, 8
 Containing 1,960.96 Acres, More or Less, in
 Rio Blanco County

Legal Description of Federal Coal in the Empire Tract

T. 5 N., R. 91 W., 6th P.M.
 Section 5: Lots 5 thru 12
 Section 8: Lots 1 thru 8
 Containing 681.55 Acres, More or Less, in
 Moffat County

Legal Description of Federal Coal in the Medicine Bow Tract

T. 23 N., R. 83 W., 6th P.M., Wyoming
 Section 4: All
 Section 6: All
 Section 8: All (Bypass Application)
 Section 18: All
 Section 20: All (Bypass Application)
 Section 30: SW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$,
 S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$
 T. 24 N., R. 83 W., 6th P.M., Wyoming
 Section 30: S $\frac{1}{2}$, S $\frac{1}{2}$ N $\frac{1}{2}$
 Section 32: All
 T. 23 N., R. 84 W., 6th P.M., Wyoming

Section 12: All
 Section 24: Lots E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$
 T. 24 N., R. 84 W., 6th P.M., Wyoming
 Section 36: NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$
 4,980 Acres

Legal Description of Federal Coal in the Seminole II Tract

T. 22 N., R. 81 W., 6th P.M., Wyoming
 Section 6: All (Bypass Application)
 Section 8: S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$,
 N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$
 T. 23 N., R. 81 W., 6th P.M., Wyoming
 Section 20: NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$,
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$,
 W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$
 Section 30: All
 Section 32: W $\frac{1}{2}$
 T. 23 N., R. 82 W., 6th P.M., Wyoming
 Section 2: SE $\frac{1}{4}$
 2,440 Acres

Legal Description of Federal Coal in the Rosebud Tract

T. 23 N., R. 80 W., 6th PM, Wyoming
 Section 6: All
 T. 23 N., R. 81 W., 6th PM, Wyoming
 Section 2: S $\frac{1}{2}$
 Section 10: NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$,
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$,
 N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$
 Section 12: All
 Section 14: All
 Section 24: N $\frac{1}{2}$
 2,870 Acres

Legal Description of Federal Coal in the Red Rim Tract (assumes winter range acceptable)

T. 19 N., R. 90 W., 6th PM, Wyoming
 Section 4: W $\frac{1}{2}$, NE $\frac{1}{4}$
 Section 6: W $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$
 Section 8: SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$,
 SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$
 Section 18: All
 Section 30: W $\frac{1}{2}$, NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$
 T. 19 N., R. 91 W., 6th PM, Wyoming
 Section 24: All
 Section 26: E $\frac{1}{2}$ E $\frac{1}{2}$
 T. 20 N., R. 89 W., 6th PM, Wyoming
 Section 4: N $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$,
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, lot 3, lot 4
 Section 6: All
 Section 8: W $\frac{1}{2}$, NE $\frac{1}{4}$
 Section 18: All
 T. 20 N., R. 90 W., 6th PM, Wyoming
 Section 12: E $\frac{1}{2}$, SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$,
 SW $\frac{1}{4}$ NW $\frac{1}{4}$
 Section 22: E $\frac{1}{2}$, SW $\frac{1}{4}$
 Section 24: All
 Section 26: All
 Section 28: SE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$
 Section 32: E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$
 Section 34: All
 T. 21 N., R. 89 W., 6th PM, Wyoming
 Section 24: SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$
 Section 26: S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$,
 S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$,
 SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$,
 NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$
 Section 34: SE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$,
 SW $\frac{1}{4}$ SW $\frac{1}{4}$
 8,295.28 Acres

Legal Description of Federal Coal in the China Butte Tract

T. 19 N., R. 91 W., 6th PM, Wyoming
 Section 34: All

T. 18 N., R. 91 W., 6th PM, Wyoming
 Section 2: NW $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$,
 NW $\frac{1}{4}$ SE $\frac{1}{4}$
 Section 10: All
 Section 12: All
 Section 14: All
 Section 22: All
 Section 28: All
 Section 32: All
 Section 34: NW $\frac{1}{4}$, S $\frac{1}{2}$
 T. 17 N., R. 91 W., 6th PM, Wyoming
 Section 4: S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$
 Section 6: N $\frac{1}{2}$ N $\frac{1}{2}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$,
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$,
 NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$
 5,862 Acres

[FR Doc. 80-26997 Filed 9-4-80; 8:45 am]
 BILLING CODE 4310-84-M

California Desert Conservation Area, Final Wilderness Inventory; Dismissal of an Appeal

On January 7, 1980, a notice was published in the Federal Register (page 1456) that certain of my final wilderness inventory decisions had been appealed to the Interior Board of Land Appeals. This Board issued an order dated August 5, 1980, dismissing the case of one appellant (Docket No. IBLA 80-272) for failing to file a statement of reasons in support of his appeal. Consequently, my final wilderness inventory decisions for the California Desert Conservation Area units 207, 251, and 251A are now in effect. These decisions were announced in the Federal Register on March 30, 1979 (page 19044). Minor changes have been made in the boundaries of unit 207 but this has no significant effect on the portion designated as a Wilderness Study Area.

The remaining inventory units listed in my January 7, 1980, Federal Register notice referenced above remain under appeal.

Ron Hofman,
 Associate State Director.

[FR Doc. 80-26888 Filed 9-4-80; 8:45 am]
 BILLING CODE 4310-84-M

[F-14955-A and F-14955-B]

Alaska Native Claims Selections

On April 4 and October 16, 1974, the Wales Native Corporation, for the Native village of Wales, filed selection applications F-14955-A and F-14955-B under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611) (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Wales.

On November 14, 1978, the State of Alaska filed general purposes grant selection applications F-44298, F-44316, F-44317 and F-44335, all as amended,

pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b)), for certain lands in the Wales area.

The following described lands have been properly selected by Wales Native Corporation or segregated by applications pursuant to the public land laws. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated and unreserved* public lands in Alaska. Therefore, the following State selection applications are hereby rejected as to the following described lands:

Kateel River Meridian, Alaska (Unsurveyed)

State Selection F-44298

T. 1 N., R. 43 W.

- Secs. 3, 4, 5 and 6, all;
- Sec. 7 (fractional), all;
- Secs. 8, 9 and 10, all;
- Secs. 15 and 16, all;
- Secs. 17, 18, 20 and 21 (fractional), all;
- Sec. 22, all.

Containing approximately 8,046 acres.

T. 1 N., R. 44 W.

- Sec. 1, all;
- Secs. 2, 3 and 4 (fractional), all;
- Secs. 11 and 12 (fractional), all.

Containing approximately 1,640 acres.

State Selection F-44316

T. 2 N., R. 43 W.

- Secs. 31, 32, 33 and 34, all.

Containing approximately 2,546 acres.

State Selection F-44317

T. 2 N., R. 44 W.

- Secs. 5, 6, 7 and 8, all;
- Secs. 16 and 17, all;
- Sec. 18, including Mineral Survey 2199;
- Sec. 19 (fractional), all;
- Secs. 20, 21 and 22, all;
- Secs. 25, 26 and 27, all;
- Secs. 28, 29, 30 and 33 (fractional), all;
- Secs. 34, 35 and 36, all.

Containing approximately 12,303 acres.

State Selection F-44335

T. 3 N., R. 43 W.

- Secs. 22 to 27, inclusive, all;
- Sec. 36, all.

Containing approximately 4,480 acres.

Aggregating approximately 29,015 acres.

The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands.

Further action on the subject State selection applications, as to those lands not rejected herein, will be taken at a later date.

As to the lands described below, the applications submitted by the Wales Native Corporation, as amended, are properly filed, and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful

entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 84,233 acres, is considered proper for acquisition by the Wales Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Mineral Survey No. 337A, known as Aspen, Sunrise, Arctic and Fairview Lode Claims situate in the Port Clarence Mining District, Alaska.

Containing 52,315 acres.

Mineral Survey No. 2199, known as the Cape Creek Group, consisting of Beach, Valley, Triangle Bench, Outlet Right Limit Bench, Right Limit Bench No. 1, Cape Limit No. 1 fraction and Cape Creek #1 Claim situate in the Port Clarence Mining District, Alaska.

Containing 159,783 acres.

Kateel River Meridian, Alaska (Unsurveyed)

T. 1 N., R. 43 W.

- Secs. 3, 4, 5 and 6, all;
- Sec. 7 (fractional), all;
- Secs. 8, 9 and 10, all;
- Secs. 15 and 16, all;
- Secs. 17, 18, 20 and 21 (fractional), all;
- Sec. 22, all.

Containing approximately 8,046 acres.

T. 2 N., R. 43 W.

- Secs. 31, 32, 33 and 34, all.

Containing approximately 2,546 acres.

T. 3 N., R. 43 W.

- Secs. 2 to 11, inclusive, all;
- Secs. 13 to 18, inclusive, all;
- Secs. 22 to 27, inclusive, all;
- Sec. 36, all.

Containing approximately 14,815 acres.

T. 4 N., R. 43 W.

- Sec. 1 (fractional), excluding Native allotments F-16754 and F-19287 Parcel B;
- Sec. (fractional), excluding Native allotments F-16754, F-18421 and F-18422;
- Sec. 11 (fractional), excluding Native allotment F-18422;
- Sec. 12 (fractional), all;
- Secs. 24, 25, 26 and 27 (fractional), all;
- Secs. 31, 32, 33 and 34 (fractional), all;
- Secs. 35 and 36, all.

Containing approximately 4,921 acres.

T. 1 N., R. 44 W.

- Sec. 1, all;
- Secs. 2, 3 and 4 (fractional), all;
- Secs. 11 and 12 (fractional), all.

Containing approximately 1,640 acres.

T. 2 N., R. 44 W.

- Secs. 5, 6, 7 and 8, all;
- Secs. 16 and 17, all;
- Sec. 18, excluding Mineral Survey 2199 and Public Land Order (PLO) 1672;
- Sec. 19 (fractional), excluding PLO 1672;
- Secs. 20, 21 and 22, all;
- Secs. 25, 26 and 27, all;
- Sec. 28 (fractional), excluding Native allotment F-19027 Parcel B;
- Sec. 29 (fractional), all;
- Sec. 30 (fractional), excluding PLO 1672;
- Sec. 33 (fractional), excluding Native allotment F-19027 Parcel B;

Secs. 34, 35 and 36, all.
Containing approximately 11,853 acres.

T. 3 N., R. 44 W.

- Secs. 1 and 2, all;
- Sec. 3 (fractional), excluding Native allotment F-16756;
- Secs. 4, 8 and 9 (fractional), all;
- Secs. 10, 11 and 12, all;
- Secs. 14, 15 and 16, all;
- Secs. 17 and 18 (fractional), all;
- Secs. 19, 20, 21 and 22, all;
- Secs. 28 to 32, inclusive, all.

Containing approximately 12,339 acres.

T. 4 N., R. 44 W.

- Secs. 1, 2, and 8 (fractional), all;
- Sec. 9 (fractional), excluding Native allotment F-19027 Parcel A;
- Sec. 10 (fractional), excluding Native allotment F-19287 Parcel A;
- Secs. 11 and 12 (fractional), all;
- Sec. 16 (fractional), excluding Native allotment F-19027 Parcel A;
- Secs. 17, 18, 19 and 20 (fractional), all;
- Secs. 27, 29 and 30 (fractional), all;
- Secs. 34, 35 and 36 (fractional), all.

Containing approximately 4,466 acres.

T. 2 N., R. 45 W.

- Sec. 1, all;
- Sec. 2, excluding Mineral Survey 337;
- Secs. 3 and 4, all;
- Sec. 5 (fractional), excluding U.S. Survey 779, ANCSA Sec. 3(e) Applications F-23135 and F-70028;
- Secs. 6 and 8 (fractional), all;
- Secs. 9 and 10, excluding Mineral Survey 336;
- Sec. 11, excluding Mineral Surveys 336 and 337;
- Sec. 12, excluding Mineral Survey 336 and PLO 1876;
- Sec. 13, excluding Mineral Survey 2199 and PLO 1872;
- Sec. 14, excluding Mineral Survey 336 and PLO 1872;
- Sec. 15, excluding Mineral Surveys 336, 409 and PLO 1672;
- Sec. 16 (fractional), excluding Mineral Survey 336;
- Secs. 17 and 21 (fractional), all;
- Sec. 22, excluding PLO 1672;
- Sec. 23, excluding Mineral Surveys 336B, 337B, 409B, 2199, ANCSA Sec. 3(e) Application F-64899 and PLO 1672;
- Sec. 24, excluding Mineral Survey 2199, ANCSA Sec. 3(e) Application F-64899 and PLO 1672.

Containing approximately 8,724 acres.

T. 3 N., R. 45 W.

- Secs. 3 to 7 (fractional), inclusive, all;
- Sec. 8, all;
- Secs. 9 and 13 (fractional), all;
- Secs. 16 to 20 (fractional), inclusive, all;
- Secs. 23 and 24 (fractional), all;
- Sec. 25, all;
- Secs. 26 to 31 (fractional), inclusive, all;
- Secs. 32 to 36, inclusive, all.

Containing approximately 10,972 acres.

T. 4 N., R. 45 W.

- Sec. 13 (fractional), all;
- Secs. 23 to 28 (fractional), inclusive, all;
- Secs. 32 to 36 (fractional), inclusive, all.

Containing approximately 3,900 acres.

Aggregating approximately 84,021 acres.

Total aggregated acreage, 84,233 acres.

The conveyance issued for the surface estate of the lands described above

shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 706; 43 U.S.C. 1601, 1616(b)), the following public easements referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14955-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATVs, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 1C3, C5, D1, D9) An easement for an existing access trail, twenty-five (25) feet in width, from Sec. 5, T. 1 S., R. 43 W., Kateel River Meridian, northwesterly, following the coast to Wales then northeasterly along the coast to public lands and Shismaref. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 7 C5, D1, D9) An easement for an existing access trail, twenty-five (25) feet in width, from the village of Wales in Sec. 5, T. 2 N., R. 45 W., and Sec. 32, T. 3 N., R. 45 W., Kateel River Meridian, northeasterly to site EIN 7a C4, C5, D1, on the shore of Lopp Lagoon in Sec. 28, T. 3 N., R. 45 W., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 7a C4, C5, D1) A one (1) acre site easement, upland of the mean high-tide line, in Sec. 28, T. 3 N., R. 45 W., Kateel River Meridian, on the south shore of Lopp Lagoon. The uses allowed are those listed above for a one (1) acre site easement.

d. (EIN 10a C5, D1) An easement for an existing access trail, twenty-five (25) feet in width, from EIN 25 C5, K, in Sec. 13, T. 2 N., R. 45 W., Kateel River Meridian, northerly to trail EIN 10b C5, D1, in Sec. 12, T. 2 N., R. 45 W., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 10b C5, D1) An easement for an existing access trail, twenty-five (25) feet in width, from trail EIN 10a C5, D1, in Sec. 12, T. 2 N., R. 45 W.; Kateel River Meridian, easterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 12 C3, D1, D9) An easement for an existing access trail, twenty-five (25) feet in width, from the mean high-tide line on the shore of the Bering Sea and York, in Sec. 18, T. 1 N. R. 43 W., Kateel River Meridian, northeasterly, paralleling the Anikovich River to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 24 C5, K) An easement, twenty (20) feet in width, for an existing communications and powerline from Tin City Air Force Base, easterly to the Air Force airstrip in Sec. 24, T. 2 N., R. 45 W., Kateel River Meridian. The uses allowed are those activities associated with the construction, operation and maintenance of the communication and powerline facility. The users allowed are limited to the United States Government and its authorized agents and assignees.

h. (EIN 24a C5, K) An easement, sixty (60) feet in width, for an existing road from the Tin City Air Force Base, easterly to the Air Force airstrip in Sec. 24, T. 2 N., R. 45 W., Kateel River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement. The users allowed are limited to the United States Government and its authorized agents and assignees.

i. (EIN 25 C5, K) An easement, sixty (60) feet in width, for an existing road net from Tin City Air Force Base in Sec. 23, T. 2 N., R. 45 W., Kateel River Meridian, northerly to the communications site in Sec. 12, T. 2 N., R. 45 W., Kateel River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement. The users allowed are limited to the United States Government and its authorized agents and assignees.

j. (EIN 25a C5, K) An easement, fifty (50) feet in width, for an existing access road, power and communications cable from the north boundary of Tract A, PLO No. 1672 in Sec. 23, T. 2 N., R. 45 W., Kateel River Meridian, northeasterly, thence northwesterly to the south boundary of Tract E of PLO No. 1676 in Sec. 12, T. 2 N., R. 45 W., Kateel River Meridian. The uses allowed are those activities associated with the construction, operation and maintenance of the access road, power and communication cable facility. The users allowed are limited to the United States Government and its authorized agents and assignees.

k. (EIN 27 C5, K) An easement, sixty (60) feet in width, for an existing road in Sec. 13, T. 2 N., R. 45 W., Kateel River Meridian, connecting with two points of road EIN 25 C5. The uses allowed are those listed above for a sixty (60) foot wide road easement. The users allowed are limited to the United States

Government and its authorized agents and assignees.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2) (ANCSA)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport lease, F-19618, containing approximately 239.88 acres, located within SW ¼ Sec. 29, SE ¼ Sec. 30, E ½ Sec. 31 and W ½ Sec. 32, T. 3 N., R. 45 W., Kateel River Meridian, issued to the State of Alaska, Department of Public Works, Division of Aviation (now the Department of Transportation and Public Facilities) under the provisions of the Act of May 24, 1928 (45 Stat. 728-729; 43 U.S.C. 211-214);

4. A right-of-way, F-16947, located in W ½ Sec. 5, T. 2 N., R. 45 W., Kateel River Meridian, for an electric distribution line, ten (10) feet each side of the centerline, and power plant site issued to Alaska Village Electric Co-operative, Incorporated, under the Act of March 4, 1911 (36 Stat. 1253; 43 U.S.C. 961);

5. Grazing Permit, F-898, to Norman Lee Ongtawasruk within Tps. 1, 2, 3 and 4 N., Rs. 43 and 44 W., and Tps. 2, 3 and 4 N., R. 45 W., Kateel River Meridian, under the Act of September 1, 1937 (50 Stat. 902; 48 U.S.C. 250k);

6. Free Use Permit, F-22430, located within Sec. 12, T. 2 N., R. 45 W., Kateel River Meridian, issued to the Department of the Air Force under the Act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-602). (This Free Use Permit is expired and will be closed of record when the required rehabilitation has been completed and the compliance check finalized.); and

7. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Wales Native Corporation is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 84,233 acres of this entitlement have been approved for conveyance. The remaining entitlement

of 7,927 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bering Straits Native Corporation when conveyance is granted to Wales Native Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the above described lands.

Lopp Lagoon is tidally influenced.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the *Federal Register* and once a week, for four (4) consecutive weeks, in the NOME NUGGET. Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.
2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 6, 1980 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

State of Alaska, Department of Natural Resources, Division of Research & Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Wales Native Corporation, Wales, Alaska 99783.

Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762.

Barbara A. Yoppke,
Acting Chief, Branch of Adjudication.

[FR Doc. 80-27183 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

Northern and Central California Outer Continental Shelf; Availability of Final Environmental Statement Regarding Proposed Northern and Central California OCS Oil and Gas Lease Sale No. 53

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a final environmental statement relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 243 tracts consisting of 532,588 hectares (1.3 million acres) of submerged Federal lands off the coast of northern and central California (OCS Sale No. 53).

Single copies of the final environmental statement can be obtained from the Office of the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 1340 West 6th Street, Los Angeles, California 90017, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the final environmental statement will also be made available for inspection in the following public libraries: Crescent City Public Library, 450 H Street, Crescent City, CA; North Coast Regional Coastal Commission, 1656 Union Street, Eureka, CA; Humboldt State University Library, Documents Department, Arcata, CA; Mendocino County Library, 353 North Main Street, Ft. Bragg, CA; Mendocino Environmental Center, Mendocino, CA; Ukiah Library, 105 N. Main, Ukiah, CA; Coastal Planning Office, 311-G Redwood Avenue, Ft. Bragg, CA; North Bay Cooperative Library System, Third & E Streets, Santa Rosa, CA; Bodega Bay Volunteer Fire Dept., Highway One, Bodega Bay, CA; Sebastopol Public Library, 7140 Bodega Avenue, Sebastopol, CA; Petaluma Free Library, Fourth & 'B' Streets, Petaluma, CA; Healdsburg Library, 221 Matheson Street, Healdsburg, CA; Mill Valley City Library, 28 Corte Madera Avenue, Mill Valley, CA; Fairfax Library, 2097 Sir Francis Drake Boulevard, Fairfax, CA; Novato Library, 1720-11 Boulevard, Novato, CA; Stinson Library, 3470 Shoreline Highway, Stinson Beach, CA; Corte Madera Library, 707 Meadowsweet Drive, Corte Madera, CA; Salinas Library, 110 W. San Luis Street, Salinas, CA; Monterey Public Library, 625 Pacific Street, Monterey, CA; Bruggemeyer Memorial Library, 318 S. Ramona, Monterey Park, CA; Association of Monterey Bay Area Governments, Monterey, CA; Pacific Grove Library, 550 Central Avenue, Pacific Grove, CA; Grover City Library, 101 S. 9th Street, Grover City, CA; Morro Bay Library, 410 Morro Bay Boulevard, Morro Bay, CA; Nipomo Elementary School, County Library, 333 West Taft, Nipomo, CA; California Polytechnic State University Library, San Luis Obispo, CA; San Luis Obispo City-County Library, 1354 Bishop Street, San Luis Obispo, CA; Environmental Center of San Luis Obispo County, 985 Palm, San Luis Obispo, CA; Pismo Beach City Library, 1000 Bellow Avenue, Pismo Beach, CA; Goleta Public Library, 500 N. Fairview Avenue, Goleta, CA; Santa Maria Public Library, 420 S. Broadway, Santa Maria, CA; Santa Barbara Public Library, Santa Barbara Campus, Santa Barbara, CA; South Central Coast Regional Commission, 1224 Coast Village Circle, Suite 36, Santa Barbara, CA; California State Lands Commission, 1807 13th Street, Sacramento, CA; California State Law Library, Sacramento, CA; Point Reyes Library, 4th & A Streets, Point Reyes, CA; Marin County Library, Pacific Center Branch, Civic Center, San Rafael, CA; North Central Coast Regional Commission, Holiday Plaza Office Building, Suite 130, 1050 Northgate Drive, San Rafael, CA; University of San Francisco, Richard A. Gleeson Library, 2130 Fulton, San Francisco, CA; California Coastal Zone Commission, 631 Howard Street, San Francisco, CA; San Francisco Public Library, Civic Center, San Francisco, CA; Oakland Public Library, 125 14th Street, Oakland, CA; University of California, Earl Warren Legal Center Law Library, 232 Boalt Hall, Berkeley, CA; Richmond Public Library, Civic Center Plaza, Richmond, CA; Pacifica Public Library, Hilton at Palmetta, Pacifica, CA; Pescadero Public Library, North Road, Pescadero, CA; San Mateo Public Library, 55 West Third, San Mateo, CA; Redwood City Library, 881 Jefferson Avenue, Redwood City, CA; San Jose State University Library, 250 S. 4th Street, San Jose, CA; McHenry Library, University of California, Santa Cruz, CA; Santa Cruz Public Library, 224 Church Street, Santa Cruz, CA; Central

Coast Regional Commission, 701 Ocean Street, Room 300, Santa Cruz, CA.

George D. Lea,
Deputy Director, Bureau of Land Management.

August 27, 1980.

Approved:

James H. Rathlesberger,
Special Assistant to Assistant Secretary of the Interior.

September 2, 1980.

[FR Doc. 80-27177 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

[CA 1583]

California; Order Providing for Opening of Public Lands

August 27, 1980.

In an exchange of lands made under the provision of Section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following lands have been reconveyed to the United States:

Mount Diablo Meridian

T. 30 N., R. 14 E.,
Sec. 21, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 28, NW $\frac{1}{4}$ NW $\frac{1}{4}$.

The area aggregates 80 acres in Lassen County, California.

The lands shall be open to operation of the public land laws generally at 10 a.m. on October 6, 1980, subject to valid existing rights and the provision of existing withdrawals. They have been and continue to be open to the mining laws (30 U.S.C. Ch. 2) and the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Marie M. Getsman,

Acting Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 80-27203 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

[S 1387]

California; Order Providing for Opening of Public Land

August 27, 1980.

Pursuant to authority delegated to me by the State Director, California State Office, Bureau of Land Management, dated January 21, 1977 (42 F.R. 3901), as amended, and pursuant to Solicitor's Order dated August 26, 1949, concerning public domain allotments which have escheated to the United States, the following described land is hereby

opened to application, petition, location, and selection, including location under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law:

Mount Diablo Meridian

T. 32 N., R. 9 W.,

Sec. 2, Lots 5 and 6.

The area described contains 84.99 acres of public land.

The land is located in Trinity County about 2 miles northwest of Lewiston, California. Topography varies from nearly flat to rolling hills. Vegetation consists of grass and scattered oak trees.

All valid applications received at or prior to 10 a.m. on October 6, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Marie M. Getsman,

Acting Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 80-27204 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

[S 1209]

California; Order Providing for Opening of Public Land

August 27, 1980.

1. In an exchange of lands made under the provision of Section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following land has been reconveyed to the United States:

Mount Diablo Meridian

T. 46 N., R. 1 E.,

Sec. 18, NE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 19, E $\frac{1}{2}$.

The area aggregates 360 acres in Siskiyou County, California.

2. At 10 a.m. on October 6, 1980, the land shall be open to operation of the public land laws generally, including the mining laws (30 U.S.C. Ch. 2), and the mineral leasing laws, subject to valid existing rights, the provision of existing withdrawals, and the requirement of applicable law. All valid applications received at or prior to 10 a.m. on October 6, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the

Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825

Marie M. Getsman,

Acting Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 80-27205 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

[LA 095452]

California; Order Providing for Opening of Public Land

August 27, 1980.

In an exchange of lands made under the provision of Section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following lands have been reconveyed to the United States:

San Bernardino Meridian

T. 11 N., R. 16 W.,

Sec. 21, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;

Sec. 23, All.

The area aggregates 1,260.00 acres in Kern County, California.

At 10 a.m. on October 6, 1980, the land shall be open to operation of the public land laws generally, including the mining laws (30 U.S.C. Ch. 2), and the mineral leasing laws, subject to valid existing rights, the provision of existing withdrawals, and the requirement of applicable law. All valid applications received at or prior to 10 a.m. on October 6, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Marie M. Getsman,

Acting Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 80-27212 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

[S 3836]

California; Order Providing for Opening of Public Land

August 27, 1980.

1. In an exchange of lands made under the provision of Section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented (43 U.S.C. 315g (1964)), the following land has been reconveyed to the United States.

Mount Diablo Meridian

T. 46 N., R. 1 E.,

Sec. 19, Lots 1 and 2 and E½NW¼.

The area aggregates 157.61 acres in Siskiyou County, California.

2. At 10 a.m. on October 16, 1980, the land shall be open to operation of the public land laws generally, including the mining laws (30 U.S.C. Ch. 2), and the mineral leasing laws, subject to valid existing rights, the provision of existing withdrawals, and the requirement of applicable law. All valid applications received at or prior to 10 a.m. on October 6, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. Inquiries concerning the land should be addressed to the Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2300 Cottage Way, Sacramento, California 95825.

Marie M. Getsman,

Acting Chief, Lands Section Branch of Lands and Mineral Operations.

[FR Doc. 80-27213 Filed 9-4-80; 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 Salmon District Advisory Council will be held on Thursday, October 2, 1980, at 10:00 a.m., at the American Legion Building in Challis, Idaho.

Agenda for the meeting will include:

- (1) Reading of the Advisory Council meeting minutes of July 29, 1980.
- (2) Review Resource uses observed in the Aerial Tour of Challis Unit.
- (3) Discussion of Wild Horse gathering and Adoption program (local vs. Regional or National).
- (4) Discussion of Recreation Site needs and planning (particularly along the rivers and water courses).
- (5) Discussion of Cyprus Mine construction progress and related Timber harvest.
- (6) Discussion of Wilderness Study Areas.

(7) Establishment of committees.

(8) 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 12:00 noon, or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the Salmon District Office by September 25, 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: August 25, 1980.

Jerry W. Goodman,
Acting District Manager.

[FR Doc. 80-27206 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

Off-Road-Vehicle (ORV) Use Designations for the Pocatello Planning Unit

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that a decision regarding off-road vehicle use designations for the Pocatello Planning Unit has been made pursuant to the

provisions of 43 CFR 8342.1, 8342.2 and 8342.3. The off-road vehicle use decision applies to 92,000 acres of public land generally scattered around the Pocatello area in southeast Idaho. All public lands within the Pocatello Planning Unit have been designated as either open, limited, or closed as set forth in 43 CFR 8342.1.

The decision is that 320 acres be "closed" to motorcycles and four-wheel drive vehicles and 22,344 acres be closed to snowmachines. "Limited" use of ORVs is allowed on 65,811 acres for motorcycles and four-wheel drive vehicles and 33,010 acres for snowmachines. Areas and trails designated as "open," where ORVs may be operated subject to the operating regulations and vehicle standards set forth in 43 CFR Subparts 8341 and 8343, include 25,869 acres for motorcycles and four-wheel drive vehicles and 36,646 acres for snowmachines.

Designations by specific unit are as follows:

ORV Use Designations on Public Land

ORV designation unit	Decision
1. West Bench (4,215 acres).....	West subunit (1790 acres): Motorized vehicles over 40" in width restricted to designated routes (5.7 miles). Open to oversnow vehicles. All other motorized vehicles restricted to existing roads and trails. Closed to all motorized vehicles during spring runoff period. ¹ East subunit (2425 acres): All motorized vehicles restricted to designated routes (ORV routes—5.9 miles, motorcycle routes—4.8 miles) except oversnow vehicles. Open to oversnow vehicles. Closed to all motorized vehicles during spring runoff period. ¹
2. Chinks Peak (3,760 acres).....	All motorized vehicles restricted to designated routes (9.6 miles). Closed to all motorized vehicles during spring runoff period. ¹
3. Blackrock Canyon (11,287 acres).	Northeast subunit (2355 acres): All motorized vehicles restricted to existing roads and trails except over snow vehicles. Open to oversnow vehicles. Remainder of unit (8932 acres): All motorized vehicles restricted to existing roads and trails except oversnow vehicles. Closed to oversnow vehicles.
4. Camelback (1,400 acres).....	All motorized vehicles restricted to existing roads and trails except oversnow vehicles. Open to oversnow vehicles.
5. North Pocatello (4,720 acres) ...	All motorized vehicles restricted to existing roads and trails except oversnow vehicles. Open to oversnow vehicles.
6. Moonlight Mountain (1,450 acres).	Northeast subunit (832 acres): Closed to oversnow vehicles only. Remainder of unit (618 acres): Open to all motorized vehicles.
7. South Pocatello (5,700 acres)....	All motorized vehicles restricted to existing roads and trails except oversnow vehicles. Closed to oversnow vehicles.
8. Crystal (5,320 acres).....	Open to all motorized vehicles.
9. Garden Creek (5,848 acres).....	Open to all motorized vehicles.
10. Shoestring (2,361 acres).....	Oversnow vehicles restricted to designated routes (1.5 miles). Open to all other motorized vehicles.
11. Robbers Roost (800 acres).....	All motorized vehicles restricted to existing roads and trails except oversnow vehicles. Closed to oversnow vehicles.
12. Harkness Canyon (1,600 acres).	All motorized vehicles restricted to designated routes (ORV routes—1.3 miles, motorcycle route—0.7 miles).
13. Toponce-Pebble (5,493 acres).	All motorized vehicles restricted to existing roads and trails except oversnow vehicles. Oversnow vehicles restricted to designated routes (6.9 miles).
14. Petticoat Peak (19,334 acres)...	All motorized vehicles restricted to designated routes (11.2 miles).
15. Jenkins Canyon (2,740 acres)...	Open to all motorized vehicles.
16. Lava North (1,660 acres).....	Open to all motorized vehicles.
17. Downey Front (5,760 acres).....	All motorized vehicles restricted to existing roads and trails except oversnow vehicles. Closed to oversnow vehicles.
18. Wiregrass Reservoir (1,280 acres).	Motorized vehicles over 40" in width restricted to designated routes (5.2 miles). Open to oversnow vehicles. All other vehicles restricted to existing roads and trails.
19. Historic Sites (320 acres).....	Closed to all motorized vehicles.
20. Parks (462 acres).....	All motorized vehicles restricted to designated routes (1.5 miles).
21. Isolated tracts (6,490 acres)....	Open to all motorized vehicles.

¹The exact dates of the closure will be based upon field examinations of the actual runoff conditions each spring; normally this is the period March 15-May 15.

EFFECTIVE DATE: Decision takes effect September 5, 1980.

FOR FURTHER INFORMATION CONTACT:

Nick Cozacos, BLM Burley District Manager, or Dave Vail, Bannock-Oneida Area Manager, Telephone (208) 678-5514.

SUPPLEMENTARY INFORMATION: Maps and additional information regarding the designation decision can be obtained from the Burley District Office, Bureau of Land Management, 200 S. Oakley Highway, Burley, Idaho 83318.

Dated: August 26, 1980.

Nick James Cozacos,
Burley District Manager.

[FR Doc. 80-27208 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

Rock Springs District Advisory Council; Meeting

August 29, 1980.

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that a meeting of the Rock Springs District Advisory Council will be held on Wednesday, November 19, 1980.

The meeting will begin at 10:00 a.m. in the District Conference Room of the Bureau of Land Management Office on Highway 187 North, Rock Springs, Wyoming. The agenda for the meeting will include:

1. Introduction of members
2. Review of Council functions
3. Organization of Council
4. Briefing on BLM programs on National and District basis
5. Arrangements for next meeting

The meeting is open to the public. Interested persons may make oral statements to the Council between 2:30-3:30 p.m. or file written statements for the Council's consideration. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901, by November 14, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

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.

Jerry K. Ostrom,
Assistant District Manager.

[FR Doc. 80-27207 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

Roseburg District Advisory Council; Meeting

Location: District Office, 777 N.W. Garden Valley Blvd., Roseburg, Oregon 97470.

When: October 16, 1980; 1:00 p.m.

Agenda:

1. Role of the Advisory Council
2. Brief biographical sketch of each council member
3. Election of chairperson and vice chairperson
4. District programs and emerging issues
5. Discussion of future meetings.

Status: Meeting is open to the public. Minutes of the meeting will be on file at the District Office.

For additional information, contact James Conn, telephone (503) 672-4491.

James E. Hart,
District Manager.

[FR Doc. 80-27288 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

Shoshone District Advisory Council; Meeting

Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Shoshone District Advisory Council will be held on Friday, October 17, 1980, at 9:00 a.m., at the Bureau of Land Management Office, 400 West F Street, Shoshone, Idaho 83352.

Agenda for the meeting will include:

1. Improving Public Service in the Bureau of Land Management
 - (a) BLM's current Public Service Action Plan
 - (b) District Public Affairs Plan
 - (c) Advisory Council Recommendations for Improving District public service.
2. Sun Valley Planning update
3. Pending proposed rule-making and final regulations
4. Council issues
5. Arrangements for the next meeting

The meeting is open to the public. Interested persons may make oral statements to the Council between 1:00 p.m. and 3:00 p.m., 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 October 14, 1980. Depending on the number of persons wishing to make an oral statement, a per person time limit may be considered.

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: August 29, 1980.

Charles J. Haszier,
District Manager.

[FR Doc. 80-27200 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-84-M

[INT FES 80-28]

Mountain Foothills Grazing Final Environmental Impact Statement; Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Mountain Foothills grazing FEIS availability.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy

Act of 1969, the Bureau of Land Management has prepared a final environmental impact statement for the Dillon Resource Area. The proposal involves implementing an improved range management program on public lands within the Dillon Resource Area of the Butte District Office in southwestern Montana. Approximately 955,000 acres of public lands are involved.

SUPPLEMENTARY INFORMATION: The final environmental impact statement is to be used in conjunction with the draft environmental impact statement. The final statement is made up of the comments, our responses to those comments, and modifications and corrections developed in response to the comments received. Pursuant to Section 1506.10(b)(2) of the Council on Environmental Quality Regulations, no decision will be made within 30 days of the release of the final EIS.

Copies of the final environmental impact statement are available upon request to the District Manager, Bureau of Land Management, P.O. Box 3388, Butte, Montana 59701.

Public reading copies will be available for review at the following locations: Office of Public Affairs, Bureau of Land Management, Interior Building, 18th & C Streets, NW., Washington, D.C. 20240.

Bureau of Land Management, Montana State Office, 222 North 32nd Street, Billings, Montana 59107.

Bureau of Land Management, Butte District Office, P.O. Box 3388, Butte, Montana 59701.

Bureau of Land Management, Dillon Resource Area Office, Highway 41, North of Dillon, Dillon, Montana 59725.

FOR FURTHER INFORMATION CONTACT: Jack McIntosh, District Manager, Bureau of Land Management, Butte District Office, Telephone: (406) 723-6561, ext. 2419.

Dated: August 28, 1980.

Michael J. Penfold,
State Director.

[FR Doc. 80-27296 Filed 9-4-80; 8:45 am]
BILLING CODE 4310-84-M

Fish and Wildlife Service

Using Adjustable Plugs in Shotguns Capable of Holding More Than Three Shells When Hunting Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service gives notice that in its opinion hunters who use

adjustable plugs in shotguns capable of holding more than three shells when hunting migratory game birds are in violation of one of the prohibited hunting methods, 50 CFR 20.21(b).

FOR FURTHER INFORMATION CONTACT: John T. Webb, Division of Law Enforcement, U.S. Fish and Wildlife Service, Suite 300, 1375 K Street, N.W., Washington, D.C. 20005, telephone: (202) 343-9242.

SUPPLEMENTARY INFORMATION: On February 2, 1935, President Roosevelt approved a "gun plug" amendment to the Federal regulations under the Migratory Bird Treaty Act (hereinafter MBTA) as follows (United States Department of Agriculture, Bureau of Biological Survey, Service and Regulatory Announcements—81, Regulation 3):

[M]igratory game birds * * * shall not be taken with or by means of any automatic-loading or hand-operated repeating shotgun capable of holding more than 3 shells, the magazine of which has not been cut off, or plugged with a one-piece metal or wooden filler incapable of removal through the loading end thereof, so as to reduce the capacity of said gun to not more than 3 shells at one loading * * *.

The regulation was adopted as one means to check the annually increasing kill of migratory game birds and reduce losses caused by wounding birds that are irretrievable. Three shots at one loading insured these goals. The three shot limit was enforced by making it somewhat difficult and time-consuming for a hunter to convert a shotgun capable of holding more than three shells from a greater than three shell capacity to a three shell capacity, or vice versa, while hunting.

With slight modification the same regulation now appears at 50 CFR 20.21(b), which makes it illegal to hunt migratory game birds:

[w]ith a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells.

The conservation aims, which also include reducing the rate of lead accumulation on the bottom of marshes, are still accomplished by allowing only three shots at one loading. But recently questions have been raised about one type of device which may be used to reduce a shotgun's capacity to three shells. That device is an adjustable plug.

An adjustable plug is a two-piece device used on tubular magazine repeating shotguns. One piece replaces the magazine tube cap on the shotgun; the second piece locks into the first and extends into the magazine tube. The

capacity of the shotgun in this position is three shells. When the second piece is unlocked it extends outside the magazine tube parallel to the barrel. The capacity of the shotgun in this position is more than three shells.

When the second piece is unlocked (when the shotgun's capacity is more than three shells) the capacity of the shotgun can be instantly reduced to three shells by locking the second piece into the first. No disassembly of the shotgun is required.

As noted above, Federal regulations, 50 CFR 20.21(b), prohibit the taking of migratory game birds with a shotgun of any description capable of holding more than three shells, unless: (1) the shotgun is plugged with a one-piece filler, (2) the total capacity of the shotgun when plugged does not exceed three shells, and (3) the shell capacity cannot be changed without disassembling the shotgun.

The Service bases its opinion that the use of an adjustable plug is a violation of 50 CFR 20.21(b) on two grounds. First, an adjustable plug is a two-piece device. Second, an adjustable plug allows a hunter to load a shotgun with more than three shells, yet rapidly reduce shell capacity to three without disassembling the shotgun.

Dated: September 2, 1980.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

[FR Doc. 80-27295 Filed 9-4-80; 8:45 am]
BILLING CODE 4310-55-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Forest Oil Corporation, Unit Operator of the Eugene Island Block 292 Federal Unit Agreement No. 14-08-001-8764, submitted on August 27, 1980, a proposed Supplemental Plan of Development/Production describing the activities it proposes to conduct on the Eugene Island Block 292 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway

Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 29, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation.

[FR Doc. 80-27214 Filed 9-4-80; 8:45 am]

BILLING CODE 4310-31-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 111769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Board for International Food and Agricultural Development (BIFAD) on September 25, 1980.

The purpose of the meeting is to receive and discuss progress reports of the Joint Research Committee (JRC), and the Joint Committee for Agricultural Development (JCAD); receive the progress report on the BIFAD recommendations for more effective involvement of Title XII Universities in AID programs; receive and discuss the status report of the CID-Yemen Title XII Project, and meet with the BIFAD/Support Staff to discuss staff actions and operational procedures.

The meeting will begin at 9:00 a.m. and adjourn at 12:00 noon; and will be held in Room 1107 New State Department Building, 22nd and C Streets NW., Washington, D.C. The meeting with the BIFAD/Support Staff will begin at 1:30 p.m. and adjourn at 3:00 p.m.; and will be held in Room 2248 New State Department Building, 22nd and C Streets NW., Washington, D.C. The meetings are open to the public. Any interested person may attend, may file written

statements with the Board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting room.

Dr. Erven J. Long, Coordinator Title XII Strengthening Grants and University Relations, Development Support, Agency for International Development (A.I.D.), is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: August 28, 1980.

Curtis H. Barker,

Acting AID Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 80-27149 Filed 9-4-80; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

Consent Decree To Enforce Compliance With Terms of Ohio 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 Ohio State Implementation Plan in *United States v. United States Steel Corporation* has been approved and will be lodged with the United States District Court for the Northern District of Ohio, Eastern Division. The decree imposes on defendant certain emission limitations and compliance dates with respect to the operation of its Lorain Works integrated steel plant.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States v. United States Steel Corporation*, D. J. Ref. 90-5-2-3-880.

The proposed order may be examined at the office of the United States Attorney, Northern District of Ohio, Room 400, U.S. Courthouse, 215 Superior Avenue, NE., Cleveland, Ohio 44114 at the Region V office of the Environmental Protection Agency, 230 South Dearborn

Street, Chicago, Illinois 60604, and at 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 Resource Division.

[FR Doc. 80-27285 Filed 9-4-80; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Action for Emission of Air Pollutants by Carolina Power & Light Co.

In accordance with Department policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on August 19, 1980, a proposed consent decree in *United States of America v. Carolina Power & Light Co. (CP&L)*, Civil Action No. 80-442-D, was lodged with the United States District Court for the Middle District of North Carolina.

The consent decree requires CP&L to meet certain air pollutant emission limits contained in the North Carolina State Implementation Plan under the Clean Air Act, 42 U.S.C. 7401 *et seq.* The decree concerns CP&L's Roxboro (N.C.) Unit No. 3 power plant, requires CP&L to demonstrate compliance in August, 1980, and requires the payment of civil penalties.

The proposed consent decree may be examined at the Office of the United States Attorney for the Middle District of North Carolina, Greensboro, North Carolina; at the Region IV Office of the Environmental Protection Agency, Enforcement Division, 345 Courtland Street, N.E. Atlanta, Georgia 30365; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 1734, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of 30 days from the date of this notice. Comments should be addressed to the Deputy Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America v. Carolina Power & Light*

Co. (M.D. N.C. Civil Action 80-442-D;
D.J. 90-5-2-3-1225)

Angus MacBeth,

Deputy Assistant Attorney General Land and
Natural Resources Division.

[FR Doc. 80-27286 Filed 9-4-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local

area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20013.

Signed at Washington, D.C. this 29th day of August 1980.

Earl T. Klein,

Director, Office of Program Services.

Applications Received During the Week Ending Aug. 30, 1980

Name of applicant and location of enterprise	Principal product or activity
Joint Venturers, Middletown, New York.	Motor hotel.
Unifite, Inc., Bellingham, Washington.	Manufacture of fiberglass yachts.
Ethanol Motor Fuel Associates, Waterman, Illinois.	Corn wet milling ethanol plant.

[FR Doc. 80-28974 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-30-M

Office of the Secretary

[TA-W-9716]

Bethlehem Steel Corp., Sparrows Point, Md.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 4, 1980 in response to a worker petition received on July 9, 1980 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel products at Bethlehem Steel Corporation, Sparrows Point, Maryland.

The Notice of Investigation was published in the Federal Register on

August 12, 1980 (45 FR 53615-6). No public hearing was requested and none was held.

On June 30, 1980, an investigation was initiated on behalf of the same group of workers (TA-W-9051).

The Notice of Investigation was published in the Federal Register on July 15, 1980 (45 FR 48281-2). No public hearing was requested and none was held.

Since the identical group of workers is the subject of the on-going investigation, TA-W-9051, a new investigation would serve no purpose. Consequently, this investigation has been terminated.

Signed at Washington, D.C., this 26th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-27270 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10240]

Douglas & Lomason Co., Cleveland, Miss.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 18, 1980 in response to a worker petition received on July 11, 1980 which was filed on behalf of workers and former producing aluminum auto parts at the Cleveland, Mississippi plant of Douglas & Lomason Company.

On July 28, 1980, an investigation (TA-W-9610) was initiated in response to a petition filed on behalf of the same group of workers as filed TA-W-10240.

Since the identical group of workers is the subject of the ongoing investigation TA-W-9610, a new investigation would serve no purpose. Consequently, the investigation (TA-W-10240) has been terminated.

Signed at Washington, D.C., this 22nd day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-27271 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10217]

E. I. du Pont de Nemours & Co., Flint, Mich.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 18, 1980 in response to a worker petition received on August 4, 1980 which was filed on behalf of workers and former workers producing lacquer paints and auto finishes at E. I.

du Pont de Nemours and Company, Flint Michigan.

On July 7, 1980, a petition was filed on behalf of the same group of workers (TA-W-9429).

Since the identical group of workers is the subject of the ongoing investigation TA-W-9429, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 28th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-27272 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9342]

Firestone Textiles Co., Bowling Green, Ky.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 14, 1980 in response to a worker petition received on June 18, 1980 which was filed on behalf of workers and former workers at Firestone Textiles Company, Bowling Green, Kentucky. The workers produce tire cord fabric.

The investigation revealed that another petition (TA-W-8921) has also been filed on behalf of the same group of workers at Firestone Textiles Company, Bowling Green, Kentucky. Since the identical group of workers is the subject of the ongoing investigation (TA-W-8921), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 26th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-27273 Filed 9-4-80; 8:45am]

BILLING CODE 4510-28-M

[TA-W-7452]

Firestone Tire & Rubber Co., Des Moines, Iowa; Affirmative Determination Regarding Application for Reconsideration

On August 1, 1980, the United Rubber Workers requested administrative reconsideration of that part of the Department of Labor's Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers producing passenger car tires at Firestone's Des Moines, Iowa plant. The union did not wish reconsideration with respect to tractor tires.

The application for reconsideration claimed that the Des Moines plant produces private brand tires, one of which has been shown by the Department to have been adversely affected by import competition. The union requests a regional survey of customers for the Des Moines plant so as to be consistent with surveys it claims were conducted by the Department for Firestone plants in California whose workers were certified.

Conclusion

After review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore granted.

Signed at Washington, D.C., this 28th day of August, 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-27278 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9268]

Gladney-Chatman Chemicals, Inc., St. Louis, Mo.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 14, 1980 in response to a worker petition received on June 30, 1980 which was filed on behalf of workers and former workers producing specialty chemical products for industrial uses at Gladney-Chatman Chemicals, Incorporated, St. Louis, Missouri.

In a letter dated August 11, 1980, the petitioner requested withdrawal of the petition. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 26th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-27274 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9714]

Precision Kidd Steel Co., W. Aliquippa, Pa.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 4, 1980 in response

to a worker petition received on July 18, 1980 which was filed by the Precision Kidd Employees Union on behalf of workers and former workers at the Precision Kidd Steel Company, W. Aliquippa, Pennsylvania. Workers at the Precision Kidd Steel Company produce various types of steel bars.

Notice of the Investigation was published in the Federal Register on August 12, 1980 (45 FR 53615-6). No public hearing was requested and none was held.

On July 17, 1980, a petition was filed on behalf of the same group of workers (TA-W-9604).

Notice of Investigation was published in the Federal Register on August 12, 1980 (45 FR 53620-2). No public hearing was requested and none was held.

Since the identical group of workers is the subject of the ongoing investigation TA-W-9604, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 22nd day of August, 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-27275 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9004]

Rubinstein Jewelry Manufacturing Co., Inc., New York, N.Y.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 30, 1980 in response to a worker petition received on June 18, 1980 which was filed by the company on behalf of workers and former workers producing 14K and sterling silver chains and bracelets at Rubinstein Jewelry Manufacturing Company, Incorporated, New York, New York.

The petitioner requested withdrawal of the petition in a letter. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 26th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-27276 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8724]

Textile Trim, Inc., Fair Haven, Mich.; Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance: Correction

In FR Doc. 80-19364 appearing on page 43496 in the Federal Register of June 27, 1980, the date received should be corrected to read June 3, 1980 and the date of petition corrected to read May 21, 1980 in the Appendix under petitioner Textile Trim, Inc., Fair Haven, Michigan appearing on page 43497. Signed at Washington, D.C., this 28th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-27277 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Wednesday and Thursday, September 10-11, 1980, in the B-100 conference room of Page Building #1, 2001 Wisconsin Avenue, NW., Washington, D.C.

The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations and State and local government, was established by Congress by Pub. L. 95-63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The Agenda contains the following topics:

September 10, 1980

Plenary Session.

9:00 a.m.—10:00 a.m.—Announcements.

Reports on Independent Area Task Subgroups of the Goals and Objectives Panel.

10:00 a.m.—11:00 a.m.—U.S. Coast Guard: Criteria for Developing Ship Characteristics, Speaker: Paul D'Zmura—Office of Operations.

11:00 a.m.—Noon—Guest Speaker: Congressman John B. Breaux, Chairman, Subcommittee on Fisheries, Wildlife Conservation, and the Environment; Committee on Merchant Marine and Fisheries; U.S. House of Representatives.

12:00 Noon—1:15 p.m.—Lunch.

1:15 p.m.—4:00 p.m.—Panel Meeting: Weather and Climate Panel—Louis J. Battan; Support for Atmospheric Research Facilities—Instrumented aircraft. Invited participants: Donald Veal—University of Wyoming; C. B. Emmanuel—National Oceanic and Atmospheric Administration; Charles Mason—National Aeronautics and Space Administration; Clifford Murino—Desert Research Institute; (to be announced)—Air Force Geophysics Laboratory.

4:00 p.m.—5:00 p.m.—Steering Committee Meeting.

September 11, 1980

8:30 a.m.—9:00 a.m.—Closed Session.

9:00 a.m.—12:00 Noon—Panel Meeting: Waste Management Panel—John Knauss; Review Panel's draft recommendations and peer comments on "Ocean Waste Disposal" report.

12:00 Noon—1:15 p.m.—Lunch.

1:15 p.m.—3:00 a.m.—Plenary Session: Panel Reports.

3:00 p.m.—Adjourn.

The public is welcome at the open sessions and will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

With respect to the closed session from 8:30 a.m. to 9:00 a.m. on Thursday, September 11, the Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on August 22, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, Public Law 94-409, that the matters to be disclosed during this closed session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because it will be considered within the purview of 5 U.S.C. 552b (c)(6), i.e., information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. All other portions of the meeting will be open to the public.

A copy of the determination to close a portion of this meeting is available for

public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce, Washington, DC 20230, telephone (202) 377-4217.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235. The telephone number is 202/653-7818.

Dated: August 22, 1980.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80-27235 Filed 9-4-80; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL SCIENCE FOUNDATION

Ad Hoc Meeting of Representatives of the Scientific Community and NSF Director and Staff

The National Science Foundation announces an *ad hoc* meeting of representatives of the scientific community and the NSF Director and staff regarding issues of concern to the National Science Foundation and the National Science Board. The purpose of the meeting is to study and review available information on long-range planning, the Foundation's FY 1981 budget, and the Foundation's organizational structure.

Although this *ad hoc* discussion does not constitute a meeting of an "advisory committee" as that term is defined in section 3 of the Federal Advisory Committee Act (Pub. L. 92-463), the meeting will be open to public attendance and observation.

The meeting will be held in Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550 on Saturday, September 13, 1980 from 9:00 a.m. to 5:00 p.m.

For additional information, please contact Ms. Margaret L. Windus, Special Assistant to the Director, National Science Foundation, Room 518, 1800 G Street, NW., Washington, D.C. 20550. Telephone: (202) 357-9420.

Dated: September 2, 1980.

Margaret L. Windus,

Special Assistant to the Director, National Science Foundation.

[FR Doc. 80-27236 Filed 9-4-80; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-341A]

Detroit Edison Co.; Receipt of Operating License Application Request for Antitrust Information

The Detroit Edison Company, owner of the Enrico Fermi Atomic Power Plant Unit 2, filed the general information portion and antitrust information of an application for operating licenses. This information was filed pursuant to Part 2.101 of the Commission Rules and Regulations and is in connection with the owner's plans to operate one light water reactor in Monroe County, Michigan. The portion of the application filed contains antitrust information for review pursuant to NRC Regulatory Guide 9.3 to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the *Federal Register* and will be sent to the Washington and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of November 7, 1980. The results of any reevaluations that are requested will also be published in the *Federal Register* and copies sent to the Washington and local public document rooms.

A copy of the general information portion of the application for operating licenses and the antitrust information is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at the Monroe County Library, 3700 South Curte Road, Monroe, Michigan.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensee's activities since the construction permit antitrust reviews for the above-named plant should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch,

Office of Nuclear Reactor Regulation on or before November 4, 1980.

Dated at Bethesda, Maryland, this 27th day of August 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,
Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 80-26908 Filed 9-4-80; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR SAFETY OVERSIGHT COMMITTEE

Privacy Act of 1974; Adoption of Systems of Records

AGENCY: Nuclear Safety Oversight Committee.

ACTION: Systems of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, Public Law 93-579, 5 U.S.C. 552a, the Nuclear Safety Oversight Committee, hereafter known as the Committee, hereby adopts those systems of records subject to the Privacy Act of 1974 which are maintained by the Committee. (Proposed at 45 FR 51011, July 31, 1980.) The Committee's procedures for access to records in the systems are contained in Part 476 to Title 1 of the Code of Federal Regulations.¹

For further information on the matters described in this notice contact Margo von Kaenel, Executive Assistant at (202) 653-8468, Nuclear Safety Oversight Committee, 1133 15th Street, N.W., Room 307, Washington, D.C. 20005.

Neil Proto,

General Counsel.

[FR Doc. 80-27241 Filed 9-4-80; 8:45 am]

BILLING CODE 6820-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Uniform Procurement System; Request for Public Review and Comment

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Solicitation of views.

SUMMARY: Pub. L. 96-83, the Office of Federal Procurement Policy Act Amendments of 1979 (41 U.S.C. 401 et seq.), provides that the Administrator for Federal Procurement Policy shall develop and submit to the Congress, by

¹ See the Rules and Regulations Section of this issue of the *Federal Register* also.

October 1980, a proposal for a uniform procurement system including uniform policies, regulations, procedures, and forms.

In response to this requirement, the Administrator, among other actions, established three interagency task groups—representing a cross section of procurement professionals—to review current procurement processes and to recommend changes and improvements to be incorporated, as primary building blocks, into a single uniform procurement system proposal. The task groups, which examined three major aspects of the procurement process (i.e., acquisition, supply, and procurement under grants), completed their efforts on July 11 and submitted final reports. As previously announced, those reports are serving as the principal basis for comment at public hearings being conducted during August and September in Boston, Detroit, Houston, Los Angeles and Washington, D.C.

Based on those reports and the public and agency comments already received, a draft proposal for the Uniform Procurement System has been prepared. Notice is hereby given that the views of all interested parties are solicited with regard to this draft proposal, which is available upon written or telephone request. Due to the need to provide the final proposal to the Congress in October, it is likely that this will be the final opportunity for the public to comment on its content prior to submission. Comments provided to this Office by September 30, 1980 will be carefully considered in the development of the final proposal.

AVAILABILITY OF DRAFT PROPOSAL:

Requests for copies of the draft proposal should be addressed to the Office of Administration, Document Distribution Center, 726 Jackson Place, N.W., Room G-236 New Executive Office Building, Washington, D.C. 20503 (Telephone: 202/395-4660).

PRESENTATION OF WRITTEN VIEWS:

Written comments on the draft proposal may be submitted no later than September 30, 1980. Such comments should be addressed to the Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, N.W., Room 9013 New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Baker, Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, N.W., 9013 New Executive Office

Building, Washington, D.C. 20503
(Telephone: 202/395-7207).

Karen Hastie Williams,

Administrator.

[FR Doc. 80-27473 Filed 9-4-80; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 11318; 812-4294]

Broad Street Investing Corp., et al.; Filing of Application for an Order of the Act Exempting Proposed Transaction

August 28, 1980.

In the matter of Broad Street Investing Corporation, National Investors Corporation, Tri-Continental Corporation, Union Capital Fund, Inc., Union Cash Management Fund, Inc., Second Union Cash Management Fund, Inc., Union Income Fund, Inc., Union Service Corporation, Union Service Distributor, Inc., J. & W. Seligman & Co., J. & W. Seligman & Co., Incorporated, One Bankers Trust Plaza, New York, New York 10006.

Notice is hereby given that Broad Street Investing Corporation, National Investors Corporation, Union Capital Fund, Inc., Union Cash Management Fund, Inc. ("Union Cash"), Second Union Cash Management Fund, Inc. ("Second Union Cash"), Union Income Fund, Inc. and Tri-Continental Corporation ("Tri-Continental"), diversified, management investment companies (the "Union Service companies") registered under the Investment Company Act of 1940 ("Act"); Union Service Corporation ("Union Service"); Union Service Distributor, Inc. ("Distributor"); J. & W. Seligman & Co. ("Seligman"); and J. & W. Seligman & Co. Incorporated (the "Manager") filed an application on April 19, 1978, and amendments thereto on March 13, 1980, April 10, 1980, and April 18, 1980, requesting an order of the Commission pursuant to Sections 17(b) and 17(d) of the Act and Rule 17d-1 thereunder, permitting the externalization of the presently internalized advisory, management and distribution functions of the Union Service companies. 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.

The Union Service Complex ("Complex") consists of six registered open-end investment companies (Broad Street Investing Corporation, National

Investors Corporation, Union Income Fund, Inc., Union Capital Fund, Inc., Union Cash, and Second Union Cash) and a registered closed-end investment company (Tri-Continental). Investment advisory, management and share distribution functions are performed by three service companies (Union Service, Union Data Service Center, and Distributor) jointly owned by the investment companies in the Complex. Seligman, a broker-dealer registered under the Securities Exchange Act of 1934, originally organized the Complex. Seligman partners have always served as senior officers of the companies in the Complex, and Seligman executes securities transactions for the Complex. Fred E. Brown, Seligman's Managing Partner, currently serves as Chairman of the Board and President of Union Service, Chairman of the Board and President, and Chairman of both the Investment and Executive Committees of each of the seven Union Service companies. During 1978 and 1979 Seligman received brokerage commissions from the Complex amounting to \$1,091,000 and \$1,052,000, respectively, representing approximately two-thirds of the Complex's agency transactions in listed securities (exclusive of options and option related transactions).

The present operation of the Complex is unusual in that each of the Union Service companies is internally managed by its own directors and officers. Investment decisions for each investment company are made by an Investment Committee consisting of directors and officers of that company. Investment research and advice, as well as certain other administrative services, are provided to the Complex by Union Service, an investment adviser registered under the Investment Advisers Act of 1940 and wholly-owned by the Union Service companies. The cost of the advisory and management services provided by Union Service is shared by the Union Service companies in proportion to the net assets of each company (75% of their assets in the cases of Union Cash, and Second Union Cash). To allow the Union Service companies to obtain advisory and management services through Union Service, the Commission has issued three orders (Investment Company Act Release Nos. 6994, 7117 and 9513) under Section 6(c) of the Act providing limited exemptions from the provisions of Sections 2(a)(19) and 12(d)(3) of the Act.

Distributor, which is also wholly-owned by the Union Service companies, acts as distributor for the capital stock of each Company. The costs and

financial requirements of Distributor are shared by the Union Service companies in proportion to the net assets of each company (60% of net assets in the case of Tri-Continental), provided that the maximum amount contributed by any of such companies does not exceed 5/100 of 1% of its average net assets (3/100 of 1% in the case of Tri-Continental). To enable them to bear all of their distribution and promotional expenses through Distributor the Union Service companies have obtained two Commission orders (Investment Company Act Released Nos. 7144 and 9513) under Section 17(d) of the Act and Rule 17d-1 thereunder. Union Data Service Center ("Union Data") is a wholly-owned subsidiary of Union Service, which provides the Union Service companies, Union Service and Distributor with corporate accounting and shareholder account and other data processing and related services on a non-profit basis.

The Applicants have requested an order of the Commission pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder to permit the externalization of the Complex's presently internalized advisory, management and distribution functions. Under the Externalization Proposal each of the Union Service companies will enter into an investment advisory contract with the Manager, an investment adviser which has been organized by personnel of Union Service and Seligman, and the senior officers of the Union Service companies. In the event that the Externalization Proposal is implemented, Seligman will dissolve and the Manager and its subsidiaries will acquire the assets and personnel of the Seligman Partnership. The Manager and its subsidiaries will also offer employment to the staff of Distributor and Union Service (which will also be dissolved), and assume obligations under a retirement plan for employees of Distributor and Union Service and a long-term employment agreement with Mr. Fred Brown (such obligations having a value of \$511,329 as determined by the disinterested directors of the Union Service companies). The Manager will utilize substantially the same personnel and facilities as are now employed by Union Service, Distributor and Seligman, and will provide substantially similar services to the Complex.

The Manager will provide to the Union Service companies all of the investment advisory and management services now provided by Union Service. Discount Corporation of New York Advisers, which currently serves as an external investment adviser to Union Cash and Second Union Cash will

become an investment adviser to the Manager with respect those two companies, providing essentially the same services as it does now, with its advisory fee being paid by the Manager. In addition, the investment advisory contract will specify that the Manager will have the responsibility for making portfolio security decisions for each of the Union Service companies.

Distribution services now performed by Distributor under the Externalization Proposal will be performed by Seligman Distributor, Inc. ("Seligman Distributor"), an entity formed as a wholly-owned subsidiary of the Manager. Under the Externalization Proposal a second wholly-owned subsidiary of the Manager, Seligman Securities, Inc. ("Seligman Securities"), will perform the order placing services currently provided by the staff of the Union Service companies and Union Service, and will act as broker for the Complex pursuant to the undertaking discussed below. The Manager will also oversee the operation of Union Data, which will continue to be beneficially owned by the Union Service companies and to provide its services to them on an at cost basis.

The fee to be paid by each of the Union Service companies for advisory and management services performed by the Manager will be calculated based on a percentage of the assets of all the Union Service companies (including any investment company which may join the Complex in the future). However, since the assets of Second Union Cash that were subject to the Federal Reserve Board's reserve requirements on assets of money market funds would not need the advisory services of the Manager, but would require the administrative services provided by the Manager, the Applicants proposed that 50 percent of the assets of that new company subject to the reserve requirements be included in the Fee Base for purposes of calculating the Manager's fee. Effective July 28, 1980, money market funds will no longer have to deposit with the Federal Reserve Board 7.5 percent of any increase in their assets over the level of March 14, 1980. The abolition of the FRB's reserve requirements will necessitate that the disinterested directors of the Union Service companies reconsider the basis on which Second Union Cash will participate in the Externalization Proposal. The Applicants have represented that, before the period for requesting a hearing on the application expires, they will file an amendment to the application setting forth the basis

upon which the Applicants propose to treat Second Union Cash after 28, 1980.

In addition, the management fee rate for the Complex will be cumulatively reduced in successive steps (from 0.45 percent to 0.20 percent on an annual basis), and so long as the management fee exceeds 0.25 percent, a specified percentage (from 30 percent to 10 percent) of the aggregate total assets of all accounts advised by or under the supervision of the Manager on a fee basis will be included in the Fee Base, provided that the dollar amount of the reduction in the fee resulting from the inclusion of such other assets in the Fee Base does not exceed 15 percent of the fee which would otherwise be payable by the Union Service companies to the Manager. At December 31, 1979, the Fee Base would have been \$2,094,139,000, comprised of \$1,922,792,000 of investment company assets and \$171,347,000 representing 30 percent of the total assets of all accounts which Seligman served as investment adviser for a fee, and would have resulted in a management fee percentage of 0.392 percent.

With respect to the distribution services to be provided by Seligman Distributor, it is represented that the Union Service companies will bear only those expenses relating to issuance, registration and qualification of their shares, the preparation and printing of prospectuses and the provision of date processing and relating services in connection with share distribution activity. Seligman Distributor will receive, as direct compensation, only the sales charge paid by investors, less dealer commissions.

According to information contained in the application, the aggregate cost to the Union Service companies of investment advisory, management and distribution services during 1977, 1978, and 1979 was \$4.1 million, \$4.4 million, and \$5.0 million, respectively. Under the Externalization Proposal the costs for such services for those three years would have been \$6.5 million, \$6.3 million and \$6.8 million, respectively. Under the Externalization Proposal the total operating expenses of the Complex would have increased 32.1 percent, 23.5 percent, and 20.2 percent during 1977, 1978, and 1979. The ratio of operating expenses to total net assets for the Complex is expected to increase from .504 percent to .606 percent if the externalization is implemented.

The following undertakings have been incorporated into the Externalization Proposal: (1) The Manager has undertaken to provide advisory services to the Union Service companies under the proposed investment advisory

contract, and not to propose any increase in the management fee for at least three years; (2) The Manager has undertaken to make all of its shares subject to an option by the Manager for a five year period to repurchase such shares at their book value (which would exclude any value attributable to the advisory agreement) at the death or termination of employment of a shareholder, or a proposed voluntary or involuntary transfer of the shareholder's shares; (3) The articles of incorporation of each of the Union Service companies will be amended to provide that at least 75% of the Board of Directors shall be persons who are not interested persons of the Manager, and that such disinterested directors will direct the operations of the Board of Directors, including the major board committees; (4) The leasehold improvements held by Distributor and the furniture, furnishings, equipment and library now used by Union Service and Distributor will be sold to the Manager for cash in an amount equal to the higher of their appraised value or book value at the time of sale (established by an independent appraiser and approved by the Board of Directors of each Union Service company); (5) Seligman Securities has undertaken to be available to act as broker for approximately two-thirds of the Union Service companies' portfolio transactions for three years at rates approximating its incremental costs (determined according to a prescribed formula); (6) The Manager has undertaken to implement a procedure whereby for five years the Union Service companies will be able to recapture a declining portion of the profits from any sale of the Manager's shares (determined according to a prescribed percentage formula), and the shareholders of such companies will have to approve any sale of a control block of the Manager's shares; (7) The Manager has undertaken to attempt to recapture, to the extent it is possible to do so, underwriting commissions or soliciting dealers' fees on behalf of the Union Service companies where the Manager or an affiliated person thereof is a member of an underwriting syndicate in connection with effecting purchases of new issues of securities for such companies; (8) Seligman Distributor has committed to serve under the proposed distribution contract for a three year period; and (9) The Board of Directors of each Union Service company has acknowledged that it will be under a fiduciary duty, if it believes that the quality of services to the company will be impaired by the

Manager taking on new clients of material significance, to take such steps as it deems necessary including a renegotiation of the fee payable to the Manager.

The disinterested directors of the Union Service companies have estimated that such companies in the aggregate will enjoy management fee savings of \$1,176,000 initially, and between \$3,611,451 and \$5,250,238 over a three year period under Undertaking No. 1 above, based on the difference between the management fee that those companies will pay under the proposed rate structure and the fee that would be payable under the prevailing rate structure for the investment company industry. Such disinterested directors have also estimated that under Undertaking No. 5 above all of the Union Service companies will enjoy brokerage commission savings over a three year period of between \$2,128,425 and \$2,694,607. The Board of Directors of each Union Service company in approving and reviewing the brokerage allocation procedure whereby Seligman Securities will effect brokerage transactions for such company on an incremental cost basis will attempt to ensure compliance with the requirements of Rule 17e-1 under the Act.

Section 17(a) of the Act, in pertinent part, provides that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, knowingly to sell to or purchase from such registered investment company any security or other property except securities of which the investment company is the issuer. Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of Section 17(a) of the Act if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Rule 17d-1, adopted by the Commission pursuant to Section 17(d) of the Act, provides, in part, that no affiliated person of any registered investment company and no affiliated person of such a person, acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered

company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by an order. A joint enterprise or other joint arrangement as used in this Rule is any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company and any affiliated person of such registered investment company, or any affiliated person of such a person, have a joint and several participation, or share in the profits of such enterprise or undertaking. In passing upon such application, the Commission will consider whether the participation of such registered investment company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Based on the relationships outlined above, Union Service and Distributor are affiliated persons of the Union Service companies, each Union Service company is an affiliated person of the other companies, and the officers and employees of Union Service and Distributor are affiliated persons of affiliated persons of the Union Service companies under Section 2(a)(3) of the Act. Thus, the cooperation and participation of the Union Service companies with Union Service, Distributor and the officers and employees of those companies in the proposed externalization, the proposed liquidation of Union Service with the participation of the Union Service companies, and the proposed transfer of the responsibility for distribution of the shares of the Union Service companies to Seligman Distributor constitute joint transactions within the meaning of Section 17(d) of the Act. Finally, the proposed sale of leasehold improvements held by Distributor and the furniture, furnishings, equipment and library now used by Union Service and Distributor to the Manager is a transaction subject to the provisions of Section 17(a) of the Act.

The applicants state that the proposed externalization of the advisory, management and distribution functions of the Union Service companies has five primary purposes: (1) To encourage expansion of the asset base of the Union Service companies, and consequent reduction of the operating expense ratios of such companies; (2) to provide an opportunity for the employees of Union Service and Distributor to enjoy

an equity participation in a profit oriented investment advisory firm and other personnel incentives which the Applicants claim are needed to attract, motivate and retain superior personnel to manage the operations of the Union Service companies; (3) to preserve the relationship of the Union Service companies with the personnel of Union Service, Distributor and Seligman, including the senior management of such companies, who are currently providing a high level of advisory, management and distribution services to such companies; (4) to strengthen and expand the capabilities of the present management of the Union Service companies by combining the new investment advisory staff of Seligman with the present staff of Union Service and Distributor; and (5) to adopt the conventional organizational format for the Complex, and thus decrease the present risks and additional expenses for the Union Service companies resulting from the unique, internalized management and distribution structure of the Complex. The Applicants contend that the changes are excellent that the above five objectives will be accomplished under the terms of the Externalization Proposal, while the chances of accomplishing such objectives under the present internalized structure are minimal. In this regard, the Applicants place great emphasis in their support for the Externalization Proposal on the increased potential for bringing out new investment company products for the Complex, which in their opinion will result because of the availability of an entity (the external investment adviser) to bear the startup expenses involved in offering such new products. The Applicants acknowledge that implementation of the Externalization Proposal will result in an immediate increase in the operating expenses of the Union Service companies; however, they claim that such increase in expenses is justified given the potential contained in the externalization to expand the asset base of the Complex and thereby limit future increases in the operating expenses of such companies, and given the comparatively small size of the expense increase (amounting in the aggregate to approximately 1/10 of 1 percent of company assets). The Applicants also point out that under the Externalization Proposal the expense ratios of the Union Service companies would still be relatively low measured by investment company industry standards. In addition, the Applicants note that the proposed externalization will not be put into effect unless it is

approved by the shareholders of all the Union Service companies.

Based on their detailed review of the terms of the Externalization Proposal the disinterested directors of the Union Service companies have determined that the externalization will be fair and reasonable in all respects to each of the Union Service companies, and in the best interests of each company and its shareholders. In this regard, the disinterested directors have determined that the Union Service companies under the terms of the Externalization Proposal will receive economic benefits worth between \$6,320,129 and \$8,525,098 (management fee savings, brokerage commission savings, plus assumption of liabilities under a retirement plan and long-term employment contract) within the first three years, and could anticipate receiving at least \$6,292,795 in benefits thereafter, far in excess of the \$6.5 million which the directors estimate to be the value of the right to manage the Union Service companies. Specifically, the directors have determined that, while the Externalization proposal will affect each of the Union Service companies differently, all of the Union Service companies will benefit from it. Moreover, the directors have determined that the Externalization Proposal is free of any inherent bias favoring one Union Service company over another; the qualitative benefits of the externalization for the Union Service companies balance against the inevitable quantitative disparities in the allocation of economic benefits among such companies; and the anticipated benefits flowing to each Union Service company follow within an acceptable range of fairness. On the basis of these determinations of the disinterested directors, later accepted by the Boards of Directors of all the Union Service companies, the Applicants contend that the criteria of Rule 17D-1 for issuance of an order under Section 17(d) of the Act are met by the Externalization Proposal.

In processing the application the Commission gives significant weight to the views of the disinterested directors of the Union Service companies in light of their having retained independent legal counsel to provide them legal advice concerning the Externalization Proposal and an independent financial consultant having experience with investment companies to prepare an analysis of the anticipated costs and benefits of the Externalization Proposal. The Commission regards the fact that the disinterested directors, based on information provided them by such independent legal counsel and financial

analyst, have compared, and quantified, on a company by company basis the benefits which they expect will result from the externalization against the increased operating costs which will, at least initially, result from it in order to determine whether such costs and benefits are allocated fairly among all the Union Service companies, or are weighed in favor of the Manager or Seligman, as being crucial to its acceptance of the views of the directors. The Commission also notes that the disinterested directors, with the assistance of their independent legal counsel and financial analyst, have determined what value should be placed on the right to manage the Union Service companies which is being acquired by the Manager in order to determine whether the benefits flowing to those companies under the externalization exceed the value of the right to manage the Union Service companies.

Finally, the Applicants contend that the terms of the proposed sale of the leasehold improvements of Distributor and the furniture, furnishings, equipment and library used by Distributor and Union Service to the Manager for cash in an amount equal to the higher of their appraised value (established by an independent appraiser and approved by the Board of Directors of each Union Service company), or book value at the time of sale meets all the requirements of Section 17(b) of the Act for an order of the Commission exempting such sale from the provisions of Section 17(a).

Notice is further given that any interested person may, not later than September 22, 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 reason for such request, and the issues, if any, of fact or law proposed to 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 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 or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.
George A. Fitzsimmons,
Secretary.

[FR Doc. 80-27117 Filed 9-4-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 11319; 811-1802]

Impact Fund, Inc.; Filing of Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

August 28, 1980.

Notice is hereby given that Impact Fund, Inc. ("Applicant"), 711 Polk Street, Houston, TX 77002, an open-end, diversified investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on August 2, 1979, and an amendment thereto on July 28, 1980, for an order of the Commission 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 states that it was organized as a Texas corporation and that it registered under the Act on January 29, 1969. Applicant also states that it filed a registration statement under the Securities Act of 1933 with respect to 2,000,000 shares of its common stock and that such registration statement was declared effective on July 11, 1969.

According to the application, Applicant's board of directors and the board of directors of Commerce Income Shares, Inc. ("Commerce"), an open-end, diversified investment company registered under the Act, voted unanimously, at meetings held on September 29, 1978, to approve a plan and agreement of reorganization providing for the transfer of substantially all of the assets of Applicant to Commerce. Applicant states that requisite approval of such sale was obtained from its shareholders on May 14, 1979, and that on February 15, 1979 the Commission issued an order (Investment Company Act Release No. 10594), pursuant to Sections 6(c) and 17(b) of the Act, permitting the proposed transaction. Applicant states that at the close of business on May 31, 1979 substantially all of its assets were

transferred to Commerce. Applicant represents that its shareholders received a final dividend of \$.164 per share from net investment income immediately prior to the sale of its assets and that its shareholders received .986 shares of common stock of Commerce in exchange for each share of its stock. Applicant also represents that \$25,980 in cash was retained to pay any remaining expenses relating to the winding-up of its affairs. Applicant states that such expenses totaled \$24,732 and that the remaining \$1,248 was transferred to Commerce.

Applicant represents that, as a result of the sale of substantially all its assets to Commerce, it has no assets and no liabilities, that it is not a party to any litigation or administrative proceeding, and that it currently has no security holders. Applicant also states that it has filed articles of dissolution with the State of Texas and that the Secretary of the State of Texas has issued a certificate of dissolution.

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 September 22, 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, is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-27116 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Files Nos. 2-58987, 2-61271 (22-9600)]

Ito-Yokado Co., Ltd. (Kabushiki Kaisha Ito-Yokado); Application and Opportunity for Hearing

August 27, 1980.

Notice is hereby given that Ito-Yokado Co., Ltd. (the "Applicant") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of The Bank of Tokyo Trust Company under three existing indentures of the Applicant, which are qualified under the Act, and the proposed trusteeship of The Bank of Tokyo Trust Company under an English indenture not so qualified (the "English Trust Deed") is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify The Bank of Tokyo Trust Company from acting as trustee under the Applicant's English Trust Deed.

Section 310(b) of the Act provides in part that, if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, that with certain exceptions a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of Subsection (1), there shall be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that the trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. The Applicant has outstanding, as of July 1, 1980:

(a) \$33,780,000 of its 6% Convertible Debentures due August 31, 1992 (the "6% Debentures"), issued in the aggregate principal amount of \$50,000,000 under an indenture, dated as of June 15, 1977, between the Applicant and The Bank of Tokyo Trust Company; the 6% Debentures were registered under the Securities Act of 1933 (the "Securities Act"); and

(b) \$48,117,000 of its 5¼% Convertible Debentures Due August 31, 1993 (the "5¼% Debentures"), issued in the aggregate principal amount of \$50,000,000 under an indenture, dated as of July 1, 1978, between the Applicant and The Bank of Tokyo Trust Company; the 5¼% Debentures were registered under the Securities Act; and

(c) \$20,000,000 of its 9½% Notes Due August 31, 1983 (the "9½% Notes"), issued in such aggregate principal amount under an indenture, dated as of July 1, 1978, between the Applicant and The Bank of Tokyo Trust Company; the 9½% Notes were registered under the Securities Act.

2. The Applicant will issue in the United Kingdom of Great Britain 7.3% Convertible Bonds Due 1990 (the "7.3% Bonds"), in the aggregate principal amount of £5,000,000,000, under an English Trust Deed, dated as of July 24, 1980, between the Applicant and The Bank of Tokyo Trust Company; the 7.3% Bonds will not be registered under the Securities Act.

3. The Applicant is not in default under any of the indentures.

4. The Applicant's obligations under the indentures and the English Trust Deed, and the debentures, bonds and notes issued thereunder are wholly unsecured and rank *pari passu inter se*. There are no material differences among the Qualified Indentures and the English Trust Deed except for variations as to aggregate principal amounts, dates of issue, maturity and interest payment dates, interest rates, redemption prices and sinking fund provisions.

5. In the opinion of the Applicant, the provisions of the aforementioned indentures are not likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of any holder of any of the debentures, notes or bonds issued under such indentures to disqualify The Bank of Tokyo Trust Company from acting as trustee under the English Trust Deed.

The Applicant has waived notice of hearing, any right to a hearing on the issues raised by the application, and all rights to specify procedures under the

Rules of Practice of the Commission with respect to its application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than September 17, 1980, submit to the Commission his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such requests, and the issues of fact and law raised by the application which he desires to controvert. Persons who request the hearing or advice as to whether the hearing is ordered will receive all notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after such date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-27114 Filed 9-4-80; 8:45 am]
BILLING CODE 8010-01-M

[Release 34-17102; File No. SR-NASD-77-17, Amdt. No. 2]

National Association of Securities Dealers, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 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 August 18, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

(Item 1 "Text of Proposed Rule Change" deleted in its entirety and replaced with the following.)

The following is the full text of Section B.3.1. of Part II of Schedule D under Article XVI of the By-Laws, including the proposed amendment:

3. An eligible security shall not be authorized, and an authorized security shall be subject to suspension of authorization, if: . . . 1. the number of persons holding the security [of record] shall total less than 300 except in the case of rights, warrants or units [;]. *An account of a member of the Corporation which is beneficially owned by a customer (as defined in Article II, Section 1(f) of the Rules of Fair Practice) shall be included as a holder of such security upon appropriate verification by the member.*

The NASD's Statement of Purpose of Proposed Rule Change

The amendment provides a more precise method for determining the number of persons holding the security by limiting "beneficial shareholders" to customer accounts.¹

The NASD's Statement of Basis Under the Act for the Proposed Rule Change

(No amendment.)

Comments Received From Members, Participants or Others on Proposed Rule Change

(No amendment.)

The NASD's Statement on Burden on Competition

(No amendment.)

On or before October 10, 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 (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

¹This amendment supersedes an earlier amendment which was filed August 16, 1977, but was not published due to technical deficiencies. The amendment is available in the public files.

1100 L Street, NW., 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 referenced in the caption above and should be submitted on or before September 26, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

August 28, 1980.

[FR Doc. 80-27113 Filed 9-4-80; 8:45 am]
BILLING CODE 8010-01-M

[Release 34-17098; File No. SR-NASD-79-5]

National Association of Securities Dealers, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on August 21, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

(All references are to sections in the proposed rule. Indicated text in the original filing should be replaced with the language found herein.)

Section 37

Section (a)(1) (first line only):
(1) *Advertisement*—For purposes of this section and any inter-

* * * * *

Section (a)(2) (entire text):

(2) *Sales Literature*—For purposes of this section and any interpretation thereof, sales literature means any written communication distributed or made generally available to customers or the public which communication does not meet the foregoing definition of "advertisement". Sales literature includes, but is not limited to, circulars, research reports, market letters, performance reports or summaries, form letters, standard forms of options worksheets, seminar texts, and reprints or excerpts of any other advertisement, sales literature or published article.

* * * * *

Section (b)(1) (forth and fifth lines only):

literature pertaining to options, the approval must be by the Compliance Registered Options Principal (or his designee).

Section (c)(1) (entire text):

(1) *Advertisements and sales literature concerning registered investment companies (including mutual funds, variable contracts and unit investment trusts), shall be filed with the Association's Advertising Department within 10 days of first use or publication, by any member who has prepared or distributed such material in connection with the offer or sale of securities issued by companies for which such member is a principal underwriter. Filing in advance of use is optional.*

Section (c)(2) (entire text):

(This paragraph reserved for future use)

Section (c)(3)(A) (fourth line only): *tained in this section) shall file its initial advertisement with*

Section (c)(3)(B) (fourth line only): *those contained in this section) for a period of less than one*

Section (c)(3)(C) (entire text): *Except for advertisements related to municipal securities, direct participation programs or investment company securities, members subject to the requirements of subparagraphs (c)(3)(A) or (c)(3)(B) of this section may, in lieu of filing with the Association, file advertisements on the same basis, and for the same time periods specified in those subparagraphs, with any registered securities exchange having standards comparable to those contained in this section.*

Section (c)(4) (fifth line only): *member will again depart from the standards of this section,*

Section (c)(4), (last line only): *of Procedure.*

Section (cv)(5) (seventh line only): *submitted pursuant to one of the foregoing requirements and, except for material related to municipal securities or investment company securities, the*

Section (c)(6)(E), (last line): *is exempt from such registration, except that an investment company*

prospectus published pursuant to Rule 434d under the Securities Act of 1933 shall not be considered a prospectus for purposes of this exclusion;

Section (c)(7) (new section, no deletion):

(7) *Material which refers to investment company securities or options solely as part of a listing of products and/or services offered by the member, is excluded from the requirements of paragraphs (c)(1) and (c)(2) of this section.*

Section (d) (insert between section title and text):

(1) *General Standards* (designate first three paragraphs as (A), (B) and (C) respectively).

Section (d) (third paragraph, last line only): *nevertheless follow the standards of paragraph (d) of this section.*

Section (d) (insert between third and fourth paragraphs):
(2) *Specific Standards* (redesignate fifth paragraph as (A))

Section (d)(2) (entire text replaced):
(B) *Recommendations: In making a recommendation, whether or not labeled as such, a member must have a reasonable basis for the recommendation and must disclose the price at the time the recommendation is made, as well as any of the following situations which are applicable:*

- (i) *that the member usually makes a market in the securities being recommended, or in the underlying security if the recommended security is an option, and/or that the member or associated persons will sell to or buy from customers on a principal basis;*
 - (ii) *that the member and/or its officers or partners own options, rights or warrants to purchase any of the securities of the issuer whose securities are recommended, unless the extent of such ownership is nominal;*
 - (iii) *that the member was manager or co-manager of a public offering of any securities of the recommended issuer within the last 3 years.*
- The members shall also provide, or offer to furnish upon request, available investment information supporting the recommendation.*

A member may use material referring to past recommendations if it sets forth all recommendations as to the

same type, kind, grade or classification of securities made by a member within the last year. Longer periods of years may be covered if they are consecutive and include the most recent year. Such material must also name each security recommended, and give the date and nature of each recommendation (e.g., whether to buy or sell), the price at the time of the recommendation, the price at which or the price range within which the recommendation was to be acted upon, and indicate the general market condition during the period covered.

Also permitted is material which does not make any specific recommendation but which offers to furnish a list of all recommendations made by a member within the past year or over longer periods of consecutive years, including the most recent year, if this list contains all the information specified in the previous paragraph. Neither the list of recommendations, nor material offering such list shall imply comparable future performance. Reference to the results of a previous specific recommendation, including such a reference in a follow-up research report or market letter, is prohibited if the intent or the effect is to show the success of a past recommendation, unless all of the foregoing requirements with respect to past recommendations are met.

Section (d)(3) redesignated as Section (d)(2)(c) and the last sentence is deleted.

Sections (d)(4) through (d)(11) redesignated as Sections (d)(2)(D) through (d)(2)(K)

Section (e), first line only: *In addition to the provisions of paragraph (d) of this Section*

Section (f) deleted in its entirety
3. *The NASD's Statement of Purpose of Proposed Rule Change*

The proposed amendments to the definition of "sales literature", in Section (a)(2) of the rule, are designed to conform the Association's definition to those contained in exchange rules. The Association had based the earlier text, in part, on language contained in an SEC rule under the Investment Company Act, which language was not considered appropriate for certain purposes, e.g., the prior approval of sales literature by a principal.

The proposed amendment to Section (b)(1) would substitute prior approval of advertising by the Compliance Registered Options Principal for the current requirement of approval by the Senior Registered Options Principal. This change is consistent with rules recently adopted by the options exchanges.

Section (c)(1), as originally filed with the Commission, would continue the existing filing requirement applicable to members' advertising and sales literature concerning investment companies. It is now proposed that the requirement to file advertising and sales literature with the Association within three business days be amended to extend the filing period to ten calendar days. It is also proposed that independent dealers be exempted from this requirement and that a routine spot-check procedure be applied to such dealers in place of the filing requirement. The filing requirement would then apply only to principal underwriters and it would be consistent with current Securities and Exchange Commission requirements under Section 24(b) of the Investment Company Act.

Section (c)(2) is being withdrawn in its entirety and will be the subject of a separate filing related exclusively to options communications. This filing will be made upon approval of proposed amendments by the membership. Balloting is presently underway and is expected to be concluded by the middle of September. Section 24 of Appendix E to Article III, Section 33 of the Rules of Fair Practice will continue to apply in the interim.

Section (c)(3), which would establish a requirement that members file advertising material with the Association in advance for one year, and Section (c)(5), which outlines the procedure to be used by the Association to periodically spot-check members' advertising and sales literature, contain exemptions relating to the optional submission of material to registered securities exchanges having comparable standards. They are being amended to clarify that the exemptive provisions do not relate to municipal securities.

Section (c)(6)(E) is being amended to continue the application of the filing requirements for investment company advertising and sales literature to advertisements published pursuant to Rule 434d under the Securities Act of 1933.

Section (c)(7) is being added to exclude certain advertising concerning investment companies or options from the filing requirements of section (c)(1) (and (c)(2), when ultimately adopted) of Section 37. Often members' advertising

constitutes a simple listing of products or services offered. Currently, the inclusion of mutual funds, variable annuities, or options in such listings results in the application of a filing requirement. When such advertisements do not contain descriptions or explanations of these products and are limited to simple listings, it does not seem necessary to impose filing requirements with respect to such advertising. Section (c)(7) will exclude such advertisements from the filing requirements applicable to investment company and options advertising, and the routine spot-check procedure will be applied.

Revisions have been made to section (d)(2)(B) of the rule for two purposes. First, a member will be required to disclose market-making activity in the underlying security when recommending an option. This provision is consistent with a requirement contained in the "Guidelines For Options Communications" published by the options exchanges.

Second, a member will be required to disclose that it will sell to or buy from customers on a principal basis. This language is comparable to that contained in exchange rules. It will replace language in the Association's current Advertising Interpretation relating to a member's obligation to disclose that he intends to buy or sell recommended securities for the firm's own account.

Section (f) is being withdrawn in its entirety and will be the subject of the separate amendment on options communications presently before the membership. Section 24 of Appendix E to Article III, Section 33 of the Rules of Fair Practice will continue to apply in the interim.

Additional revisions have been made for style, clarification and to make the rule more comparable to current exchange rules.

The NASD's Statement of Basis Under the Act for Proposed Rule Change

(no change)

Comments Received From Members, Participants or Others on Proposed Rule Change

(no change)

The NASD's Statement on Burden on Competition

(no change)

On or before October 10, 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 (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, NW., 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 referenced in the caption above and should be submitted on or before October 6, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

August 28, 1980.

[FR Doc. 80-27115 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17097; File No. SR-NSCC-80-26]

National Securities Clearing Corp. Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 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 August 13, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed change to the Rules of National Securities Clearing Corporation ("NSCC") is as follows:

Transfer Taxes

Rule 14. Sec. 1. The Corporation may accept New York State Stock Transfer Tax reports and remittances from Members and Non-Clearing Members pursuant to the provisions of the New York State Tax Law and the regulations promulgated thereunder. Remittances

shall be forwarded to the New York State Tax Commission on behalf of the Member or Non-Clearing Member.

Sec. 2. The Corporation shall charge each Member's settlement account the amount of the New York State Stock Transfer Tax indicated on reports filed by the Member on its own behalf and the amount of the New York State Stock Transfer Tax indicated on reports filed by or on behalf of any Non-Clearing Member paying its New York State Stock Transfer Tax through the Member. Reports filed by all other Non-Clearing Members must be accompanied by a check payable to the order of National Securities Clearing Corporation—SCC Division for the amount of the New York State Stock Transfer Tax indicated.

Sec. 3. New York State Stock Transfer Tax credits received by the Corporation shall be returned to the Member or Non-Clearing Member in accordance with the instructions of the New York State Tax Commission.

Sec. 4. Pursuant to the provisions of Section 2 of Rule 3, the Corporation shall maintain a list of Non-Clearing Members who elect to remit the New York State Stock Transfer Tax through the Corporation.

[Rule 14. Sec. 1. With respect to such New York State stock transfer taxes as are or may be payable pursuant to applicable laws and regulations by Members through National Securities Clearing Corporation or the Corporation, each Member shall on each business day, before the time specified by the Corporation, file with the Corporation a report, on such form as may be required under applicable law or regulation or, if not so required, by the Corporation, of the amount of such taxes due on transactions of such Member and of others for whom he may be acting, as well as any credits and rebates available with respect to such transactions and such other information as may be required. If no such taxes are so payable, a report so stating shall be filed at or before the time above provided. In addition, once each calendar quarter at such time as may be prescribed under applicable law or regulation, or, if not so prescribed, by the Corporation, Members shall file with the Corporation a report, as may be required under applicable law or regulation or, if not so required, by the Corporation, of such taxes owing, with respect to the amount of rebates reported on the daily reports filed since the last quarterly report was filed. If no such taxes are so payable, a report so stating shall be filed on or before the time above provided.]

[The Corporation will debit and/or credit the account of such Member as appropriate on the basis of such reports and National Securities Clearing Corporation or the Corporation will in accordance with the applicable laws and regulations, remit or pay such amounts to the New York State tax authorities as may be appropriate. If and when National Securities Clearing Corporation shall receive an amount from New York State representing rebates claimed by such a Member, such amount shall be credited to the account of the Member.]

[Sec. 2. Persons who are entitled under the provisions of New York law to pay New York State stock transfer taxes through the facilities of the Corporation or National Securities Clearing Corporation and who are not Members may make application to the Corporation to have their names placed upon a list maintained by the Corporation, pursuant to Section 2 of Rule 3, of Non-Clearing Members for whom National Securities Clearing Corporation or the Corporation will act in respect of the payment through National Securities Clearing Corporation or the Corporation of New York State stock transfer taxes such application to be accompanied by an agreement, in form prescribed by the Corporation, providing for National Securities Clearing Corporation's or the Corporation's so acting for the applicant in accordance with the provisions of this Rule.]

[Sec. 3. (a) With respect to such New York State transfer taxes as are or may be payable pursuant to applicable laws and regulations by Non-Clearing Members whose names appear on the list provided for by Section 2 of this Rule, each such Non-Clearing Member shall at such times as may be required under applicable law or regulation, or, if not so required, by the Corporation, file with the Corporation a report or reports, on such form or forms as may be required under applicable law or regulation, or, if not so required, by the Corporation, of the amount of such taxes, credits and rebates and such other information as may be required under applicable law or regulation on transactions of such Non-Clearing Member other than transactions the taxes on which are included in the report of a Member as provided in Section 1 of the this Rule.]

[(b) Such a Non-Clearing Member may authorize a Member to sign the Non-Clearing Member's name and to file in his behalf the reports provided for by the foregoing paragraph (a) and such Member may authorize the Corporation

to debit and/or credit his account as appropriate on the basis of the reports filed by him on behalf of the Non-Clearing Member.]

[(c) Each report filed by the Non-Clearing Member shall be accompanied by a check to the order of National Securities Clearing Corporation—SCC Division for the amount of such taxes shown on such report, and each report filed by a Member in the name of a Non-Clearing Member shall be accompanied by such a check, unless the Member has authorized such amount to be debited to his account with the Corporation.]

[(d) National Securities Clearing Corporation or the Corporation, upon receipt of such checks or upon making such debits and/or credits to the account of such Member, will, in accordance with applicable laws and regulations, remit or pay the amounts so received or debited to the New York State tax authorities.]

[(e) If and when National Securities Clearing Corporation shall receive an amount from New York State representing rebates claimed by such Non-Clearing Member or by such Member on behalf of such Non-Clearing Member, such amount shall be remitted to such Non-Clearing Member or credited to the account of such Member, as appropriate.]

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

NSCC Rule 14 ("Transfer Taxes") as it is presently written, gives the appearance that NSCC is assuming responsibility for enforcement of the New York State Stock Transfer Tax payable through NSCC. The intention of the Rule, however, has always been to make NSCC's facilities available, as a "conduit", for the payment of the New York State Stock Transfer Tax, pursuant to the provisions of the New York State Tax Law and the regulations promulgated thereunder. The proposed rule, which is being submitted in order to clarify NSCC's policy, does not change the procedures by which the New York State Stock Transfer Tax is paid to the Tax Commission through NSCC or NSCC's responsibility for forwarding the New York State Stock Transfer Tax remittances to the Tax Commission.

Section 19(h)(1)(C) of the Securities Exchange Act of 1934, as amended, provides that a registered clearing agency must enforce compliance by its participants with its own rules. Inasmuch as NSCC does not (and is not required to) enforce the provisions of the New York State Stock Transfer Tax, the

proposed rule change clarifies NSCC's stated policy in regard to the absence of an enforcement requirement by NSCC of the New York State Stock Transfer Tax.

Comments on the proposed rule change have been solicited pursuant to the attached Exhibit III. Comments received by NSCC will be forwarded to the Commission.

NSCC does not perceive that the proposed rule change would constitute a burden on competition.

On or before October 10, 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 published 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 8 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, NW., 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 referenced in the caption above and should be submitted on or before September 26, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 28, 1980.

[FR Doc. 80-27120 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17096; File No. SR-NYSE-80-23]

New York Stock Exchange, Inc. (the "NYSE"); Self-Regulatory Organizations; 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 (June 4, 1975), notice is hereby given that on June 9,

1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Text of the Proposed Rule Change

[Brackets indicate deletions; italics indicate new material]

Rule 325

(e) In addition to the net capital requirements prescribed in Rule 15c3-1 promulgated under the Securities Exchange Act of 1934, each member described in Section 1(a), Section 1(b) or Section 2 of Article IX of the Constitution who executes orders on the Floor of the Exchange, [and each member permitted to transact business as a member not associated with a member organization as a member pursuant to Rule 301.34.] must present evidence of his financial responsibility in the amount of \$50,000 by one of the following methods:

(1) A written guarantee by a member organization which is a member of a qualified clearing agency and has excess net capital of not less than \$50,000 [\$25,000], or

(2) \$50,000 [\$25,000], held by an independent agent in escrow, or

(3) a letter of credit issued by a bank or other party acceptable to the Exchange in the amount of \$50,000 [\$25,000], or

(4) in the case of a member described in Section 1(a) or Section 2 of Article IX of the Constitution, *except any member permitted to transact business as a member not associated with a member organization as a member pursuant to Rule 301.34, his exchange membership provided that the current value of such membership equals or exceeds \$75,000 where the current value at any time shall be equal to the price of the last sale of a membership consummated through the Exchange's Membership Transfer Facility during the preceding calendar month (or, if no sale of a membership was consummated during the preceding calendar month, then the last sale prior to the preceding calendar month). Where such current value is less than \$75,000, the difference, but not to exceed \$50,000, shall be provided by any of the methods in subparagraphs (1), (2) or (3) above or by any alternate method approved by the Exchange.*

[provided, however that] [S]uch written guarantee, escrow account, letter of credit or exchange membership [is] shall be available solely for sums due the Exchange and such sums as the Board of Directors shall determine are due by such member to other members or member organizations as the result of losses arising directly from the closing

out under the Constitution and Rules adopted pursuant thereto of contracts entered into in the ordinary course of business in the market on the floor of the Exchange for the purchase, sale, borrowing or loaning of securities.

The Exchange will consider alternate methods of compliance with the financial responsibility standard.

Statement of the Terms of Substance of the Proposed Rule Change

This proposal would make certain amendments to Rule 325(e). Specifically, it would impose a minimum financial responsibility requirement on all members who execute orders on the Floor of the Exchange and raise the minimum amount of such financial requirement from \$25,000 to \$50,000.

Statement of Basis and Purpose

The basis and purpose of the proposed amendment to Rule 325(e) are as follows:

Purpose of Proposed Rule Change

Exchange Rule 325(e) imposes a minimum financial responsibility requirement on certain members who execute orders on the Floor of the Exchange. Members who are subject to the rule are, in effect, required to provide a minimum "performance" guarantee on trades which they consummate on the Floor. The purpose of the proposed amendments to Rule 325(e) is threefold:

- To provide a minimum financial responsibility requirement for *all* members who execute orders on the Floor;
- To enable so-called "equity" members to satisfy the requirement with their membership provided that the adjusted value (explained below) of such membership equals or exceeds \$75,000; and
- To increase the minimum requirement to \$50,000 from \$25,000.

At present, there are three types of members which are permitted to consummate, directly, trades on the Floor of the Exchange. These are:

- Equity members, who have a right to share in any distribution of the assets of the Exchange in the event of liquidation, dissolution or winding up of the affairs of the Exchange. There are 1,368 equity members of the Exchange. These members are often referred to as owning a "seat" on the Exchange;
- Lessees, who are non-equity members and who have leased the "seat" of an equity member for a specified period (usually one year). During the period of the lease, the lessee, rather than the lessor, is deemed to be a member for all purposes of the Exchange's Constitution and rules, except purposes of the Gratuities Fund provided for in Article XIV of the

Constitution and the right of claim for assets of the Exchange.

—Annual physical access members, who are also non-equity members and who pay an annual dues to the Exchange. This class is entitled, during the period for which dues have been paid, to enter physically on the trading Floor and conduct business thereon. As of March 1980, there were four physical access members.

Rule 325(e) is written presently in a form that makes it applicable, in general, only to lessees and annual physical access members. With respect to members who own an equity membership, other provisions of the Exchange constitution and Rules provide that the proceeds of the sale of such equity membership shall be available to cover liabilities arising from the closing out of contracts entered into on the Floor of the Exchange. Therefore, a member's equity membership serves as a guarantee for his trades on the Floor. The amount available for this guarantee is dependent upon the value of the membership upon transfer, and is not subject to any maximum or minimum.

The Exchange's Board of Directors concluded that such guarantee provided by a member's equity membership should be specifically included within Rule 325(e). The basis for this conclusion is that Rule 325(e) may be unnecessarily discriminatory in requiring only non-equity members to provide a minimum guarantee for their Floor contracts.

Accordingly, the proposed rule change would make Rule 325(e) applicable to all members, regardless of type, who execute trades on the Floor. As explained above, this amendment to Rule 325(e), in a sense, represents codification of existing practice and it is not expected to impose any undue burdens on equity members.

Since the rule change would apply the financial responsibility requirements of Rule 325(e) to equity members, it also allows the use of the value of the membership to guarantee such financial responsibility. Recognizing that, unlike other forms of guarantees under current Rule 325(e), the value of an equity membership will fluctuate, the rule would be further amended to provide an adequate cushion against a decrease in the value of the guarantee.

Specifically, for Rule 325(e) purposes, it is proposed that an Exchange membership be valued, at any given time, at an amount equal to the price of the last sale of a membership consummated during the preceding month. Furthermore, members who use

their membership as a guarantee would be required to acquire additional guarantees to comply with Rule 325(e) for any month for which the last sale of the prior month was less than \$75,000. This formula would approximate the 30% "haircut" which is applied to assets which are subject to fluctuating market values under SEC and NYSE capital requirements.

Thus, if the last relevant sale was at \$50,000, the member would be required to obtain an additional guarantee of \$25,000 to comply with Rule 325.

The final proposed change contained in this filing would increase to \$50,000 from \$25,000 the financial responsibility requirement for all members. This requirement is in addition to any net capital requirement prescribed by Rule 15c3-1 under the Securities Exchange Act of 1934.

The current requirement was formulated and adopted during 1977. From the end of 1976 through the first nine months of 1979 the average dollar value of a trade on the Exchange has increased by 37.1%, to \$22,842 from \$16,665 and the average daily number of trades has increased by 5.6% to 40,007 from 37,892. On average over this period, each broker is now executing 5.6% more trades each worth 37.1% more than in 1976. Thus the monetary volume of a broker has increased on average by approximately 45% over a two-year, nine-month period. Based upon the changed trading activity characteristics of members since 1976, a 45% increase in the requirement to approximately \$36,000 is obviously and immediately warranted.

Recognizing that this change would merely reflect the amount necessary to "catch up" for changes since 1976, a similar increase should be added to reasonably anticipate continued changes in market activity in the near term future.

An additional 45% increase over \$36,000 would suggest a requirement of \$52,200, or approximately \$50,000.

The Exchange has also considered what the immediate impact of such a change would be on existing members. As of October 31, 1979, there were 94 leasing agreements in effect, 14 of which were guaranteed by the lessor's membership. Other guarantees were as follows:

Guaranteed by 31 different clearing firms.....	50
Guaranteed by the lessee's firm.....	28
Other.....	2
Total.....	80

Thus, 80 lessees would be required to satisfy the increased financial

responsibility requirement as would the current four annual physical access members—one of whom has a letter of credit from a bank and three of whom are guaranteed by their firms. A review of existing guarantees suggests that if the member requiring the guarantee has acceptable collateral, the cost of a letter of credit is as low as \$250 a year. In addition, many clearing firms provide the required guarantee as part of the member's agreement to clear through the firm. In short, adequate means of securing a \$50,000 financial guarantee exist and the cost of such guarantees are not unreasonable.

If the Commission approves of the increase in the guarantee to \$50,000, the Exchange will allow a reasonable time for its non-equity members to comply with the increased requirements.

Basis Under the Act for Proposed Rule Change

The proposed changes are consistent with the purposes of Section 6(b)(5) of the Act in that they promote the protection of investors and the public interest by establishing a uniform "minimum" guarantee level for transactions on the Exchange by all classes of members. In addition the proposed changes would eliminate any existing discrimination between different classes of Exchange members relative to "minimum" guarantee requirements. The proposal is also based on Section 11A(a)(1)(C)(ii) which states that the Congress finds that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers.

Comments Received from Members, Participants or Others on Proposed Rule Change

Written comments were not solicited and none were received.

Burden on Competition

The proposed rule changes are not expected to impose any burden on competition not necessary or appropriate to further the purposes of the Act.

On or before October 10, 1980, or within such longer period (1) 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 changes, or

(B) Institute proceedings to determine whether the proposed rule changes 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 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 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 referenced in the caption above and should be submitted on or before October 6, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

August 27, 1980.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-27119 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-7132]

Trafalgar Industries, Inc.; Order of Suspension of Trading

August 20, 1980.

It appearing to the Securities and Exchange Commission that there has been a lack of current adequate and accurate financial information concerning the affairs of Trafalgar Industries, Inc., the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Trafalgar Industries, Inc.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that the suspension of trading of such securities will be effective at 3:50 PM on August 21, 1980 and terminate at midnight on August 30, 1980.

By the Commission.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-27121 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17107; SR-CBOE-1980-6]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

August 29, 1980.

On April 21, 1980, the Chicago Board Options Exchange, Inc. ("CBOE") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would amend CBOE Rules 13.1, 13.2, 13.3 and 13.4 in order to incorporate by reference the Net Capital requirements of Rule 15c3-1 (17 CFR 240.15c3-1) and the early warning provisions of Rule 17a-11 (17 CFR 240.17a-11) promulgated under the Securities Exchange Act of 1934 and the business restriction or business reduction rules of other self-regulatory organizations.

Notice of 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. 34-16818, May 20, 1980) and by publication in the Federal Register (45 FR 35960, May 28, 1980). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and by any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room. No public comments were received with respect to the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to National Securities Exchanges and in particular, the requirements of Section 6(b)(5) and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-27237 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17106; SR-NASD-80-9]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

August 28, 1980.

On May 22, 1980, the National Association of Securities Dealers, Inc. (the "NASD"), 1735 K Street, N.W., Washington, D.C. 20006, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which revises the standards non-NASDAQ securities must meet in order to be included in the National OTC-NASDAQ List. The rule change also adjusts the price requirements which securities must meet in order to be included in the local quotations program. In addition, the rule change revises the NASD provisions which relate to the public dissemination of quotations to the news media.

Notice of 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. 16874, June 5, 1980) and by publication in the Federal Register (45 FR 39606, June 11, 1980). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and in particular, the requirements of Section 15A of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-27238 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17108; File No. SR-NYSE-80-33]

New York Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 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 August 25, 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 amendment to Article VII, Section 3 of the Exchange Constitution provides that the Nominating Committee's report of nominees for offices and positions to be filled at the annual election of the Exchange shall be given to the Secretary of the Exchange on the second Monday in March, instead of the second Monday in April.

The Exchange's Statement of Purpose of Proposed Rule Change

The purpose of the proposed changes to the Constitution is to provide the membership with more time to cast their ballots in the annual election of the Exchange.

The Exchange's Statement of Basis Under the Act

The proposed rule changes relate to Section 6(b)(3) of the Securities Exchange Act of 1934 in that they would assure a fair representation of the Exchange's members in the selection of its Directors and administration of its affairs.

Comments Received From Members, Participants or Others

The Exchange has not solicited comments regarding the proposed rule changes and has received none.

Burden on Competition

The Exchange does not believe the proposed rule changes will impose any burden on competition which is not necessary or appropriate in furtherance of the purposes of the Act.

Basis for Rule Change Being Put Into Effect Pursuant to Section 19(b)(3)

The Constitutional amendments are concerned solely with the administration of the New York Stock Exchange, Inc.

At any time within sixty days of the date of filing of these proposed rule changes, the Commission summarily

may abrogate the change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments covering the foregoing. Persons desiring to make written submissions 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 of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal offices of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 26, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

August 28, 1980.

[FR Doc. 80-27244 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17109; SR-Phlx-80-16]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

August 29, 1980.

On July 1, 1980, the Philadelphia Stock Exchange, Inc., 17th Street & Stock Exchange Place, Philadelphia, PA 19103, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would amend Sections 1-1(b), 1-1(c), 12-1(g), 12-10, 14-19, 15-13 of its By-laws and rescind Sections 21-1 through 21-6 of its By-laws to eliminate Phlx's class of Associate Membership which is available to members of the Boston Stock Exchange. The Phlx states that the business objectives of its Associate Membership arrangement with the Boston Stock Exchange are now being achieved through the Intermarket Trading System.¹

¹The BSE also rescinded its rules regarding associate membership. See Securities Exchange Act Release No. 16907 (June 19, 1980), 45 FR 42909 (June 25, 1980).

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by issuance of a Commission Release (Securities Exchange Act Release No. 16981, 20 SEC Docket 720 (July 29, 1980)) and by publication in the Federal Register (45 FR 49416 (July 24, 1980)). No comments were received with respect to the rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-27239 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17099; File No. 57-822]

Statement of Commission Policy Concerning Section 30A of the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Issuance of a statement of Commission policy.

SUMMARY: On February 21, 1980 the Securities and Exchange Commission issued a release requesting public comments on the impact and operation of Section 30A of the Securities Exchange Act of 1934,¹ who prohibits corporate bribery of foreign officials and certain other persons for the purpose of obtaining, retaining or directing business to any person. However, due to the limited response to the request for comments, the Commission has determined that it cannot fairly assess the questions that were raised by the comment letters. These questions include: (a) The extent to which there may be perceived uncertainties concerning the applicability of the Act; (b) whether such perceptions may be impeding legitimate foreign trade; and (c) whether such concerns could be alleviated consistent with the purposes that the Congress sought to achieve in enacting that provision.

¹ Securities Exchange Act Release No. 16593 (Feb. 21, 1980); 45 FR 12574 (Feb. 26, 1980); 19 SEC Docket 691 (Mar. 4, 1980).

Although the Commission has determined that it cannot fairly assess these questions on the basis of the comments received, it makes clear its position with respect to enforcement of Section 30A. While the Commission adheres to its decision not to participate in reviewing transactions under the Foreign Corrupt Practices Act ("FCPA") Review Procedure that has been established by the Department of Justice, the Commission states that, as a matter of prosecutorial discretion, it will take no enforcement action alleging violations of Section 30A with respect to a transaction in any case where an issuer has sought and obtained a letter from the Department as part of the Review Procedure, prior to May 31, 1981, which states that the Department will not take enforcement action under Section 30A with respect to the transaction.

The Department of Justice has indicated that it will evaluate the results of the FCPA Review Procedure after it has been in operation for one year. After the Commission has had an opportunity to evaluate the experience of the Justice Department in administering the FCPA Review Procedure, the Commission will revisit the policy set forth above to determine whether the Commission should continue the policy or take other steps.

FOR FURTHER INFORMATION CONTACT:

Frederick B. Wade, Office of the General Counsel (202-272-2493), Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Origin and Structure of Section 30A of the Securities Exchange Act

Section 30A of the Securities Exchange Act was enacted approximately two and one-half years ago as part of the Foreign Corrupt Practices Act ("FCPA").² It prohibits public companies from using any means or instrumentality of interstate commerce in furtherance of any offer, payment or gift of any money or other item of value to a foreign official, foreign political party or candidate for foreign political office for the "corrupt" purpose of obtaining, retaining or directing business to any person. Section 30A also proscribes the promise or authorization of such payments or gifts by public companies and prohibits any officer, director, employee, or agent of such a company, and any natural person in control of such a company, from authorizing, ordering or carrying out any

act or practice constituting a violation of the foregoing prohibitions.

The Congress enacted the FCPA after extensive study of the issues surrounding illegal or improper payments emanating from American corporations in connection with their overseas business.³ The Senate Committee in which the legislation originated described the Act as a "strong antibribery law" and recommended its passage because of the need "to bring these corrupt practices to a halt and to restore public confidence in the integrity of the American business system."⁴

The legislative history makes clear that the FCPA was enacted because bribery of foreign officials by American companies had caused "severe adverse effects" on the conduct of the nation's foreign policy and threatened the long range interests of American companies that compete in overseas markets.⁵ Other concerns included the fact that bribery is unethical and inimical to the principles of open and fair competition.⁶

The House Report concerning the FCPA summarizes the damage to the nation's foreign policy interests as follows:

(Revelations of corporate bribery) shook the Government of Japan to its political foundations and gave opponents of close ties between the United States and Japan an effective weapon with which to drive a wedge between the two nations. In another instance, Prince Bernhardt of the Netherlands was forced to resign from his official position * * *. In Italy, alleged payments * * * to

² See, e.g., S. Rep. No. 95-114, 95th Cong., 1st Sess. (1977); H.R. Rep. No. 95-640, 95th Cong., 1st Sess. (1977); H.R. Rep. No. 95-831, 95th Cong., 1st Sess. (1977); S. Rep. No. 94-1031, 94th Cong., 2d Sess. (1976); *Hearings on Political Contributions to Foreign Governments Before the Subcommittee on Multinational Corporations of the Senate Committee on Foreign Relations*, 94th Cong., 1st Sess., Part 12 (1975); *Hearings on the Activities of American Multinational Corporations Abroad Before the Subcommittee on International Relations*, 94th Cong., 1st Sess. (1975); *Prohibiting Bribes to Foreign Officials*, Hearing Before the Committee on Banking, Housing and Urban Affairs, U.S. Senate, 94th Cong., 2d Sess. (1976); *Foreign Payments Disclosure*, Hearings Before the Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce, House of Representatives, 94th Cong., 2d Sess. (1976); *Foreign Corrupt Practices and Domestic and Foreign Investment Disclosure*, Hearing Before the Committee on Banking, Housing and Urban Affairs, U.S. Senate, 95th Cong., 1st Sess. (Mar. 18, 1977); *Unlawful Corporate Payments Act of 1977*, Hearings Before the Committee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce, House of Representatives, 95th Cong., 1st Sess. (1977).

³ S. Rep. No. 95-114, *supra* note 3, at 4. *Accord*, 13 Weekly Compilation of Presidential Documents 1909 (Dec. 21, 1977).

⁴ See S. Rep. No. 95-114, *supra* note, at 4-5; H.R. Rep. No. 95-640, *supra* note 3, at 4-5.

⁵ See S. Rep. No. 95-114, *supra* note, at 4-5; H.R. Rep. No. 95-640, *supra* note 3, at 5.

officials of the Italian Government eroded public support for the Government and jeopardized U.S. foreign policy, not only with respect to Italy and the Mediterranean area, but with respect to the entire NATO alliance as well.⁷

The Senate Report voiced similar concerns and concluded, "The image of American democracy abroad has been tarnished."⁸

With respect to the long-range interests of American companies, the Senate Report states that "[c]orporate bribery of foreign officials * * * affects the very stability of overseas business," has an adverse impact on domestic competition "when domestic firms engage in such practices as a substitute for healthy competition for foreign business" and "is fundamentally destructive" of the basic tenet of our free market system that "the sale of products should take place on the basis of price, quality and service."⁹ The House Report adds that the exposure of corporate bribery can damage a company's image, lead to costly lawsuits, cause the cancellation of contracts, and result in the expropriation of valuable overseas assets.¹⁰ With respect to ethical considerations, the House Report stated:

The payment of bribes to influence the acts or decisions of foreign officials, foreign political parties or candidates for foreign political office is unethical. It is counter to the moral expectations and values of the American public * * *. [I]t rewards corruption instead of efficiency and puts pressure on ethical enterprises to lower their standards or risk losing business.¹¹

The FCPA addressed both the issue of specific questionable foreign payments and the broader problem of strengthening corporate accountability mechanisms as a means of preventing off-the-books slush funds, which had often been used to make such payments.¹² For example, the Conference Report concerning the FCPA states that the recordkeeping provision is designed to assure that corporate transactions are recorded "in conformity with accepted methods of recording economic events" and that such recording "should effectively prevent off-the-books slush funds and payments

⁷ H.R. Rep. No. 95-640, *supra* note 3, at 5.

⁸ See S. Rep. No. 95-114, *supra* note 3, at 3.

⁹ *Id.* at 4.

¹⁰ H.R. Rep. No. 95-640, *supra* note 3, at 4-5.

¹¹ *Id.*

¹² See generally Report of the Securities and Exchange Commission on Questionable and Illegal Corporate Payments and Practices (hereinafter the "Commission's Report") submitted to the Committee on Banking, Housing and Urban Affairs, United States Senate (May 12, 1976), reprinted in 642 CCH Fed. Sec. L. Rep. Pt. II (May 19, 1976).

² Pub. L. 95-213, 91 Stat. 1494 (Dec. 19, 1977).

of bribes."¹³ The Conference Report also points out that the provision governing systems of internal accounting controls is designed "to provide reasonable assurance, among other things, that transactions are recorded as necessary to maintain accountability for assets."¹⁴

Accordingly, Section 102 of the FCPA enacted new Section 13(b)(2) of the Securities Exchange Act which requires issuers subject to the registration and reporting provisions of the later Act to: (a) "Make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer"¹⁵; and (b) "devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances" that certain specified objectives are met, including the recording of transactions "as necessary * * * to maintain accountability for assets" and the execution of transactions "in accordance with management's general or specific authorization."¹⁶

In addition, the FCPA enacted direct prohibitions against the making of certain payments or gifts to officials of foreign governments and certain other persons.¹⁷ Section 30A of the Securities Exchange Act, enacted by Section 103 of the FCPA, applied these prohibitions to any issuer which has a class of securities registered pursuant to Section 12 of the Securities Exchange Act, or is required to file reports under Section 15(d) of that Act, and to any officer, director, employee, or agent of such issuer, or any shareholder acting on behalf of such issuer. These persons are prohibited from using the mails, or any means or instrumentality of interstate commerce, corruptly, in furtherance of an offer, payment, or promise to give anything of value to any foreign official, any foreign political party or official thereof or any candidate for foreign political office, or to any other person, where the reporting company has reason to know that the payment will accrue to

any foreign official, foreign political party or official thereof, or any candidate for foreign political office.¹⁸ The statute provides that a payment or gift is made "corruptly" if it is made for the purpose of influencing any act, decision, or failure to act of a foreign official, foreign political party or official thereof, or candidate for foreign political office, or inducing such a person or party to influence any act or decision of such foreign government or instrumentality in order to assist a reporting company in obtaining, retaining, or directing business to any person.

The FCPA also amended Section 32 of the Securities Exchange Act to create specific penalties applicable to violations of this prohibition. Violations of Section 30A are punishable by a fine of up to \$10,000, imprisonment for up to five years, or both, in the case of an individual, and a fine up to \$1 million in the case of a corporation.¹⁹ Amended Section 32 also provides that a fine levied upon any officer, director, stockholder, employee, or agent of an issuer shall not be paid, directly or indirectly, by such issuer.

Section 104 of the FCPA, which is not part of the federal securities laws, enacted parallel prohibition applicable to any "domestic concern," other than an entity covered by Section 30A, or any officer, director, employee, or agent of such domestic concern, or any stockholder thereof acting on its behalf.²⁰ This provision contains the same prohibitions and penalties that are applicable to reporting companies and their officers, employees, and agents under the Securities Exchange Act.

Section 30A is subject to Commission civil enforcement and regulatory implementation in the same manner as are other provisions of the Securities Exchange Act. The Department of Justice is responsible, as with other sections of that Act, for any criminal prosecutions. The prohibition in Section 104 of the Foreign Corrupt Practices Act is, on the other hand, enforced exclusively by the Department of Justice, which may bring either civil or criminal proceedings to enforce that provision. Since the enactment of Section 30A two and one half years ago,

¹³ The term "foreign official" is defined as "any officer or employee of a foreign government or any department, agency or instrumentality thereof, or any person acting in an official capacity for or on behalf of such government or department, agency or instrumentality." The term does not, however, include employees "whose duties are essentially ministerial or clerical." Section 30A(b), 15 U.S.C. 78dd-1(b).

¹⁹ Section 32(c) of the Securities Exchange Act of 1934, 15 U.S.C. 78ff(c).

²⁰ 15 U.S.C. 78dd-1.

the Commission has filed one civil injunctive action to enjoin violations of the antibribery prohibitions.²¹ The Department has brought two civil actions²² and one criminal²³ action alleging violations of the bribery prohibitions.²⁴

II. The Commission's Request for Comments Concerning the Impact and Operation of the Bribery Prohibitions

On February 21, 1980, the Commission issued Securities Exchange Act Release No. 16593²⁵ requesting comments concerning the impact and operation of Section 30A of the Securities Exchange Act. Submissions were requested by the close of business on June 30, 1980.

In large measure, this request responded to published reports that "uncertainty" concerning the applicability of the bribery prohibitions was having a negative effect on the willingness or ability of public companies to engage in foreign commerce.²⁶ The Commission stated that it was seeking to understand and evaluate "what impact, if any, uncertainty concerning * * * (Section 30A) may be having on competition in foreign markets" so that it could "determine whether there are any steps which the Commission should take, consonant with the public interest and the concerns of registrants, to better administer the elements of the antibribery prohibition which fall within its jurisdiction." The Commission added that it was seeking "to determine whether there is substance to the concerns which have been voiced regarding the impact and construction of Section 30A" and stated that, after analyzing the comments received, "the Commission will consider whether there is further action which it should take to address these matters."

In accordance with normal procedures, Release No. 16953 was summarized in the daily SEC News Digest,²⁷ and published in the SEC

²¹ *Securities and Exchange Commission v. Katy Industries*, Civil Action No. C78-3476 (N.D. Ill., filed Aug. 30, 1978).

²² *See United States v. Roy J. Carver, et al.*, Civil Action No. 79-1768 (S.D. Fla., filed April 9, 1979); *United States v. Finbar B. Kenney and Kenny International Corp.*, Civil Action No. 79-2038 (D. D.C., filed Aug. 2, 1979).

²³ *See United States v. Kenny International Corp.*, Criminal Action No. 79-00372 (D.D.C., filed Aug. 2, 1979).

²⁴ In addition, the Department has instituted a Foreign Corrupt Practices Act Review Procedure, which is discussed below.

²⁵ See note 1, *supra*.

²⁶ A number of these reports are cited in the Commission's release requesting comments.

²⁷ SEC News Digest (Feb. 21, 1980).

¹³ H.R. Rep. No. 95-831, *supra* note 3, at 10.

¹⁴ *Id.* As the Commission's Report noted, *supra* note 12, at 23-24, one of the most troublesome and pervasive circumstances associated with the cases that had come to the Commission's attention was "the accumulation of funds outside the normal channels of financial accountability, placed at the discretion of one or a very small number of corporate executives not required to account for expenditures from the fund."

¹⁵ Section 13(b)(2)(A) of the Securities Exchange Act, 15 U.S.C. 78m(b)(2)(A).

¹⁶ Section 13(b)(2)(B) of the Securities Exchange Act, 15 U.S.C. 78m(b)(2)(B). See Securities Exchange Act Release No. 16877, [June 9, 1980]; 45 FR 40134 [June 13, 1980]; 20 SEC Docket 310 [June 24, 1980].

¹⁷ See S. Rep. No. 95-114, *supra* note 3; H.R. Rep. No. 95-640, *supra* note 3; and H.R. Rep. No. 95-640, *supra* note 3.

Docket²⁸ and the Federal Register.²⁹ In addition, the Commission's release set forth the procedure for seeking confidential treatment of any part of a submission³⁰ and indicated that, because some issuers might be reluctant to identify themselves in a comment letter—even if confidential—the Commission would consider submissions made by counsel that would relate the experiences of clients without identifying the client involved.

The Commission received a total of fourteen comments in response to its request during the four-month comment period.³¹ This relatively limited response appears inconsistent with published reports that there is widespread concern and uncertainty on the part of public companies and some individuals as to the applicability of the bribery prohibitions to particular transactions. The Commission recognizes, however, that concerns may exist with respect to the bribery prohibitions, but that affected persons may be unwilling, despite the provision made for confidential submissions, to provide the Commission with the kind of information that is needed to determine what action, if any, might be appropriate in response to those concerns.

The Commission remains sensitive to the need to consider the impact of newly enacted laws on affected persons. Even the most carefully drafted legislation may have unintended consequences or create an undue burden on such persons. However, the response to the request for comments is too sparse to permit a fair and comprehensive analysis to be made at this time with respect to the impact and operation of the bribery prohibitions contained in Section 30A. Moreover, there is presently no other body of empirical data that would support such an analysis. In addition, the available data is insufficient to support a reasoned evaluation of whether problems exist that were not contemplated at the time the FCPA was enacted, what alternatives may be appropriate for dealing with those problems, and the degree to which alternative responses may be consistent with the multiple

objectives that the Congress sought to achieve by enacting the FCPA.

III. Other Government Initiatives Concerning the Bribery Prohibitions of the FCPA

Although the Commission cannot fairly assess the issues raised by the comments, or the need for further action in response to the concerns that have been expressed, certain other initiatives are currently underway that may provide useful information and experience.

The Department of Justice established an FCPA Review Procedure on March 20, 1980, which permits companies to obtain guidance concerning the applicability of the FCPA's bribery prohibitions to particular transactions.³² Under that procedure, companies may submit a request for review setting forth the details of a proposed transaction and request that the Department indicate whether it would take of enforcement action if the transaction is carried out in the manner described. The Department has indicated that it will make every reasonable effort to respond to such requests within 30 days after receiving all of the information it considers relevant to the proposed transaction. In addition, it has stated that it will not disclose any information submitted as part of a review request which is exempt from mandatory public disclosure under the Freedom of Information Act.

Companies that receive Justice Department clearance for a proposed transaction under the FCPA Review Procedure will be assured that the Department will not take enforcement action on the basis of the transactions involved. In addition, the Department has indicated that it will issue public releases with respect to review requests that will describe the nature of reviewed transaction in general terms and set forth the Department's advice with respect to those transactions, thus making guidance available to companies and their counsel with respect to transactions that are not made the subject of a review request. As a result, the FCPA Review Procedure may serve to provide a greater measure of predictability as to how the anti-bribery provisions of the FCPA will be applied by the Department.

The Commission chose not to participate in the Justice Department's FCPA Review Procedure. In making that decision, the Commission considered the fact that determinations with respect to the applicability of Section 30A to particular fact patterns often would turn

on judgments concerning motivation and intent. It concluded that many questions of this nature do not easily lend themselves to guidance on the basis of a written description of a proposed transaction and that such questions could, in the first instance, better be resolved by corporate officials and their professional advisors, who have access to all of the relevant facts bearing upon intention.

The Department of Justice has also issued a statement of its enforcement priorities with respect to the bribery prohibitions.³³ This statement identifies a number of factors that increase the likelihood of investigation or prosecution:

(a) The making of prohibited payments or gifts in countries where the only other competitors are American companies;

(b) Situations in which there are no American competitors, but an American company is the only company engaging in corrupt practices;

(c) The fact that a foreign nation is making an effort to eliminate corrupt practices; and

(d) The making of prohibited payments or gifts to a foreign cabinet officer or other officials of high rank.

Other circumstances identified as affecting the likelihood of prosecution are the size of the payments; the size of the transaction; the past conduct of the persons or entities involved; the passive or active involvement of senior management officials; the involvement of lower level employees where the company has failed to exercise due diligence in monitoring employee activities; and the strength of the available evidence.

In addition, the General Accounting Office ("GAO") is conducting a study of the FCPA, which is attempting to acquire empirical data concerning the impact and operation of the bribery prohibitions. The GAO study will be based on a sample of 250 companies selected from *Fortune* magazine's list of the top 1,000 companies. It will collect data through an extensive questionnaire and employ certain audit procedures to validate the responses received.

By this time next year, the initiatives of the Justice Department and the GAO, taken together with the additional experience of the Commission, the Department of Justice and the business community in implementing the bribery prohibitions of the FCPA, may provide

³³ See Heymann, "The Justice Department's Proposed Program to Provide Advice to Businesses in Connection with Foreign Payments," and Address Delivered at the Pierre Hotel, New York, New York (Nov. 8, 1979).

²⁸ See note 1, *supra*.

²⁹ See note 1, *supra*.

³⁰ In this regard, the Commission stated that those wishing to make application for confidential treatment of any part of their submission should state that fact prominently on the first page or cover sheet of their comments. See Section 23(a)(3) of the Securities Exchange Act of 1934, 15 U.S.C. 78w(a)(3); Rule 24b-2, 17 CFR 240.24b-2.

³¹ Of these fourteen letters, one transmitted a duplicate copy of a trade association's comments and another took issue with a decision of a different independent regulatory agency, which was unrelated to Section 30A.

³² See 45 FR 20800 (Mar. 31, 1980).

the kind of data that will make possible a more satisfactory evaluation of the impact and operation of Section 30A. The Commission believes that that evaluation should consider whether significant uncertainties actually exist with respect to the applicability of the bribery prohibitions to particular transactions and the merits of alternative steps that might provide a greater measure of predictability as to how the law will be applied to particular transactions.

IV. Statement of Commission Policies Concerning Section 30A

As noted above, the Commission and the Department of Justice share responsibility for administering and enforcing the bribery prohibitions applicable to public companies, which were added as Section 30A of the Securities Exchange Act. Because the Commission is responsible for civil enforcement proceedings and the Justice Department is authorized to bring criminal enforcement actions, a number of comments suggest that the Commission's decision to decline participation in the Justice Department's FCPA Review Procedure might give rise to differing interpretations or applications of the law with respect to the same transaction or transactions, and thereby reduce the degree of assurance that issuers can obtain by making use of the review procedure. Most of these comments urge that the Commission "coordinate" its interpretation and enforcement of the statute with the Department of Justice.³⁴

The Commission wishes to emphasize that, although it has declined to participate directly in the Justice Department's FCPA Review Procedure, it continues to work closely with the Justice Department in administering the bribery prohibitions. The Commission is aware of no difference of substance between the Commission and the Department of Justice with respect to interpretation of the bribery prohibitions.

Although the Commission adheres to its original position concerning participation in the FCPA Review Procedure, the Commission recognizes that the review procedure is an experiment that may serve to provide a greater measure of predictability as to how the bribery prohibitions will be applied by the Department. The

Commission also believes—particularly in view of the limited response to its request for comments concerning the impact and operation of Section 30A—that the FCPA Review Procedure may provide a needed source of reliable data concerning the impact and operation of the bribery prohibitions. As a result, the Commission continues to have a strong interest in the experience and results of the Department's FCPA Review Procedure.

The Commission is concerned, however, by the views expressed in the comment letters to the effect that its decision to decline participation in the FCPA Review Procedure will reduce the degree of assurance that issuers can obtain through the FCPA Review Procedure. In addition, it has been suggested that the possibility of Commission enforcement action, despite a favorable review letter from the Department, might deter some public companies from making use of the Department's Procedure. Such a response would diminish the possibility that the FCPA Review Procedure will provide a greater degree of predictability as to the Department's enforcement of the bribery prohibitions and also inhibit the compilation of a credible body of data that might permit a fair and comprehensive assessment to be made with respect to the impact and operation of Section 30A.

As a general rule, the Commission does not anticipate that it would commence a civil enforcement action under Section 30A with respect to a particular transaction, despite the differing considerations that may be applicable to the commencement of civil and criminal enforcement actions, if the Department of Justice has indicated that it will not take criminal action under Section 30A with respect to the transaction based upon the circumstances set forth in an FCPA review request. Nevertheless, it has reserved the right to make an independent determination as to the need for such action.

However, in the light of the comments received concerning Section 30A, the Commission believes that further clarification of its position is appropriate to assure that its decision to decline participation in the FCPA Review Procedure will not adversely affect the willingness of public companies to make use of the procedure, and thereby reduce the possibility that there will be sufficient experience with the procedure to permit a fair assessment to be made with respect to its effectiveness. Accordingly, the Commission has decided, as a matter of

prosecutorial discretion, that it will not commence an enforcement action alleging violations of Section 30A in any case in which a public company seeks clearance for a proposed transaction under the FCPA Review Procedure and receives a letter from the Department of Justice, prior to May 31, 1981, stating that the Department does not intend to take enforcement action based on the facts and circumstances presented.

The Commission understands that the Department of Justice will conduct a review of the effectiveness of the procedure after it has been in operation for a period of one year. Since the review procedure was announced in the *Federal Register* on March 31, 1980, the Department's review should commence on or about March 31, 1981. After the Commission has had an opportunity to evaluate the experience of the Justice Department in administering the FCPA Review Procedure, the Commission will review the policy set forth above and may revisit the question of whether it should participate in the FCPA Review Procedure, continue the policy set forth above, or take other steps.

This policy statement eliminates the possibility that the Commission would commence an enforcement action with respect to transactions that are the subject of a favorable letter, issued prior to May 31, 1981, as part of the Department's FCPA Review Procedure. In addition, it should encourage public companies to make use of the procedure in cases where they may be uncertain as to the possible applicability of Section 30A to particular transactions and should help to assure that the FCPA Review Procedure will result in a sufficiently broad data base to make more adequate evaluations of the impact and operation of Section 30A in the future.

VI. Conclusion

The Commission hopes that the policies set forth above will make clear its position with respect to enforcement of Section 30A in cases where the Department of Justice has issued a letter, prior to May 31, 1981, stating that it will take no enforcement action under that provision with respect to a particular transaction. After the Commission has had an opportunity to evaluate the experience that the Department of Justice gains in administering its FCPA Review Procedure, it may revisit the question of what actions it could take to improve its administration of Section 30A in the light of that experience.

³⁴In this context, one comment incorrectly asserts that "the joint administration of Section 30A . . . has resulted in uncoordinated interpretation and enforcement of the Act." In fact, however, none of the cases filed in the past three years reflect any difference in interpretation between the Commission and the Department of Justice.

By the Commission.
George A. Fitzsimmons,
Secretary.

August 28, 1980.

[FR Doc. 80-27240 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-5112]

Invesat Capital Corp.; Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that an Application has been filed with the Small Business Administration pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR 107.701 (1980)) for the transfer of control of Invesat Capital Corporation (Invesat), a Mississippi corporation, and a Federal Licensee under Section 301(d) of the Small Business Investment Act of 1958, as amended, with its office presently located at 162 East Amite Street, Suite 204, Jackson, Mississippi 39201.

Invesat Corporation (Stockholder), a Mississippi corporation, and a Federal Licensee under the Small Business Investment Act of 1958, as amended, is presently the owner of all of the outstanding shares (15,000) of the \$1 Par Value Common Stock of Invesat. Pursuant to a Stock Transfer Agreement entered into between National Business League (National) a District of Columbia not-for-profit corporation, and Stockholder, National proposes to purchase from Stockholder 15,000 shares of \$1 Par Value Common Stock of Invesat for the sum of \$150,000 in cash or certified funds.

Upon consummation of this transaction, Invesat will be domesticated in the District of Columbia as NBL Capital Corporation with its offices located at 4320 Georgia Avenue, NW., Washington, D.C. 20011, and will have the following interim directors:

Theodore R. Hagans, Jr., 1645 Myrtle Street, NW., Washington, D.C. 20012.
*Marion R. Harris, 1815 Gola Drive, Fayetteville, N.C. 28301.

Charles T. Williams, 40 Hickory Drive, Roslyn, Long Island, N.Y. 11576.

National consists of a national headquarters located at 4324 Georgia Avenue, NW., Washington, D.C. 20011

*Mr. Harris is presently a stockholder and a director of another small business investment company, namely Vanguard Investment Company, Inc., Suite 309 Pepper Building, Fourth and Liberty Streets, Winston-Salem, North Carolina 27101 (License No. 04/04-5092).

and 127 chartered chapters. Each chartered chapter is an autonomous organization in choosing officers and in fiscal matters. The 127 chapters, in concert with National, will provide the aggregate amount of \$150,000 to purchase Invesat Capital Corporation. These chapters will also provide an additional \$50,000 of private capital after the acquisition of Invesat Capital Corporation to expand the capital of the proposed NBL Capital Corporation to \$200,000.

Once the NBL Capital Corporation is a 301(d) Licensee, National will employ a combination of chapter contributions and placement of a private offering with its many supporters over the past 80 years to expand its capital to reach its goal of \$1,000,000 of paid-in capital.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed new owner, National Business League, and the probability of a successful operation of National Capital Corporation under its control in accordance with the Act and Regulations promulgated thereunder.

Notice is hereby given that any person may, not later than September 22, 1980, submit written comments on this Application to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published by the National Business League in a newspaper of general circulation in the District of Columbia and Jackson, Mississippi.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 25, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-27264 Filed 9-4-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1912]

North Dakota; Declaration of Disaster Loan Area

Ransom and Richland Counties and adjacent counties within the State of North Dakota constitute a disaster area as a result of damage caused by wind and hail storm which occurred on August 6, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 27, 1980, and for economic injury until the close of business on May 27, 1981, at: Small

Business Administration, District Office, Federal Office Building, Room 218, P.O. Box 3086, 653 Second Avenue North, Fargo, North Dakota 58102, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 27, 1980.

Harold A. Theiste,
Acting Administrator.

[FR Doc. 80-27263 Filed 9-4-80; 8:45 am]

BILLING CODE 8025-01-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office:

Becton, Dickinson & Company, Mack Centre Drive, Paramus, New Jersey 07652.

2. Wholly owned subsidiaries which will participate in the operations and address of their respective principal offices:

Becton-Dickinson Division, East Rutherford, N.J.

B-D VACUTAINER Systems Division, East Rutherford, N.J.

Bard-Parker Division, Lincoln Park, N.J.

B-D Respiratory Systems, Lincoln Park, N.J.

B-D Medical Systems, Sharon, MA

B-D Drake Willock, Portland, OR

B.B.L. Microbiology Systems, Cockeysville, MD.

Clay Adams Laboratory Systems, Parsippany, N.J.

B-D Immunodiagnosics, Orangebury, N.Y.

B-D Labware Division, Oxnard, CA

Endevco Division, San Juan Capistrano, CA

Edmont Wilson Division, Coshocton, OH

Energetics Science, Inc., Elmsford, N.Y.

Telemed Cardio-Pulmonary Sys, Hoffman Estates, IL

B-D Consumer Products Division, Rochelle Park, N.J.

Ivers-Lee Division, West Caldwell, N.J.

International Sales Division, Paramus, N.J.

Hypak, Inc., Paramus, N.J.

1. Parent corporation and address of principal office:

Benham & Co., Inc., P.O. Box 29, Mineola, Texas 75773.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Mid-West Transport Co., P.O. Box 29, Mineola, TX 75773.

(b) Sabine Trucking Co., Inc., P.O. Box 29, Mineola, TX 75773.

(c) Phoenix Industries, Inc., P.O. Box 29,
Mineola, TX 75773.

A. Parent corporation and address of principal office:

The Black and Decker Manufacturing Company, 701 E. Joppa Road, Towson, Maryland 21204.

B. Wholly owned subsidiaries which will participate in the operations, and addresses of their respective principal offices.

Black & Decker (U.S.) Inc., 701 E. Joppa Road, Towson, Maryland 21204.

The McCulloch Corporation, 5400 Alla Road, Los Angeles, California 90066.

Black & Decker Canada Inc., 100 Central Avenue, Brockville, Ontario Canada, KGV 4N8.

1. Parent corporation.

The Budd Company; 3155 West Big Beaver Road; P.O. Box 2601, Troy, Michigan 48064.

2. Wholly-owned subsidiaries which will participate in the operations.

(a) Woodings-Verona Tool Works, Inc., 400 Jones Street, Verona, PA 15147.

(b) Waupaca Foundry, Inc., 406 North Division Street, Waupaca, WI 54981.

(c) Place Machine Corporation, 1740 E. Maple Road, Troy, MI 48099.

(d) Freeway Truck Parts, 17700 S. Santa Fe Avenue, Carson, CA 90749.

(e) Milford Fabricating Company, 19200 Glendale Avenue, Detroit, MI 48223.

(f) Greening Donald Co. Ltd., 55 Queen Street North, Hamilton, Ontario L8N 3J3.

(g) Mundt Perforations, Inc., 550 Hadley Road, S. Plainfield, NJ 07080.

(h) Budd Financial Corporation, 3155 West Big Beaver Road, Troy, MI 48084.

(i) Budd Leasing Corporation, 3155 West Big Beaver Road, Troy, MI 48084.

1. Parent corporation and address of principal office:

Combustion Engineering Inc., 900 Long Ridge Road, Stamford, CT 06902.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

American Pole Structures Corporation, 8700 Fairbanks, Houston, TX 77040.

Combustion Engineering Americas, Inc., 1000 Prospect Hill Road, Windsor, CT 06095.

Combustion Engineering Overseas, Inc., 1000 Prospect Hill Road, Windsor, CT 06095.

Combustion Engineering-Superheater, Ltd., 1000 Prospect Hill Road, Windsor, CT 06095.

CESCO International Ltd., 1000 Prospect Hill Road, Windsor, CT 06095.

Optimum Controls of Canada Limited, 1140 de Maisonneuve Blvd. West, Montreal, 110, Quebec, Canada H3A1N2.

International Power Systems, Inc., 1000 Prospect Hill Road, Windsor, CT 06095.

Upper Canada Manufacturing Limited, 99 Bank Street, Ottawa, Ontario, Canada K1P 6C5

CEI Inc., 1000 Prospect Hill Road, Windsor, CT 06095.

Beaumont Well Works, Inc., 4710 Bellaire Boulevard, Houston, TX 77001.

C-E Natco Oilfield Construction, Inc., 5330 E. 31st St., Tulsa, OK 74135.

Oilfield Construction Company Inc., P.O. Box 1925, Bakersfield, CA 93303.

Electric Lighting Inc., 1000 Prospect Hill Road, Windsor, CT 06095.

The Air Preheater Company, Inc., Wellsville, N.Y. 14895.

The Bauer Bros. Co., 3200 Upper Valley Pike, P.O. Box 968, Springfield, Ohio 45501.

Bauer Bros. Co. of Canada Ltd., 192 Mary Street, P.O. Box 910, Brantford, Ontario.

The Ehrsam Company, 300 N. Cedar, Abilene, Kansas 67410.

Ehrsam Transport, Inc., 2nd and Factory, Enterprise, KS 67441.

Crest Engineering, Inc., P.O. Box 27474, 3000 South Post Oak Road, Houston, TX 77056.

Crest Engineering Ltd., P.O. Box 27475, 3000 South Post Oak Road, Houston, TX 77056.

Lummus Group, Inc., 1515 Broad Street, Bloomfield, N.J. 07003.

The Lummus Company, 1515 Broad Street, Bloomfield, N.J. 07003.

Lummus Construction Equipment International, Inc., C-E Lummus Tower, 3000 South Post Oak Road, Houston, TX 77056.

Lummus Construction Company, 300 Broadacres Drive, Bloomfield, N.J. 07003.

Lummus Overseas Corporation, 1515 Broad Street, Bloomfield, N.J. 07003.

Lummus International, Inc., 1515 Broad Street, Bloomfield, N.J. 07003.

Construction Equipment International, Inc., C-E Lummus Tower, 3000 South Post Oak Road, Houston, TX 77056.

The Lummus Company Canada Limited, 1515 Broad Street, Bloomfield, N.J. 07003.

The Randall Corporation, 1400 Brittmore Road, Houston, TX 77043.

C-E Morgan, Inc., 1525 N.W. 167th Street, Miami, Florida 33169.

Ken Thelen Co., Inc., 4749 South Whitnall Ave., Cudahy, Wisconsin 53110.

C-E Minerals, Inc., 901 East Eighth Ave., King of Prussia Industrial Park, King of Prussia, PA 19406.

Combustion Chemicals, Inc., 901 East Eighth Ave., King of Prussia Industrial Park, King of Prussia, PA 19406.

Narvon Products, Inc., 901 East Eighth Ave., King of Prussia Industrial Park, King of Prussia, PA 19406.

Mullite Company of America, 901 East Eighth Ave., King of Prussia Industrial Park, King of Prussia, PA 19406.

Cermatec Ltd., 901 East Eighth Ave., King of Prussia Industrial Park, Valley Forge, PA 19482.

C-E Refractories Ltd., 901 East Eighth Ave., King of Prussia Industrial Park, Valley Forge, PA 19482.

Globe Refractories, Inc., P.O. Box D, Newell, W. Va. 26050.

R&I—Ramtite (Canada) Limited, 901 East Eighth Ave., King of Prussia Industrial Park, Valley Forge, PA 19482.

Thermotect Company, Inc., 901 East Eighth Ave., King of Prussia Industrial Park, Valley Forge, PA 19482.

Knox Mining Corp., 1422 Euclid Ave., 845 Hanna Building, Cleveland, Ohio 44115.

The Muller Corp., 1422 Euclid Ave., 845 Hanna Building, Cleveland, Ohio 44115.

C-E Basic Incorporated, 1422 Euclid Ave., 845 Hanna Building, Cleveland, Ohio 44115.

Basic Ceramics, Inc., 1422 Euclid Ave., 845 Hanna Bldg., Cleveland, Ohio 44115.

Basic Chemicals, Inc., 1422 Euclid Ave., 845 Hanna Bldg., Cleveland, Ohio 44115.

B.R.I. Service Co., 1422 Euclid Ave., 845 Hanna Bldg., Cleveland, Ohio 44115.

Industrial Magnesia Corp., 1422 Euclid Ave., 845 Hanna Bldg., Cleveland, Ohio 44115.

W. S. Tyler, Incorporated, 8200 Tyler Boulevard, Mentor, Ohio 44060.

The W. S. Tyler Company of Canada Ltd., P.O. Box 3006, 225 Ontario St., St. Catharines, Ontario, Canada L2R 7B6

1. The parent corporation is Economy Furniture, Inc., 9315 McNeil Road (P.O. Box 9788), Austin, TX 78766.

2. Wholly-owned subsidiaries which will participate in the operations are as follows:

(a) Dormae Products, Inc., 9313 McNeil Road, P.O. Box 9788, Austin, TX 78766.

(b) Hurley Mattress and Awning, Inc., 9315 McNeil Road, P.O. Box 9788, Austin, TX 78766.

1. Parent Corporation and Address of Principal Office:

The Federal Company, 1755-D Lynnfield Rd., Suite 149; Memphis, TN 38138.

2. Wholly-Owned Subsidiaries Which Will Participate in the Operations, and Address of their Respective Principal Offices:

(a) Holly Farms Poultry Industries, Inc., Post Office Box 88, School Street, Wilkesboro, North Carolina 28697.

(b) Holly Farms of Texas, Inc., Post Office Box 789, Center, Texas 75935

(c) Holly Farms Foods, Inc., Post Office Box 88, School Street, Wilkesboro, North Carolina 28697

(d) HTL Enterprises, Inc., 4601 Hebron Street, Charlotte, North Carolina 28210

(e) National By-Products, Inc., 1020 Locust Street, Des Moines, Iowa 50309

(f) Cosby-Hodges Milling Company, 1904 N. 16th Street, Birmingham, Alabama 35204

(g) Dixie Portland Flour Mills, Inc., 1755-D Lynnfield Road, Suite 107, Memphis, Tennessee 38138.

(h) Dixie Portland of Georgia, Inc., Post Office Box 610, Barnesville, Georgia 30204

(i) FFF Leasing, Inc., Post Office Box 789, Center, Texas 75935

(j) The White Lily Foods Company, 108 Depot Street, Knoxville, Tennessee 37901

(k) Globe Products Company, Inc., 55 Webro Road, Clifton, New Jersey 07015

(l) Diana Fruit Preserving Company, Inc., 651 Mathew Street, Santa Clara, California 95052

(m) Crescent Food Company, 5403 Santa Fe Avenue, Los Angeles, California 90058

(n) Rustco Products Company, 61st Avenue and Franklin, Denver, Colorado 80216

(o) Adolf J. Mainzer, Inc., 55 Webro Road, Clifton, New Jersey 07015

1. Parent corporation:

Fleetwood Enterprises, Inc., 3125 Myers Street, Riverside, California 92523.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal Offices:

Fleetwood Motor Homes of California, Inc., 5300 Via Ricardo, Riverside, CA 92502.
 Fleetwood Motor Homes of Indiana, Inc., 1410 West Patterson Street, Decatur, IN 46733.
 Fleetwood Motor Homes of Pennsylvania, Inc., Route 487, R.F.D. #1, Paxinos, PA 17860.
 Fleetwood Travel Trailers of Indiana, Inc., 1635 Elmore Street, Crawfordsville, IN 47933.
 Fleetwood Travel Trailers of Maryland, Inc., 35 South Street, Hancock, Maryland 21750.
 Fleetwood Travel Trailers of Maryland, Inc., Governor Lane Boulevard, Williamsport, Maryland 21795.
 Fleetwood Travel Trailers of Texas, Inc., 810 Prowler Drive, Longview, TX 75607.
 Fleetwood Travel Trailers of Texas, Inc., 2901 E. Industrial Road, Waco, TX 76703.
 Fleetwood Travel Trailers of Nebraska, Inc., 13737 Industrial Road, Omaha, Nebraska 68137.
 Fleetwood Travel Trailers of Ohio, Inc., 407 W. Railroad Street, Edgerton, Ohio 43517.
 Fleetwood Travel Trailers of Oregon, Inc., 121 N.W. 47th Street, Pendleton, Oregon 97801.
 Fleetwood Travel Trailers of Oregon, Inc., Pierce Lane, LaGrande, Oregon 97850.
 Fleetwood Travel Trailers of California, Inc., 145 S. Larch Avenue, Rialto, CA 92376.
 Fleetwood Travel Trailers of California, Inc., 255 S. Pepper Avenue, San Bernardino, CA 92403.
 Fleetwood Travel Trailers of Virginia, Inc., Battaile Drive, Winchester, Virginia 22601.
 Avion Coach Corporation, 1300 E. Empire Avenue, Benton Harbor, Michigan 49022.
 Prowler Industries of Ontario, Ltd., 70 Mount Hope Street, Lindsay, Ontario, Canada.
 Terry Travel Trailers, Ltd., 610 Lisgar Avenue West, Renfrew, Ontario, Canada.
 Fleetwood Homes of Idaho, Inc., 112 Industrial Road, Nampa, Idaho 83651.
 Fleetwood Homes of Idaho, Inc., 2611 East Comstock Avenue, Nampa, Idaho 83651.
 Fleetwood Homes of Washington, Inc., 211 5th Street, Woodland, WA 98674.
 Fleetwood Homes of Washington, Inc., 2925 Index Road, Washougal, WA 98671.
 Fleetwood Homes of Oregon, Inc., 2555 Progress Way, Woodburn, Oregon 97071.
 Fleetwood Homes of Oregon, Inc., 2655 Progress Way Woodburn, Oregon 97071.
 Fleetwood Homes of California, Inc., 7007 Jurupa Avenue, Riverside, CA 92514.
 Fleetwood Homes of California, Inc., 6001 20th Street, Rubidoux, CA 92519.
 Fleetwood Homes of California, Inc., 18 North County Road 101, Woodland, CA 95695.
 Fleetwood Homes of California, Inc., 1600 Clancy Street, Visalia, CA 93277.
 Fleetwood Homes of Texas, Inc., 2801 Gholson Road, Waco, TX 76705.
 Fleetwood Homes of Texas, Inc., 2800 East Industrial Road, Waco, TX 76703.
 Fleetwood Homes of Texas, Inc., 1101 Foundation Drive, Waco, TX 76710.

Fleetwood Homes of Texas, Inc., Como Street, Sulphur Springs, TX 75482.
 Fleetwood Homes of Georgia, Inc., Northside Industrial Park, Douglas, GA 31533.
 Fleetwood Homes of Florida, Inc., 2433 AZ Park Road, Lakeland, FL 33803.
 Fleetwood Homes of Florida, Inc., 1603 Grove Avenue, Haines City, FL 33844.
 Fleetwood Homes of Florida, Inc., 700 S. Bartow Road, Auburndale, FL 33823.
 Fleetwood Homes of Florida, Inc., 4848 Sydney Airport Road, Plant City, FL 33566.
 Fleetwood Homes of Mississippi, Inc., Fleetwood Circle, Lexington, Mississippi 39095.
 Fleetwood Homes of Tennessee, Inc., Fleetwood Drive at Hawkins Street, Westmoreland, Tennessee 37186.
 Fleetwood Homes of Virginia, Inc., Highway 40 West RDF 4, Rocky Mount, Virginia 24151.
 Fleetwood Homes of Alberta, Ltd., 4050 77th Street, Red Deer, Alberta, Canada T4N 5H2.
 Gold Shield Interiors, Inc., Federal Way & Apple, Boise, Idaho 83705.
 Gold Shield Fiberglass, Inc., 11751 Industry Avenue, Fontana, CA 92335.

Parent corporation:

The Flintkote Company, 800 Decker Drive, Irving, TX 75062.

Wholly owned subsidiary:

Texas Texture Compounds, Inc., 13317 Elder, P.O. Box 340347, Farmers Branch, TX 75234.

1. Parent corporation and address of principal office:

Fort Howard Paper Company, 1919 South Broadway, Green Bay, WI 54304.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

- (a) HAC Holding Corp., 1919 South Broadway, Green Bay, WI 54304.
- (b) Harmon Assoc., Corp., 86 Garden Street, Westbury, NY 11590.
- (c) Harco Trucking Corp., 86 Garden Street, Westbury, NY 11590.
- (d) Harmon Paper Stock Company, Inc., 86 Garden Street, Westbury, NY 11590.
- (e) Harmon Paper Export Corp., 86 Garden Street, Westbury, NY 11590.
- (f) Harmon International Paper Corp., 86 Garden Street, Westbury, NY 11590.

Parent corporation:

Friday Canning Corporation, 660 North 2nd Street, New Richmond, WI 54017.

2. Wholly owned subsidiaries:

- a. Country Gardens, Incorporated, Gillett, WI 54124.
- b. Mammoth Spring Canning Corporation, Sussex, WI 53089.
- c. Fall River Canning Company, Fall River, WI 53932.
- d. Gale Packing Company, Galesville, WI 54630.
- e. Baker Canning Company, Theresa, WI 53091.

Parent corporation:

Kaiser Aluminum & Chemical Corporation, 300 Lakeside Drive, Oakland, California 94643.

Wholly owned subsidiary company which will participate in intercorporate compensated hauling:

Kaiser Aluminum International Corporation, 300 Lakeside Drive, Oakland, California 94643.

(1) Parent corporation and address of principal office:

Koppers Company, Inc., 850 Koppers Building, Pittsburgh, Pennsylvania 15219.

(2) Wholly owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

- (a) Environmental Elements Corporation, P.O. Box 1318, Baltimore, Maryland 21203.
- (b) Dantzer Lumber & Export Company, P.O. Box 6340, Jacksonville, Florida 32205.
- (c) Parr, Inc., 18400 Syracuse Avenue, Cleveland, Ohio 44110.
- (d) Thiem Corporation, P.O. Box 6, Oak Creek, Wisconsin 53154.

1. Parent corporation and address of principal office:

Lydall, Inc., One Colonial Road, Manchester, CT 06040.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

- (a) Lydall Eastern, Inc., One Colonial Road, Manchester, CT 06040.
- (b) Lydall Atlantic, Inc., One Colonial Road, Manchester, CT 06040.
- (c) Lydall Midwest, Inc., One Colonial Road, Manchester, CT 06040.
- (d) Lydall New York, Inc., One Colonial Road, Manchester, CT 06040.
- (e) Gross Paper Company, One Colonial Road, Manchester, CT 06040.

1. Parent corporation and address of principal office:

Monogram Industries, Inc., 100 Wilshire Boulevard, Santa Monica, CA 90401.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

- Cornell Manufacturing Co., Inc. 21 Saw Mill River Road, Yonkers, NY 10701.
- Ring Brothers Investment Co., Inc. 100 Wilshire Boulevard Santa Monica, CA 90401.
- Ring Brothers Mangement Corp. 501 Santa Monica Boulevard, Santa Monica, CA 90401.
- Spaulding Fibre Company, Inc. One American Drive, Buffalo, NY 14225.
- Ring Brothers Corporation, 501 Santa Monica Boulevard, Santa Monica, CA 90401.
- American Pneumatic Tool Company, 14710 Maple Avenue, Gardena, CA 90248.
- Spaulding Fibre of Canada Limited, 130 The West Mall, Etobicoke, Ontario, Canada M9C-1B9

1. Parent corporation and address of principal office:

The Newark Group, Inc., 57 Freeman Street, Newark, New Jersey 07105.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Newark Boxboard Co., 57 Freeman Street, Newark, New Jersey 07105.

(b) Book Covers, Inc., 17 Blanchard Street, Newark, New Jersey 07105.

1. Parent corporation:

Name: Owatonna Tool Company, Address of principal office: 655 Eisenhower Drive, Owatonna, Minnesota.

2. Wholly-owned subsidiaries which will participate in the operations:

(a) Name: Truth Incorporated, Address of principal office: Bridge Street, Owatonna, Minnesota.

(b) Name: Twin Tool, Inc., Address of principal office: 378 East 8th Street, St. Paul, Minnesota.

(c) Name: Tri/Mark Corporation, Address of principal office: New Hampton, Iowa.

1. Parent corporation and address of principal office:

Pullman Incorporated, 200 South Michigan, Chicago, Illinois 60604.

Communications concerning this notice should be sent to the following address:

Pullman Trailmobile Division, attention: Director of Transportation, 200 East Randolph Drive, Chicago, Illinois 60601.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Transport Systems, Inc., P.O. Box 1886, Denton, TX 76201.

Pullman Woodex Corporation, 4900 Waters Edge Drive, Raleigh, NC 27606.

Pullman Trailmobile Canada Limited, 100 Shaver Street, Brantford, Ontario, Canada.

1. Parent corporation and address of principal office:

RCA Corporation, 30 Rockefeller Plaza, New York, NY 10020.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

All-Steel, Inc., P.O. Box 871, Aurora, IL 60507.

Cleo Wrap Corp., 4025 Viscount, Memphis, TN 38118.

Coronet Industries, P.O. Box 1248, Dalton, GA 30720.

Gibson Greeting Cards, Inc., 2100 Section Road, Cincinnati, OH 45237.

Picker Corporation, 595 Miner Road, Cleveland, OH 44143.

RACO, Inc., P.O. Box 4002, South Bend, IN 46634.

RCA American Communications, Inc., 201 Centennial Avenue, Piscataway, NJ 08854.

RCA Global Communications, Inc., 60 Broad Street, New York, NY 10004.

1. Parent corporation and address of principal office:

The C. Reiss Coal Company, 1011 South 8th Street, Sheboygan, Wisconsin 53081.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Reliance Construction Company, 1011 South 8th Street, Sheboygan, Wisconsin 53081.

(b) Reiss Oil Terminal Corporation, 1011 South 8th Street, Sheboygan, Wisconsin 53081.

(c) Reiss Viking Corporation, 1011 South 8th Street, Sheboygan, Wisconsin 53081.

1. Parent corporation and address of principal office:

G. D. Searle & Company, P.O. Box 1045, Skokie, Illinois 60076.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Searle Medical Products USA, Inc., 4711 Golf Road, Skokie, Illinois 60076.

(b) Searle Pharmaceutical/Consumer Products, Inc., 4930 Oakton Street, Skokie, Illinois 60077.

(c) Searle Optical, Inc., P.O. Box 226139, Dallas, Texas 75266.

1. Parent corporation and address of principal office:

Siecor Optical Cables, Inc., 1928 Main Avenue SE., Hickory, N.C. 28601.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Superior Cable Corporation, 1928 Main Avenue SE., Hickory, N.C., 28601.

(A) Parent corporation:

Trinity Industries, Inc., 4001 Irving Blvd., P.O. Box 10587 Dallas, Texas 75207, Dallas, Texas 75274.

(B) Wholly-owned subsidiaries which will participate in the operations.

1. Delta Tank Corporation, Sherrill Street, P.O. Box 3750, Jackson, Georgia 30233.

2. Equitable Shipyards, Inc., 3636 I 10 Service Road, Metairie, Louisiana 70004.

2. Gambles, Inc., 1401 North Decatur, P.O. Box 310, Montgomery, Alabama 36101.

4. Hackney, Inc., 4001 Irving Blvd., P.O. Box 10587, Dallas, Texas 75207.

5. Mosher Steel Company, 3910 Washington Ave., P.O. Box 1579, Houston, Texas 77001.

6. Texas Metal Fabricating Co., 7000 Old Katy Road, P.O. Box 70125, Houston, Texas 77007.

7. Trinity Industries Transportation, Inc., 4001 Irving Blvd., P.O. Box 10587, Dallas, Texas 75207.

8. The Ingalls Iron Works Company, 620 4th Avenue South, P.O. Box 2527, Birmingham, Alabama 35202.

9. Blue Ridge Steel Company, 1000 Ninth Street, N.E., Roanoke, Virginia 24016.

10. New City Steel Corporation, 5415 South Claremont Ave., Chicago, Illinois 60609.

11. City Steel Corporation, 975 High Street, Jackson, Mississippi 39205.

12. Richards Tank Corporation, Pinson Highway, Birmingham, Alabama 35217.

13. Gibson Steel Company, Inc., 816 North 30th Street, Birmingham, Alabama 35203.

14. Steel Supply Company, Inc., 4800 Beverly Road, Knoxville, Tennessee 37918.

15. Tennessee Steel and Supply Company, 710 South Second Street, Nashville, Tennessee 37213.

16. South Central Steel Company, Camp Coleman Road, Trussville, Alabama 35173.

17. Jones and Armstrong Steel Company, 620 4th Avenue South, P.O. Box 2527, Birmingham, Alabama 35202.

18. Jacksonville Steel Company, Edgewood Avenue and 20th Street, Jacksonville, Florida 32205.

19. Charles County Steel Company, St. Charles Industrial Park, P.O. Box 657, Waldorf, Maryland 20601.

20. Ingalls Steel of Pennsylvania, Seldon and Ridge Avenues, Verona, Pennsylvania 15147.

21. McMurray Structural Steel Company, 1015 Herman Street, Nashville, Tennessee 37208.

22. Seminole Steel Company, 2431 Airport Road, Bainbridge, Georgia 31717.

1. Parent corporation and address of principal office:

Tyler Corporation, Southland Center, Dallas, Texas 75201.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) Atlas Powder Company, 12700 Park Central Place, Suite 1700, Dallas, Texas 75251.

(1) D & H Explosives Co., Inc., P.O. Box 757, Coeburn, Virginia 24230.

(2) East Kentucky Explosives, Inc., P.O. Box 157, West Prestonsburg, Kentucky 41668.

(3) Explo-Midwest, Inc., P.O. Box 1826, 2803 South Rangeline, Joplin, Missouri 64801.

(4) Hazards Explosive Company, Route 1—Box 227, Hazard, Kentucky 41701.

(5) Atlas Powder International, 16201 S.W. 95th Avenue, Miami, Florida 33157.

(6) Kinepak, Inc., P.O. Box 1155, Louisville, Texas 75067.

(7) Oriard Powder Company, P.O. Box 220, Deer Park, Washington 99006.

(8) Powder River Explosives, 1120—16th Street West, Alpine Village Center—Suite 13, Billings, Montana 59102.

(9) West Kentucky Explosives, Inc., P.O. Box 8, Madisonville, Kentucky 42431.

(10) Star Export Services, Port Bienville Industrial Park, P.O. Box 74, Tearlington, Mississippi 39572.

(b) Tyler Pipe Industries, Inc., P.O. Box 2027, Tyler, Texas 75710.

(1) Tyler Plastics, Inc., P.O. Box 2027, Tyler, Texas 75710.

- (2) Wade, Inc., P.O. Box 2027, Tyler, Texas 75710.
- (3) Tyler Pipe Industries of Texas, P.O. Box 2027, Tyler, Texas 75710.
- (4) Tyler Pipe Industries of Pennsylvania, P.O. Box 2027, Tyler, Texas 75710.
- (c) Tyler Fuel Corporation, P.O. Box 270535, Dallas, Texas 75227.
- (d) C & H Transportation Co., Inc., 9757 Military Parkway, P.O. Box 270535, Dallas, Texas 75227.
- (e) Thurston Motor Lines, Inc., 600 Johnston Road, Charlotte, North Carolina 28206.

A. Parent corporation and address of principal office:

U.S.A. Petroleum Corporation, 1633-26th Street, Santa Monica, CA 90404.

B. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

- (1) Trans World Oil Corporation, 1633 26th Street, Santa Monica, CA 90404.
- (2) USA Gasoline Corporation, 1633 26th Street, Santa Monica, CA 90404.
- (3) Supersave Petroleum Corporation, 1633 26th Street, Santa Monica, CA 90404.
- (4) Colonial Oil Company, 1903 East Adams, Jacksonville, FL 33231.
- (5) Colonial Service Stations, Inc., 1903 East Adams, Jacksonville, FL 33231.
- (6) Houston Oil Company, 1542 Eastern Avenue, Cincinnati, OH 45202.

A. Parent corporation:

United Telecommunications, Inc., 2330 Johnson Drive, Shawnee Mission (Westwood), Kansas 66205.

B. Subsidiary corporations (wholly-owned):

- Capital City Telephone Company, 311 Ellis Boulevard, Jefferson City, Missouri 65105.
- Midstate Telephone Company, 311 Ellis Boulevard, Jefferson City, Missouri 65101.
- Carolina Telephone & Telegraph Company, 122 East St. James Street, Tarboro, North Carolina 27886.
- Gulf States, United Telephone Company, 123 South Broadway, Tyler, Texas 75710.
- Palo Pinto Telephone Company, 123 South Broadway, Tyler, Texas 75710.
- Hillsborough & Montgomery Telephone Company, 160 Center Street, Clinton, New Jersey 08809.
- New Jersey Telephone Company, 1710 Harrisburg Pike, Carlisle, Pennsylvania 17013.
- Saltillo Telephone Company, 550 Cleveland Avenue, Chambersburg, Pennsylvania 17201.
- United Inter-Mountain Telephone Company, 112 Sixth Street, Bristol, Tennessee 37620.
- United Telephone Company of Arkansas, 311 Ellis Boulevard, Jefferson City, Missouri 65101.
- United Telephone Company of the Carolinas, 112 Sixth Street, Bristol, Tennessee 37620.
- United Telephone Company of Florida, 1520 Lee Street, Fort Myers, Florida 33902.
- United Telephone Company of Indiana, Inc., U.S. 30 East, Warsaw, Indiana 46580.

United Telephone Company of Iowa, 115 South Second Avenue West, Newton, Iowa 50208.

United Telephone Company of Kansas, Inc., 123 North Eisenhower, Junction City, Kansas 66441.

United Telephone Company of Minnesota, 105 Peavy Road, Chaska, Minnesota 55318.

United Telephone Company of New Jersey, 1170 Harrisburg Pike, Carlisle, Pennsylvania 17013.

United Telephone Company of Northwest, 801 State Street, Hood River, Oregon 97031.

California-Oregon Telephone Company, 801 State Street, Hood River, Oregon 97031.

United Telephone Company of Ohio, 665 Lexington Avenue, Mansfield, Ohio 44907.

The United Telephone Company of Pennsylvania, 1170 Harrisburg Pike, Carlisle, Pennsylvania 17013.

United Telephone Company of the West, P.O. Box 1112, Scottsbluff, Nebraska 69361.

West Jersey Telephone Company, 1170 Harrisburg Pike, Carlisle, Pennsylvania 17013.

North Supply Company, 10951 Lakeview Avenue, Lenexa, Kansas 66219.

North Supply Company of Lenexa, Inc., 10951 Lakeview Avenue, Lenexa, Kansas 66219.

Northstar Transportation, Inc. (the "Carrier"), 10951 Lakeview Avenue, Lenexa, Kansas 66219.

On-Line Systems, Inc., 115 Evergreen Heights, Pittsburg, Pennsylvania 15229.

United Computing Systems, Inc., 5454 West 110th Street, Overland Park, Kansas 66211.

Calma Company, 527 Lakeview Drive, Sunnyvale, California 94086.

U. C. S., Inc., 2525 Washington, Kansas City, Missouri 64108.

United Telephone System, Inc., 2330 Johnson Drive, Shawnee Mission, Kansas 66205.

United Data Services, Inc., 2330 Johnson Drive, Shawnee Mission, Kansas 66205.

United Information Systems, Inc., 2330 Johnson Drive, Shawnee Mission, Kansas 66205.

United Communications Systems, Inc., 2330 Johnson Drive, Shawnee Mission, Kansas 66202.

UniTel International, Inc., 6045 Martway, Shawnee Mission, Kansas 66205.

ULI Leasing, Inc., 2330 Johnson Drive, Shawnee Mission, Kansas 66205.

Parent:

Univar Corporation, 1600 Norton Building, Seattle, Washington 98104.

Wholly-owned subsidiaries:

Pacific Resins & Chemicals, Inc., Incorporated under the laws of the State of Washington.

Penick & Ford, Limited, Incorporated under the laws of the State of Delaware. Division: Great Western Malting Co.

Kcinep & Drof, Ltd., Incorporated December 22, 1978 under the laws of the State of Washington. Division: Centennial Mills.

Idaho Malting Company, Incorporated November 15, 1979 under the laws of the State of Washington.

Van Waters & Rogers Ltd., Incorporated under the laws of the British Columbia, Canada. Subsidiary: Vancouver Fumigating Co., Limited. Incorporated under the laws of British Columbia, Canada.

VWR Scientific Inc., Incorporated under the laws of the State of Delaware Subsidiaries: VWR Scientific Export Corporation (a DISC). Incorporated October 31, 1979 under the laws of State of Delaware. VWR Scientific International Limited, Incorporated December 4, 1979 under the companies ordinance of Hong Kong.

Guardsman Insurance Company, Ltd. Incorporated in December, 1978 under the laws of Bermuda.

Van Waters & Rogers. A Division of Univar Corporation.

Inactive corporations: United Pacific Corporation, Van Waters & Rogers, Inc., Scientific Supplies Co.

1. Parent corporation:

Universal Foods Corporation, 433 E. Michigan Street, Milwaukee, Wisconsin 53201.

(2) 100% wholly owned subsidiary by the name of:

(a) Mid-Continent Bottlers, Inc., 1679 NE 51st Avenue, P.O. Box BJ, Des Moines, Iowa 50304.

Shaw Trucking Inc., 2201 Riverside, Norfolk, Nebraska 68701.

Parent corporation and address of principal office:

Weyerhaeuser Company, Tacoma, Washington 98477.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(1) Chehalis Western Railroad Company, Tacoma WA 98477.

(2) Columbia & Cowlitz Railway Company, Tacoma WA 98477.

(3) Combustion Power Company, Inc., 1346 Willow Road, Menlo Park CA 98425.

(4) Curtis Milburn & Eastern Railroad Company, Tacoma WA 98477.

(5) Dairy Craft Supply Corp., 55 Madison Ave., Hempstead NY 11550.

(6) DeQueen & Eastern Railroad Company, P.O. Box 32, DeQueen AR 71832.

(7) Dixieline Lumber Company, 3250 Sports Arena Blvd., San Diego CA 92110.

(8) Eclipse Timber Company, P.O. Box 2087, Port Angeles WA 98362.

(9) Erickson Hardwoods, Inc., P.O. Box 337, Onalaska WI 54650.

(10) Golden Triangle Railroad, 105 Alabama St., Columbus MS 39701.

(11) Miss/Ala Plywood Company, P.O. Box 2288, Columbus MS 39701.

(a) Sumter Plywood Corporation, P.O. Box 1017, Livingston AL 35470.

(12) Mississippi & Skuna Valley Railroad Company, 105 Alabama St., Columbus MS 39701.

(13) Northwest Hardwoods, Inc., 1300 S.W. Fifth Ave., Portland OR 97201.

(14) Oregon Aqua-Foods, Inc., 88700 Marcola Rd., Springfield OR 97477.

(15) Oregon California & Eastern Railway Company, Weyerhaeuser Road, Klamath Falls OR 97601.

(16) Southern Containers, Inc., P.O. Box 1, Franklin KY 42134.

(17) Texas Oklahoma & Eastern Railroad Company, P.O. Box 32, DeQueen AR 71832.

- (18) Weyerhaeuser International, Inc., (Domestic Parent), Tacoma WA 98477.
 (a) Weyerhaeuser Canada, Ltd., 700 W. Georgia St., Vancouver, B.C., V7Y 1C8.
 (19) Weyerhaeuser Construction Company, Tacoma WA 98477.
 (20) Weyerhaeuser Townsite Company, 810 Whittington Ave., Hot Springs AR 71901.
 (21) Weyerhaeuser Real Estate Company, Tacoma WA 98477.
 (a) The Babcock Company, 5915 Ponce de Leon Blvd., Coral Gables FL 33146.
 (b) Centennial Homes, Inc., 5024 Royal Lane, Dallas TX 75230.
 (c) Par-West Financial, P.O. Box 54089, Los Angeles CA 90025.
 (1) Pardee Construction Company, 10960 Wilshire Blvd., Los Angeles CA 90024.
 (22) The Quadrant Corporation, 1427 116th N.E., Bellevue WA 98004.
 (23) Scarborough Corporation, Inc., P.O. Box 387, Marlton NJ 08053.
 (a) Scarborough Construction, Inc., P.O. Box 4399, Clearwater FL 33518.
 (b) Quill Corporation, P.O. Box 387, Marlton NJ 08053.
 (24) Westminster Company, 405 Parkway Drive, Greensboro NC 27405.
 (25) Winchester Homes, Inc., 8375 Jumpers Hole Rd., Millersville MD 21108.

Agatha L. Mergenovich,
 Secretary.

[FR Doc. 80-27180 Filed 9-4-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Applications Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

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.

Petitions seeking reconsideration must be filed on or before September 25, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the

notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

MC-FC-78695. By decision of August 19, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to STILES TRUCK LINE, INC., of Certificate MC 63792 (Sub-12, issued December 24, 1969 to TOM HICKS TRANSFER COMPANY, INC., of Houston, TX, authorizing the transportation of iron and steel articles, from Houston, TX, to points in AR, LA, and TX, subject to the following condition: applicants must submit a request to cancel the appropriate operating authority necessary to resolve the duplication problem. The duplicating authority is found in MC 63792 (the first full paragraph on sheet 2), and (Subs-10, 24, and 28). Applicant's representative is J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transferee is not a carrier. TA lease is not sought.

MC-FC-78696. By decision of August 19, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to VIGEANT FREIGHT SYSTEM, INC., of South Dartmouth, MA of a portion of Certificate MC 135127 issued July 30, 1975 to HI-CUBE TRANSPORT, INC., of Palmer, MA, authorizing the transportation of general commodities (usual exceptions), between points in Middlesex County, MA, on the one hand, and, on the other, points in Connecticut and Rhode Island, subject to applicants' request that any duplicating authority created by this transaction be cancelled. The duplication occurs in transferor's retained rights between Boston, MA, and Newark, NJ, and between Providence, RI, and Boston. Applicants must submit an acceptable plan to

resolve the duplication problem. Applicants' representatives are: David M. Marshall, 101 State St., Springfield, MA 01103. Francis F. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Transferee holds no authority. TA lease is not sought.

MC-FC-78698. By decision of August 19, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to T&T BUS COMPANY, INC. of Corning, NY of Certificate MC 84933 and MC 84933 (Subs-2, 3, and 4), issued September 26, 1942, November 25, 1958, February 22, 1973 and August 14, 1974 to ELMIRA-WATKINS GLEN TRANSIT CORPORATION, authorizing the transportation of (1) passengers and their baggage, (a) over a regular route, between Elmira, NY, and Ithaca, NY, from Elmira over NY highway 14 to Watkins Glen, NY, thence over NY highway 414 to junction NY highway 227, thence over NY highway 227 to Perry City, NY, and thence over NY highway 79 to Ithaca, (b) over a regular route between Watkins Glen, NY, and Geneva, NY, serving all intermediate points, from Watkins Glen over NY highway 14 to junction unnumbered highway (near Lakemont, NY), thence over unnumbered highway via Lakemont and Starkey, NY, to Dundee, NY, then over NY highway 14A to Penn Yan, NY, thence over NY highway 54 to Dresden, NY, thence over NY highway 14 to Geneva, NY, and (c) over irregular routes, beginning and ending at points in Chestung, Yates, Schuyler, and Ontario Counties, NY, and Bradford County, PA, and extending to points in the United States (except Alaska and Hawaii), in special operations; and (2) passengers and their baggage, and express, and newspapers, in the same vehicle with passengers, over a regular route between Elmira, NY, and Canton, PA, serving the intermediate points of Fassett, Gillett, Snedekerville, Columbia Cross Roads, Troy, and Alba, PA; from Elmira over NY highway 17E to junction NY highway 14, thence over NY highway 14 to the NY-PA state line, thence over PA highway 14 to Canton, and return over the same route. Applicant's representative is: Jeremy Kahn, 1511 K St., NW., Washington, DC 20005. TA application has been filed. Transferee holds no authority.

MC-FC-78704. By decision of August 15, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to JEFFERSON TRUCKING CORPORATION, of Hoboken, NJ, of Certificate MC 50897 (Sub-1), issued July 11, 1974 and MC 50897 (Sub-4), issued

January 23, 1976 to JEFFERSON TERMINAL AND WAREHOUSING, INC., authorizing the transportation of (1) over irregular routes of textiles, unfinished piece goods, and yarn, between Hoboken, NJ, on the one hand, and, on the other, points in Nassau and Suffolk County, NY, and (2) over regular routes, of yarn, piece goods, rags, waste, and rugs, made of natural or artificial fiber, between New York, NY and Paterson, NJ, serving all intermediate points as follows: (a) from Paterson over New Jersey Hwy 46 (formerly New Jersey Hwy 6), to Bendix, NJ, then over unnumbered highway to Little Ferry, NJ, then over Moonachie Road to junction New Jersey Hwy 5-3, then over New Jersey Hwy 5-3 to junction with an unnumbered highway approximately 1 mile southeast of Seacaucus, NJ, then over unnumbered highway via Union City, NJ to Weehawken, NJ, then by Ferry or tunnel to New York, NY and return over the same route, and (b) from Paterson over Main Avenue to Panaic, NJ, then over New Jersey Hwy 5-3 to junction New Jersey Hwy 3, then over New Jersey Hwy 3 via Union City, NJ to Weehawken, NJ, then by Ferry or tunnel to New York, NY and return over the same route. Transferee presently holds no operating authority from the Commission. Transferee's representative is: Larsh B. Mewhinney, 555 Madison Avenue, New York, NY 10022.

MC-FC-78713. By decision of August 13, 1980, issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to ALLEN KENNINGER, d.b.a. VALLEY TRUCK LINE, of Cooperstown, ND, of Certificate of Registration MC 99050 (Sub-2) issued August 29, 1972, to ALLEN KENNINGER and RONALD OLSON, d.b.a. VALLEY TRUCK LINE, of Cooperstown, ND, evidencing a right to engage in transportation in interstate commerce corresponding in scope to (state certificate No.) Certificates 352, 412, and 385, issued by the North Dakota Public Service Commission, authorizing the service set forth at the conclusion of this notice. The transportation service authorized to be transferred is as follows: "Transportation of General Commodities, excluding therefrom liquids in bulk, in tank vehicles and restricted against the use of lowboy trailers, between Fargo and McHenry, North Dakota, over routes as follows: 1. From Fargo via U.S. Hwy No. 10, Interstate Hwy No. 94, North Dakota Hwys. No. 1, 7, 45 and 65 and unnumbered highway to McHenry and return, serving all intermediate points

between Rogers and McHenry, including Rogers and McHenry, and the off-route points of Finley and the Finley Air Force Base, Page, Colgate, Hope, Sharon, Aneta, Kloten, McVile, Pekin, Tolna, McHenry, Glenfield, and Sutton; and 2. (Alternate Route) From Fargo via Interstate Hwy No. 29 to Junction of Cass County Road No. 26, thence west on Cass County Road No. 26 to Page, North Dakota; thence north on ND Hwy No. 38 to Junction of ND Hwy No. 32; thence north on ND Hwy No. 32 to Junction of ND Hwy No. 200; thence via ND Hwy No. 200 to Cooperstown and thence to McHenry, North Dakota, as outlined above and return, serving the same points as described above as intermediate and/or off-route points (Highways of off-route points are: ND Hwys No. 38, 15, 20, 200, 1, 65 and 45);" 1. Livestock, agricultural commodities, commercial livestock feeds, fencing, building material fuel, farm machinery, road machinery, and culverts from Griggs County to other points and places in the State of North Dakota and vice versa; 2. Commodities generally from the City of Coopertown to other points and places in the State and vice versa; 3. Cream, other dairy products, poultry and poultry products from the towns of Aneta, Sharon, Finley, Hope and Page, North Dakota, to Fargo, North Dakota, and return of empty containers, cases and crates to the above points. Restriction: Restricted against the use of lowboy trailers; "Transportation of General Commodities and livestock, to, from and within a territory as follows: "Bound on the east by the Steele-Trail County Line; on the north by the Steele-Grand Forks and the Griggs-Nelson County Line; on the west by the west township line of Townships No. 145, 146, 147 and 148, Range No. 58, which passes Cooperstown directly to the east; and on the south by a county road running from the Griggs-Steele County Line due east to Hope, North Dakota, thence following Hwy. No. 38 to a point about one and one-half miles south of Hope; thence by county road running due east to the Trail County Line. "Restriction: Restricted against the use of lowboy trailers;" Applicant's representative is: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. Transferee is not a carrier. TA lease is not sought.

MC-FC-78714. By decision of August 11, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board 5 approved the transfer to K AND L TRANSPORT, of Philadelphia, Pa., a partnership, composed of Lumbermen Associates, Inc., A Delaware Corporation, and Richard E. Kelley, Inc., a closed

corporation of Pennsylvania, of Permits MC 118745 (Subs-14 and 20), issued July 22, 1977 and October 18, 1978, respectively, to JOHN PFROMMER, INC., P.O. Box 307, Douglassville, PA 19518, authorizing the transportation of *Lumber, wooden fencing and pallets* from the facilities of Warner Company* at or near Philadelphia to points in Delaware, Maryland, New Jersey, New York, North Carolina, Virginia and District of Columbia, and from points in North Carolina, Virginia, Delaware and Maryland to points in that part of Pennsylvania on and east of U.S. Highway 219, and to Wilmington, DE, under a continuing contract or contracts with Warner Company of Philadelphia, PA* and *lumber and wooden fencing* from Camden, Perth Amboy, Part Elizabeth, and Trenton, NJ, to point in Delaware, Maryland, New Jersey, and Pennsylvania, under continuing contract(s) with Warner Company.* Applicants' representative is Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transferee holds no authority. TA lease is not sought.

MC-FC-78717. By decision of August 15, 1980, issued under 40 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to FLYING L TRUCKING CO., a corporation, of Thousand Oakes CA, of certificate MC 141071 (Subs-2, 3, 4, 7, 8, 9, and 10 issued 29, 1977, January 13, 1977, July 12, 1977, June 29, 1978, February 3, 1978, April 13, 1978, and July 13, 1978, respectively, authorizing the transportation of (1) 1978, respectively, authorizing the transportation of (1) pet food and canned tuna, from Terminal Island, CA, to points in Oregon and Washington, (2) pet food, from Perham, MN, and Muscatine, IA to Terminal Island, CA, (3)(a) material, equipment, and supplies used in the production, packaging, or distribution of frozen foods, from points in California, Oregon, and Washington, to Burley, ID and (b) frozen foods, from Ontario, OR and points in Idaho, to Las Vegas, NV, (4) pet food and canned tuna, from Terminal Island, CA, to points in Idaho and Utah, (5) pet food, from Perham, MN and Muscatine, IA, to San Jose, CA, (6) canned and preserved foodstuffs, from

* Note.—The above facilities of Warner Company were sold to Lumbermen Associates, Inc., Therefore, when the authority is issued the origin authority in Sub-14, paragraph one, will read "the facilities of Lumbermen Associates, Inc., at or near Philadelphia, PA". Likewise, the final paragraph on sheet 2 will reflect that the authority is to be performed under a continuing contract with Lumbermen Associates, Inc., In the Sub-20 authority, the reference to Warner Company will be deleted and "Lumbermen Associates, Inc." will be included in lieu thereof.

the plantsites and storage facilities of Heinz-U.S.A., Division of H. J. Heinz Company, located at or near Tracy and Stockton, Ca, to points in Idaho, Oregon, Utah, and Washington, and (7) canned and preserved foodstuffs, between the facilities of Heinz-U.S.A., Division of H. J. Heinz Company, at or near Tracy and Stockton, Ca, on the one hand, and, on the other, the facilities of Heinz-U.S.A., Division of H. J. Heinz Company, at or near Muscatine and Iowa City, IA. Applicant's representative is: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. An application for temporary authority has been filed.

MC MC-FC-78724. By decision of August 19, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 132, Review Board Number 5 approved the transfer to LUGI DELLAPINA and LEA LETTERIS, a partnership, doing business as ASTORIA MOTOR VAN CO., of Long Island City, NY, of Certificates MC 43148 issued April 2, 1958, to Joseph G. Cureio and Richard E. Curcia, a partnership, doing business as Rocco Van & Storage Co., of Long Island City, NY, authorizing the transportation of household goods, as defined by the Commission, between New York, NY, on the one hand, and, on the other, points in New Jersey, Pennsylvania, Massachusetts, Rhode Island, Maryland, Connecticut, Delaware, New York, and the District of Columbia, and between New York, NY, on the one hand, and, on the other, points in Virginia, Vermont, New Hampshire, and Maine. Applicant's representative is: Mr. David A. Brown, Attorney 32-02 30th Avenue, Long Island City, NY 11102 (212) 726-1598. Application has not been filed. Transferee presently holds no authority. Agatha L. Mergenovich, Secretary.

[FR Doc. 80-27181 Filed 9-4-80; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication 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, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where 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 the absence of legally sufficient protests in the form of verified statements filed on or before October 23, 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 notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Volume No. OP1-024

Decided: August 27, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 200 (Sub-484F), filed August 20, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *classes A and B explosives, ammunition, weapons, and articles designated sensitive by the U.S. Government*, between points in the U.S.

Condition: To the extent that the certificate in this proceeding authorized the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

MC 52921 (Sub-38F), filed August 21, 1980. Applicant: RED BALL, INC., P.O. Box 520, Sapulpa, OK 74066. Representative: Frank P. Burzio (same address as applicant). Transporting *paper bags and paper bag closures*, from New Orleans, LA, to points in OK, KS, AR, and MO.

MC 78400 (Sub-92F), filed August 22, 1980. Applicant: BEAUFORT TRANSFER COMPANY, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting (1) *charcoal, charcoal briquettes, hickory chips, vermiculate, lighter fluid, and fireplace logs*, (2) *accessories* and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI).

MC 121081 (Sub-5F), filed August 22, 1980. Applicant: COLUMBUS MOTOR LINES, INC., P.O. Box 26741, Charlotte, NC 28213. Representative: Terrell C. Clark, P.O. Box 25, Stanleystown, VA 24168. Transporting (1) *containers, container parts*, and (2) *Equipment, materials and supplies*, used in the manufacture and distribution of the commodities in (1) above, (a) between Charlotte, NC, on the one hand, and, on the other, points in AL, FL, KY, and WV, (b) between Mauldin, SC, on the one hand, and, on the other, points in AL, FL, KY, VA, and WV, and (c) between Hollywood and Orlando, FL, on the one hand, and, on the other, points in GA, NC, and SC.

MC 124070 (Sub-35F), filed August 21, 1980. Applicant: CHEMICAL HAULERS, INC., 5723 Kennedy Ave., Hammond, IN 46323. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *chemicals*, in bulk, between points in Cook, Du Page, Grundy, Kane, Lake, McHenry, and Will Counties, IL, and Lake and Porter Counties, IN, on the one hand, and, on the other, points in IN, IA, KS, KY, MI, MN, MO, OH, TN, and WI.

MC 133841 (Sub-21F), filed August 22, 1980. Applicant: DAN BARCLAY, INC., P.O. Box 426, 362 Main Street, Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *iron and steel articles*, between points in the U.S., restricted to traffic originating at or destined to Perth Amboy, NJ.

MC 138000 (Sub-73F), filed August 25, 1980. Applicant: ARTHUR H. FULTON,

INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. Transporting (1) *malt beverages* and (2) *materials and supplies* used in the manufacture of malt beverages between points in MI and OH, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, MO, AR, and LA, and (2) *shrink or stretch wrapping* from Atlanta, GA to Detroit, MI.

MC 139171 (Sub-7F), filed August 21, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., 17295 East Railroad Ave., City of Industry, CA 91479. Representative: Robert L. Cope, Suite 501, 1730 M St., N.W., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Nu-Way Shippers Association, Inc., of Chicago, IL.

MC 146140 (Sub-4F), filed August 25, 1980. Applicant: MELVIN SALES COMPANY, 901 North Vermillion St., Streator, IL 61364. Representative: Paul J. Maton, Ten South LaSalle St., Chicago, IL 60603. Transporting (1) *containers, container closures, container components, glassware, packaging products, (2) scrap materials, and (3) material, equipment and supplies, (except commodities in bulk in tank vehicles, and those which because of size and weight, require the use of special equipment), used in the manufacture and distribution of the commodities in (1) above, between points in IL, IN, KY, GA and FL, restricted to traffic originating at or destined to the facilities of Owens-Illinois; (4) alcoholic liquors, and (5) materials, equipment and supplies, used in the manufacture and distribution of alcoholic liquors, between points in AR, MO, IL, IN, IA, WI, KY, MI, OH, NY, NM, TX, LA, MS, PA, WV, NC, SC, GA, FL and AL, restricted to traffic originating at or destined to the facilities of Hiram Walker & Sons, Inc.*

MC 146821 (Sub-3F), filed February 8, 1980, and previously noticed in Federal Register issue of April 3, 1980. Applicant: RON BESTEMAN PRODUCE, INC., 2240 Bryon Center Rd., S.W., Wyoming, MI 49509. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49509. Transporting (1) *apple products* (except in bulk), and (2) *glass and paper containers, in vehicles equipped with mechanical refrigeration, between Belding, MI, and points in IA, IL, MN, and WI.*

Note.— This republication shows MN as a destination state.

MC 146890 (Sub-27F), filed August 21, 1980. Applicant: C & E TRANSPORT, INC., d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 866 Eleventh St., N.W., Washington, DC 20001. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of wearing apparel, between points in Hudson County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147141 (Sub-3F), Filed August 22, 1980. Applicant: LUJO TRUCKING CO., INC., 121 Braley Road, East Freetown, MA 02717. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting *printed matter, and materials, equipment, and supplies* used in the manufacture and distribution of printed matter (except commodities in bulk), between points in the U.S., under continuing contract(s) with Rand McNally & Company, of Skokie, IL.

MC 148160 (Sub-1F), Filed August 21, 1980. Applicant: L. S. GEIST, INC., East Mountain Road, P.O. Box 116, Hegins, PA 17938. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Transporting (1) *fruit juices, in tank vehicles, from points in IL, MD, MO, MA, MI, NJ, NY, OH, NC, VA, and WV, to points in Berks County, PA, and (2) canned and preserved foodstuffs, and frozen foods, (a) between points in NC, on the one hand, and, on the other, points in Berks County, PA, and (b) from points in Berks County, PA, to points in CT, DE, FL, GA, KY, MD, MA, NJ, NY, OH, RI, SC, VA, and WV.*

MC 148731 (Sub-3F), Filed August 20, 1980. Applicant: MINKEVITCH TRUCKING & HAULING, INC., 1217 Cross St., Ogden, UT 84404. Representative: Fred J. Minkevitch, Jr. (same address as applicant). Transporting (1) *salt and salt products, and (2) materials and supplies* used in the agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries, when shipped in mixed loads with the commodities in (1) above, between points in the U.S., under continuing contract(s) with Lake Crystal Salt Co., a subsidiary of Processed Minerals Incorporated of Hutchinson, KS.

MC 151080 (Sub-1F), Filed August 21, 1980. Applicant: THE SENATE CARTAGE COMPANY, INC., 1010 Jorie Blvd., Oakbrook, IL 60521. Representative: Abraham A. Diamond, 29 South LaSalle St., Chicago, IL 60603. Transporting (1) *such commodities* as are dealt in by manufacturers, wholesalers and retailers of paint and coating materials (except commodities

in bulk), and (2) *painters' and decorators' materials, equipment and supplies* (except commodities in bulk), between the facilities of Standard T. Chemical Company, Inc., at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151590F, filed August 15, 1980. Applicant: LAKE TRUCKING COMPANY, a corporation, P.O. Box 142, Leesburgh, FL 32748. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *non-exempt food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with Cagle's Inc., of Atlanta, GA.

[Volume No. OP2-032]

Decided: August 27, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman
MC 8973 (Sub-72F), filed August 20, 1980. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th St., North Bergen, NJ 07047. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting (1) *such commodities* as are dealt in or used by a manufacturer or processor of chemicals (except commodities in bulk), and (2) (a) *plastic bags and plastic film, and (b) materials, equipment, and supplies* used in the manufacture, distribution, and sale of plastic bags and plastic film, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of (A) USI Film Products, USI Chemicals Co., division of National Distillers & Chemical Corp., and (B) Emery Industries, Inc.

MC 8973 (Sub-73F), filed August 20, 1980. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th St., North Bergen, NJ 07047. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting (1) *batteries and accessories* for batteries, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by ESB, Incorporated, a subsidiary of Exide Corp.

MC 14252 (Sub-81F), filed August 21, 1980. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Rd., Columbus, OH 43227. Representative: William C. Buckham (same as applicant). Transporting *general commodities* (except household

goods as defined by the Commission, and classes A and B explosives, between points in AL, AR, CT, DE, GA, IL, IN, IA, KY, LA, MD, MA, MI, MN, MS, MO, NH, NY, NC, OH, PA, RI, SC, TN, VA, WV, WI, and DC.

Note.—Applicant states it intends to tack with its existing authority.

MC 112713 (Sub-310F), filed August 20, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Ave., Overland Park, KS 66207. Representative: Robert E. DeLand (same address as applicant). 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 Milwaukee and Green Bay, WI, (a) over U.S. Hwy 141, serving Two Rivers, WI as an off-route point, and (b) over U.S. Hwy 41; (2) Between Rockford, IL, and Fond du Lac, WI: From Rockford over U.S. Hwy 51 to Madison, WI, then over U.S. Hwy 151 to Fond du Lac, and return over the same route; (3) Between Madison, WI, and Moorehead, MN: From Madison over U.S. Hwy 12 to St. Paul, MN, then over Interstate Hwy 94 to Moorehead, and return over the same route, serving La Cross and Shippewa Falls, WI, as off-route points; (4) Between Louisville and Lexington, KY: From Louisville over U.S. Hwy 60 to Frankfort, KY, then over U.S. Hwy 421 to Lexington, and return over the same route; (5) Between Lexington and Paducah, KY, over U.S. Hwy 62, Serving Richmond, Danville, and Harrodsburg, KY, as off-route points; (6) Between Memphis, TN, and Paducah, KY: From Memphis over U.S. Hwy 51 to Mayfield, KY, then over U.S. Hwy 45 to Paducah, and return over the same route; (7) Between Grand Rapids and Muskegon, MI, over Interstate Hwy 96 Serving Holland and Grand Haven, MI as off-route points; (8) Between Pittsburgh, PA, and Weston, WV, over U.S. Hwy 19, Serving Buckhannon, WV as an off-route point; (9) Between Minneapolis and Duluth, MN, over U.S. Hwy 61; (10) Between Minneapolis and St. Cloud, MN, over U.S. Hwy 10; (11) Between Paducah, KY, and Mt. Vernon, IL: From Paducah over Interstate Hwy 24 to junction IL Hwy 37, then over IL Hwy 37 to Mt. Vernon, and return over the same route, serving Metropolis, Carbondale, Duquoin, Murphysboro, and Harrisburg, IL as off-route points; (12) Between Davenport and Cedar Rapids, IA: From Davenport over U.S. Hwy 67 to junction U.S. Hwy 52, then over U.S. Hwy 52 to junction U.S. Hwy 20, then over U.S. Hwy 20 to Waterloo, IA, then over U.S.

Hwy 218 to Cedar Rapids, and return over the same route, serving Cedar Falls, IA as an off-route point; (13) Between Memphis, TN, and St. Louis, MO over U.S. Hwy 61, serving Cape Girardeau, MO as an off-route point; (14) Between Minneapolis, MN and Fargo, ND, over U.S. Hwy 52; (15) Between Kansas City, MO and Junction U.S. Hwys 50 and 66, over U.S. Hwy 50, Serving Union, Washington, Wentzville, and New Haven, MO, as off-route points; (16) Between Nashville, TN, Owensboro, KY, over U.S. Hwy 431, Serving Ashland City, TN as an off-route point; (17) Between Grand Rapids and Battle Creek, MI, over MI Hwy 37; (18) Between Macon and Valdosta, GA: over (a) Interstate Hwy 75, Serving Fitzgerald, GA as an off-route point, and (b) from Macon over GA Hwy 49 to Americus, GA, then over U.S. Hwy 19 to Thomasville, GA, then over U.S. Hwy 84 to Valdosta, and return over the same route; (19) Between Macon, GA, and Tallahassee, FL: From Macon over Interstate Hwy 75 to junction U.S. Hwy 319, then over U.S. Hwy 319 to junction U.S. Hwy 90, then over U.S. Hwy 90 to Tallahassee, and return over the same route; (20) Between Columbus, GA and Dothan, AL, over U.S. Hwy 431; (21) Between Dothan and Mobile, AL: From Dothan over U.S. Hwy 84 to Andalusia, AL then over U.S. Hwy 29 to Brewton, AL, then over U.S. Hwy 31 to Mobile, and return over the same route; (22) Between Mobile, AL, and Panama City, FL: From Mobile over Interstate Hwy 10 to Pensacola, FL, then over U.S. Hwy 98 to Panama City, and return over the same route; (23) Between Jackson, MS, and Mobile, AL: From Jackson over U.S. Hwy 49 to Gulfport, MS, then over U.S. Hwy 90 to Mobile, and return over the same route, serving Laurel, MS, as an off-route point; (24) Between Meridian, MS, and Jackson, TN, over U.S. Hwy 45, Serving Starkville and New Albany, MS, as off-route points; (25) Between Junction U.S. Hwys 45 and 45A, near Brooksville, MS, and junction U.S. Hwys 45 and 45A near Shannon, MS, over U.S. Hwy 45A, serving Starkville and New Albany, MS, as off-route points; (26) Between Lafayette and New Orleans, LA, over U.S. Hwy 90; (27) Between Manchester, TN and Frankfort, KY: From Manchester over TN Hwy 55 to McMinnville, TN, then over U.S. Hwy 70S to Sparta, TN then over TN Hwy 111 to Cookeville, TN, then over TN Hwy 42 to U.S. Hwy 127, then over U.S. Hwy 127 to Frankfort, and return over the same route; (28) Between Nashville, TN and Louisville, KY, over Interstate Hwy 65, Serving Portland, TN, as an off-route point; (29) Between Nashville, TN, and

Lexington, KY: From Nashville over U.S. Hwy 31E to Glasgow, KY, then over KY Hwy 80 to Somerset, KY, then over U.S. Hwy 27 to Lexington, and return over the same route; (30) Between Knoxville, TN and Bristol, VA, (a) over U.S. Hwy 11W, and (b) over U.S. Hwy 11E, Serving Elizabethton, TN, as an off-route point in connection with routes (30) (a) and (b) above; (31) Between Knoxville, TN, and Charlotte, NC: From Knoxville over Interstate Hwy 40 to Statesville, NC, then over Interstate Hwy 77 to Charlotte, and return over the same route, serving Waynesville, NC as an off-route point; (32) Between Wilson and Elizabeth City, NC: From Wilson over U.S. Hwy 264 to Washington, NC, then over U.S. Hwy 17 to Elizabeth City, and return over the same route, serving Ahsokie, NC as an off-route point; (33) Between Asheville, NC, and Spartanburg, SC: From Asheville over U.S. Hwy 25 to junction U.S. Hwy 176, then over U.S. Hwy 176 to Spartanburg, and return over the same route; (34) Between Washington and Wilmington, NC: From Washington over U.S. Hwy 17 to New Bern, NC, then over U.S. Hwy 70 to junction NC Hwy 24, then over NC Hwy 24 to Jacksonville, NC, then over U.S. Hwy 17 to Wilmington, and return over the same route; (35) Between junction U.S. Hwy 70 and NC Hwy 24, and Beaufort, NC, over U.S. Hwy 70; (36) Between Richmond and Roanoke, VA: From Richmond over U.S. Hwy 250 to Staunton, VA, then over U.S. Hwy 11 to Roanoke, and return over the same route, serving Harrisonburg, VA as an off-route point; (37) Between Knoxville and Nashville, TN, over U.S. Hwy 70, Serving McMinnville and Oak Ridge, TN, as off-route points; (38) Between Knoxville and Athens, TN: From Knoxville over U.S. Hwy 129 to junction U.S. Hwy 411, then over U.S. Hwy 411 to junction of TN Hwy 39, then over TN Hwy 39 to Athens, and return over the same route; (39) Between Waterville and Bangor, ME, over Interstate Hwy 95 Serving Belfast ME, as an off-route point; (40) Between Baltimore, MD, and Harrisburg, PA: From Baltimore over U.S. Hwy 40 to Hagerstown, MD, then over U.S. Hwy 11 to Harrisburg, and return over the same route, serving Waynesboro, Gettysburg, Hanover, and Carlisle, PA and Cumberland, MD as off-route points; (41) Between Amsterdam and Fonda, NY: From Amsterdam over NY Hwy 30 to junction NY Hwy 30A, then over NY30A to Fonda, and return over the same route; (42) Between Dunkirk and Buffalo, NY: From Dunkirk over NY Hwy 60 to Jamestown, then over NY Hwy 394 to junction NY Hwy 17, then over NY Hwy

17 to junction NY Hwy 16, then over NY Hwy 16 to Buffalo, and return over the same route; (43) Between Syracuse and Massena, NY: From Syracuse over U.S. Hwy 11 to junction NY Hwy 37, then over NY Hwy 37 to Massena, and return over the same route, serving Potsdam and Canton, NY as off-route points; (44) Between Pittsburgh and Washington, PA: (a) from Pittsburgh over U.S. Hwy 30 to Greensburg, PA, then over U.S. Hwy 119 to junction U.S. 40, then over U.S. 40 to Washington, and return over the same route, serving New Stanton, Donora, Monessen, and Johnstown, PA as off-route points, and (b) over U.S. Hwy 19; (45) Between Hagerstown, MD, and Arlington, VA: From Hagerstown over U.S. Hwy 11 to Winchester, VA, then over U.S. Hwy 50 to Arlington, and return over the same route, serving Front Royal, VA, as an off-route point; (46) Between Brunswick and Bangor, ME: From Brunswick over U.S. Hwy 1 to Ellsworth, ME, then over U.S. Hwy 1A to Bangor, and return over the same route; (47) Between Texarkana and Presidio, TX, over U.S. Hwy 67; (48) Between Mineral Wells and El Paso, TX, over U.S. Hwy 180; (49) Between Houston and Carthage, TX, over U.S. Hwy 59; (50) Between Cincinnati, OH, and Knoxville, TN: From Cincinnati over U.S. Hwy 25 to junction U.S. Hwy 25W, then over U.S. Hwy 25W to Knoxville, and return over the same route; (51) Between Washington, PA, and junction Interstate Hwys 70 and 76, over Interstate Hwy 70; Serving points in Westmoreland County, PA, as off-route points; and (52) Serving all intermediate points on routes (1) through (51) above.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 128543 (Sub-26F), filed August 22, 1980. Applicant: CRESCO LINES, INC., 13900 South Keeler Ave., Crestwood, IL 60445. Representative: Donald B. Levine, 39 South LaSalle St., Chicago, IL 60603. Transporting (1) *metallic ores*, and (2) *machinery and supplies* used in the processing of metallic ores, between points in the U.S., under continuing contract(s) with (a) New Jersey Zinc Division and (b) Chemicals Division of Natural Resources Group, a Division of Gulf & Western Industries, Inc., both of Nashville, TN.

MC 141533 (Sub-21F), filed August 22, 1980. Applicant: LYN TRANSPORT, INC., 37 North Central Ave., Elmsford, NY 10532. Representative: Bruce J. Robbins, 118-21 Queens Blvd., Forest Hills, NY 11375. Transporting *such commodities* as are dealt in or used by chain grocery stores and food business houses (except commodities in bulk, in

tank vehicles), in vehicles equipped with mechanical refrigeration, between points in Brown County, WI, on the one hand, and, on the other, points in CT, DE, NJ, NY (except the New York commercial zone), OH, PA, and WV.

MC 144503 (Sub-29F), filed August 21, 1980. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting (1) *such commodities* as are dealt in or used by manufacturers of dry goods and sewing accessories, and (2) *books, plastic articles, sheet steel articles, and friction fabric*, from the facilities of Coats & Clark Sales Corp. at or near Atlanta, GA, to points in MO, KS, NE, IA, IL, IN, OH, MI, WI, MN, SC, KY, AL, MS, SC, NC, TN, LA, and TX.

MC 148183 (Sub-28F), filed August 14, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348 Pennsylvania Bldg., 425-13th St., NW., Washington, DC 20004. Transporting (1) *meats, meat by-products, and articles distributed by meat-packing houses*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, and (2) *food products* (except meats and commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in Hall County, GA, to points in AR, AZ, CA, CO, CT, DE, IA, ID, KS, MA, ME, MT, ND, NE, NH, NJ, NM, NV, OK, OR, RI, SD, TX, UT, VT, WA, WY, and WV.

MC 150712 (Sub-1F), filed August 22, 1980. Applicant: EXPRESS TOURS UNLIMITED, P.O. Box 77267, 2001 Third St., San Francisco, CA 94107. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at San Francisco, CA, and points in Alameda County, CA, and extending to points in the U.S.

MC 151352 (Sub-2F), filed August 21, 1980. Applicant: E.L.M. TRUCKING, INC., P.O. Box 4048, Opelika, AL 36801. Representative: Terry P. Wilson, 428 South Lawrence St., Montgomery, AL 36104. Transporting (1) *charcoal, charcoal briquettes, wood chips, and artificial fireplace logs*, (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with The Kingsford Company, of Louisville, KY.

MC 151622F, filed August 20, 1980. Applicant: SERVICE TRUCKING, INC., P.O. Box 158, Eustis, FL 32726. Representative: Gene Baugh (same address as applicant). Transporting (1) *food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, and (2) *machinery and supplies* used in the production and distribution of the commodities in (1) above, between points in the U.S. (except HI), under continuing contract(s) with Winter Garden Citrus Products Cooperative, of Winter Garden, FL.

MC 147242 (Sub-10F), filed August 20, 1980. Applicant: 12-90 PLAZA CORP., trading as PLAZA FREIGHT TRANSPORT, 12-90 Plaza Road, Fair Lawn, NJ 07410. Representative: Authur Liberstein, P.C., 888 Seventh Avenue, NY, NY 10106. Transporting (1) *televisions, video tape recorders, television cameras, electronic cash registers, microwave ovens, radios, stereo sets and parts for stereo sets, copy machines, tape recorders, and calculators*, and (2) *materials, supplies and equipment* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the U.S., under continuing contract(s) with Sharp Electronics Corporation, of Paramus, NJ.

[Volume No. OP3-009]

Decided: August 15, 1980.
By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 52704 (Sub-280F), filed August 8, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Transporting *steel drums and steel kegs*, between points in Forsyth and Rockingham Counties, NC, on the one hand, and, on the other, points in Spartanburg County, SC.

MC 52704 (Sub-281F), filed August 11, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Transporting (1) *carpet backing and yarn*, and (2) *machinery, materials, equipment, supplies, and parts*, used in the manufacture and distribution of carpet backing and yarn, between points in Randolph County, AL, on the one hand, and, on the other, points in the U.S.

MC 93475 (Sub-4F), filed August 8, 1980. Applicant: ASHBORNE TRANSPORTATION, INC., 827 E. Glenside Ave., Wyncote, PA 19095.

Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, beginning and ending at points in Philadelphia County, PA, and extending to points in MD, VA, WV, NY, VT, NH, MA, OH, CT, RI, and DC.

MC 110325 (Sub-145F), filed August 12, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Building, 1221 Baltimore Avenue, Kansas City, MO 64105. Transporting, *general commodities* (except household goods as defined by the Commission and classes A and B explosives), (1) between Dallas, TX, and Memphis, TN, from Dallas over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, and return over the same route, (2) between Houston, TX, and Scranton, PA, from Houston over Interstate Hwy 10 to junction Interstate Hwy 12, then over Interstate Hwy 12 to junction Interstate Hwy 59, then over Interstate Hwy 59 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 81, then over Interstate Hwy 81 to Scranton, and return over the same route, (3) between Birmingham, AL, and Lansing, MI, from Birmingham over Interstate Hwy 65 to junction Interstate Hwy 465, then over Interstate Hwy 465 to junction Interstate Hwy 69, then over Interstate Hwy 69 to Lansing, and return over the same route; (4) between Atlanta, GA and Cincinnati, OH, over Interstate Hwy 75, (5) between Memphis, TN, and St. Louis, MO, over Interstate Hwy 55, (6) between Nashville, TN, and St. Louis, MO, from Nashville over Interstate Hwy 24, to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction Interstate Hwy 64, then over Interstate Hwy 64 to St. Louis, and return over the same route, (7) between the junction of Interstate Hwy 55 and Interstate Hwy 57 and Effingham, IL, over Interstate Hwy 57, (8) between Tupelo, MS, and junction Interstate Hwy 57 and IL Hwy 3, from Tupelo over U.S. Hwy 45 to the junction U.S. Hwy 45E, at or near Fairview, TN, then over U.S. Hwy 45E to junction U.S. Hwy 45 and U.S. Hwy 51, at or near Fulton, KY, then over U.S. Hwy 51 to junction IL Hwy 3, then over IL Hwy 3 to junction Interstate Hwy 57, and return over the same route, (9) between the junction of U.S. Hwys 45E and 51, at or near Fulton, KY, and the junction of U.S.

Hwy 45 and Interstate Hwy 24, at or near Paducah, KY, over U.S. Hwy 45, (10) between the junction of Alt. U.S. Hwy 41 and Interstate Hwy 24 and Danville, IL, from the junction of Alt. U.S. Hwy 41 and Interstate Hwy 24 over Alt. U.S. Hwy 41 to junction of U.S. Hwy 41, at or near Hopkinsville, KY, then over U.S. Hwy 41 (also Pennyriple Parkway) to Henderson, KY, then over U.S. Hwy 41 to junction IL Hwy 63, then over IL Hwy 63 to junction Interstate Hwy 74, then over Interstate Hwy 74 to Danville, and return over the same route, (11) between South Bend, and Indianapolis, IN, over U.S. Hwy 31, (12) between Greensboro, NC, and junction Interstate Hwys 40 and 81, over Interstate Hwy 40, (13) between Charlotte, NC, and Canton, OH, over Interstate Hwy 77, (14) between Pittsburgh, PA, and Charleston, WV, from Pittsburgh over Interstate Hwy 279 to junction Interstate Hwy 79, then over Interstate Hwy 79 to Charleston, and return over the same route, (15) between the junction of Interstate Hwy 79 and U.S. Hwy 19, near Sutton, WV, and junction of Interstate Hwy 77 and U.S. Hwy 19, at or near Beckley, WV, over U.S. Hwy 19, (16) between Winston-Salem, NC, and Bristol, TN, over U.S. Hwy 421, (17) between Winston-Salem, NC, and junction Interstate Hwy 77 and NC Hwy 89 at or near Bottom, NC, from Winston-Salem over U.S. Hwy 52 to junction NC Hwy 89, at or near Mount Airy, NC, then over NC Hwy 89 to junction Interstate Hwy 77 at or near Bottom, NC, and return over the same route, (18) between Atlanta, GA, and Baltimore, MD, (a) from Atlanta over Interstate Hwy 85 to junction Interstate Hwy 95, then over Interstate Hwy 95, to Baltimore and return over the same route, (b) from Atlanta over Interstate Hwy 20 to junction Interstate Hwy 77, then over Interstate Hwy 77 (also U.S. Hwy 21) to junction U.S. Hwy 29, then over U.S. Hwy 29 (also Interstate Hwy 85) to Greensboro, NC, then over U.S. Hwy 29 to junction Interstate Hwy 66, then over Interstate Hwy 66 to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Baltimore, and return over the same route, and (c) from Atlanta over Interstate Hwy 85 to junction U.S. Hwy 29, at Greensboro, NC, then over U.S. Hwy 29 to junction U.S. Hwy 58, at Danville, VA, then over U.S. Hwy 58 to junction U.S. Hwy 304, at South Boston, VA, then over U.S. Hwy 304 to junction U.S. Hwy 360, then over U.S. Hwy 360 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Baltimore, and return over the same route, (19) between

Columbus, OH, and South Bend, IN, from Columbus over U.S. Hwy 33 to junction OH Hwy 31, then over OH Hwy 31 to junction OH Hwy 309, then over OH Hwy 309 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction U.S. Hwy 31, then over U.S. Hwy 31 to South Bend, and return over the same route, (20) between Huntington, WV, and St. Louis, MO, over Interstate Hwy 64, (21) serving as off-route points those points in Gaston, Lincoln, Catawba, Caldwell, Burke, McDowell, Buncombe, Henderson, Polk, Rutherford and Cleveland Counties, NC, those points on U.S. Hwy 70 between Durham and Raleigh, NC, including Durham and Raleigh, those points on U.S. Hwy 220, between Greensboro and Asheboro, NC, including Greensboro and Asheboro, those points on U.S. Hwy 64 between Asheboro and Siler City, NC, including Asheboro and Siler City, those points on U.S. Hwy 421 between Siler City and Greensboro, NC, including Siler City and Greensboro, those points on NC Hwy 24 between Charlotte and Albemarle, NC, including Charlotte and Albemarle, those points on U.S. Hwy 1 between Raleigh and Sanford, NC, including Raleigh and Sanford, those points on U.S. Hwy 23 between Atlanta and Toccoa, GA, including Atlanta and Toccoa, those points on U.S. Hwy 129 between Gainesville and Cleveland, GA, including Gainesville and Cleveland, those points on GA Hwy 60 between Gainesville and Dahlonega, GA, including Gainesville, and Dahlonega, those points on GA Hwy 52 between Dahlonega and Garland, GA, including Dahlonega and Garland, those points on GA Hwy 115 between Garland, GA, and the junction of GA Hwy 115 and U.S. Hwy 23, including Garland, GA, and the junction of GA Hwy 115 and U.S. Hwy 23; those points on GA Hwy 17 between Toccoa, and Lavonia, GA, including Toccoa and Lavonia, those points on GA Hwy 59 between Lavonia and Carnesville, GA, including Lavonia and Carnesville, those points on U.S. Hwy 129 between Gainesville, and Jefferson, GA, including Gainesville and Jefferson, those points on GA Hwy 15 between Jefferson and Commerce GA, including Jefferson and Commerce; those points on GA Hwy 98 between Commerce and Maysville, GA, including Commerce and Maysville, those points on GA Hwy 52 between Maysville, GA, and junction of GA Hwy 52 and U.S. Hwy 23, including Maysville and junction of GA Hwy 52 and U.S. Hwy 23, all points in VA and SC in connection with routes 1 through 20. Serving all intermediate points in routes 1 through 20 above.

MC 118535 (Sub-154F), filed August 11, 1980. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Butler, MO 64730. Representative: Jim Tiona, Jr. (same address as applicant). Transporting *fly ash*, from points in Freestone and Titus Counties, TX, to points in AR, AZ, CO, KS, LA, MO, MS, NM, and OK.

MC 118535 (Sub-155F), filed August 11, 1980. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Butler, MO 64730. Representative: Jim Tiona, Jr. (same address as applicant). Transporting *sand*, from points in LeSueur County, MN, and Jackson and Pierce Counties, WI, to points in AR, CO, IA, KS, LA, MO, MS, MT, NE, NM, OK, TX, UT, and WY.

MC 118535 (Sub-156F), filed August 11, 1980. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Butler, MO 64730. Representative: Jim Tiona, Jr. (same address as applicant). Transporting *sand* from points in Jefferson County, MO, and Ogle and LaSalle Counties, IL, to points in AR, CO, IA, KS, LA, MO, MS, MT, NE, NM, OK, TX, UT, and WY.

MC 121664 (Sub-130F), filed August 11, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: William E. Grant, 1702 1st Ave. South, Birmingham, AL 35222. Transporting *forest products, lumber and wood products*, between points in AL, on the one hand, and, on the other, points in IN, OH, MI, and WI.

MC 121805 (Sub-11F), filed August 4, 1980. Applicant: ARKANSAS EXPRESS, INC., 1200 Arkansas Ave., North Little Rock, AR 72114. Representative: James M. Duckett, 411 Pyramid Life Bldg., Little Rock, AR 72201. 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 Little Rock and Helena, AR, from Little Rock over Interstate 40 to the junction of U.S. Hwy 49, thence over U.S. Hwy 49 to Helena, and return over the same route, serving all intermediate points on U.S. Hwy 49, except Brinkley, AR, and serving no intermediate points on Interstate 40; (2) between the junction of AR Hwy 1 and U.S. Hwy 49 and Marianna, AR, from the junction of AR Hwy 1 and U.S. Hwy 49 over AR Hwy 1 to Marianna, AR, and return over the same route, serving all intermediate points; (3) between Little Rock, AR and the AR-LA State line, from Little Rock over U.S. Hwy 65 to the AR-LA State line, and return over the same route, serving all intermediate points; (4) between Pine Bluff and Warren, AR, from Pine Bluff over AR Hwy 15 to Warren, and return over the same

routes, serving all intermediate points; (5) between the junction of U.S. Hwy 65 and AR Hwy 4 and the plant facility of Pot Latch Corporation, north of AR City on AR Hwy 4, from the junction of U.S. Hwy 65 and AR Hwy 4 over AR Hwy 4 to the plant facility of Pot Latch Corporation, and return over the same route, serving all intermediate points; (6) between Warren, AR, and junction of AR Hwy 35 and U.S. Hwy 65, from Warren, AR, over AR Hwy 4 to Monticello, AR, thence over AR Hwy 35 to junction of U.S. Hwy 65 and return over the same route, serving all intermediate points; (7) between Pine Bluff, AR, and the AR-LA State line, from Pine Bluff over U.S. Hwy 65 to the intersection of AR Hwy 81, thence over AR Hwy 81 to the AR-LA State one, and return over the same route, serving intermediate points; (8) between Warren, AR, and the AR-LA State line, from Warren over AR Hwy 15 to the intersection of AR Hwy 275, thence over AR Hwy 275 to the AR-LA State line, and return over same route, serving all intermediate points; (9) between the intersection of U.S. Hwy 65 and U.S. Hwy 165 to the AR-LA State line, from the intersection of U.S. Hwy 65 and U.S. Hwy 165 over U.S. Hwy 165 to the AR-LA State line, and return over the same route, serving all intermediate points; (10) between Strong, AR, and the Mississippi River, from Strong over U.S. Hwy 82 to the Mississippi River, and return over the same route, serving all intermediate points; (11) between Hamburg, AR, and the Mississippi River, from Hamburg over AR Hwy 8 to the Mississippi River, and return over the same route, serving all intermediate points; (12) between Wilmot and Eudora, AR, from Wilmot over AR Hwy 52, to the intersection of AR Hwy 159, thence over AR Hwy 159 to Eudora and return over the same route, serving all intermediate points; (13) between Eudora, AR, and the AR-LA State line, from Eudora over AR Hwy 159 to the AR-LA State line, and return over the same route, serving all intermediate points; (14) between Monticello and McGehee, AR, from Monticello over AR Hwy 4 to McGehee, and return over the same route, serving all intermediate points; (15) between Jerome, AR, the Mississippi River, from Jerome over AR Hwy 144 to the Mississippi River, and return over the same route, serving all intermediate points; (16) between Little Rock and Gum Springs, AR, from Little Rock over U.S. Hwy 67 to Gum Springs, and return over the same route, serving all intermediate points; (17) between Pine Bluff and Malvern, AR, from Pine Bluff over U.S. Hwy 270 to Malvern, and

return over the same route, serving all intermediate points; (18) between Malvern, AR, and the junction of U.S. Hwy 270 and AR Hwy 171 east of Hot Springs, AR, from Malvern over U.S. Hwy 270 to the junction of U.S. Hwy 270 and AR Hwy 51, thence over AR Hwy 51 to its junction with U.S. Hwy 270, then over U.S. Hwy 270 to its junction with AR Hwy 171 east of Hot Springs, and return over the same route, serving all intermediate points; with no service to the City of Hot Springs, AR; (19) between Pine Bluff and West Memphis, AR, from Pine Bluff over U.S. Hwy 79 to its junction with U.S. Hwy 70, then over U.S. Hwy 70 to West Memphis, and return over the same route, serving all intermediate points. Restriction: Service performed shall be restricted against the handling of shipments moving (a) between Memphis, TN, and Little Rock, AR, and its commercial zone, (b) between Memphis, TN, and Pine Bluff, AR, and (c) between Memphis, TN, and Forrest City, AR; (20) between Marianna and Wynne, AR, from Marianna over AR Hwy 1 to Wynne, and return over the same route, serving all intermediate points; (21) between West Helena and Elaine, AR, from West Helena over U.S. Hwy 49 to its junction with AR Hwy 85, then over AR Hwy 85 to its junction with AR Hwy 44, then over AR Hwy 44 to Elaine, and return over the same route, serving all intermediate points; (22) between Little Rock and DeWitt, AR, from Little Rock over AR Hwy 130 to DeWitt, and return over the same route, serving all intermediate points; (23) between DeWitt and Dumas, AR, from DeWitt over AR Hwy 152 to its junction with AR Hwy 1, then over AR Hwy 1 to its junction with AR Hwy 54, then over AR Hwy 54 to Dumas, and return over the same route, serving all intermediate points; (24) between Dumas and Star City, AR, from Dumas over AR Hwy 54 to its junction with AR Hwy 81, then over Hwy 81 to Star City, and return over the same route serving all intermediate points; (25) between Gould and Star City, AR, from Gould over AR Hwy 114 to Star City, and return over the same route, serving all intermediate points; (26) between Grady and Fresno, AR, from Grady over AR Hwy 11 to Fresno, and return over the same route, serving intermediate points; (27) between Harrison and Branson, MO, from Harrison over U.S. Hwy 65 to Branson, and return over the same route, serving all intermediate points, and serving Silver Dollar City, MO, as an off-route point. All routes to be tacked at common points of joinder and with existing authority.

Note.—Applicant presently has the authority requested in Routes (1) through (26) in Certificates of Registration MC-121805, issued April 4, 1978, MC 121805 (Sub-2), issued October 17, 1978, MC-121805 (Sub-3), issued November 26, 1979, and MC 121805 (Sub-5), issued November 26, 1979. The purpose of this application, as to Routes (1) through (26), is to convert the foregoing Certificates of Registration to a Certificate of Public Convenience and Necessity. Issuance of a certificate herein will be conditioned upon coincidental cancellation of Certificates of Registration MC 121805, MC 121805 (Sub-2), MC 121805 (Sub-3), and MC 121805 (Sub-5) at applicant's written request.

MC 124774 (Sub-131F), filed August 11, 1980. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Ave. Omaha, NE 68107. Representative: Arlyn L. Westergren, 7101 Mercy Rd., Suite 106, Omaha, NE 68106. Transporting *meats, meat products, meat byproducts and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in CT, DE, MD, ME, MA, NH, NJ, NY, PA, RI, VT, VA, WV, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, and DC.

MC 134755 (Sub-221F), filed August 14, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson (same address as applicant). Transporting *rubber or miscellaneous plastics products, and printed matter*, as described in Items 30 and 27 respectively of Standard Transportation Commodity Code, between points in TX and MO.

MC 135185 (Sub-50F), filed August 1, 1980. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 66, 52275 U.S. Hwy. 31 North, South Bend, IN 46624. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between points in the U.S., under continuing contract(s) with Iowa Beef Processors, Inc., Holcomb, KS.

MC 138225 (Sub-10F), filed August 11, 1980. Applicant: HEDRICK ASSOCIATES, INC., RR No. 2, Box 10A2, Douglas Rd., Far Hills, NJ 07931. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box

1240, Arlington, VA 22210. Transporting *such commodities* as are dealt in or used by a manufacturer of swimming pools, between points in the U.S., under continuing contract(s) with Helder Associates, Inc., of Hamden, CT.

MC 138635 (Sub-110F), filed August 6, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). Transporting (1) *plastic articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except in bulk), between Monroe, GA, on the one hand, and, on the other, points in NC and SC.

MC 141914 (Sub-86F), filed August 6, 1980. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting *foodstuffs*, between points in Franklin County, OH, on the one hand, and, on the other, points in the U.S.

MC 142715 (Sub-112F), filed August 11, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: Kenneth O. Petrick (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between those points in the U.S. in and east of ND, SD, WY, CO, and NM.

MC 145955 (Sub-10F), filed August 4, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting (1) *cleaning and polishing compounds, textile softener, lubricants, deodorants, disinfectants, hypochlorite solutions, paints, plastic bags, and filters*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in Will County, IL, on the one hand, and, on the other, points in CO, IA, KS, MO, and NE.

MC 145955 (Sub-12F), filed August 11, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, 7101 Mercy Rd., Suite 106, Omaha, NE 68106. Transporting (1) *containers*, and (2) *paper and paper products*, between Chicago, IL, on the one hand, and, on the other, points in IA, KS, MO, and NE.

MC 146775 (Sub-3F), filed August 11, 1980. Applicant: J. L. N. DISTRIBUTING, INC., 7305 N. Loop Rd., El Paso, TX

79915. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting *fresh and frozen meat*, between points in Moore and Potter Counties, TX, on the one hand, and, on the other, points in El Paso County, TX.

MC 147264 (Sub-7F), filed August 11, 1980. Applicant: JAT EXPRESS, INC., 4002 N. Rosewood Ave., Muncie, IN 47302. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *meats, meat products, meat byproducts and articles distributed by meat—packing houses* as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in the U.S.

MC 147694 (Sub-4F), filed August 11, 1980. Applicant: HEK, INCORPORATED, d.b.a. ELLIOTT BAY SERVICE TRANSFER, P.O. Box 88994, Seattle, WA 98188. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. Transporting *general commodities*, (except classes A and B explosives), between points in OR and WA, restricted to traffic having a prior or subsequent movement by water.

MC 150444 (Sub-1F), filed August 11, 1980. Applicant: ADVANCE FREIGHT, LTD., 7637 Leesburg Pike, Falls Church, VA 22043. Representative: Wayne Hartke (same address as applicant). Transporting (1) *plastics, plastic articles, resins, and scrap plastic* (except in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of commodities named in (1) above (except in bulk), between Butler, Newark and Passaic, NJ, Hickory, NC, and Point Pleasant, WV, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Pantasote, Inc., of Passaic, NJ.

MC 150735 (Sub-1F), filed August 11, 1980. Applicant: BESTWAY TRANSPORT CO., a Corporation, Route No. 2, Willard, OH 44890. Representative: Lewis S. Witherspoon, 88 East Broad St., Columbus, OH 43215. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing house*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between points in Erie and Wyandot Counties, OH, on the one hand, and, on the other, points in the U.S.

MC 151054 (Sub-1F), filed August 5, 1980. Applicant: GUNTHER H. M. KLIESE, d.b.a. P & M ENTERPRISES,

10650 S. W. Wilsonville Rd., Wilsonville, OR 97070. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Ave., Portland, OR 97210. Transporting *frozen foods* between points in the U.S., under continuing contract(s) with Chef Francisco, of Eugene, OR.

MC 151084 (Sub-1F), filed August 11, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 S. Redwood Rd., Salt Lake City, UT 84104. Transporting *gypsum board and construction materials*, between Los Angeles and Contra Costa, CA, and points in Maricopa County, AZ, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Gold Bond Building Products, of Long Beach, CA.

MC 151525F, filed August 11, 1980. Applicant: MAKUCH TRUCKING, a Partnership, Painted Sky Rd., Rt. 3, Reading, PA 19606. Representative: Robert B. Einhorn, 3220 P.S.F.S. Bldg., 12 S. 12th St., Philadelphia, PA 191017. Transporting *wire* from Moonachie, NJ, to points in the U.S.

MC 130984F, filed August 7, 1980. Applicant: RICKY'S ADVENTURERS, INC., 6 Greg Court, Wallingford, CT 06492. Representative: Gerald A. Joseloff, 80 State Street, P.O. Box 3258, Hartford, CT 06103. As a *broker*, transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Wallingford, Meriden, Middletown, Berlin, Kensington, and Southington, CT, and expanding to points in the U.S.

Volume No. OP3-012

Decided: August 22, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 2304 (Sub-37F), filed August 15, 1980. Applicant: THE KAPLAN TRUCKING COMPANY, a corporation, 6600 Bessemer Ave., Cleveland, OH 44127. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with Woodhill Permatex, Inc., a Loctite Corporation subsidiary, of Solon, OH.

MC 29934 (Sub-25F), filed August 15, 1980. Applicant: LO BIONDO BROTHERS MOTOR EXPRESS, INC., P.O. Box 160, Bridgeton, NJ 08302. Representative:

Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Transporting (1) *Paper and paper products*, and (2) *Materials, equipment and supplies* used in the manufacture, sale, and distribution of paper and paper products, between points in VA, on the one hand, and, on the other, points in DE, MD, NY, NJ, CT, MA, RI, PA, and DC.

MC 30844 (Sub-694F), filed August 15, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. Transporting *cleaning compounds* (except commodities in bulk), between Gentry, AR, and Tulsa, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 52704 (Sub-282F), filed August 14, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer H, LaFayette, AL 36862. Representative: Archie B. Culbreth, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *styrofoam articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of styrofoam articles, between points in Dallas, Tarrant, Johnson, and Ellis Counties, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 53965 (Sub-179F), filed August 15, 1980. Applicant: GRAVES TRUCK LINE, INC., P.O. Drawer 838, Salina, KS 67401. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to those points in the U.S. in and west of MI, OH, KY, MO, AR, and LA.

MC 62824 (Sub-4F), filed August 21, 1980. Applicant: SPARTAN EXPRESS, INC., P.O. Box 1089, Greer, SC 29651. Representative: Roy F. Chason (same address as applicant). Transporting (1) *textiles and textile products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in AL, GA, MS, NC, SC, TN, and VA.

MC 72495 (Sub-23F), filed August 18, 1980. Applicant: DON SWART TRUCKING, INC., Box 49, Rt. 2, Wellsburg, WV 26070. Representative: Stephen J. Habash, 100 E. Broad St.,

Columbus, OH 43215. Transporting *rough iron castings*, from points in Belmont County, OH, to points in KY, NY, PA, and WV.

MC 73165 (Sub-521F), filed August 11, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *machinery and supplies for machinery*, between points in AL, FL, GA, MS, NC, SC, and TN, on the one hand, and, on the other, points in AZ, CA, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, NM, MD, OR, SD, UT, WA, WI, and WY. Condition: Issuance of a certificate is subject to the submission by applicant of a request, in writing, for prior or coincidental revocation of MC 73165 (Sub-E-65), published April 24, 1975.

MC 73165 (Sub-522F), filed August 15, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *machinery and supplies for machinery, construction equipment, and tractors*, between points in AL, AR, FL, GA, MS, NC, SC, and TN.

MC 94265 (Sub-362F), filed August 18, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. Transporting *fabricated metal products* (except ordnance, and *materials* used in the manufacture and distribution of fabricated metal products, between points in the U.S., restricted to traffic originating at or destined to the facilities of Hamilton Beach Division Scovill, Inc.

MC 89684 (Sub-113F), filed August 15, 1980. Applicant: WYCOFF COMPANY, INCORPORATED, P.O. Box 366, Salt Lake City, UT 84110. Representative: John J. Morrell (same address as applicant). Transporting *such commodities* as are dealt in or used by mail-order and retail stores (except commodities in bulk), between San Leandro, CA, on the one hand, and, on the other, points in NV, restricted to traffic originating at or destined to the facilities of Montgomery Ward & Company, Inc.

MC 106274 (Sub-31F), filed August 18, 1980. Applicant: RAEFORD TRUCKING COMPANY, P.O. Box 219, Sanford, NC 27330. Representative: R. B. Guthrie (same address as applicant). Transporting *petroleum or coal products*, as described in Item 29 of the Standard Transportation Commodity Code Tariff, between Baltimore, MD, and points in Baltimore County, MD, on the one hand, and, on the other, points in NC and VA.

MC 109595 (Sub-24F), filed August 18, 1980. Applicant: REX TRANSPORTATION COMPANY, a corporation, Suite 207 Clausen Bldg., 1520 North Woodward Ave., Bloomfield Hills, MI 48013. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. Transporting *cement*, between points in Wayne, Oakland, Macomb, Washtenaw, and Monroe Counties, MI, on the one hand, and, on the other, points in WI.

MC 107295 (Sub-990F), filed August 18, 1980. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). Transporting (1) *building materials*, (2) *chemicals*, (3) *cleaning, washing, and scouring compounds*, (4) *photographic and duplicating equipment*, and (5) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) through (4) above (except commodities in bulk), between points in the U.S., restricted to traffic originating at or destined to the facilities of G.A.F. Corporation.

MC 110325 (Sub-157F), filed August 20, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), (1)(a) between Winchester, VA, and Bristol, VA, over U.S. Hwy 11, (b) between Arlington, VA, and Danville, VA, (i) over U.S. Hwy 29, and (ii) from Arlington over U.S. Hwy 1 to junction U.S. Hwy 360, then over U.S. Hwy 360 to junction VA Hwy 304, then over VA Hwy 304 to junction U.S. Hwy 58, then over U.S. Hwy 58 to Danville, and return over the same route, (c) between Norfolk, VA, and junction U.S. Hwy 58 and VA Hwy 304, over U.S. Hwy 58, (d) between Danville, VA, and Roanoke, VA, from Danville over U.S. Hwy 58 to junction U.S. Hwy 220, then over U.S. Hwy 220 to Roanoke, and return over the same route, (e) between Richmond, VA, and the VA-NC State line, over U.S. Hwy 1, (f) between Petersburg, VA, and Emporia, VA, over U.S. Hwy 301, (g) between junction U.S. Hwy 460 and U.S. Hwy 58, and Roanoke, VA, over U.S. Hwy 460, (h) between Norfolk, VA, and Lexington, VA, over U.S. Hwy 60, (i) between Richmond, VA, and Staunton, VA, over U.S. Hwy 250, (j) between Arlington, VA, and Winchester, VA, over U.S. Hwy 50, (k) between Martinsville, VA, and junction U.S. Hwy 58 and U.S. Hwy 11, over U.S. Hwy 58, and (l) serving all intermediate points in

VA on routes (a) through (k) above, and serving points in VA as off-route points, and (2)(a) between Norfolk, VA, and St. Louis, MO, from Norfolk, over Interstate Hwy 64 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction Interstate Hwy 64, then over Interstate Hwy 64 to St. Louis, and return over the same route, serving Charleston and Huntington, WV, Lexington and Louisville, KY, Mt. Vernon, IL, and points in VA as intermediate points, (b) between Winchester, VA, and St. Louis, MO, over U.S. Hwy 50, serving Cincinnati and Athens, OH, Bedford, Seymour, and Vincennes, IN, and Olney, Flora, and Salem, IL, and points in VA as intermediate points, (c) between Danville, VA, and Reidsville, NC, over U.S. Hwy 29, serving all intermediate points, (d) between the VA-NC State line and Raleigh, NC, over U.S. Hwy 1, serving no intermediate points, (e) between the VA-NC State line and Durham, NC, from the VA-NC State line over U.S. Hwy 1 to junction Interstate Hwy 85, then over Interstate Hwy 85 to Durham, NC, and return over the same route, serving no intermediate points, and (f) between Winchester, VA, and Harrisburg, PA, over Interstate Hwy 81, serving Hagerstown, MD, as an intermediate point.

Note.—Applicant states that part (1) seeks to convert part of its irregular route authority in VA to regular routes, and part (2) seeks to join the proposed regular routes in VA with its presently existing regular routes to eliminate gateways in OH.

MC 111594 (Sub-100F), filed August 13, 1980. Applicant: CW TRANSPORT, INC., 610 High St., Wisconsin Rapids, WI 54494. Representative: Edward G. Bazelon, 39 South La Salle St., Chicago, IL 60603. Transporting *general commodities*, (except household goods as defined by the Commission, and classes A and B explosives), (1) Between St. Paul, MN, and Davenport, IA: From St. Paul over U.S. Hwy 52 to junction U.S. Hwy 67, then over U.S. Hwy 67 to Davenport, and return over the same route; (2) Between St. Paul, MN, and Iowa City, IA: From St. Paul over U.S. Hwy 52 to Rochester, MN, then over U.S. Hwy 63 to Waterloo, IA, then over U.S. Hwy 218 to Iowa City, and return over the same route; (3) Between St. Paul, MN, and Kansas City, MO: From St. Paul over U.S. Hwy 65 to Albert Lea, MN, then over U.S. Hwy 69 to Kansas City, and return over the same route; (4) Between St. Paul and Albert Lea, MN: From St. Paul over U.S. Hwy 61 to La Crosse, WI, then over U.S. Hwy 16 to Albert Lea, and return over the same route; (5) Between Chicago, IL, and Des Moines, IA: From Chicago over Interstate Hwy 55 to junction Interstate

Hwy 80, then over Interstate Hwy 80 to Des Moines, and return over the same route; (6) Between Wisconsin Rapids, WI, and Dubuque, IA: From Wisconsin Rapids over WI Hwy 13 to Wisconsin Dells, WI, then over WI Hwy 23 to junction U.S. Hwy 151, then over U.S. Hwy 151 to Dubuque, and return over the same route; (7) Between Minocqua and Merrill, WI, over U.S. Hwy 51; and (8) Between Prentice and Heafford Junction, WI, over U.S. Hwy 8; serving all intermediate points on routes (1) through (8) above, and serving in connection with routes (1) through (8) the following off-route points: (A) Knoxville, Muscatine, Oskaloosa, Ottumwa, and Washington, IA, and those in IA on, north, and east of a line beginning at the Mississippi River and extending along Interstate Hwy 80 to junction U.S. Hwy 69 at or near Des Moines, IA, and then over U.S. Hwy 69 to the IA-MN State line, (B) Trenton, MO, and (C) points in Adams, Columbia, Crawford, Dane, Grant, Green, Iowa, Juneau, Lafayette, Lincoln, Marathon, Marquette, Oneida, Portage, Price, Richland, Rock, Sauk, Vernon, and Wood Counties, WI.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 113475 (Sub-36F), filed August 18, 1980. Applicant: RAWLINGS TRUCK LINE, INC., P.O. Box 831, Emporia, VA 23847. Representative: Harry J. Jordan, Suite 502, Solar Bldg., 1000 16th St., N.W., Washington, DC 20036. Transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between points in Greensville County, VA, on the one hand, and, on the other, points in MA, CT, RI, NY, PA, KY, TN, NC, SC, GA, FL, OH, WV, NJ, MD, VA, and DE.

MC 117565 (Sub-100F), filed August 15, 1980. Applicant: MOTOR SERVICE COMPANY INC., P.O. Box 448, Coshocton, OH 43812. Representative: John R. Hafner (same address as applicant). Transporting (1) *metal articles and accessories for metal articles*, and (2) *materials, equipment, and supplies* used in the installation, manufacture, distribution, and maintenance of metal articles, between points in Richland County, OH, and points in the U.S. (including AK, but excluding HI).

MC 118805 (Sub-8F), filed August 18, 1980. Applicant: CONTINENTAL VAN LINES, INC., 4501 West Marginal Way, S.W., Seattle, WA 98124.

Representative: E. W. Hundley (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in AK.

MC 124774 (Sub-132F), filed August 18, 1980. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *foodstuffs*, between points in Bucks County, PA, on the one hand, and, on the other, points in the U.S.

MC 125254 (Sub-74F), filed August 20, 1980. Applicant: MORGAN TRUCKING CO., a corporation, P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting (1) *expanded plastic articles*, from the facilities of Southwest Forest Industries, at or near Elk Grove Village, IL, to points in IN and WI, and (2) *fiberboard containers*, from the facilities of Southwest Forest Industries, at or near Bloomington and Bridgeview, IL, to points in IN and WI.

MC 125254 (Sub-75F), filed August 21, 1980. Applicant: MORGAN TRUCKING CO., a corporation, P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *canned and preserved foodstuffs*, from Kenosha, WI, to the facilities of Heinz USA, Division of H. J. Heinz Company, at or near Iowa City, IA.

MC 128205 (Sub-96F), filed August 18, 1980. Applicant: BULKOMATIC TRANSPORT COMPANY, a corporation, 12000 South Doty Ave., Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *sulfuric acid and sulfur dioxide*, in bulk in tank vehicles, from points in Cook County, IL, to points in IL, IN, IA, OH, MI, and WI, restricted to traffic having a prior movement by rail.

MC 134035 (Sub-43F), filed August 18, 1980. Applicant: DOUGLAS TRUCKING COMPANY, a corporation, P.O. Box 698, Highway 75 South, Corsicana, TX 75110. Representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, TX 76102. Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring specialized equipment), between the facilities of Kmart Corporation, in (a) Wayne County, MI, (b) Harris and Navarro Counties, TX, (c) Worcester County, MA, (d) Allen County, IN, (e)

Douglas County, KS, (f) Bucks County, PA, (g) Coweta and Chatham Counties, GA, (h) San Bernadino and San Diego Counties, CA, (i) Scott County, MN, (j) Washoe County, NM, and (k) Trumbull County, OH, on the one hand, and, on the other, points in the U.S.

MC 134755 (Sub-222F), filed August 20, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson (same address as applicant). Transporting *food or kindred products*, as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in TX, on the one hand, and, on the other, those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 136315 (Sub-135F), filed August 18, 1980. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. Transporting (1) *metal products*, from points in Jefferson and Orange Counties, TX, to points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MO, OK, SC, and TN, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of metal products (except commodities in bulk, in tank vehicles), in the reverse direction.

MC 138104 (Sub-100F), filed August 18, 1980. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove St., Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116. Transporting (1) *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in initial movements, and *van truck bodies*, from points in De Soto Parish, LA, to points in the U.S. (including AK, but excluding HI), and (2) *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in secondary movements, and *van truck bodies*, between the facilities of Nabors Trailers, Inc., in the U.S. (including AK, but excluding HI).

MC 138304 (Sub-25F), filed August 19, 1980. Applicant: NATIONAL PACKERS EXPRESS, INC., 1600 Clinton St., Hoboken, NJ 07030. Representative: Craig B. Sherman, Barnett Bank Bldg., 1108 Kane Concourse, Bay Harbor Islands, FL 33154. Transporting *foodstuffs*, from South Hackensack and Seacaucus, NJ, to points in the U.S.

(except AK, HI, VA, NC, SC, GA, and FL), restricted to traffic originating at the facilities of Buitoni Foods Corp., and destined to the indicated destinations.

MC 138304 (Sub-26F), filed August 19, 1980. Applicant: NATIONAL PACKERS EXPRESS, INC., 1600 Clinton St., Hoboken, NJ 07030. Representative: Craig B. Sherman, Barnett Bank Bldg., 1108 Kane Concourse, Bay Harbor Islands, FL 33154. Transporting (1) *malt beverages* (except in bulk), and (2) *malt beverage dispensing equipment*, from New York, NY, Hoboken and Newark, NJ, Philadelphia, PA, and Wilmington, DE, to points in WV.

MC 138635 (Sub-111F), filed August 18, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, WY, CT, DE, ME, MD, MA, NJ, NH, NY, PA, RI, VT, VA, WV, AL, FL, GA, MS, NC, SC, TN, and DC.

MC 138635 (Sub-112F), filed August 18, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). Transporting (1) *automobile parts*, and (2) *materials, supplies, and equipment* used in the manufacture of motor vehicles, between points in CA, on the one hand, and, on the other, points in GA, TN, NC, and SC.

MC 140665 (Sub-113F), filed August 19, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by the Parker Hannifin Corporation and its subsidiaries.

MC 143234 (Sub-1F), filed August 15, 1980. Applicant: PHILLIPS BROTHERS WAREHOUSING AND DISTRIBUTING CORPORATION, 25 Thomas Ave., Baltimore, MD 21225. Representative: Walter T. Evans, 7961 Eastern Ave., Silver Spring, MD 20910. Transporting

general commodities (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), between Baltimore, MD, on the one hand, and, on the other, points in DE, MD, NJ, PA, VA, WV, and DC, restricted to traffic having a prior or subsequent movement by water or rail.

MC 145955 (Sub-13F), filed August 15, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, 7101 Mercy Rd., Suite 106, Omaha, NE 68106. Transporting *meats, meat products and meat by products, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between Omaha, NE, on the one hand, and, on the other, Sioux City, IA, and Kansas City, MO.

MC 145955 (Sub-14F), filed August 15, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, 7101 Mercy Rd., Suite 106, Omaha, NE 68106. Transporting *foodstuffs*, between Chicago, IL, and Milwaukee, WI, on the one hand, and, on the other, points in the U.S.

MC 146974 (Sub-9F), filed August 20, 1980. Applicant: WILLIAM V. THOMAS, P.O. Box 10238, Albuquerque, NM 87184. Representative: Randall R. Sain (same address as applicant). Transporting (1) *primary metal products*, (2) *fabricated metal products*, (3) *clay, concrete, glass and stone products*, (4) *lumber or wood products*, and (5) *petroleum and coal products*, as described in Items 33, 34, 32, 24, and 29, respectively, of the Standard Transportation Commodity Code Tariff, between points in AR, AZ, CA, CO, ID, KS, LA, MO, MT, NE, NM, NV, OK, OR, TX, UT, WA, and WY.

MC 149505F, filed August 5, 1980. Applicant: LOUISVILLE, NEW ALBANY & CORYDON RAILROAD COMPANY, d.b.a. LOUISVILLE AND CORYDON TRANSFER, 210 West Walnut, Corydon, IN 47112. Representative: Walter Saulman (same address as applicant). Transporting *kitchen cabinets*, between points in the U.S., under continuing contract(s) with Schmidt Cabinet Co., Inc., of New Salisbury, IN.

MC 150805 (Sub-1F), filed August 18, 1980. Applicant: WHITE TRUCKING, INC., Rural Route No. 1, Washburn, IL 61570. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *varnish, printing ink, and oil resin products*, between points in the U.S., under continuing contract(s) with Acme Printing Ink Company, Inc., of

Peoria, IL, and Art Lersch & Sons Varnish and Chemical Corp., of Washburn, IL.

MC 150865 (Sub-1F), filed August 19, 1980. Applicant: ATLANTIC & WESTERN TRANSPORTATION COMPANY, INC., P.O. Box 948, Forest Park, GA 30051. Representative: Robert W. Gerson, 1400 Candler Bldg., Atlanta, GA 30303. Transporting *new furniture*, between points in the U.S., under continuing contract(s) with Fox Manufacturing Company, of Rome, GA.

Note.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary.

MC 151084 (Sub-2F), filed August 18, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting (1) *clay, concrete, glass or stone products* as described in Item 32 of the Standard Transportation Commodity Code Tariff, (2) *primary metal products, including galvanized*, except coating or other allied processing, as described in Item 33 of the Standard Transportation Commodity Code Tariff, and (3) *fabricated metal products*, except ordnance, as described in Item 34 of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with Ameron Steel & Wire Division, of Etiwanda, CA.

MC 151544F, filed August 12, 1980. Applicant: HILL TRANSPORT, INC., P.O. Box 9813, Ruder Rd, Knoxville, TN 37920. Representative: Blaine Buchanan, 1024 James Bldg., Chattanooga, TN 37402. Transporting (1) *furniture and furniture parts, electrical bug-killer devices, electrical fences and parts for electrical fences, and plastic articles*, from points in Knox County, TN, to points in the U.S.; and (2) *materials, equipment, and supplies used in the manufacture, and distribution of the commodities in (1) above, in the reverse direction.*

[FR Doc. 80-27182 Filed 9-4-80; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP1-025]

Permanent Authority Decision-Notice

Decided: August 27, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's

rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register on July 3, 1980, at 45 F.R. 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication 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, fitness, water carrier dual operations, or jurisdiction questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where 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 the absence of legally sufficient protests in the form of verified statements filed on or before October 20, 1980 (or, if the 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 by set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications

for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-025

Decided: August 27, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 73081 (Sub-3F), filed August 22, 1980. Applicant: ANYTIME DELIVERY SYSTEMS, INC., 375 Western Hwy., Tappan, NY 10983. Representative: Arthur J. Piken, Queens Office Tower, 95-25 Queens Blvd., Rego Park, NY 11374. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 106001 (Sub-19F), filed August 22, 1980. Applicant: DENNIS TRUCKING COMPANY, INC., 6951 Norwitch Dr., Philadelphia, PA 19153. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 147761 (Sub-1F), filed August 21, 1980. Applicant: STEEL EXPRESS, INC., P.O. Box 5217, 1507 Ripley St., Lake Station, IN 46405. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP2-031

Decided: August 27, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 2962 (Sub-73F), filed August 20, 1980. Applicant: A. & H. TRUCK LINE, INC., 1111 E. Louisiana St., Evansville, IN 47711. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 29083 (Sub-1F), filed August 21, 1980. Applicant: BORMANN BROTHERS, INC., 10 Dunham Rd., Billerica, MA 01821. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and

munitions), for the United States Government, between points in the U.S.

MC 69292 (Sub-12F), filed August 21, 1980. Applicant: ATLAS TRANSPORTATION, INC., 8100 Stansbury Rd., Baltimore, MD 21222. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030-15 St., NW., Washington, DC 20005. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 130993F, filed August 19, 1980. Applicant: B.L.T. CORPORATION, 405 Third Ave., Brooklyn, NY 11215. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. To operate as a broker in arranging for the transportation of *general commodities*, (except household goods), between points in the U.S.

MC 149522F, filed August 19, 1980. Applicant: LARRY MUNGER, d.b.a. LARRY MUNGER ENTERPRISES, P.O. Box 25831, Salt Lake City, UT. Representative: Larry Munger (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Agatha L. Mergonovich,
Secretary.

[FR Doc. 80-27194 Filed 9-4-80; 8:45 am]
BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation:

Acorn Building Components, Inc., 12620 Westwood, Detroit, MI 48223.

2. Wholly owned subsidiaries:

Acorn International Sales, Corp., 12620 Westwood, Detroit, MI 48223.

Acorn Distributing Company 12612 Westwood, Detroit, MI 48223.

Acorn Building Components of Illinois, Inc. 125 Factory Road, Addison, IL 60101.

Acorn Building Components of Florida, Inc., 5640 Columbia Circle, W. Palm Beach, FL 33407.

Acorn Building Components/West, Inc. Building No. 16—Freeport Center, Clearfield, Utah 84016.

South Aluminum Products Company d.b.a. SOALCO 5854 Miami Lakes Drive Miami Lakes, FL 33014.

1. Parent corporation and address of principle office:

American Cyanamid Company, Berdan Avenue, Wayne, NJ 07470.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principle offices:

- (a) Cyanamid Canada, Inc., 2255 Sheppard Avenue East, Willowdale, Ont. M2J 4Y5.
- (b) Cyanamid International Sales Corporation Berdan Avenue, Wayne, NJ 07470.
- (c) Cyanamid Inter-American Corporation Berdan Avenue, Wayne, NJ 07470.
- (d) Cyanamid Overseas Corporation Berdan Avenue, Wayne, NJ 07470.
- (e) Cyanamid Plastics, Inc. 697 Route 46, Clifton, NJ 07015.
- (f) Davis & Geck, Berdan Avenue, Wayne, NJ 07470.
- (g) Formica Corporation Berdan Avenue, Wayne, NJ 07470.
- (h) Glendale Optical Company, Inc. 130 Cross Way Park Drive, Woodbury, NY 11797.
- (i) Jacqueline Cochran, Inc. 630 Fifth Avenue, New York City, NY 10020.
- (j) Lederle Parenterals, Inc. Berdan Avenue, Wayne, NJ 07470.
- (k) Lederle Piperacillin, Inc. Berdan Avenue, Wayne, NJ 07470.
- (l) Shulton, Inc. Berdan Avenue, Wayne, NJ 07470.
- (m) Shulton Canada, Inc. 2031 Kennedy Road, Scarborough, Ontario, Canada (Toronto).
- (n) Toiletries, Inc. Berdan Avenue, Wayne, NJ 07470.

A. Parent corporation and address of principal office:

Anderson, Clayton & Co., 3800 First International Plaza, 1100 Louisiana, Houston, Texas 77002.

B. Wholly owned subsidiary which will participate in the operations and address of the office:

Avoset Food Corporation, 80 Grand Avenue, Oakland, California 94604.

1. Parent corporation and address of principal office:

Astro Containers, Incorporated, 2795 Sharon Road, Evendale, Ohio 45241.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

- (a) Allied Drum Service, Inc., 401 Colorado, Louisville, Kentucky 40208.
- (b) Astro Containers Company, 2795 Sharon Road, Evendale, Ohio 45241.
- (c) Astro Fibre Drum Company, 2785 Sharon Road, Evendale, Ohio 45241.
- (d) The Queen City Barrel Company, 1937 South Street, Cincinnati, Ohio 45204.

1. Parent corporation and address of principal office:

Austin Industries, Inc., 2949 Stemmons Fwy., Dallas, Texas 75247.

2. Wholly owned subsidiaries which will participate in the operations, and

address of their respective principal offices:

- (a) Austin Bridge Company, 2949 Stemmons Fwy., Dallas, Texas 75247.
- (b) Austin Commercial, Inc., 2949 Stemmons Fwy., Dallas, Texas 75247.
- (c) Austin Construction Equipment, Inc., 2949 Stemmons Fwy., Dallas, Texas 75247.
- (d) Austin Power, Inc., 2949 Stemmons Fwy., Dallas, Texas 75247.
- (e) Austin Products, Inc., 1000 Singleton Blvd., Dallas, Texas 75221.
- (f) Austin Road Company, 1555 Merimac Circle, No. 214, Ft. Worth, Texas 76113.
- (g) Coastal Construction Company, 3800 Hwy. 365—Regional Square, Port Arthur, Texas 77640.
- (h) Coastal Industrial Constructors, Inc., 3800 Hwy. 365—Regional Square, Port Arthur, Texas 77640.

1. Parent corporation:

Beatrice Foods, Two North La Salle St., Chicago, IL 60602.

2. Wholly owned subsidiaries:

- Aunt Nellies's Foods, Inc., P.O. Box 67, Clyman, WI 53016.
- Brookside Enterprises, Inc., 9900 Guasti Road, Guasti, CA 91743.
- Certified Transportation Co., 2068 Lapham Dr., P.O. Box 845, Modesto, CA 95353.
- Community Creamery P.O. Box 8057, 420 Nora Street, Missoula, Montana 59801.
- Culligan International Company, One Culligan Parkway, Northbrook, IL 60062.
- Cycle Parts Trading Company, 9362 West Grand Ave., Franklin Park, IL 60131.
- Peter Eckrich and Sons, Inc., P.O. Box 388, Ft. Wayne, IN 46801.
- Fiberite Corporation, 501 West Third St., Winona, MN 55987.
- Fiberite West Coast Corporation, 645 N. Cypress, Orange, California 92669.
- James J. Gallery, Inc., 555 Pleasant St., Watertown, MA 02172.
- John Hancock Furniture Manufacturing Co., 1645 Tidelands Ave., National City, CA 92050.
- Kelley Manufacturing Co., South Industrial Park, P.O. Drawer 1467, Tifton, GA 31794.
- E. W. Kneip, Inc., P.O. Box 161, Forest Park, IL 60130.
- KSS Transportation Corp., c/o Webcraft, P.O. Box 185, Route 1 and Adams Station, North Brunswick, NJ 08902.
- Meadow Gold Products Corp., 40 Franklin Ave., Brooklyn, NY 11205.
- Molub-Alloy Export Ltd., 206 N. Va. St., Reno, Nevada 89501.
- Northeast Cold Storage Corp., 165 Read St., Portland, Maine 04104.
- Nubro Corporation, P.O. Box 3950, 620 Slaton Road, Lubbock, Texas 79404.
- Nunn Manufacturing Company, P.O. Box 1856, Amarillo, Texas 79105.
- Poultry Foods Industries, Inc., P.O. Box C, Russellville, AR 72801.
- Quincy Market Cold Storage and Warehouse Co., 555 Pleasant St., Watertown, MA 02172.
- St. John's Inc., 130 Gunn St., Cadillac, MI 49601.
- Samsonite Corporation, 11200 East 45th Avenue, Denver, CO 80239.

- Louis Sherry Ice Cream Co., 40 Franklin Ave., Brooklyn, NY 11205.
- Skyline Dairy, Inc., 1300 Two Mile Drive, Kalispell, MT.
- Solar Rest, Inc., 11200 East 45th Avenue, Denver, CO.
- Tindle Mills, Inc., M.P.O. Box 733, 701 East Chestnut, Springfield, MO. 65801.
- Waterloo Industries, Inc., 300 Ansbrough Avenue, Waterloo, Iowa 50701.
- Martha White Foods, Inc., P.O. Box 58, Room 900—110 21st Ave. So., Nashville, TN 37202.
- Zero Transport, Inc., P.O. Box 22666, Tampa, FL 33622.

Culligan International Company Subsidiaries

- CWC, Inc., 2047 U.S. Highway 22 (West), Union, N.J. 07083.
- Culligan Dayton, Inc., P.O. Box 2326—Kattering Branch, Dayton, Ohio 45429.
- Culligan Desplaines Valley Water Condition, Inc., 1111 East Washington St. Joliet, IL 60433.
- Culligan Dutchess-Putman Water Conditioning, Inc., 860 Route 9 South Wappingers Falls, N.Y. 12590.
- Culligan Peninsula Industrial Water Conditioning Company, P.O. Box 547 (1785 Russell Ave.) Santa Clara, CA 95052.
- Culligan Soft Water Service of Santa Barbara, Inc., 1026 Santa Barbara St., Santa Barbara, CA 93101.
- Culligan Soft Water Service of Whittier, Inc., 12221 East Hadley, Whittier, CA 90601.
- Culligan Water Conditioning, Inc., 350 W. Sunset Drive, Waukesha, WI 53186.
- Culligan Water Conditioning, Inc., 7801 Menaul Blvd., Albuquerque, New Mexico 87110.
- Culligan Water Conditioning of Battle Creek, Inc., 465 Dickman Road, Battle Creek, MI 49015.
- Culligan Water Conditioning of Beaver, Inc., 1021—24th Street, Beaver Falls, Pa. 15010.
- Culligan Water Conditioning of Butler, Inc., 300 New Castle St., Butler, Pa. 16001.
- Culligan Water Conditioning of Glendale, Inc., P.O. Box 126, Glendale, AZ 85311.
- Culligan Water Conditioning of Greater Detroit, Inc., 5510 Cooley Lake Road, Pontiac, MI 48054.
- Culligan Water Conditioning of Greater Pittsburgh, Inc., 4941 Campbells Run Road, Pittsburgh, Pa. 15205.
- Culligan Water Conditioning of Houston, Inc., 12235 Robin Blvd., Houston, TX 77045.
- Culligan Water Conditioning of the Inland Empire, P.O. Box 5016, Riverside, CA 92517.
- Culligan Water Conditioning of Jacksonville, Inc., 615 Dellwood Ave., Jacksonville, FL 32204.
- Culligan Water Conditioning of Los Gatos, 611 University Ave., Los Gatos, CA 95030.
- Culligan Water Conditioning of Orange County, 1911 S. Manchester Ave., Anaheim, CA 92802.
- Culligan Water Conditioning of Robbinsdale, Inc., 4012 W. Broadway Robbinsdale, MN 55422.
- Culligan Water Conditioning of Sauk Centre, Inc., 315 Pine St., Sauk Centre, MN.
- Culligan Water Conditioning of South Bend, Inc., 2218 S. Main St., South Bend, In. 46613.
- Culligan Water Conditioning of Tidewater, Inc., P.O. Box 647, Hertford, N.C. 27944.

- Culligan Water Conditioning of Tippencanoe County, Inc., 3450 Kossuth St., Lafayette, IN 47905.
- Culligan Water Conditioning of Torrance, 20730 Earl St., Torrance, CA 90503.
- Culligan Water Conditioning Inc., 524 South Main St., West Bend, WI 53095.
- Everpure, Inc., 660 N. Balckhawk Drive, Westmont, IL. 60559.
- Greater Chicago Culligan Water Conditioning, Inc., 6619 Lincoln Ave., Lincolnwood, IL. 60645.
- Greater Kansas Culligan Water Conditioning, Inc., 2805 W. 47 St., Shawnee Mission, KS 66206.
- Indiana Soft Water Service, Inc., 3335 N. Keystone, Indianapolis, IN 46218.
- St. Louis Soft Water Service, Inc., 10947 Manchester Road, St. Louis, MO. 63122.
- Soft Water Service, Inc., 270 West Palatine Road, Wheeling, IL. 60090.

1. Parent corporation:

Celanese Corporation, 1211 Avenue of the Americas, New York, New York 10036.

2. Wholly owned subsidiaries:

- a. Celanese Chemical Company, Inc., Box 47320, 1250 W. Mockingbird Lane, Dallas, Texas 75247.
- b. Pama Manufacturing, Inc. Box 1677, 2015 North Chester Street, Gastonia, North Carolina 28052.
- c. Celanese Construction Fabrics, Inc., P.O. Box 32414, Barclay Downs Drive, Charlotte, North Carolina 28232.
- Does Business As:
- Moultrie Products Company, Box 1864, 11th Street, SW., Moultrie, Georgia 31768.
- d. Hytrex, Inc. 4300 Cemetary Rd., Hilliard, Ohio 43026.
- e. Celanese Polymer Specialties Company, One Riverfront Plaza, Louisville, Kentucky 40202.
- f. Celanese Piping Systems, Inc., 2929 West Magazine Street, Louisville, Kentucky 40211.
- g. Stein, Hall & Co., Inc., 1211 Avenue of the Americas, New York, New York 10036.

3. Division of Parent Corporation:

- a. Celanese Fibers Company, P.O. Box 32414, Barclay Downs Drive, Charlotte, North Carolina 28232.
- b. Celanese Fibers Marketing Company, P.O. Box 32414, Barclay Downs Drive, Charlotte, North Carolina 28232.
- c. Celanese Plastics and Specialties Company, 26 Main Street, Chatham, New Jersey 07928.
- d. Celanese Fibers International Company, 1211 Avenue of the Americas, New York, New York 10036.

1. Parent corporation and address of principal office:

The Coca-Cola Company, P.O. Drawer 1734, Atlanta, GA 30301.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

- (a) Coca-Cola Bottling Company of New England, 9 "B" Street, Needham Heights, MA 02194.
- (b) Coca-Cola Bottling Company of California, 1560 Mission Street, San Francisco, CA 94103.
- (c) Coca-Cola Bottling Company of Ohio, 3300 South Creyts Road, Lansing, MI 48901.
- (d) Pacific Coca-Cola Bottling Company, P.O. Box 789, Bellevue, WA 98009.
- (e) Coca-Cola Bottling Company of Wisconsin, 7400 N. Oak Park Avenue, Chicago, IL 60648.
- (f) Coca-Cola Bottling Company of Michigan, 3300 South Creyts Road, Lansing, MI 48901.
- (g) Coca-Cola Bottling Company of Chicago, 7400 N. Oak Park Avenue, Chicago, IL 60648.
- (h) General Bottling Company, P.O. Box 4268, Atlanta, GA 30302.
- (i) The Atlanta Coca-Cola Bottling Company, P.O. Box 4268, Atlanta, GA 30302.
- (j) Aqua-Chem, Inc., P.O. Box 421, Milwaukee, WI 53201.
- (k) General Beverage Company, P.O. Box 1734, Atlanta, GA 30301.
- (l) Gonzales & Co., Inc., d.b.a. The Monterey Vineyard, P.O. Box 780, Gonzales, CA 93926.
- (m) Sterling Vineyards, P.O. Box 365, Calistoga, CA 94515.
- (n) The Taylor Wine Company, Inc., Hammondsport, NY 14840.
- (o) Presto Products, Incorporated, Box 2399, Appleton, WI 54913.
- (p) Caribbean Refrescos, Inc., P.O. Box CC, Cidra, Puerto Rico 00639.
- (q) Coca-Cola Interamerican Corporation, P.O. Drawer 1734, Atlanta, GA 30301.
- (r) The Coca-Cola Export Corporation, P.O. Drawer 1734, Atlanta, GA 30301.
- (s) Coca-Cola Ltd., 42 Overlea Boulevard, Toronto, Ontario M4H 1B8, Canada.
- (t) Coca-Cola Bottling Company of Puerto Rico, Inc., C.P.O. Box 3814, San Juan, Puerto Rico 00936.
- (u) The Coca-Cola Trading Company, P.O. Drawer 1734, Atlanta, GA 30301.
- (v) Hi-Acres Concentrate, Inc., P.O. Box 247, Auburndale, FL 33823.
- (w) C B Boiler Service, Inc., 117 Lively Blvd., Elk Grove, IL 60007.
- (x) Belmont Springs Water Co., Inc., Country Club Lane, Belmont, MA 02178.
- (y) Lasrevinu, Inc., 801 W. Hawthorne Lane, W. Chicago, IL 60185.
- (z) Aqua-Chem Operations, Inc., P.O. Box 421, Milwaukee, WI 53201.
- (aa) Industrial Combustion, Inc., 4465 N. Oakland Avenue, Milwaukee, WI 53211.

1. Parent corporation:

Distribution International Corporation, 260 New York Drive, Ft. Washington, PA 19034.

2. Wholly owned subsidiaries which will participate in the operation:

- (a) Strick Lease, Inc., 260 New York Drive, Ft. Washington, PA 19034.
- (b) Strick Corporation, 260 New York Drive, Ft. Washington, PA 19034.
- (c) Strick Finance Co. 260 New York Drive, Ft. Washington, PA 19034.
- (d) Flexible Transport, Inc., 4525 South I-85 (P.O. Box 688664), Charlotte, NC 28266.

1. Parent corporation:

Hittman Corporation, 9190 Red Branch Road, Columbia, MD 21045.

2. Wholly owned subsidiaries:

- Hittman Transport Services, Inc., MC—144760, 2700 Keslinger Road, Geneva, IL 60134.
- Hittman Associates, Inc., 9190 Red Branch Road, Columbia, MD 21045.
- Hittman Medical Systems, Inc., 9190 Red Branch Road, Columbia, MD 21045.
- Hittman Material & Medical Components, Inc., 9190 Red Branch Road, Columbia, MD 21045.
- Hittman Nuclear & Development Corporation, 9251 Rumsey Road, Columbia, MD 21045.
1. Inland Container Corporation, 151 North Delaware Street, Indianapolis, Indiana 46206.

2. The following fully owned subsidiaries of Inland Container Corporation will participate in the intercorporate hauling operations:

- a. Anderson Box Company, Inc.
- b. Container Systems, Inc.
- c. El Morro Corrugated Box Corporation (Delaware).
- d. El Morro Corrugated Box Corporation (de Puerto Rico).
- e. Fibre-Pacific Paper Products, Inc.
- f. Indianapolis Ink & Chemical Corporation (INKCO).
- g. Indisc, Inc.
- h. Inland International Services, Inc.
- i. Inland Paper Company, Inc.
- j. Inland Real Estate Investments, Inc.
- k. Pacific Kraft Corporation.
- l. Summit Container Corporation.

1.a. Parent corporation:

Inland Steel Company, 30 West Monroe Street, Chicago, Illinois 60603.

b. Operating Divisions:

- Inland Steel Container Company, 4300 West 130th Street, Alsip, Illinois 60658.
- Inland Lime and Stone Company, Gulliver, Michigan 49840.

2. Participating wholly owned divisions and subsidiaries:

- a. Joseph T. Ryerson & Son, Inc., 2621 West 15th Place, Chicago, Illinois 60608.
- b. Inryco, Inc., 1550 North 25th Avenue, Melrose Park, Illinois 60161.
- c. Burnham Trucking Company, 4101 West Burnham Street, Milwaukee, Wisconsin 53201.
- d. Inland Steel Coal Company, Sesser, Illinois 62884.
- e. Inland Steel Mining Company, Virginia, Minnesota 55792.
- f. Jackson County Iron Company, Black River Falls, Wisconsin 54615.
- g. Inland Steel Urban Development Corporation, 30 West Monroe Street, Chicago, Illinois 60603.
- h. Inland Steel Development Corporation, 30 West Monroe Street, Chicago, Illinois 60603.
- i. Remanco, 6160 North Cicero Avenue, Suite 306, Chicago, Illinois 60646.
- j. Scholz Homes, Inc., 3103 Executive Parkway, Toledo, Ohio 43606.
- k. Schult Homes Corporation, P.O. Box 151, Middlebury, Indiana 46540.

1. Parent corporation and address of principal office:

Keeney Enterprises, Inc., 182 Oakwood Drive, Glastonbury, CT 06033.

2. Wholly owned subsidiary which will participate in the operations, address of its principal office:

Christie Rigging & Trucking Co., 182 Oakwood Drive, Glastonbury, CT 06033.

1. Parent corporation and address of principal office:

Lane Processing, Inc., P.O. Box 38, Grannis, Arkansas 71944.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

- Frank Smith & Sons Co., a Division of Lane Processing, Inc., 2407 Gholson Road, Waco, Texas 76705.
- J. W. Nichols Company, a Division of Lane Processing, Inc., 899 N. Houston, Fort Worth, Texas 76106.
- Lane Farms, Inc., P.O. Box 38, Grannis, Arkansas 71944.
- Texas Broilers, a Division of Lane Farms, Inc., 2711 South Street, Nacogdoches, Texas 75961.
- Dexter Poultry, a Division of Lane farms, Inc., 1001 East Stoddard, Dexter, Missouri 63841.
- Sunnyside Feeds, Inc., Highway 27 South, Nashville, Arkansas 71852.
- Lane Poultry Sales, Inc., P.O. Box 38, Grannis, Arkansas 71944.
- Frank Smith Foods, Inc., P.O. Box 82365, Oklahoma City, Oklahoma 73148.
- Holly Creek Fryers, Inc., P.O. Box 220, Broken Bow, Oklahoma 74728.
- Lane Domestic International Sales Corporation P.O. Box 38, Grannis, Arkansas 71944.
- Spring Valley Farms, Inc., P.O. Box 3508, Oxford, Alabama 36203.
- Spring Valley Foods, Inc., P.O. Box 3508, Oxford, Alabama 36203.
- Cheaha International, Inc., Highway 21, South Oxford, Alabama 36203.
- Valley Farms, Inc., P.O. Box 337, Vandalia, Ohio 45377.
- Modern Feeds of Nacogdoches, Inc., P.O. Box 1836, Nacogdoches, Texas 75961.

A. Parent corporation and address of principal office:

Maryland Cup Corp., 10100 Reisterstown Road, Owings Mills, MD.

B. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

- (1) Sweetheart Plastics Inc., 1 Burlington Ave., Wilmington, MA.
- (2) Sweetheart Paper Products Co., Inc., 191 Williams St. Chelsea, MA.
- (3) Sweetheart Cup Corp. (Calif.) 2155 East 7th St. Los Angeles, CA.
- (4) Sweetheart Cup Corp. (Chicago) 7575 S. Kostner, Chicago, IL.
- (5) Sweetheart Cup Corp. of Texas, 4444 W. Ledbetter Drive, Dallas, TX.

- (6) Maryland-Pacific Cone Co. (Oregon) 123 N.E. 3rd. St. Portland, OR.
 (7) Keystone Cone Co. Inc., 60 Mansfield Ave., Pittsburgh, PA.
 (8) Lanier Cone Co., 600 Township Ave., Cincinnati, OH.
 (9) Maryland Baking Co. (of the Carolinas) 227 Atando Ave., Charlotte, NC.
 (10) Maryland Baking Co., of Georgia Inc., 951 Glennwood Ave., S.E., Atlanta, GA.
 (11) Eagle Cone Corp., 45 Clinton Ave., Brooklyn, NY.
 (12) Eastern Baking Co., 30 Inner Belt Road, Somerville, MA.

A. Parent corporation and address of principal office:

Oscar Mayer & Co. Inc., 910 Mayer Avenue, Madison, Wisconsin 53704.

B. Wholly owned subsidiaries which will participate in operations and address of their respective principal offices:

1. Chef's Pantry, 1031 Pierce St., Sandusky, OH 44870.
2. Claussen Pickle Co., Inc., 1300 Dane St., Woodstock, IL 60098.
3. OM Food, Inc., 910 Mayer Ave., Madison, WI 53704.
4. OM Holding, Inc., 910 Mayer Ave., Madison, WI 53704.
5. OM Ingredients, 910 Mayer Ave., Madison, WI 53704.
6. Scientific Protien Laboratories, Inc., 700 East Main, Waunakee, WI 53597.
7. Louis Rich, Inc., 207 West 2nd St., West Liberty, IA 52776.
8. Oscar Mayer & Co., Inc. (PA), 3333 S. Front St., Philadelphia, PA 19148.
9. Oscar Mayer Foundation, 910 Mayer Ave., Madison, WI 53704.
10. Powell Valley Foods, Inc., P.O. Box Elkins Rd., Caryville, TN 37711.
11. Italsalumi, Inc., 910 Mayer Ave, Madison, WI 53704.
12. Kohrs Packing Company, 1335 West 2nd St., Davenport, IA 52802.
13. Quality Industrial Plastic Co., Inc., 910 Mayer Ave., Madison, WI 53704.
14. Louis Rich Foods, Inc., 207 West 2nd St., West Liberty, IA 52776.
15. Louis Rich International Ltd., 207 West 2nd St., West Liberty, IA 52776.
16. Rich of Carolina, Inc., Louis Rich Dr., New Berry, SC 29108.
17. Rich of California, Inc., 21 Daly Ave., Modesto, CA 95355.
18. Rich of Ellsworth, Inc., P.O. Box 4, Ellsworth, IA 50075.
19. Carolina Turkeys, Inc., P.O. Box 220, Marshville, NC 28103.
20. California, Turkeys, Inc., P.O. Box 6037, Modesto, CA 95355.
21. Rich Freezers, Inc., 207 West 2nd St., West Liberty, IA 52776.
22. Terminal Freezers, Inc., 4325 3rd Ave., Rock Island, IL 61201.
23. Rich Foods, Inc., 207 West 2nd St., West Liberty, IA 52776.

(1) Parent corporation:

H. O. Penn Machinery Co., Inc., Interstate 684 at Route 22, Armonk, N.Y. 10504.

(2) Wholly owned subsidiary:

William Thom & Company, Inc., a New York Corporation.

(1) Parent corporation and address of principal office:

Phelps Dodge Corporation, 300 Park Avenue, New York, New York 10022.

(2) Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

- Phelps Dodge Refining Corporation, 300 Park Avenue, New York, New York 10022.
 Phelps Dodge Industries, Inc., 300 Park Avenue, New York, New York 10022.
 Phelps Dodge Sales Company, 300 Park Avenue, New York, New York 10022.
 Western Nuclear, Inc., 134 Union Boulevard, Lakewood, CO 80228.
 Phelps Dodge Mercantile Company, Douglas, Arizona 85607.
 Pacific Western Land Company, Four Bar Four Ranch, P.O. Box 188, Gila, New Mexico 86038.
 Morenci Water and Electric Company, Morenci, Arizona 85540.
 Ajo Improvement Company, Ajo, Arizona 85321.
 Tuscon Cornelia and Gila Bend Railroad, Douglas, Arizona 85607.

1. Parent corporation and address of principal office:

Philip Morris Incorporated, 100 Park Avenue, New York, New York 10017.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

- (a) Philip Morris Industrial Incorporated, P.O. Box 294, 422 North Holton Street, Milwaukee, Wisconsin 53201.
 (b) Plainwell Paper Co., Inc., 200 Allegan, Plainwell, Michigan 49080.
 (c) Wisconsin Tissue Mills Inc., P.O. Box 489, Third Street, Menasha, Wisconsin 54952.
 (d) The Seven-Up Company, 121 South Meramec, St. Louis, Missouri 63105.
 (e) Seven-Up Bottling Company of Houston, Texas, 3310 Alice Street, Houston, Texas 77021.
 (f) Seven-Up Bottling Company of Norfolk, Incorporated, 1012 West 26th Street, Norfolk, Virginia 23517.
 (g) Seven-Up Bottling Company of Phoenix, Inc., 3830 East Weir, Phoenix, Arizona 85040.
 (h) Seven-Up Bottling Company of Albuquerque, 2101 Claremont Avenue NE., Albuquerque, New Mexico 87107.
 (i) The Taylor Group, Inc., 555 Brown Road, Hazelwood, Missouri 63042.
 (j) Seven-Up Canada Inc., No. 12 Cranfield Road, Toronto, Ontario, Canada M4B3G8.

1. Parent corporation and address of principal office:

S. S. Pierce Company, Inc., 74 Seneca Street, Dundee, New York 14837.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

- (a) S. S. Pierce Company, 10 Wildwood Street, Woburn, Massachusetts 01801.
 (b) Seneca Foods Corporation, 74 Seneca Street, Dundee, New York 14837.
 (c) Kennett Canning Corp., Box K, Kennett Square, Pennsylvania 19348.
 (d) Lehman Bros. Corporation, 115 Martin Luther King Drive, Jersey City, New Jersey 07305.
 (e) Tapetex Products, Inc., 240 Commerce Drive, Rochester, New York 14823.

1. Parent corporation and address of principal office:

RayGo Inc., P.O. Box 1362, Minneapolis, Minnesota 55440.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

- (a) RayGo Wagner Inc., 4427 Northeast 158th Avenue, P.O. Box 20044, Portland, Oregon 97220.
 (b) Barco Manufacturing Company, 1001 Enterprise Avenue, P.O. Box 82841, Oklahoma City, Oklahoma 73148.

1. Parent corporation and address of principal office:

Reynolds Metals Company, 6601 Broad Street Road, Richmond, Virginia 23261.

2. Wholly owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

- (a) El Campo Aluminum Company, 702 Gladys Street, El Campo, Texas 77437.
 (b) Reynolds Aluminum Recycling Co., 6601 Broad Street Road, Richmond, Virginia 23261.
 (c) Reynolds Aluminum Building Products Co., 347 Longbrook Avenue, Stratford, Connecticut 06497.

1. Parent corporation and address of principal office:

Texon, Inc., Canal St., So. Hadley, MA 01075.

2. Wholly owned subsidiary (ownership 100%) which will participate in the operation and their principal office location is:

E.B. & A.C. Whiting Co., One Howard St., Burlington, VT 05401.

(1) Parent:

White Motor Corporation, 34500 Grand River Avenue, Farmington Hills, MI 48024.

(2) Wholly owned subsidiaries which will participate in the operations:

- (a) Gemini Manufacturing Company, 1330 North Main St., Orrville, Ohio 44667.
 (b) White Farm Equipment Company, 2625 Butterfield Road, Oak Brook, Illinois 60521.
 (c) White Motor Corporation of Canada Ltd., 6205 Airport Road, Mississauga, Ontario, Canada.

Agatha L. Mergenovich,
 Secretary.

[FR Doc. 80-27449 Filed 9-5-80; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 174

Friday, September 5, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, September 9, 1980.

PLACE: Commission Conference Room No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the Public

1. Freedom of Information Act Appeal No. 80-6-FOIA-365, concerning a company's request for information its employees provided the Commission in connection with an ADEA investigation.

2. Freedom of Information Act Appeal No. 80-6-FOIA-324, concerning a requests by an attorney for access to a closed age file.

3. Office of Special Projects and Programs—Transfer of Functions and Responsibilities.

4. Proposed modifications to the existing interpretative Bulletin on Employee Benefit Plans regarding the treatment of Post-Normal Retirement Age Employees under the Age Discrimination in Employment Act.

5. Proposed Statement on Layoffs and Equal Employment Opportunity.

6. Title VII Coverage of the Board of Governors of the Federal Reserve System.

7. Final Guidelines on Discrimination because of Religion.

8. Report on Commission Operations by the Executive Director.

Closed to the Public

Litigation authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE

INFORMATION: Treva I. McCall, Acting

Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued September 3, 1980.

[S-1652-80 Filed 9-3-80; 9:31 pm]

BILLING CODE 6750-06-M

2

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., September 10, 1980.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the division of public information.

Power Agenda—461st Meeting—September 10, 1980, Regular Meeting (10 a.m.)

CAP-1. Project No. 2774, Modesto and Turlock Irrigation Districts, City and County of San Francisco.

CAP-2. Docket No. EL78-17, Northern Indiana Public Service Co.

CAP-3. Docket No. ER80-530, Utah Power & Light Co.

CAP-4. Docket No. ER80-526, Public Service Electric & Gas Co.

CAP-5. Docket No. EL80-34, The Detroit Edison Co.

CAP-6. Docket No. ER78-8, Central Illinois Public Service Co.

CAP-7(A). Docket No. ER76-827, Minnesota Power & Light Co.

CAP-7(B). Docket No. ER77-427, Minnesota Power & Light Co.

CAP-8. Docket No. ER77-277 (Phase 1), Pennsylvania Power Co.

CAP-9. Docket No. ER79-182, Commonwealth Edison Co.

CAP-10. Docket No. ES80-73, Gulf States Utilities Co.

Miscellaneous Agenda—461st Meeting—September 10, 1980, Regular Meeting

CAM-1. Docket No. QF80-7, South San Joaquin Irrigation District.

CAM-2. Docket No. QF80-11, Hunt-Wesson Foods.

CAM-3. Docket No. RA80-99, Union Carbide, Inc.

Gas Agenda—461st Meeting, September 10, 1980, Regular Meeting

CAG-1. Docket No. TA80-2-18 (PGA80-3, IFR80-3, DCA80-2, LPUT80-2 and AP80-1), Texas Gas Transmission Corp.

CAG-2. Docket No. TA80-2-23 (PGA80-4, IPR80-3 and DCA80-2), Eastern Shore Natural Gas Co.

CAG-3. Docket No. TA80-1-3 (PGA80-2), Chattanooga Gas Co.

CAG-4. Docket No. RP80-132, Southwest Gas Corp.

CAG-5. Docket No. RP80-125, Columbia Gas Transmission Corp.

CAG-6. Docket No. RP78-88, Transwestern Pipeline Co.

CAG-7. Docket No. RP79-76, Cities Service Gas Co.

CAG-8. Docket No. RP79-57, Northwest Pipeline Corp.

CAG-9. Docket No. CI78-186, Mesa Petroleum Co.

CAG-10. Docket No. CP80-362, Panhandle Eastern Pipe Line Co.

CAG-11. Docket No. CP80-355, Columbia Gas Transmission Corp.

CAG-12. Docket No. CP80-330, Columbia Gulf Transmission Co.; Consolidated Gas Supply Corp. and Texas Gas Transmission Corp.

Docket No. CP80-385, Columbia Gulf Transmission Co.; Consolidated Gas Supply Corp. and Texas Gas Transmission Corp.

CAG-13. Docket No. CP80-268, Equitable Gas Co.

CAG-14. Docket No. CP80-232, National Fuel Gas Supply Corp.

CAG-15. Docket Nos. CP78-253 and CP78-254, Northwest Pipeline Corp. Docket No. CI80-33, IGC Production Co.

CAG-16. Docket No. CP80-444, Michigan Wisconsin Pipe Line Co.

CAG-17. Docket No. CP80-371, Cabot Corp.

CAG-18. Docket No. CP80-351, National Fuel Gas Supply Corp. and National Gas Storage Corp.

CAG-19. Docket No. CP77-417, Transcontinental Gas Pipe Line Corp.

Docket No. CP79-409, Texas Eastern Transmission Corp. Docket No. CP80-311, Texas Eastern Transmission Corp. and Transcontinental Gas Pipe Line Corp.

CAG-20. Docket No. CP80-338, Transcontinental Gas Pipe Line Corp. and United Gas Pipe Line Co.

CAG-21. Docket No. CP80-334, Arkansas Louisiana Gas Co.

CAG-22. Docket No. CP80-222, et al., El Paso Natural Gas Co.; Clay Basin Storage Co.; Northwest Pipeline Corp. and Mountain Fuel Resources Inc.

CAG-23. Docket No. CP78-256, Algonquin Gas Transmission Co. and Algonquin LNG.

CAG-24. Docket No. CP80-357, Colorado Interstate Gas Co.

Power Agenda—461st Meeting, September 10, 1980, Regular Meeting**I. Licensed Project Matters**

- P-1. Project No. 108, Northern States Power Co.
P-2. Docket No. EL79-17, Swan Lumber Co.

II. Electric Rate Matters

- ER-1. Docket No. ER80-520, Montaup Electric Co.
ER-2. Docket No. ER80-238, Public Service Co. of Oklahoma.
ER-3. Docket No. ER80-447, Public Service Co. of Colorado.
ER-4. (A) Docket No. E-9563, Bonneville Power Administration (Wheeling Rates). (B) Docket No. EF80-2011, Bonneville Power Administration (System Rates). Docket No. RM80- , Proposed Rulemaking on Review of Federal Rate Schedules. (C) Docket No. EF79-4011, Southwestern Power Administration (System Rates). (D) Docket No. EP79-4021, Southwestern Power Administration (Sam Rayburn Dam Project).
ER-5. Docket No. E-7704, *The Electric and Water Plant Board of the City of Frankfort, Kentucky v. Kentucky Utilities Co.* Docket No. E-7669, Public Service Co. of Indiana. Docket No. E-7937, Indianapolis Power & Light Co. Docket No. E-8053, Kentucky Utilities Co.
ER-6. Docket No. RE80-11, Southern California Edison Co.
ER-7. Docket No. EL80-4, Metropolitan Edison Co.

Miscellaneous Agenda—461st Meeting, September 10, 1980, Regular Meeting

- M-1. Docket No. RM79-28, Amendments to Part 32 of the Regulations Under the Federal Power Act; Regulation Governing Interchange Energy Transmission Rates for Section 202(c) Emergencies.
M-2. Reserved.
M-3. Reserved.
M-4. Docket No. RM80-18, Treatment Under the Incremental Pricing Program of Natural Gas Used as Boiler Fuel to Raise Steam Which Forms an Integral Step in the Manufacturing Process for Fertilizer.
M-5. Docket No. RM80-14, Final Regulations Under Sections 105 and 106(b) of the Natural Gas Policy Act of 1978.
M-6. Docket No. RM80-21, Regulations Under Section 110 of the Natural Gas Policy Act of 1978.
M-7. Docket No. RM80-11, Statement of Policy on Distributor Access to Outer Continental Shelf Gas.
M-8. Docket No. RM80-33, Final Rules for Part 270, Subpart B, Sections 270.201, 270.202 and 270.204.
M-9. Docket No. RM79-67, Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978.
M-10. Docket No. RM80- , Interpretative Rule and Amendment to 18 CFR Section 282.202(A)(1).
M-11. Docket No. RM80- , Delegation of Authority Under Section 206(d) of the NGPA to OPR Director.

Gas Agenda—461st Meeting, September 10, 1980, Regular Meeting**I. Pipeline Rate Matters**

- RP-1. Docket No. OR78-5, Northville Dock Pipe Line Corp. and Consolidated Petroleum Terminal, Inc.
RP-2. Docket Nos. RP77-107 and RP78-68, United Gas Pipe Line Co.
RP-3. Docket Nos. RP74-86 and RP76-97, Gulf Energy & Development Corp.

II. Producer Matters

- CI-1. Docket Nos. CI77-298 and IN79-3, Tenneco Inc., et al. Docket Nos. G-3973, G-7360, G-11936, G-11943 and G-11946, Mobil Oil Corp.

III. Pipeline Certificate Matters

- CP-1. Docket No. RP75-79 (Phase II), *Lehigh Portland Cement Co. v. Florida Gas Transmission Co.* Docket No. CP77-44, *Abitibi Corp. v. Florida Gas Transmission Co.*
CP-2. Docket No. CP74-94 (Phase I and Phase II), *United Gas Pipe Line Co., Complainant, v. Billy J. McCombs, R. James Stillings, d.b.a. Gastill Co., David A. Onsgard, Basin Petroleum Corp., Louis H. Haring, Jr., National Exploration Co., E.I. Du Pont de Nemours & Co., Bill Forney, Sr., and Bill Forney, Inc., Respondents.*
CP-3. Docket No. CP74-314, *El Paso Natural Gas Co. Docket No. CP76-327, Northwest Pipeline Corp. Docket No. CI77-526, Sun Oil Co., et al.*
CP-4. Docket No. CP80-176, Michigan Wisconsin Pipe Line Co.
CP-5. Docket Nos. CP80-43, CP66-110, CP70-19, CP70-100, CP71-222 and CP71-299, Great Lakes Gas Transmission Co.
CP-6. Docket No. CP78-181, Consolidated Gas Supply Corp.
CP-7. Docket No. SA80-59, Southern Natural Gas Co.

Kenneth F. Plumb,
Secretary.

[S-1850-80 Filed 9-3-80; 1:54 pm]

BILLING CODE 6450-85-M

3**FEDERAL MARITIME COMMISSION.**

TIME AND DATE: September 9, 1980, 9 a.m.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Monthly Report of actions taken pursuant to authority delegated to the Managing Director.
2. Chumet Shipping Co., Inc.—Independent Ocean Freight Forwarder License No. 619—Possible Violations of Shipping Act, 1916 and Commission General Order 4.
3. Far Eastern Shipping Company—Possible Violations of Section 16, Second Paragraph, Section 18(b)(3), and Section 18(c) of the Shipping Act, 1916.
4. Docket No. 80-44: Licensing of Independent Ocean Freight Forwarders—Publication of Applications—Review of

comments received in response to notice of proposed rulemaking.

5. Policy Statement for Exemption of Independent Self-Policing Requirements under General Order 7.

CONTACT PERSON FOR MORE

INFORMATION: Francis C. Hurney,
Secretary, (202) 523-5725.

[S-1640-80 Filed 9-3-80; 9:13 am]

BILLING CODE 6730-01-M

4**NATIONAL CREDIT UNION ADMINISTRATION:**

TIME AND DATE: 9:30 a.m., Wednesday, September 10, 1980.

PLACE: 1776 G Street NW., Washington, D.C., 7th Floor Board Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rate.
2. Consideration of U.S. Central Agent group for CLF membership.
3. Report on actions taken under delegations of authority.
4. Applications for charters, amendments to charters, bylaws amendments, mergers as may be pending at that time.

RECESS: 10:15 a.m.

TIME AND DATE: 10:30 a.m.

PLACE: 1776 G Street NW., Washington, D.C., 7th Floor Board Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

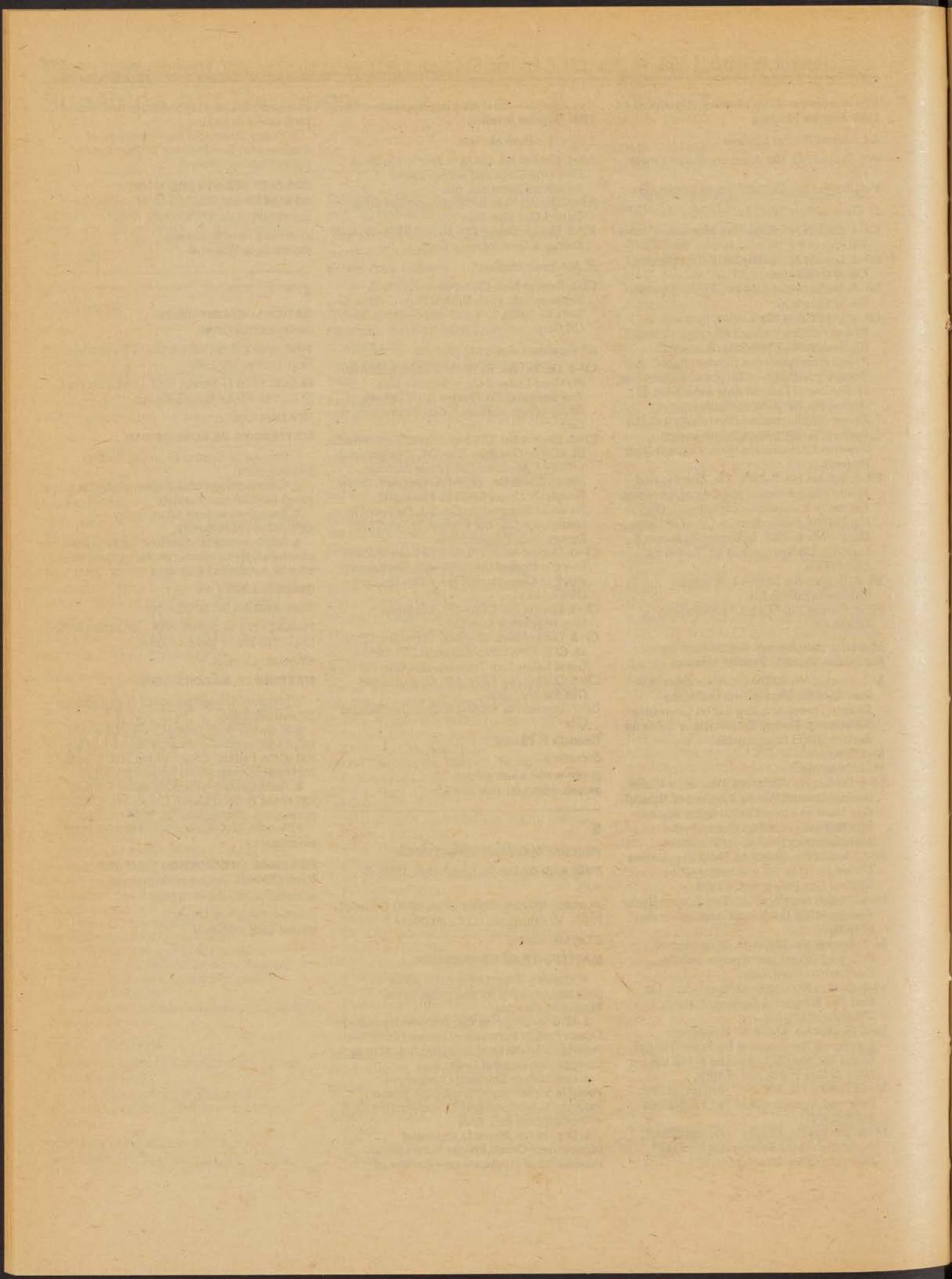
1. Mergers. Closed pursuant to exemptions (8) and (9)(A)(ii).
2. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Administrative Actions under Section 207 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A) and (9)(B).
4. Personnel Actions. Closed pursuant to exemption 6.

FOR MORE INFORMATION CONTACT:

Joan O'Neill, Program Assistant,
telephone (202) 357-1100.

[S-1651-80 Filed 9-3-80; 2:46 pm]

BILLING CODE 7535-01-M



federal register

Friday
September 5, 1980

Part II

**Department of
Housing and Urban
Development**

Office of the Secretary

**Improving Government Regulations;
Semiannual Agenda**

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

Office of the Secretary

24 CFR Subtitles A and B

[Docket No. N-80-1019]

**Improving Government Regulations;
Semiannual Agenda of Significant
Regulations**

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of significant regulations under development or review.

SUMMARY: Pursuant to Section 2(a) of Executive Order 12044, "Improving Government Regulations," as extended by Executive Order 12221, the Department is publishing its fourth semiannual agenda of significant regulations. This agenda lists regulations that will be under development or review through January 31, 1981.

ADDRESSES:

Rules Docket Clerk, Office of Regulations, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-7603.

Office of Legislation and Intergovernmental Relations, Department of Housing and Urban Development, Room 10120, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-5005.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Executive Order 12044, "Improving Government Regulations" (43 FR 12661), as extended by Executive Order 12221 (45 FR 44249), directs each Executive Agency to adopt procedures to improve existing and future regulations. Publication of an agenda of significant regulations is required at least semiannually in order to give the public adequate notice of agency rulemaking activities.

The Department issued its first semiannual agenda on February 1, 1979 (44 FR 6674), its second agenda on August 1, 1979 (44 FR 45342), and its third agenda on February 5, 1980 (45 FR 7978).

In fulfillment of requirements imposed by the Executive Order, this agenda lists

significant regulations under development or review by the Department for the period through January 31, 1981. For all listed regulations, the agenda (1) describes the actions being taken; (2) indicates the need for that action; and (3) provides the name and telephone number of an agency official familiar with the regulation. In addition, with respect to regulations under development, the agenda indicates the legal basis for the action and, where known, whether a regulatory analysis is to be prepared.

The agenda also indicates the status of significant regulations which were listed in the February 5, 1980 agenda.

Public comment on the agenda is invited and should be submitted to the Rules Docket Clerk. General purpose State and local governments, and national organizations representing general purpose State and local governments, are invited to notify HUD's Office of Legislation and Intergovernmental Relations of those rules in which they have particular interest. The Office of Legislation and Intergovernmental Relations will acknowledge receipt of any such expression of interest and will bring the matter to the attention of the appropriate drafting office for follow-up attention. Comments should be sent to the appropriate address listed above.

*Fourth Semiannual Agenda of
Significant Regulations*

**I. REGULATIONS UNDER
DEVELOPMENT**

OFFICE OF HOUSING

A. New Regulations

**1. H-8-80. Alternate Graduated Payment
Mortgage Program**

Description. Would provide a graduated mortgage with a lower cash down payment than under the existing program.

Need. To comply with statutory law.

Authority. Section 211, National Housing Act, 48 Stat. 1246, 12 U.S.C. 1709, 1715(a).

Regulatory Analysis. Yes.

Contact. Rhennie Cook, 202-426-7212.

Status. Interim rule published May 30, 1980. Final rule in preparation.

**2. H-10-80. Single Family Mortgage
Insurance—High Ratio Loans for Dwellings
With Warranty Plans**

Description. Would permit high ratio loans for properties not approved prior to start of construction but which are built under acceptable consumer protection or warranty plans.

Need. To provide more attractive financing terms and to encourage builder use of warranty plans.

Authority. Section 211, National Housing Act, 48 Stat. 1246, 12 U.S.C. 1715b.

Regulatory Analysis. Yes.

Contact. Rhennie Cook, 202-426-7212.

Status. Interim rule published July 9, 1980. Final rule in preparation.

**3. H-13-80. Rent Supplement Program—
Definition of Eligible Tenant**

Description. Would change the definitions of tenant eligibility and adjusted income in the Section 101, Rent Supplement Program to that of the Section 8 program.

Need. To implement Section 203 of the Housing and Community Development Amendments of 1979.

Authority. Section 101(g), Housing and Urban Development Act of 1965, Pub. L. 89-117, 79 Stat. 451, 12 U.S.C. 1701s.

Regulatory Analysis. No.

Contact. James T. Tahash, 202-426-8730.

Status. Interim rule in preparation.

4. H-14-80. Flexible Subsidy Program

Description. Would allow the Flexible Subsidy Loan Program to be used for certain limited dividend projects.

Need. To carry out Congressional intent to implement Flexible Subsidy Program as a loan to the project owner wherever possible.

Authority. Section 201(g) of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, 42 U.S.C. 5301.

Regulatory Analysis. No.

Contact. James J. Tahash, 202-426-8730.

Status. Interim rule published May 23, 1980. Final rule in preparation.

**5. H-15-80. Section 235 Program—Eligibility
of Cooperative Housing Units and Existing
Condominium Units**

Description. Would permit Section 235 assistance payments for eligible families who are likely to be involuntarily displaced without such assistance.

Would also permit assistance in acquiring membership in a cooperative association or in purchasing an existing condominium unit.

Need. To define types of dwellings eligible for Section 235 mortgage insurance.

Authority. Section 235, National Housing Act, 48 Stat. 1246, 12 U.S.C. 1701.

Regulatory Analysis. No.

Contact. Doris Stokes, 202-426-0070.

Status. Proposed rule in preparation.

**6. H-16-80. Section 236 Program—Definition
of Eligible Tenant**

Description. Would change definitions of eligible tenant and adjusted income in the Section 236 program to that of the Section 8 program.

Need. To implement Section 203 of the Housing and Community Development Amendments of 1979.

Authority. Section 236, National Housing Act, 48 Stat. 1246, 12 U.S.C. 1701, as added by Section 201(a) Housing and Urban Development Act of 1968, Pub. L. 90-448, 82 Stat. 476, 498.

Regulatory Analysis. No.
Contact. James J. Tahash, 202-426-8730.

Status. Interim rule in preparation.

7. H-21-80. Public Housing Modernization Program—Comprehensive Improvement Assistance

Description. Would prescribe policies and procedures for upgrading of physical conditions and management performance with regard to existing public housing.

Need. To implement anticipated Housing and Community Development Amendments of 1980.

Authority. Housing and Community Development Amendments of 1980.

Regulatory Analysis. No.
Contact. Thomas Sherman, 202-755-5380.

Status. Interim rule in preparation.

8. H-22-80. Sections 8, 235 and 236 Programs—Applicant Preference

Description. Would require that preference be given to families involuntarily displaced or living in substandard housing.

Need. To implement the requirements of the Housing and Community Development Amendments of 1979.

Authority. Housing and Community Development Amendments of 1979, Pub. L. 96-153, 93 Stat. 1101.

Regulatory Analysis. No.
Contact. Madeline Hastings, 202-755-5656.

Status. Proposed rule in preparation.

9. H-25-80. Section 8 Housing Assistance Payments Program—Special Allocations

Description. Would permit owners of projects to submit written requests for rent increases on contract units on the basis of need when Automatic Annual Adjustment Factor is not sufficient.

Need. To make projects more viable and to prevent losses to the insurance fund where the Automatic Annual Adjustment Factor is not sufficient based upon the current inflationary rates.

Authority. Section 7(d), Department of HUD Act, Pub. L. 89-174, 79 Stat. 667, 42 U.S.C. 3535(d); Section 5(b) and Section 8, U.S. Housing Act of 1937, Pub. L. 93-383, 88 Stat. 633; 42 U.S.C. 1437(b).

Regulatory Analysis. No.
Contact. James J. Tahash, 202-426-8730.

Status. Interim rule in preparation.

10. H-26-80. Section 8 Housing Assistance Payments Program—Handicapped Families

Description. Would make eligible certain handicapped families with annual incomes exceeding normal program limits.

Need. To make eligible for Section 8 assistance a group that so far has not been eligible.

Authority. Section 7(d)(4), Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. No.
Contact. Joyce Ann Bassett, 202-755-7373.

Status. Proposed rule in preparation.

11. H-41-79. Application Fees for Insurance of Existing Properties

Description. (1) Would eliminate the application fee charged by the Department on both proposed and existing applications for Single Family mortgage insurance and (2) would permit the mortgagee to collect an appraisal fee and inspection fee, if required, and disburse the payments directly to fee personnel.

Need. To eliminate HUD participation in application billing and fee disbursement processes.

Authority. Section 211, National Housing Act, 48 Stat. 1246, 12 U.S.C. 1715b.

Regulatory Analysis. No.
Contact. Brian Chappelle, 202-426-7212.

Status. Interim rule published May 8, 1980. Final rule in preparation.

12. H-10-78. Insurance of Mortgages on Condominium Projects

Description. Would permit home mortgage insurance on single family units in existing conventionally financed condominiums.

Need. To provide purchasers a means to finance purchase of units in conventionally financed projects heretofore denied by regulations.

Authority. Sections 313, Housing and Community Development Amendments of 1978; Pub. L. 95-557, 92 Stat. 2080.

Regulatory Analysis. No.
Contact. Joe Emmi, 202-426-0070.

Status. Proposed rule published January 21, 1980. Final rule in preparation.

13. H-12-78. Part 235 Interest Subsidy for Purchasers of Mobile Home and Lot

Description. Would provide for an interest subsidy for low-income families who wish to purchase a mobile home and lot.

Need. To assist low income families to qualify for home ownership.

Authority. Section 235(i), National Housing Act, 48 Stat. 1246, 12 U.S.C. 1701.

Regulatory Analysis. No.

Contact. James Anderson, 202-755-6880.

Status. Proposed rule in preparation.

14. H-53-78. Section 8 Existing Housing Program—Elimination of Rent Reduction Incentive

Description. Would delete the Rent Reduction Incentive which prohibits Public Housing Agencies from reducing the subsidy toward rent for families who select units renting for less than the HUD approved maximum rent.

Need. To comply with GAO and Senate Appropriations Committee recommendations.

Authority. Section 8, U.S. Housing Act of 1937, 42 U.S.C. 1437 et seq.

Regulatory Analysis. No.
Contact. Madeline Hastings, 202-755-5656.

Status. Proposed rule published September 26, 1979. Final rule in preparation.

15. H-60-78. Public Housing—Occupancy Limits for Single, Non-Elderly Persons

Description. Would implement the provision of the Housing and Community Development Amendments of 1978 which increased the limitation on the percentage of public housing and section 8 units under the jurisdiction of a PHA that may be occupied by single, nonelderly persons from 10 to 15 percent.

Need. To comply with the Housing and Community Development Amendments of 1978.

Authority. Section 206(c) of the Housing and Community Development Amendments of 1978; Pub. L. 95-557, 92 Stat. 2080.

Regulatory Analysis. No.
Contact. Pris Banks, 202-755-7373.
Status. Proposed rule published March 3, 1980. Final rule in preparation.

16. H-64-78. Mortgagee Approval—Eligibility Requirements

Description. Would provide greater definition and more comprehensive guidance to the Department and residential mortgage lenders in the application and administration of HUD's mortgagee approval requirements.

Need. To make present regulations reflect current policies and procedures.

Authority. Section 2, National Housing Act, 48 Stat. 1246, 12 U.S.C. 1701 et seq.

Regulatory Analysis. No.
Contact. Andrew Zirnekliis, 202-755-7330.

Status. Interim rule published July 30, 1980.

17. H-77-78. Previous Participation Review and Clearance

Description. Would update present regulations and simplify certification

requirements and procedures for proposed principals in multifamily housing programs.

Need. To update the 1966 applicant pre-screening process to accommodate changes in multifamily programs and management requirements.

Authority. Section 7(d), U.S. Department of HUD Act, 79 Stat. 676, 42 U.S.C. 3535(d), National Housing Act, 48 Stat. 1246, 42 U.S.C. 1701 et seq.

Regulatory Analysis. No.

Contact. Jon Will Pitts, 202-755-6533.

Status. Proposed rule published March 6, 1980. Final rule published August 14, 1980.

B. Previously Listed Regulations

1. H-1-79. Public Housing-Development Phase

Description. Would amend 24 CFR Part 841 to make changes in processing of applications/proposals for the development of public housing projects. Changes would reduce the processing time between submission of an application/proposal and start of construction.

Need. To simplify development phase of public housing and reduce processing time.

Authority. U.S. Housing Act of 1937, as amended by HCD Act of 1974; Pub. L. 93-383, 88 Stat. 833.

Regulatory Analysis. No.

Contact. Gerald Benoit, 202-755-5846.

Status. Interim rule published August 9, 1979; effective date deferred indefinitely on November 7, 1979 in response to comments received. Final rule in preparation.

2. H-3-79. Tax Exempt Obligations of Public Housing Agencies—Use of Guaranteed Mortgage-Backed Securities

Description. Would add new subpart to 24 CFR Part 811 to govern use of Federally-guaranteed mortgage-backed securities in connection with tax-exempt obligations for insured section 8 multifamily projects.

Need. To permit greater flexibility in financing of Section 8 multifamily projects.

Authority. Sections 3(b), 5(b), 8, 11(b) of U.S. Housing Act of 1937, as amended by HCD Act of 1974; Pub. L. 93-383, 88 Stat. 833.

Regulatory Analysis. No.

Contact. Lynda Murphy, 202-426-7113.

Status. Proposed rule published June 28, 1979. Final rule published June 18, 1980.

3. H-4-79. Guarantees for Taxable Obligations of State Housing Agencies

Description. Would amend 24 CFR Part 260 to provide for Federal guaranty of taxable obligations issued by state

housing agencies for development of low-income housing.

Need. To substitute Federal guaranty for interest subsidy grants to taxable obligations of state housing agencies.

Authority. Section 802(c) of the Housing and Community Development Act of 1974; Pub. L. 93-383, 88 Stat. 833.

Regulatory Analysis. No.

Contact. Lynda Murphy, 202-426-7113.

Status. Withdrawn.

4. H-6-79. Section 8 Housing Assistance Payments Program—Disposition of HUD-Owned Projects

Description. Would amend 24 CFR Part 886 to provide for disposition of HUD-owned projects with repairs or moderate rehabilitation to be done by the purchaser.

Need. To facilitate sales of HUD-owned projects.

Authority. Section 8, U.S. Housing Act of 1937, as amended by the Housing and Community Development Act of 1974; Pub. L. 93-383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Analysis. No.

Contact. Robert P. Kalish, 202-755-5730.

Status. Interim rule published December 6, 1979; final rule in preparation.

5. H-9-79. Prepayment Privilege on Insured Mortgages—One- to Four-Family Residences

Description. Would revise 24 CFR 203.22 to permit a mortgage prepayment in full at any time without notice. Present rule requires notice and permits prepayment only on specified dates.

Need. To conform with VA and FNMA practices.

Authority. Section 203 of the National Housing Act, 12 U.S.C. 1709.

Regulatory Analysis. No.

Contact. Julius M. Williams, 202-755-6700.

Status. Interim rule in preparation.

6. H-26-79. Low-Income Public Housing—Lease and Grievance Procedures

Description. Would revise provisions in 24 CFR Part 888 governing requirements for dwelling leases and grievance procedures in the low-income public housing program.

Need. To clarify portions of present regulations.

Authority. U.S. Housing Act of 1937, as amended by Section 324 of the Housing and Community Development Amendments of 1978; Pub. L. 95-557, 92 Stat. 2080.

Regulatory Analysis. No.

Contact. Edward W. Whipple, 202-755-5840.

Status. Proposed rule in preparation.

7. H-36-79. Revision of Minimum Property Standards for One- and Two-Family Dwellings

Description. Would revise the Minimum Property Standards for One- and Two-Family Dwellings (24 CFR Part 200) to incorporate portions of the Model One- and Two-Family Dwelling Code; to remove requirements not bearing on health, life, safety, legislative requirements and durability; and to provide a means for measuring workmanship levels.

Need. To simplify and reduce the size of the Minimum Property Standards by removing requirements not bearing health, life, safety, legislative requirements and durability; and to place responsibility for marketability decisions in the local field offices.

Authority. Section 211, National Housing Act, as amended; 12 U.S.C. 1715b; Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. Yes.

Contact. Richard A. Atwell, 202-755-6580.

Status. Proposed rule in preparation.

8. H-39-79. Sales of Acquired Home Properties to Community-Based Organizations

Description. Would add a new provision to 24 CFR Part 203 to provide guidelines for the non-competitive sale of HUD-acquired home properties to community-based organizations.

Need. To develop uniform guidelines to be used on a nationwide basis.

Authority. Sections 203, 211, National Housing Act, as amended; 12 U.S.C. 1709, 1715b.

Regulatory Analysis. No.

Contact. Freeman B. Grote, 202-755-8680.

Status. ANPR published June 9, 1980. Proposed rule in preparation.

9. H-44-79. Servicing of Single-Family Mortgage Loans

Description. Would revise 24 CFR 203.500 to state that no insured mortgagee may commence foreclosure on a single-family property until the mortgagee has complied with the requirements of the program for assigning mortgages to the HUD Secretary.

Need. To comply with terms of settlement reached in recent litigation.

Authority. Sections 203, 211, National Housing Act, as amended; 12 U.S.C. 1709, 1715b.

Regulatory Analysis. No.

Contact. Richard Burchheit, 202-755-6700.

Status. Final rule published May 5, 1980.

10. H-45-79. Reinstatement of Mortgages on Single-Family Properties

Description. Would revise 24 CFR 203.608 to require reinstatement of a mortgage account regardless of prior foreclosure proceedings.

Need. To reduce the number of claims against the insurance fund.

Authority. Sections 203, 211, National Housing Act, as amended; 12 U.S.C. 1709, 1715b.

Regulatory Analysis. No.

Contact. Julius Williams, 202-755-6700.

Status. Proposed rule published October 31, 1979. Final rule in preparation.

11. H-46-79. Single-Family Mortgage Assignment Procedures

Description. Would revise the procedures set forth in 24 CFR Sections 203.651-203.662 relating to assignment of single-family mortgages to the HUD Secretary.

Need. To eliminate deficiencies in present regulations.

Authority. Sections 211, 230, National Housing Act, as amended; 12 U.S.C. 1715b, 1715u.

Regulatory Analysis. No.

Contact. Julius Williams, 202-755-6700.

Status. Withdrawn.

12. H-54-79. Tenant Participation in Management of Low-Income Public Housing

Description. Would add a new 24 CFR Part 871 to provide for tenant participation in the management of low-income public housing.

Need. To establish policy, standards and procedures for new program.

Authority. Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. No.

Contact. Janice Rattley, 202-755-6460.

Status. Proposed rule in preparation.

13. H-57-79. Admission Requirements for Low-Income Public Housing

Description. Would amend 24 CFR Part 860, Subpart B to give displaced families and families living in substandard housing priority for admission to low-income public housing.

Need. To implement statutory provision.

Authority. U.S. Housing Act of 1937, as amended by Section 206 of the Housing and Community Development Amendments of 1979; Pub. L. 96-153, 93 Stat. 1101.

Regulatory Analysis. No.

Contact. Edward C. Whipple, 202-755-5840.

Status. Proposed rule in preparation.

14. H-58-79. Rent Requirements for Low-Income Public Housing

Description. Would amend 24 CFR Part 860, Subpart D by revising the maximum rent-to-income ratio for tenants in low-income public housing.

Need. To implement statutory provision.

Authority. U.S. Housing Act of 1937, as amended by Section 202 of the Housing and Community Development Amendments of 1979; Pub. L. 96-153, 93 Stat. 1101.

Regulatory Analysis. No.

Contact. Edward C. Whipple, 202-755-5840.

Status. Proposed rule in preparation.

15. H-60-79. Low-Income Public Housing—Extension of Annual Contributions Contract

Description. Would add a new 24 CFR Part 889 (1) to provide for extension of the annual contributions contract to permit a continued operating subsidy after completion of debt service and (2) to require the approval of the HUD Secretary for disposition of a project within ten years after payment of operating subsidy.

Need. To implement statutory provision.

Authority. U.S. Housing Act of 1937, as amended by Section 211 of the Housing and Community Development Amendments of 1979; Pub. L. 96-153, 93 Stat. 1101.

Regulatory Analysis. No.

Contact. William Eilerman, 202-755-5808.

Status. Interim rule published January 31, 1980. Revised Interim rule published August 7, 1980.

17. H-68-79. Section 8 Housing Assistance Payments Program—Tenant Contributions

Description. Would amend 24 CFR Part 889 to revise maximum rent-to-income ratio for tenants receiving Section 8 housing assistance payments.

Need. To implement statutory provision.

Authority. U.S. Housing Act of 1937, as amended by Section 202 of the Housing and Community Development Amendments of 1979; Pub. L. 96-153, 93 Stat. 1101.

Regulatory Analysis. No.

Contact. Madeline Hastings, 202-755-5656.

Status. Interim rule in preparation.

18. H-1-78. Single-Family Mortgage Insurance—Occupancy of Property

Description. Would add new sections to 24 CFR Part 203, Subpart C to prescribe revised criteria for determining when HUD will accept conveyance of one- to four-family properties occupied by tenants or former mortgagors.

Need. To cure deficiencies in the present regulations.

Authority. Sections 203, 211, National Housing Act as amended; 12 U.S.C. 1709, 1715b.

Regulatory Analysis. No.

Contact. Freeman B. Grote, 202-755-8680.

Status. Proposed rule published April 20, 1979; final rule in preparation.

19. H-38-78. Coinsurance for Private Mortgage Lenders

Description. Would amend 24 CFR Part 255 to provide coinsurance for private mortgage lenders.

Need. To implement statutory authority for this program.

Authority. Section 244 of the National Housing Act; Pub. L. 93-383, 88 Stat. 633; 12 U.S.C. 1701 et seq.

Regulatory Analysis. No.

Contact. James B. Mitchell, 202-426-4325.

Status. Proposed rule published September 26, 1978; final rule published July 2, 1980.

20. H-42-78. Part 881—Section 8 Substantial Rehabilitation

Description. Would revise the current regulations for the Section 8 Substantial Rehabilitation Program to establish rules and procedures for the advertising, selection, development and administration of housing units to be rehabilitated and assisted.

Need. To incorporate cost containment provisions, make the regulations easier to understand, and simplify processing procedures.

Authority. U.S. Housing Act of 1937, as amended by Housing and Community Development Act of 1974; Pub. L. 93-383, 88 Stat. 633.

Regulatory Analysis. No.

Contact. George O. Hipps, Jr., 202-755-5720.

Status. Interim rule published January 31, 1980. Final rule in preparation.

21. H-46-78. Loans for Housing for the Elderly or Handicapped

Description. Would amend 24 CFR Part 885 to implement new statutory requirement for significant community representation on Section 202 project governing boards and to reduce from 18 to 12 months the time within which construction must begin.

Need. To provide community representation on projects with significant impact on community and to shorten time needed for completion of housing.

Authority. Section 205 of the Housing and Community Development Amendments of 1978; Pub. L. 95-557, 92 Stat. 2080 et seq.

Regulatory Analysis. No.

Contact. George O. Hipps, Jr., 202-755-5720.

Status. Proposed rule published February 13, 1980. Final rule in preparation.

22. H-66-78. Coinsurance for Rental Housing Mortgage Loans by Private Mortgage Lenders

Description. Would amend 24 CFR Part 221 to permit coinsurance for rental housing and mortgage loans insured under Section 221(d)(3) or 221(d)(4) of National Housing Act and made by supervised private financial institutions, such as commercial banks, life insurance companies, mutual savings banks, and savings and loan associations.

Need. To encourage investment in multifamily rental housing by the private sector.

Authority. Section 244 of the National Housing Act; Pub. L. 93-383, 88 Stat. 633.

Regulatory Analysis. Yes.

Contact. Arnold H. Diamson, 202-426-4325.

Status. ANPR in preparation.

23. H-68-78. Section 8 Housing Assistance Payments Program—Housing Finance and Development Agencies

Description. Would set forth the procedures for processing and administration of the Section 8 Housing Assistance Payments Program financed by State Housing Finance and Development Agencies and implement cost containment policies.

Need. To implement cost containment policies.

Authority. Section 8 of the U.S. Housing Act of 1937, Pub. L. 93-383, 88 Stat. 633.

Regulatory Analysis. No.

Contact. Lynda Murphy, 202-426-7113.

Status. Interim rule published January 30, 1980. Final rule published August 22, 1980.

24. H-69-78. HUD-Owned Multifamily Housing Projects

Description. Would amend 24 CFR Part 290 to make changes in the policy and procedures for the management and disposition of HUD-owned multifamily housing projects.

Need. To implement statutory provision.

Authority. Section 203 of the Housing and Community Development Amendments of 1978; Pub. L. 95-557, 92 Stat. 2080, 2088, Section 211, National Housing Act, as amended; 12 U.S.C. 1715b.

Regulatory Analysis. No.

Contact. Robert P. Kalish, 202-755-5730.

Status. Interim rule published October 1, 1979; final rule in preparation.

25. H-70-78. Nondiscrimination Based on Handicap in Federally Assisted Program and Activities

Description. Would set forth procedures and policies to assure nondiscrimination based on handicap in programs and activities receiving HUD financial assistance.

Need. To comply with Section 504 of the Rehabilitation Act of 1937, as amended, and Executive Order 11914, which relate to nondiscrimination against handicapped persons.

Authority. Executive Order 11914—Nondiscrimination with Respect to the Handicapped in Federally Assisted Program, April 28, 1976; Rehabilitation Act of 1973; Pub. L. 93-112, 87 Stat. 355.

Regulatory Analysis. No.

Contact. Anthony S. Freedman, 202-755-6504.

Status. Proposed rule published April 16, 1978. Final rule in preparation.

26. H-71-78. Accessibility Design Standards

Description. Would amend present regulations to prescribe accessibility design standards which apply to all Federal programs involving publicly-owned residential structures constructed, altered or leased with Federal funds. Amendments would conform the rule to legislative changes, make some routine changes, and add a provision to permit program-by-program supplementing of the accessibility standards with numerical or percentage requirements for specific building features such as parking spaces, dwelling units, or elevators.

Need. To clarify present regulations and conform to recent legislation.

Authority. Architectural Barriers Act of 1968, Pub. L. 90-480, 82 Stat. 718.

Regulatory Analysis. No.

Contact. Robert Wehrli, 202-755-7366.

Status. Proposed rule published February 21, 1979; interim rule in preparation.

27. H-73-78. Flexible Subsidy Regulations

Description. Would implement the flexible subsidy program authorizing legislation as enacted by Congress in the 1978 Housing and Community Development Amendments, define eligible activities, and spell out HUD's program oversight responsibilities.

Need. To implement Section 201 of the Housing and Community Development Amendments of 1978.

Authority. The Housing and Community Development Amendments of 1978; Pub. L. 95-557, 92 Stat. 2080.

Regulatory Analysis. Yes.

Contact. Conrad Egan, 202-755-5758.

Status. Interim rule published May 21, 1979. Final rule in preparation.

28. H-82-78. Coinsurance Program for State Housing Finance Agencies

Description. Would amend 24 CFR Part 250 to revise the eligibility requirements and contract rights and obligations under the multifamily coinsurance program for State Housing finance agencies.

Need. To correct errors in present regulations, simplify program operations, and increase program participation.

Authority. Sections 211, 244, National Housing Act, as amended; 12 U.S.C. 1715b, 1715z-9.

Regulatory Analysis. No.

Contact. Lynda Murphy, 202-426-7113.

Status. Proposed rule published December 29, 1978. Final rule in preparation.

29. H-95-78. Tenant Allowance for Utilities in Low-Income Public Housing

Description. Would amend 24 CFR Part 865 to require public housing agencies to set uniform procedures for determining the amount of utility allowances, surcharges and energy saving credits to tenants in low-income public housing.

Need. To clarify, update and standardize the method for establishing utility allowances.

Authority. Sections 6(a)(4), U.S. Housing Act of 1937, 42 U.S.C. 1437d.

Regulatory Analysis. No.

Contact. Charles Ashmore, 202-755-6480.

Status. Proposed rule published January 5, 1979. Interim rule in preparation.

30. H-96-78. Individual Utility Metering

Description. Would add a new section to 24 CFR Part 865 to require public housing agencies to conduct energy audits and to take cost-effective energy conservation measures.

Need. To reduce energy consumption in public housing projects.

Authority. U.S. Housing Act of 1937; 42 U.S.C. 1437 et seq.

Regulatory Analysis. No.

Contact. Jack Van Ness, 202-755-6640.

Status. Proposed rule published December 28, 1978. Final rule published May 7, 1980.

OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

A. New Regulations

1. CPD-5-80. Minority Business Enterprise Requirements for CDBG Recipients and Localities Administering Section 312 Rehabilitation Loans

Description. Would establish requirements for the use of minority business in carrying out CDBG and Section 312 activities.

Need. To overcome past discrimination and increase business opportunities for minorities and women.

Authority. Housing and Community Development Act of 1974, as amended, Pub. L. 93-383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Analysis. To be determined.

Contact. James R. Broughman, 202-755-9267.

Status. Advance Notice of Proposed Rulemaking in preparation.

2. CPD-8-80. Comprehensive Planning Assistance Program

Description. Would revise the Comprehensive Planning Assistance Program regulations to reflect changes in statutory requirements.

Need. To implement amendments now under consideration in Congress to Section 701, Housing Act of 1954.

Authority. Section 701, Housing Act of 1954, 68 Stat. 640, 40 U.S.C. 461.

Regulatory Analysis. No.

Contact. Leroy P. Gonnella, 202-755-5649.

Status. Proposed rule will be prepared when Conference Committee resolves differences between House and Senate versions of the amendments.

3. CPD-10-80. Urban Development Action Grants—Pockets-of-Poverty

Description. Would implement a statutory change extending UDAG eligibility to communities which have "pockets-of-poverty" but do not meet the existing distress criteria.

Need. To conform to legislative amendments.

Authority. Section 119, Housing and Community Development Act of 1974, Pub. L. 93-383, 88 Stat. 633, 42 U.S.C. 5301; as amended by Section 104a, Housing and Community Development Amendments of 1979, Pub. L. 96-153.

Regulatory Analysis. No.

Contact. Catherine Hare, 202-755-7364; Philip Comeau, 202-755-7364.

Status. Interim rule published February 15, 1980. Final rule in preparation.

B. Previously Listed Regulations

1. CPD-1-79. Areawide Housing Opportunity Plan (AHOP)

Description. Would amend basic regulations governing application requirements for the Areawide Housing Opportunity Program.

Need. To update and simplify the present regulations which are published at 24 CFR 891.101 et seq.

Authority. Section 7(d), Department of HUD Act; 42 U.S.C. 3535(d).

Regulatory Analysis. No.

Contact. Gene Hix, 202-755-5649.

Status. ANPR published March 24, 1980. Proposed rule in preparation.

2. CPD-5-79. HUD Procedure for Protection of Floodplains and Wetlands

Description. Would provide (1) policy direction; (2) substantive requirements; and (3) procedural requirements for Departmental Compliance with Executive Orders 11988 and 11990.

Need. To improve the Department's implementation of Federal policy and mandatory provisions of Executive Orders 11988 and 11990.

Authority. Executive Order 11988 (Floodplain Management) 42 FR 26951; Executive Order 11990 (Protection of Wetlands) 42 FR 26961; Section 7(d) Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. No.

Contact. Walter Prybyla, 202-755-3409.

Status. Proposed rule published August 9, 1979. Final rule in preparation.

3. CPD-20-79. Location of HUD-Supported Projects Around Airports

Description. Would establish standards to limit the location of HUD-supported projects in high risk areas around airports.

Need. To minimize risk to residents of HUD-supported projects.

Authority. Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. Not yet known.
Contact. Gretchen Van Hyning, 202-755-8909.

Status. ANPR published March 4, 1980. Proposed rule in preparation.

4. CPD-22-79. Comprehensive Planning Assistance; Section 701 Work Study Program

Description. Would set forth requirements and procedures for applying for Section 701 Work Study Program grants.

Need. To change an informal grant application procedure into a formal one.

Authority. Section 701 of Housing Act of 1954, as amended, Pub. L. 83-560, 68 Stat. 590, 640, 40 U.S.C. 461.

Regulatory Analysis. No.

Contact. Leroy P. Gonnella, 202-755-6290; Howard L. Tutman, Sr., 202-755-6290.

Status. ANPR published April 22, 1980. Proposed rule in preparation.

5. CPD-23-79. Minority Business Enterprise in UDAG Program

Description. Would require a recipient of an Action Grant to set goals for the award of a portion of its construction contracts (for public works and improvements funded by the Action Grant program) to minority businesses.

Need. To carry out an effective affirmative action program in accordance with OMB Circular A-102,

the President's Urban Policy, and 24 CFR 570.601(b)(4), which implements Section 109 of the Housing and Community Development Act of 1974.

Authority. Section 109 of the Housing and Community Development Act of 1974, Pub. L. 93-383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Analysis. No.

Contact. William Hammer, 202-755-6035.

Status. ANPR rule in preparation.

6. CPD-24-79. CDBG Small Cities Program

Description. Would revise the Small Cities Program regulations to clarify and simplify submission requirements by applicants, and modify rating factors to provide for a more equitable rating system.

Need. To clarify and simplify the regulations and make them more equitable.

Authority. Housing and Community Development Act of 1977, Pub. L. 95-128, 91 Stat. 1111.

Regulatory Analysis. No.

Contact. Dick Kennedy, 202-755-6322.

Status. Interim rule for FY 1980 program published June 26, 1979 and corrected July 19, 1979; ANPR for FY 1981 program published December 4, 1979. Proposed rule for FY 1981 published April 8, 1980. Final rule for FY 1981 in preparation.

7. CPD-8-78. CDBG Definition of Low- and Moderate-Income Persons

Description. Would clarify the existing definition of low- and moderate-income persons because the existing definition has created problems due to limitations on availability of data and inconsistency with the lower-income family definition under the Department's housing program.

Need. To clarify existing rule and achieve consistency with other Departmental programs.

Authority. Housing and Community Development Act of 1974, Pub. L. 93-383, 88 Stat. 633, 42 U.S.C. 5301.

Contact. James R. Broughman, 202-755-9267.

Status. Interim rule published February 1, 1978; final rule in preparation.

8. CPD-24-78. Section 312 Rehabilitation Loan Program

Description. Would implement Section 312 of the Housing Act of 1964 and program changes required by the Housing and Community Development Amendments of 1978.

Need. To implement Section 312 of the Housing Act of 1964 and the Housing and Community Development Amendments of 1978.

Authority. Section 312 of the Housing Act of 1964, as amended; Pub. L. 88-560, 78 Stat. 769, 790; 42 U.S.C. 1452(b); Housing and Community Development Amendments of 1978; Pub. L. 95-557, 92 Stat. 2080.

Regulatory Analysis. No.

Contact. Craig Nickerson, 202-755-5973, Mary Kolesar, 202-755-5970.

Status. Proposed rule published April 10, 1980. Final rule in preparation.

9. CPD-29-78. Policies, Responsibilities and Procedures for Protection and Enhancement of Environmental Quality

Description. Would implement the National Environmental Policy Act of 1969, by incorporating the provisions of HUD Handbook 1390.1, Procedures for Protection and Enhancement of Environmental Quality, and of Section 905 of the Housing and Community Development Amendments of 1978.

Need. To modify the Department's environmental review procedures to reflect program changes and/or amendments that have affected the comprehensiveness of the basic document (1390.1 Handbook). The modification would incorporate all of these changes into a single Federal Register document.

Authority. The National Environmental Policy Act of 1969; Pub. L. 91-190, 83 Stat. 852, 42 U.S.C. 4321, et seq.; Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080.

Regulatory Analysis. No.

Contact. Fred D. Regetz, 202-755-6296.

Status. Interim rule published November 27, 1979. Final rule in preparation.

10. CPD-29-78. Hazardous Operations of an Explosive or Flammable Nature

Description. Would establish standards for safety preparation distances or other mitigation measures to provide a healthful and safe living environment to residential or community projects that would be located in close proximity to industrial installations whose activities include hazardous operations with large quantities of fuels or chemicals of an extremely explosive or flammable nature.

Need. To set safety standards for mixed use development in industrial urban areas.

Authority. National Environmental Policy Act of 1969; Pub. L. 91-190, 83 Stat. 852, 42 U.S.C. 4321 et seq.

Regulatory Analysis. Not yet known.

Contact. James Christophulos, 202-755-8909; Michael T. McGee, 202-755-8909.

Status. ANPR published September 10, 1979. Proposed rule published August 19, 1980.

11. CPD-35-78. Indian CDBG Regulations—Housing Assistance Plan

Description. Would amend 24 CFR 571.305(d) and 571.405(e) to make CDBG requirements, pertaining to submittal of Housing Assistance Plans (HAPs), more flexible and responsive to the special needs, cultural traditions, and legal circumstances of eligible Indian tribes and Alaska Natives.

Need. To assist tribes in planning, coordinating and implementing housing with their reservation development.

Authority. Section 107(a)(7) of the Housing and Community Development Act of 1974, Pub. L. 93-383, 88 Stat. 633, 42 U.S.C. 5301; Housing and Community Development Act of 1977, Pub. L. 95-128, 91 Stat. 1111.

Regulatory Analysis. No.

Contact. Marcia Brown, 202-755-6092.

Status. Proposed rule published December 19, 1978. Final rule in preparation.

12. CPD-36-78. Urban Development Action Grants

Description. Would amend existing regulations to reflect changes dictated by needs identified by the Department and participants during the first year of implementation of the UDAG program.

Need. To clarify policy and make technical amendments based on HUD experience to date with this program.

Authority. Section 119 of the Housing and Community Development Act of 1974, as amended, Pub. L. 93-383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Analysis. No.

Contact. Catherine Hare, 202-755-7364.

Status. Proposed rule published May 12, 1980. Final rule in preparation.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SOLAR ENERGY AND ENERGY CONSERVATION BANK

A. New Regulations

1. GNMA-1-80. Solar Energy and Energy Conservation Bank: One- to Four-Family Residential Program

Description. Would provide financial assistance through loan subsidies or matching grants to owners and/or tenants of 1-4 family buildings.

Need. To comply with statute within Congressionally mandated time limit.

Authority. Energy Security Act, Public Law 96-294, Title V, Subtitle A, 12 U.S.C. 3601.

Regulatory Analysis. Yes.

Contact. Joseph Sherman, (202) 755-6443.

Status. Interim rule in preparation.

B. Previously Listed Regulations

None.

OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

A. New Regulations

1. FH&EO-1-80. The Fair Housing Assistance Program—Eligibility Criteria and Funding Standards

Description. Would set forth the eligibility criteria for participants in the Fair Housing Assistance Program (FHAP) and the minimum standards which specific project proposals must meet in order to qualify for consideration under the various components of the program.

Need. To establish criteria for participation in the funding program.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90-284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Steven Sacks, 202-755-5518.

Status. Published as interim rule May 14, 1980 at 45 FR 31880; final rule in preparation.

B. Previously Listed Regulations

1. FH&EO-1-79. Age Discrimination Act of 1975

Description. Would prohibit discrimination on the basis of age in programs and activities Federal financial assistance. Would also specify permissible age distinctions and reasonable factors, other than age, for federally-assisted programs and activities.

Need. To implement the provisions of the Age Discrimination Act of 1975, as amended.

Authority. Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq.

Regulatory Analysis. None.

Contact. Laurence D. Pearl, 202-755-5504.

Status. Proposed rule in preparation.

2. FH&EO-2-78. Discrimination in the Financing of Housing

Description. Would indicate the Department's view of conduct considered unlawful under Section 805 of the Civil Rights Act of 1968 and would require the collection of data by financial institutions on the race, national origin, and sex of applicants for loans or other assistance relating to dwellings.

Need. To deal with recent experience which indicates that some residential mortgage lenders are discriminating against blacks, other minorities, and women in the making of housing loans.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90-284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202-755-6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

3. FH&EO-3-78. Department-Wide Regulations Implementing Executive Order 11063

Description. Would establish compliance review and complaint processing procedures and create a compliance mechanism leading to the imposition of sanctions, including referral of cases to the Attorney General.

Need. Comprehensive regulations are needed to implement Executive Order 11063. The Order requires that all necessary and appropriate action be taken by Federal departments and agencies to prevent discrimination (1) because of race, color, creed, or national origin in residential property and related facilities owned, operated, or provided with Federal financial assistance, and (2) in lending practices with respect to residential property and related facilities of lending institutions, insofar as such practices relate to loans insured or guaranteed by the Federal government.

Authority. Executive Order 11063—Equal Opportunity in Housing, 27 FR 11527, November 20, 1962.

Regulatory Analysis. No.

Contact. Ellen Stern, 202-755-6113.

Status. Proposed rule published September 26, 1979; final rule in preparation.

4. FH&EO-4-78. Discrimination in Housing Advertising

Description. Would provide HUD's interpretation of the provisions of Title VIII of the Civil Rights Act of 1968 with respect to discrimination in advertising for the sale or rental of dwellings. Also would indicate the nature of HUD's inquiry into advertising practices in complaint investigations which allege discrimination in advertising based on race, color, religion, sex, or national origin.

Need. Regulations are needed to implement Section 804(c) of the Civil Rights Act of 1968 which makes it unlawful to make, print, or publish any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex or national origin and to supplement HUD's Fair Housing Advertising Guidelines.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90-284, 82 Stat. 73, 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202-755-6113.

Status. Proposed rule published September 26, 1979; final rule published August 26, 1980.

5. FH&EO-5-78. Discrimination in Real Estate Practice Under Title VIII

Description. Would inform persons engaged in the marketing of real estate for sale or rental of their responsibilities with respect to fair housing in solicitations sales advertising, marketing, and the provision of services pursuant to application of Title VIII of the Civil Rights Act of 1968. Would also provide information regarding access or membership in multiple listing services and real estate brokers' organizations.

Need. Comprehensive regulations are needed to implement Title VIII which prohibits discrimination in the sale or rental of dwellings, discrimination in financing, blockbusting, and discriminatory advertising and which also makes it unlawful to deny any person access to, or membership or participation in, any multiple listing service or real estate brokers' organization based on race, color, religion, sex or national origin.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90-284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202-755-6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

6. FH&EO-6-78. Conduct Which Constitutes Steering Under Title VIII

Description. Would describe real estate practices which could be a violation of Title VIII of the Civil Rights Act of 1968 with emphasis on steering based on race, color, religion, sex, or national origin.

Need. By publishing a regulation which generally describes steering, the Department would aid persons in complying with Title VIII, and would advise prospective buyers and renters of practices, often unrecognized, which unlawfully restrict their range of housing choices.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90-284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202-755-6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

7. FH&EO-7-78. Unlawful Zoning and Land Use Practices Under Title VIII

Description. Would describe the applicability of Title VIII of the Civil Rights Act of 1968 to zoning and land use practices and indicates the tests to be used by HUD in determining whether a violation has occurred.

Need. In dealing with cases where violation of Title VIII through zoning actions was alleged, the courts have provided some indication as to the scope of coverage of Title VIII. Thus, the

courts have held that Title VIII prohibits discriminatory land use and zoning actions. However, the courts have not articulated a standard for compliance with the Fair Housing Law. In administering the Law, HUD can provide assistance to the public, and local agencies by indicating the tests it will apply in its analysis of complaints alleging discriminatory zoning or land use practices.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90-284, 82 Stat. 73, 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202-755-6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

8. FH&EO-8-78. Prohibited Appraisal Practices

Description. Would provide guidance to persons concerning HUD's interpretation of proper standards and policies concerning the appraisal of dwellings; also advises appraisers and the public of HUD's position concerning practices, procedures, and methods of appraisal which can constitute a violation of Title VIII.

Need. HUD complaint experience has shown that appraisals are the subject of many Title VIII complaints. In the investigation of such complaints, we have found that instructional materials recognized as being authoritative on appraisal methods contain directions to appraisers which can result in violations of Title VIII of the Civil Rights Act of 1968. Some efforts have been launched to review these materials; however, this process is cumbersome since the Government and each major association of appraisers have voluminous material relating to appraisal policies. A general statement of appraisal policies and practices which may violate Title VIII will be helpful to appraisers in their work and to the public in understanding fair housing considerations in the appraisal of dwellings.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90-284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Contact. Ellen Stern, 202-755-6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

9. FH&EO-9-78. Residential Redlining Under Title VIII

Description. Would indicate HUD's interpretation of section 804(a) of the 1968 Civil Rights Act with respect to redlining and sets forth the tests to be applied by the Department in investigating allegations of redlining based on race, color, religion, sex or national origin.

Need. To implement Section 804(a) which makes it unlawful "to refuse to

sell or rent * * * or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, or national origin." HUD's experience in this area indicates that applicants may not be aware of real estate practices which constitute redlining because of the subtle nature of the practice.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90-284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202-755-6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

10. FH&EO-10-78. Discriminatory Practices Regarding Property Insurance

Description. Would describe the coverage of Title VIII of the Civil Rights Act of 1968 with respect to denials of property insurance and advises the public as to the tests which HUD will apply in complaint investigations to determine whether violations of Title VIII have occurred.

Need. To implement Title VIII, and to inform prospective owners securing and maintaining property insurance.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90-284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202-755-6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

11. FH&EO-11-78. Affirmative Administration of Federal Program Relating to Housing and Urban Development

Description. Would set forth HUD's interpretation of the Title VIII mandate to administer programs relating to housing and urban development in a manner affirmatively to further the purposes of fair housing, and identifies in general, the nature and types of action HUD will take in the administration of its programs to enhance their impact on the provision of fair housing.

Need. Better implementation of Sections 808(a), 808(d), and 808(e)(3) of the Civil Rights Act of 1968.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90-284, 82 Stat. 73; 42 U.S.C. 3601, et seq.

Regulatory Analysis. No.

Contact. Ellen Stern, 202-755-6113.

Status. ANPR published February 25, 1980; proposed rule in preparation.

12. FH&EO-12-78. Training and Employment Opportunities for Lower Income Residents

Description. Would provide HUD's interpretation of the provisions of Section 3 of the Housing and Urban Development Act of 1968 with respect to opportunities for training and

employment for lower-income residents arising in connection with HUD assisted projects, and for contracting opportunities for business concerns located in or owned in substantial part by persons residing in the area of HUD assisted projects.

Need. HUD's existing Section 3 regulation was promulgated prior to the enactment of the Housing and Community Development Act of 1974, which established the Community Development Block Grant (CDBG) Program. The regulation would provide for interpretations in the context of that program.

Authority. Section 3 of the Housing and Urban Development Act of 1968; Pub. L. 90-448, 82 Stat. 476; 12 U.S.C. 1701, et seq; and Section 118 of the Housing and Community Development Act of 1974, Pub. L. 93-383, 88 Stat. 633.

Regulatory Analysis. No.

Contact. Turner Russell, 202-426-3500.

Status. Proposed rule in preparation.

13. FH&EO-13-78. Implementation of Section 109 of the Housing and Community Development Act of 1974

Description. Would set forth procedures and policies to assure nondiscrimination on grounds of race, color, national origin, or sex in programs and activities receiving assistance under Title I of the Housing and Community Development Act of 1974.

Need. To provide rules governing compliance and enforcement procedures for the nondiscrimination Section 109 of the Housing and Community Development Act of 1974.

Authority. Section 109 of the Housing and Community Development Act of 1974, as amended; Pub. L. 93-383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Analysis. No.

Contact. Laurence Pearl, 202-755-5504.

Status. Proposed rule in preparation.

OFFICE OF NEIGHBORHOOD, VOLUNTARY ASSOCIATIONS, AND CONSUMER PROTECTION

A. New Regulations

None.

B. Previously Listed Regulations

1. NVACP-1-79. Implementation of Building Energy Performance Standards (BEPS)

Description. Would provide guidance and direction to the public and to State and local governments with regard to the implementation of the BEPS issued by the Department of Energy.

Need. To provide rules governing the implementation of BEPS according to the statutory requirements.

Authority. Energy Conservation and Production Act of 1976, Pub. L. 94-385, 90 Stat. 1125.

Regulatory Analysis. Yes.

Contact. Archie Twitchell, 202-376-4572.

Status. Withdrawn. Authority transferred to the Department of Energy.

2. NVACP-2-79. Lead-Based Paint Poisoning Prevention Act Regulations

Description. Would broaden definition of "immediate hazard" and change notification date from properties built prior to 1950 to properties built prior to 1971.

Need. To implement intent of Congress under Title III of the Lead-Based Paint Poisoning Prevention Act.

Authority. Title III, Section 302 of the Lead-Based Paint Poisoning Prevention Act, Pub. L. 91-695, 84 Stat. 2078; 42 U.S.C. 4801, as amended by Pub. L. 93-151, 87 Stat. 565; 42 U.S.C. 4801.

Regulatory Analysis. Yes.

Contact. Otelia K. Hebert, 202-755-5210.

Status. ANPR in preparation.

3. NVACP-5-79. Reimbursement for Expenses for Public Participation

Description. Would establish a program to reimburse members of the public for expenses resulting from participation in HUD decisionmaking.

Need. To implement a Presidential Memorandum dated May 16, 1979 calling for enhanced public participation in agency decisionmaking.

Authority. Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. No.

Contact. Elena Van Meter, 201-755-5353.

Status. Withdrawn.

4. NVACP-7-79. Interstate Land Sales Full Disclosure Act Regulations

Description. Would implement the 1979 amendments to the Interstate Land Sales Full Disclosure Act by revising exemptions, contract revocation provisions, administrative procedures, and State certification procedures.

Need. To implement the 1979 amendments to the Interstate Land Sales Full Disclosure Act.

Authority. Interstate Land Sales Full Disclosure Act, Pub. L. 90-448, 82 Stat. 476, 590, 15 U.S.C. 1701; Housing and Community Development Amendments of 1979, Pub. L. 96-153, 93 Stat. 1101.

Regulatory Analysis. No.

Contact. Alan J. Kappeler, 202-755-8182.

Status. Final rule published June 13, 1980.

5. NVACP-1-78. Neighborhood Self-Help Development Program

Description. Would provide grants and other forms of assistance to qualified neighborhood organizations to undertake specific housing, economic or community development, and other appropriate neighborhood conservation and revitalization projects, in low- and moderate-income neighborhoods which are in need of preservation and revitalization. In the process of providing such assistance, would also increase the capacity of neighborhood organizations to utilize and coordinate resources available from the public and private sectors, and from the residents and neighborhoods themselves, in conserving and revitalizing such neighborhoods.

Need. To implement Title VII of the Housing and Community Development Amendments of 1978.

Authority. Title VII, Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080.

Regulatory Analysis. Not yet known.

Contact. Joseph McNeely, 202-755-8227.

Status. Interim rule published October 22, 1979. Final rule in preparation.

6. NVACP-7-78. Recreational Vehicles and Similar Structures

Description. Would amend the Mobile Home Procedural and Enforcement Regulations to further clarify the applicability of the National Mobile Home Construction and Safety Standards Act of 1974 to recreational vehicles and similar structures.

Need. To clarify definitions of recreational vehicles in establishing their exemption from coverage under the Act.

Authority. The National Mobile Home Construction and Safety Standards Act of 1974; Pub. L. 93-383, 88 Stat. 633, 42 U.S.C. 5301; Section 7(d) Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. No.

Contact. Richard A. Mendlen, 202-426-1872.

Status. Final Interpretative Bulletin published April 21, 1980.

**II. REGULATIONS UNDER REVIEW
OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT****1. CPD. 24 CFR Part 511—Neighborhood Development Program Project Selection System**

Description. Would revoke regulations governing project selection since NDP has been superceded by the Community Development Block Grant Program—Title I of the Housing and Community Development Act of 1974.

(Pub. L. 93-383) as amended, 42 U.S.C. 5301 et seq. (CDBG Program).

Action. Revocation.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule revocation in preparation.

2. CPD. 24 CFR Part 541—Open Space Land Program Project Selection System

Description. Would revoke regulations governing project selection since Open Space Land Program has been superceded by the CDBG program.

Action. Revocation.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule revocation in preparation.

3. CPD. 24 CFR Part 551—Neighborhood Facilities Program Project Selection System

Description. Would revoke regulations governing project selection since NFP has been superceded by the CDBG Program.

Action. Revocation.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule revocation in preparation.

4. CPD. 24 CFR Part 556—Evaluation of Preliminary Applications for Basic Water and Sewer Facilities Grants

Description. Would revoke regulations containing application requirements since the Basic Water and Sewer Facilities Grant Program has been superceded by the CDBG Program.

Action. Revocation.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule revocation in preparation.

5. CPD. 24 CFR Part 561—Public Facility Loans Project Selection System

Description. Would revoke regulations governing project selection since PFL program has been superceded by the CDBG Program.

Action. Revocation. Program responsibilities transferred to Assistant Secretary for Housing—Federal Housing Commissioner.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977; Richard H. Mapp, Director, Management Analysis and Services Division, 202-755-6623.

Timing. Final rule revocation in preparation.

6. CPD. 24 CFR Part 500—Renewal Assistance

Description. Would delete from publication, without prejudice, regulations for this program which has been superceded by the CDBG Program.

Action. Deletion.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule deletion in preparation.

7. CPD. 24 CFR Part 540—Open Space Land

Description. Would delete, without prejudice, regulations for this program which has been superceded by the CDBG Program.

Action. Deletion.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule deletion in preparation.

8. CPD. 24 CFR Part 555—Grants for Basic Public Water and Sewer Facilities

Description. Would delete, without prejudice, regulations for this program which has been superceded by the CDBG Program.

Action. Deletion.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule deletion in preparation.

9. CPD. 24 CFR Part 580—Model Cities Transition Policies

Description. Would delete, without prejudice, regulations for this program which has been superceded by the CDBG Program.

Action. Deletion.

Contact. Bill Thomas, Office of Block Grant Assistance, 202-755-5977.

Timing. Final rule deletion in preparation.

10. CPD. 24 CFR Part 58—Environmental Review Procedures for the Community Development Block Grant Program

Description. Would revise and clarify the changes in the environmental review requirements contained in the Interim Rule, 24 CFR Part 58, issued by the Department (44 FR 45568-45585, August 2, 1979). Redrafted rule would reflect and supplement the new NEPA Regulations of the Council on Environmental Quality for the compliance of Title I actions under the CDBG and UDAG programs with the procedural provisions of Section 102(2) of NEPA.

Action. Redrafting.

Contact. Charles Thomsen, Office of Environmental Quality, Community Planning and Development—202-755-6296.

Timing. Final rule in preparation.

11. CPD. 24 CFR Part 570, CDBG—Subparts C & D, Eligible Activities and Entitlement Grants

Description. Would implement certain technical amendments to the CDBG regulations and correct various erroneous references, typographical mistakes and other errors.

Action. Revision.

Contact. James R. Broughman, Entitlement Cities Division, Community Planning and Development, 202-755-9267.

Timing. Final rule in preparation.

12. CPD. 24 CFR Part 570, CDBG—Subpart O—Program Management

Description. Would revise Section 570.906 relating to the submission frequency and content of the Grantee Performance Report.

Action. Revision.

Contact. James R. Broughman, Entitlement Cities Division, Community Planning and Development, 202-755-9267.

Timing. Final rule in preparation.

13. CPD. 24 CFR Part 570, CDBG—Subpart E—Secretary's Fund, New Communities

Description. Would revise Section 570.403 governing grants in behalf of new communities from the Secretary's 3% Discretionary Fund; would clarify and make technical changes to the existing regulations, incorporating new provisions reflecting changes in Departmental policy; and would integrate more closely the CDBG and New Communities Programs.

Action. Revision.

Contact. Fred McLaughlin, Office of New Communities Development Corporation, 202-755-6808 or Donald G. Dodge, Office of Policy Planning, Community Planning and Development, 202-755-6090.

Timing. Final rule in preparation.

14. CPD. 24 CFR Part 570, CDBG—Technical Assistance Grants and Contracts

Description. Would revise Section 570.402 to focus on more explicit priorities for Technical Assistance Funding; would clarify application and review procedures and provide submission deadlines and funding levels for fiscal year 1980.

Action. Revision.

Contact. Donald G. Dodge, Office of Policy Planning, Community Planning and Development, 202-755-6090.

Timing. Proposed rule in preparation.

15. CPD. 24 CFR Part 570, CDBG—Subpart N—Urban Renewal Provisions

Description. Would revise Part 570, Subpart N relating to the submission, frequency and content of the Grantee Performance Report.

Action. Revision.

Contact. Peter Rowan, Office of Block Grant Assistance, Community Planning and Development, 202-755-1871.

Timing. Final rule in preparation.

16. CPD. 24 CFR Part 571—CDBG for Indian Tribes and Alaska Natives

Description. Would clarify provisions of the regulations for the CDBG Program for Indian tribes to conform to 1978 statutory requirements and correct editorial errors and omissions.

Action. Revision.

Contact. Donald G. Dodge, Office of Policy Planning, Community Planning and Development, 202-755-6090.

Timing. Final rule in preparation.

NEW COMMUNITIES DEVELOPMENT CORPORATION**1. NCDC. 24 CFR Part 710. Financing Private New Community Development**

Description. Would delete from publication regulations governing communities under the New Communities Act of 1968 (42 U.S.C. 3901, et seq.) which has not been superseded by other legislation. The regulations so deleted from publication would continue to apply to certain projects undertaken pursuant to the 1968 Act until those projects have been completed.

Action. Deletion.

Contact. John Clinton, Office of Program Policy and Management, New Community Development Corporation, 202-755-7362, and Augusta Moore, 202-755-6808.

Timing. Final rule deletion.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION**1. GNMA. 24 CFR Part 320. Description**

Description. Would clarify and simplify existing regulation describing the nature of mortgages eligible for purchase, the basis for fees and charges, the authority for purchasing below-market interest rate mortgages, and the financing of special assistance functions.

Action. Revision.

Contact. Jim Kozuch, 202-755-5593.

Timing. Advance Notice of Proposed Rulemaking scheduled for publication April 1.

2. GNMA. 24 CFR Part 330. Eligible Sellers of Mortgages

Description. Would clarify and simplify existing regulation describing eligibility qualification requirements for selling mortgages to the Association.

Action. Revision.

Contact. Jim Kozuch, 202-755-5593.

Timing. Advance Notice of Proposed Rulemaking scheduled for publication April 1.

3. GNMA. 24 CFR Part 340. Purchase Requirements

Description. Would clarify and simplify existing regulation describing procedures governing the purchase of

mortgages under the special assistance functions.

Action. Revision.

Contact. Jim Kozuch, 202-755-5593.

Timing. Advance Notice of Proposed Rulemaking scheduled for publication April 1.

4. GNMA. 24 CFR Part 350. Servicing and Sales of Mortgages

Description. Would clarify and simplify existing regulation describing requirements for servicers of mortgages and providing for their compensation. Revision would also explain availability of Association owned mortgages for sale to qualified investors.

Action. Revision.

Contact. Jim Kozuch, 202-755-5593.

Timing. Advance Notice of Proposed Rulemaking scheduled for publication April 1.

OFFICE OF ADMINISTRATION**1. Admin. 24 CFR Part 16. Implementation of the Privacy Act of 1974**

Description. Would clarify and simplify existing regulations setting forth procedures governing HUD implementation of the Privacy Act and explaining in particular: methods for requesting documents; provisions for disclosure of information; basis for denials of information; procedures for administrative review of those denials; procedures for correcting or amending records and for appealing HUD determinations regarding correction or amendment of records; disclosure of third party information; schedules for fees; exemptions; and officials to whom Privacy Act requests should be addressed.

Action. Revision.

Contact. Harwood Martin, 202-755-6207.

Timing. Proposed rule in preparation. Publication planned in March.

2. Admin. 41 CFR Part 24. HUD Procurement Regulations

Description. Would clarify and simplify existing regulation setting forth procedures for HUD procurement through contracts of goods and services.

Action. Revision.

Contact. Cheryl Yeargin, 202-724-0038.

Timing. Proposed rule in preparation.

OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

1. FHEO. 24 CFR Part 1—Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development—Effectuation of Title VI of the Civil Rights Act of 1964; Part 2—Practice and Procedure for Hearings Under Part 1 of This Subtitle

Description. Would clarify, simplify and reorganize the existing regulation

describing policy, requirements and procedures to implement Title VI of the Civil Rights Act of 1964.

Action. Revision.

Contact. Laurence D. Pearl, Office of Fair Housing and Equal Opportunity, 202-755-5904.

Timing. Proposed revised rule in preparation.

OFFICE OF HOUSING

1. Housing, 24 CFR Part 203—Mutual Mortgage Insurance and Insured Home Improvement Loans; Subpart A, Eligibility Requirements

Description. Would clarify and simplify existing regulations setting forth requirements for approval of mortgages under the basic mortgage insurance provisions pursuant to the National Housing Act.

Action. Revision.

Contact. John D. McNees, 202-755-6675.

Timing. Proposed rule in preparation.

2. Housing, 24 CFR Part 420—Assistance Payments—Homes for Lower-Income Families

Description. Would revoke existing regulation which is duplicative of 24 CFR Part 235.

Action. Revocation.

Contact. John D. McNees, 202-755-6675.

Timing. Final rule revocation in preparation.

3. Housing, 24 CFR Part 300—Section 23 Housing Assistance Payments Program—New Construction

Description. Would clarify and simplify existing regulations setting forth policies and procedures for housing assistance payments on behalf of low income families who lease newly constructed housing developed in accordance with Section 23 of the U.S. Housing Act of 1937.

Action. Revision.

Contact. Madeline Hastings—202-755-5656.

Timing. Proposed rule in preparation.

4. Housing, 24 CFR Part 801—Section 23 Housing Assistance Payments Program—Substantial Rehabilitation

Description. Would clarify and simplify existing regulations setting forth policies and procedures for housing assistance payments on behalf of low income families who lease substantially rehabilitated housing pursuant to Section 23 of the U.S. Housing Act of 1937.

Action. Revision.

Contact. Madeline Hastings—202-755-5656.

Timing. Proposed rule in preparation.

5. Housing, 24 CFR Part 802—Section 23 Housing Assistance Payments Program—Existing Housing

Description. Would clarify and simplify existing regulations setting forth policies and procedures for making housing assistance payments on behalf of low income families who lease existing housing pursuant to the provisions of Section 23 of the U.S. Housing Act of 1937.

Action. Revision.

Contact. Madeline Hastings—202-755-5656.

Timing. Proposed rule in preparation.

(Sec. 2(a) of Executive Order 12044, 43 FR 21661, March 24, 1978)

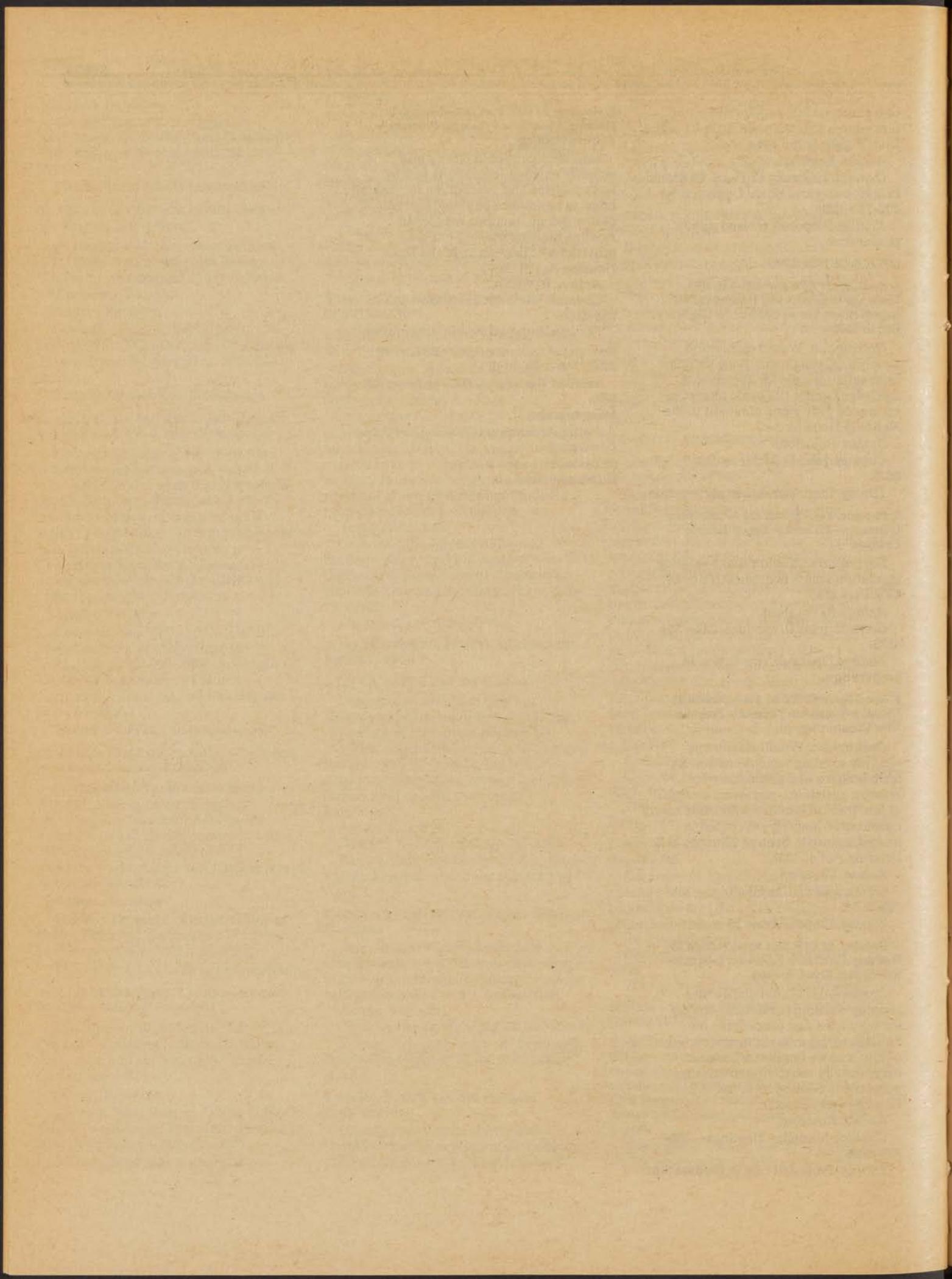
Issued at Washington, D.C., on August 28, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-28995 Filed 9-4-80; 8:45 am]

BILLING CODE 4210-01-M



Federal Register

Friday
September 5, 1980

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and
Federally Assisted Construction; General
Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards
Administration, Wage and Hour
DivisionMinimum Wages for Federal and
Federally Assisted Construction;
General Wage Determination
Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of

publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas
Decisions to General Wage
Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is

encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Employment Standards Administration

Notices

Minimum wages for Federal and federally assisted construction; general wage determination decisions, modifications, and supersedeas decisions: Ala., Alaska, Calif., Colo., Conn., Ind., Kansas, Ky., Md., Mich., Mo., Miss., N.H., N.Y., Pa., Vt., Va., Wisc. and Wyo.

New General Wage Determination
Decision

Vermont.—VT80-2076.

Modifications to General Wage
Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

Alabama:	
AL79-1066.....	Apr. 13, 1979.
Alaska:	
AK80-5115.....	Apr. 25, 1980.
California:	
CA78-5122.....	Aug. 11, 1978.
CA80-5117.....	May 23, 1980.
Connecticut:	
CT80-2073.....	Aug. 15, 1980.
CT80-2074.....	Aug. 15, 1980.
Indiana:	
IN80-2058.....	July 25, 1980.
Kansas:	
KS80-4030.....	May 16, 1980.
Maryland:	
MD77-3119.....	Sept. 9, 1977.
MD78-3046.....	May 19, 1978.
Michigan:	
MI80-2053.....	July 11, 1980.
Mississippi:	
MS80-1079.....	June 27, 1980.
MS80-1084.....	July 25, 1980.
Missouri:	
MO80-4030.....	May 16, 1980.
New Hampshire:	
NH80-2056.....	Aug. 15, 1980.
NH80-2057.....	Aug. 1, 1980.
New York:	
NY79-3028.....	Sept. 7, 1979.
NY80-3022.....	Apr. 4, 1980.
Pennsylvania:	
PA79-3009.....	May 4, 1979.
PA80-3010.....	Apr. 4, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:
AL79-1140(AL80-1091)..... Nov. 23, 1979.
Colorado:
CO80-5101(CO80-5126)..... Feb. 1, 1980.
Kentucky:
KY79-1071(KY80-1102)..... Apr. 20, 1979.
New York:
NY80-3015(NY80-3054)..... Feb. 15, 1980.
Virginia:
VA78-3072(VA80-3051)..... Oct. 13, 1978.
VA79-3055(VA80-3053)..... Dec. 21, 1979.
Wisconsin:
WI78-2131(WI80-2077)..... Oct. 27, 1978.
WI78-2135(WI80-2079)..... Oct. 27, 1978.
WI78-2137(WI80-2081)..... Oct. 27, 1978.
Wyoming:
WY79-5108(WY80-5127)..... Mar. 16, 1979.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 29th day of August 1980.

Dorothy P. Come,
*Assistant Administrator, Wage and Hour
Division.*

BILLING CODE 4510-27-M

Modification Page 1

NEW DECISION

STATE: Vermont
 COUNTY: Chittenden
 DATE: Date of Publication
 DECISION NO.: VT80-2076
 DESCRIPTION OF WORK: Building Construction projects (excluding single family homes and apartments up to and including 4 stories).

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$ 9.98	.65	.70			.03
8.30	.75	.20			.01
10.30	.50	3%+.10			½%
7.07					
6.30	.70	1.00			.10
6.50	.60	.50			.02
10.46					
7.20					
10.52	.59	.63			
7.35					

CARPENTERS
 CEMENT MASONS
 ELECTRICIANS
 IRONWORKERS
 LABORERS
 PAINTERS
 PLUMBERS
 SHEET METAL WORKERS
 SPRINKLER FITTERS
 POWER EQUIPMENT OPERATORS:
 Bulldozer

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$ 12.15	.55	3%+.65			
\$11.25	1.05	3%			.10

Decision # A179-1066 - Mod. #6
 (44-FR-22307-April 13, 1979)
 Madison County, Alabama

Change:
 Electricians and linemen

DECISION NO. AK80-5115
 Mod. #2
 (45 FR 28053-April 25, 1980)

STATEWIDE ALASKA

ADD:
 Residential Electricians
 Wireman

DECISION NO. CA80-5117 - Mod. #6
(45 FR 35110 - May 23, 1980)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California	\$32.60	1.63	2.21	1.00	.10
	16.30	1.63	2.21	1.00	.10
	15.30	1.63	2.21	1.00	.10
ADD: DIVERS: Diver, Wet* Diver, Stand-by* Diver, Tender* *Shall receive a minimum of 8 hours pay for any day or part thereof.					
CHANGE: CARPENTERS: Carpenters Saw Filers Table Power Saw Operators Shinglers; Piledrivermen; Bridge or Dock Carpenters; Derrick Bargemen; Rock Slinger Hardwood Floor Layers Pneumatic Nailer Millwrights					
	13.67	1.63	2.21	1.00	.10
	13.75	1.63	2.21	1.00	.10
	13.77	1.63	2.21	1.00	.10
	13.80	1.63	2.21	1.00	.10
	13.87	1.63	2.21	1.00	.10
	13.92	1.63	2.21	1.00	.10
	14.17	1.63	2.21	1.00	.10

DECISION NO. CA78-5122 - Mod. #10
(43 FR 35835 - August 11, 1978)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California	\$13.67	1.63	2.21	1.00	.10
	13.75	1.63	2.21	1.00	.10
	13.77	1.63	2.21	1.00	.10
Change: Carpenters: Carpenter Saw Filers Table Saw Operators Shinglers; Piledrivermen; Bridge or Dock Carpenter; Derrick Bargemen; Rock Slinger Hardwood Floor Layers Pneumatic Nailer Millwrights					
	13.67	1.63	2.21	1.00	.10
	13.75	1.63	2.21	1.00	.10
	13.77	1.63	2.21	1.00	.10
	13.80	1.63	2.21	1.00	.10
	13.87	1.63	2.21	1.00	.10
	13.92	1.63	2.21	1.00	.10
	14.17	1.63	2.21	1.00	.10

DECISION NO. # CT80-2073 MOD. #1 con't.

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
LABORERS (Heavy and Highway Construction):	8.65	.65	.80		.10
Laborers					
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operators; fence & guard rail erectors; form setters; hand operated concrete vibrator operators; hand operated vibratory compactor operators; Mason tenders; pipe-layers; pneumatic gas & electric drill operators; powdermen & wagon drill operators	8.90	.65	.80		.10
Air track operators; block paver; curb setters	9.15	.65	.80		.10
Blasters	9.40	.65	.80		.10
Open air caisson, cylindrical work and boring crew:					
Top man	8.65	.65	.80		.10
Bottom man	9.15	.65	.80		.10
Fairfield Co.; Remainder of County; Litchfield & Windham Counties					
Change: Marble, Tile, and Terrazzo Helpers	9.55	.50	.50		

DECISION NO. #CT80-2073 - MOD.#1 (45FR 54602 - Aug. 15, 1980)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Fairfield, Litchfield & Windham Cos., Connecticut					
Windham County					
Carpenters	12.50	.90	.65		.03
Add: Millwrights					
Fairfield, Litchfield, and Windham Counties					
Change:					
Elevator Constructors	12.745	1.195	.95	a+b+i	.035
Elevator Constructors Helpers	8.92	1.195	.95	a+b+i	.035
Elevator Constructors Helpers (Probationary)	6.37	1.195	.95	a+b+i	.035
Fairfield, Litchfield & Windham Cos.					
CHANGE:					
LABORERS (Building Construction):	8.65	.65	.80		.10
Laborer					
Asphalt rakers, concrete & power buggy ops, concrete saw ops, chain saw ops, fence & guard rail erectors, form setters, pipelayers, dry stone wall builders, mason tenders, pneumatic drill ops, pneumatic gas & electric drill ops, powdermen & wagon drill operators and Precast erectors	8.90	.65	.80		.10
Air track operators, block pavers; and curb setters, sandblasters, wagon drill operators	9.15	.65	.80		.10
Open air caisson, cylindrical work and boring crew:					
Top man	8.65	.65	.80		.10
Bottom man	9.15	.65	.80		.10

DECISION NO. #CT80-2073 MOD. #1 con't.

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Windham County: except Willimantic Painters					
Change:					
Brush	12.00	.70	.80		.01
Paperhangers	12.96	.70	.80		.01
Sign	12.96	.70	.80		.01
Taping	12.96	.70	.80		.01
Roller	12.51	.70	.80		.01
Structural Steel	12.81	.70	.80		.01
Spraying Oil Paint	15.16	.70	.80		.01
Spraying Epoxy	17.69	.70	.80		.01
Windham County: Willimantic					
Change:					
Steamfitters	13.07	1.36	1.31		.13

DECISION NO. CT80-2074 - Mod. #1 (45 FR 54602 - August 15, 1980)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Hartford, Middlesex, New Haven, New London, and Tolland Counties, Conn. New London County; Tolland County; Mansfield, Union, Willington, Coventry, Hebron, Columbia, Andover, Conn. Carpenters Add: Millwrights	12.50	.90	.65		.03
Hartford, Middlesex, New Haven, New London & Tolland Cos. CT. Change:					
Elevator Constructors	12.745	1.195	.95	a+b+j	.035
Elevator Constructors Helpers	8.92	1.195	.95	a+b+j	.035
Elevator Constructors Helpers (Probationary)	6.37	1.195	.95	a+b+j	.035
CHANGE: LABORERS (Building Construction): Laborer Asphalt rakers, concrete & power buggy ops, concrete saw ops, fence & guard rail erectors, form setters, pipelayers, dry stone wall builders, mason tenders, pneumatic drill ops, pneumatic gas & electric drill ops, powdermen & wagon drill operators and precast erectors Air track operators, block pavers, and curb setters, sandblasters, wagon drill operators Open air caisson, cylindrical work and boring crew: Top man Bottom man	\$ 8.65	.65	.80		.10
	8.90	.65	.80		.10
	9.15	.65	.80		.10
	8.65	.65	.80		.10
	9.15	.65	.80		.10

DECISION NO. CT80-2074 - MOD. #1 (Cont'd):

Hartford, Middlesex, New Haven, New London, & Tolland Cos., Connecticut	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Change: Painters	12.00	.70	.80		.01
Brush	12.96	.70	.80		.01
Paperhangers	12.96	.70	.80		.01
Sign	12.96	.70	.80		.01
Taping	12.51	.70	.80		.01
Roller	12.81	.70	.80		.01
Structural Steel	15.16	.70	.80		.01
Spraying Oil Paint	17.69	.70	.80		.01
Spraying Epoxy					
Plumbers					
Hartford County: Avon, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, E. Windsor, E. Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor, Windsor Locks; Middlesex Co.: Chester Cromwell, Deep River, E. Haddam, E. Hampton, Haddam, Maromas (Atomic River Project) Middlefield, Middletown, & Portland; Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon & Willington.					
OMIT	11.00	1.20	1.10		
Brush, Tapers	11.50	1.20	1.10		
Paperhangers	14.00	1.20	1.10		
Spray	11.58	1.20	1.10		
Hazardous Work					
ADD	12.26	1.10	1.39		.15
Plumbers					

DECISION NO. CT80-2074 - Mod. #1 (Cont'd)

Hartford, Middlesex, New Haven, New London, and Tolland Counties, Connecticut	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
LABORERS (Heavy and Highway Construction): Laborers	8.65	.65	.80		.10
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operators; fence & guard rail erectors; form setters; hand operated concrete vibrator operators; hand operated vibratory compactor operators; Mason tenders; pipe-layers; pneumatic gas & electric drill operators; powdermen & wagon drill operators	8.90	.65	.80		.10
Air track operators; block paver; curb setters	9.15	.65	.80		.10
Blasters	9.40	.65	.80		.10
Open air caisson, cylindrical work and boring crew:					
Top man	8.65	.65	.80		.10
Bottom man	9.15	.65	.80		.10
Hartford, Middlesex, New Haven, New London, & Tolland Cos., CT.					
Change: Marble, Tile & Terrazzo Helpers	9.55	.50	.50		
New London County: Colchester, East Lyme, Groton, Montville					
New London, Norwich, Stonington, Connecticut					

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DECISION NO. CT80-2074 MOD. #1 con't.

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
Hartford, Middlesex, New Haven, New London & Tolland Cos., Connecticut				
Hartford County: Avon, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor & Windsor Locks;				
Middlesex County: Chester, Cromwell, Deep River, E. Haddam, E. Hampton, Haddam, Maromas (Atomic River Project Middlefield, & Portland; Tolland County: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon & Willington.	13.07	1.36	1.31	.13
Change: Steamfitters				

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Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
DECISION NO. DR80-2058 - MOD. #1 (45 FR 49803 - July 25, 1980) Adams, Allen, Bartholomew, Benton, Blackford, Boone, Cass, Clinton, DeKalb, Delaware, Fountaln, Fulton, Grant, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Monroe, Montgomery, Morgan, Noble, Shelby, Steuben, Tippecanoe, Tipton, Wabash, Warren, Wells, White, & Whitley Cos, Indiana				
CHANGE: ASBESTOS WORKERS: Remaining Counties BRICKLAYERS, Caulkers; Cleaners; Painters; & Stonemasons Blackford, Delaware, Hamilton, Jay, Madison, & Tipton Cos. CARPENTERS; Millwrights; Pile-drivers & Soft Floor Layers: Bartholomew (Rem. of Co.); Johnson (Edinburgh); & Shelby (Rem. of Co.) Counties: Carpenters; Soft Floor Layers Millwrights Piledrivers; Burners; & Welders IRONWORKERS: Marion County MARBLE SETTERS: Terrazzo Workers; & Tile Setters: Blackford, Delaware, Hamilton, Jay, Madison, & Tipton Cos: Tile Setters Boone, Hancock, Hendricks, Johnson, Marion, Montgomery, & Morgan Counties: Marble Setters; Tile Setters Terrazzo Workers	\$14.70	.55	1.50	
	12.00	1.00	1.00	.01
	12.09	.75	.90	.04
	12.59	.75	.90	.04
	12.34	.75	.90	.04
	13.15	1.00	2.10	.05
	11.75	1.00	1.00	.01
	13.81	.70	.65	.04
	13.25	.70	.65	.04

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$13.87	1.375	1.10		.05
12.59	.95	.35	1.50	
12.80	.60	.50		.07
12.05	.60	.50		.07
12.425	.60	.50		.07
13.17	.80	.70		
13.07	.45	3%		1/2%
13.72	.45	3%		1/2%
8.13	.45	3%		1/2%
10.83	.45	3%		1/2%
10.83	.45	3%		1/2%
14.45				
14.54	.72	1.60		.10
14.52	1.12	1.20		.12
14.83	.85	1.20		.06
14.20	.85	1.20		.08

Change:
 DECISION #M080-4030 - Mod. #1
 (45 FR 32337 - May 16, 1980)

Cass, Clay, Jackson, Platte,
 Ray, Henry, Johnson & Lafayette
 Counties, Missouri; Johnson &
 Wyandotte Counties, Kansas

Boilermakers

Bricklayers & stonemasons

Carpenters:

Zone 1

Zone 2

Zone 3

Cement masons (Heavy & Highway
 Construction):

Johnson & Wyandotte Counties,
 Kansas

Line Construction:

Zone 2

Linemen

Cable splicers

Groundman

Powderman

Line truck & equipment
 operators

Plasterers

Zone 1

Pipefitters

Plumbers

Sprinkler fitters (Remaining
 Counties)

Sprinkler fitters (Henry, John-
 son & Lafayette Counties, Mo.)

Omit:
 Marble & tile setters' helpers

Add:
 Marble & tile setters' finishers

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
13.25	.70	.53		
13.50	.70	.53		

DECISION NO. IN80-2058 - MOD. #1

ROOFERS:

Benton, Cass, Clinton, Four-
 tain, Montgomery, Tippecanoe,
 Warren, & White Counties:
 Composition, Damp &
 Waterproof
 Slate, Tile, & Asbestos

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DECISION NO. MD78-3046 - MOD. #8 (42 FR 21813 - May 19, 1978) Baltimore City, Maryland	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change: BRICKLAYERS	\$12.13	.90	.75		.07
IRONWORKERS: Structural and Reinforcing	11.71	.90	1.95		.06
Fence Erectors	11.36	.90	1.95		.06
LINE CONSTRUCTION: Linemen, Cable Splicers, Digging and Equipment Operators	13.70	.70	3%		
Winch truck and trucks with pole or steel handling	9.18	.70	3%		
Truck without winch	8.56	.70	3%		
Groundmen	8.63	.70	3%		
PAINTERS: Brush and Roller	9.90	1.10	.65		.09
Spray painting (except steel)	10.15	1.10	.65		.09
Steel painting, any painting using swinging stages and boatswain chairs, sand and water blasting, steam cleaning and all epoxy	10.40	1.10	.65		.09

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DECISION NO. MD77-3119 Mod. #3 (42 FR 45588 - September 9, 1977) Anne Arundel, Calvert, Carroll, Charles, Frederick, Howard, Montgomery, Prince George's, St. Mary's and Washington Counties, Maryland	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT Omit from location, Anne Arundel County					

DECISION NO. MS80-1084-MOD.#2

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
(45 FR 49815 - July 25, 1980) Hinds County, Mississippi				
CHANGE: Bricklayers: Stone, block, & marble masons Caulkers, pointer, & cleaners Tile & Terrazzo Setters	.25 .25 .25 .25	.10 .10 .10 .10		.05 .05 .05 .05

DECISION #MI80-2053-Mod.#1

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
(45 FR 47045 - July 11, 1980) Kent County, Michigan				
CHANGE: Sheet Metal Workers	.92+c	1.20	1.00	.04
DECISION NO. MS80-1079-MOD.#3 (45 FR 43594 - June 27, 1980) Bollivar, Forrest, Jones, Hancock, Harrison, Jackson, Pearl River, Issaquena, Sharkey, Sunflower, Washington, Leflore, Lowndes, Yalobusha, and Warren Counties, Mississippi				
ADD: Hancock, Harrison, Jackson, and Pearl River Counties				
POWER EQUIPMENT OPERATORS: GROUP 7	.50	.30		.05
GROUP 7: Operating Engineers servicing Boilermakers, Electricians, Ironworkers, Piledrivers & Pipefitters				

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DECISION NO. NY79-3028 - Mod. #2

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Roofers	12.25	1.10	1.95		.35
Fitch, Pitch build up	9.25	1.10	1.95		.35
Asphalt Shingle					
Slab, Asbestos, Slate and Tile, and asphalt built up	11.75	1.10	1.95		.35
Sheet Metal Workers	14.5622	2.2369	2.2015		.13
Sprinkler Fitters	14.52	.85	1.20		.08
Laborers: Heavy & Highway Construction					
GROUP I	10.15	1.15	1.15	a	
GROUP II	10.40	1.15	1.15	a	
GROUP III	10.80	1.15	1.15	a	
Power Equipment Operators: Building, Heavy, Highway Road, Street and Sewer Construction					
GROUP 1	16.91	12%+.40	10%	a	3%
GROUP 2	15.09	12%+.40	10%	a	3%
GROUP 3	14.21	12%+.40	10%	a	3%
GROUP 4	14.10	12%+.40	10%	a	3%
GROUP 5	13.87	12%+.40	10%	a	3%
GROUP 6	13.38	12%+.40	10%	a	3%
GROUP 7	13.09	12%+.40	10%	a	3%
GROUP 8	12.92	12%+.40	10%	a	3%
GROUP 9	12.87	12%+.40	10%	a	3%
GROUP 10	12.75	12%+.40	10%	a	3%
GROUP 11	12.70	12%+.40	10%	a	3%
GROUP 12	12.46	12%+.40	10%	a	3%
GROUP 13	12.06	12%+.40	10%	a	3%
GROUP 14	11.89	12%+.40	10%	a	3%
GROUP 15	11.55	12%+.40	10%	a	3%
Power Equipment Operators: Steel Erection					
GROUP 1	18.72	12%+.40	10%	a	3%
GROUP 2	16.91	12%+.40	10%	a	3%
GROUP 3	16.00	12%+.40	10%	a	3%
GROUP 4	15.26	12%+.40	10%	a	3%
GROUP 5	13.48	12%+.40	10%	a	3%
GROUP 6	13.09	12%+.40	10%	a	3%
GROUP 7	12.94	12%+.40	10%	a	3%
GROUP 8	12.57	12%+.40	10%	a	3%
GROUP 9	12.01	12%+.40	10%	a	3%

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DECISION NO. NY79-3028 - Mod. #2

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Glaziers	13.75	.66	1.91	.67	.01
Ironworkers, Reinforcing, Ornamental & Structural	11.10	1.86	3.60	1.60	.01
Laborers, Building					
Common Laborers, Mason Tenders, Mortar Mixers, Hod Carriers, Scaffold Builders, Concrete men, Vibrator Men, poured gypsum, Roof Work, Wrecking, Walking	10.00	1.15	1.15		
Power Buggy Men, Landscaper, Chipping Hammer (air or electric 1" and under)					
Asphalt men, Pipelayers, Air or Electric Jackhammer, Powdermen, Gunnite, Sandblasting, Air Trac, Barren, Chain Saw, Riding Power Buggy, Vibro, Barco, Joy Tamper or similar, Joy or Jib Drills, Walk Behind Roller, Wagon Drill, All Fork Lifts	10.25	1.15	1.15		
Grade, Pipe, Concrete Clearing, Black Top, Drill, Paving etc., Blaster, Form Setter, Burner (acetylene torch), Ingersoll-Rand, Heavy Duty Crawler Type HCNZ, Drill Machines or equivalent, All wrecking work fifty feet or more above grade	10.65	1.15	1.15		
Painters	10.60	1.00	.65		
Commercial					
Spray and Sandblasting, Steel, Smoke Stacks, Bridges, Power Plants, Radio Towers, Epoxy and other toxic materials	11.60	1.00	.65		
Plumbers & Steamfitters: Twps., Villages and Hamlets and/or portions thereof: Labeville, Four Corners, Sterling Forest, Tuxedo, Tuxedo Park, Southfield, Arden, Newburgh Junction, Greenwood Lake, Monroe, Harriman, Woodbury Falls, Woodbury Station, Central Valley, and the Palisades Interstate Park and Bear Mountain Park	12.56	2.00	1.56		.10

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Electrical Overhead & Underground Distribution Work	11.35	1.40	3%+1.00	a		
Journeyman Lineman & Technician	15.07	1.40	3%+1.00	a		
Cable Splicer	10.215	1.40	3%+1.00	a		
Groundman Digging Machine Operator, Groundman Dynamite Man	9.08	1.40	3%+1.00	a		
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.6475	1.40	3%+1.00	a		
Groundman Truck Driver (Tractor Trailer)	8.5121	1.40	3%+1.00	a		
Driver Mechanic, Groundman - Experienced	13.00	1.40	3%+1.00	a		
All Overhead Transmission Line Work and Lighting for Athletic Fields	11.70	1.40	3%+1.00	a		
Journeyman Lineman & Technician	10.40	1.40	3%+1.00	a		
Groundman Digging Machine Operator, Groundman Dynamite Man	11.05	1.40	3%+1.00	a		
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	9.75	1.40	3%+1.00	a		
Groundman Truck Driver (Tractor Trailer Unit)	13.70	1.40	3%+1.00	a		
Driver Mechanic, Groundman - Experienced	15.07	1.40	3%+1.00	a		
Sub-Station, Switching Structures (When not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting and Signal Systems	12.33	1.40	3%+1.00	a		
Journeyman Lineman & Technician	10.96	1.40	3%+1.00	a		
Cable Splicer	11.645	1.40	3%+1.00	a		
Groundman Digging Machine Operator, Groundman Dynamite Man	10.275	1.40	3%+1.00	a		
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver						
Groundman Truck Driver (Tractor Trailer Unit)						
Driver Mechanic, Groundman - Experienced						

LINE CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
All Pipe type Cable Installations Maintenance Jobs or Projects	13.70	1.40	3%+1.00	a		
Journeyman Lineman	14.385	1.40	3%+1.00	a		
Certified Lineman Welder	15.07	1.40	3%+1.00	a		
Cable Splicer	13.70	1.40	3%+1.00	a		
Groundman Equipment Operator	11.645	1.40	3%+1.00	a		
Groundman Truck Driver (Tractor Trailer Unit)	10.96	1.40	3%+1.00	a		
Groundman Truck Drivers	10.275	1.40	3%+1.00	a		

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

DECISION NO. NY80-3022 -
 MOD. #2
 (45 FR 23264 - April 4,
 1980
 Monroe County, New York

CHANGE:
 Boilermakers
 Bricklayers, Cement Masons,
 Plasterers, and Stone
 Masons
 Carpenters, Building
 Millwrights & Piledrivers,
 Building
 Elevator Constructors
 Glaziers
 Marble, Tile and Terrazzo
 Workers
 Plumbers & Steamfitters
 Roofers
 Soft Floor Layers
 Sprinkler Fitters

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
\$13.70	1.275	1.775		.03
13.67	.75	1.00		.03
12.40	1.23	1.06		.03
12.73	1.23	1.15	b+c	.035
14.13	1.195	.95		.06
11.83	1.02	.89		
14.36	.50			.20
14.38	2.485	1.22		
12.93	.78	.92		
11.87	.90	.66		
14.52	.85	1.20		.08

DECISION NO. NY79-3028 - Mod. #2

TRUCK DRIVERS

Drivers on LeTourneau Tractors, double barrel Euclids, a they wagon and similar equipment (except when hooked to scrapers), Low beds, I-Team, pole trailers, road oil distributors, tire trucks tractors and trailers with 5 axle and over
 Equipment 25 yards and over up to and including 30 yard bodies, cable dump trailers, powder and dynamite trucks
 Equipment up to and including 24 yards bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks and all other tractor trailers
 Ten wheelers, grease trucks and tiller men
 Straight trucks, Pick-up trucks used for hauling material parts, escort man over the road

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
11.50	1.00	1.05	a	
11.40	1.00	1.05	a	
11.20	1.00	1.05	a	
10.60	1.00	1.05	a	
11.00	1.00	1.05	a	

DECISION NO. NY80-3022 - MOD. #2 (cont'd)

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Electrical Overhead & Underground Distribution Work					
Journeyman Lineman & Technicians	11.35	1.40	38+1.00	a	
Cable Splicer	15.07	1.40	38+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.215	1.40	38+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.08	1.40	38+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.6475	1.40	38+1.00	a	
Driver Mechanic, Groundman-Experienced	8.5121	1.40	38+1.00	a	
All Overhead Transmission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.00	1.40	38+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.70	1.40	38+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.40	1.40	38+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.05	1.40	38+1.00	a	
Driver Mechanic, Groundman-Experienced	9.75	1.40	38+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone of CATV Commercial Work, Street Lighting, & Signal Systems					
Journeyman Lineman & Technician	13.70	1.40	38+1.00	a	
Cable Splicer	15.07	1.40	38+1.00	a	

DECISION NO. NY80-3022 - MOD. #2 (cont'd)

LINE CONSTRUCTION (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.33	1.40	38+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.96	1.40	38+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	38+1.00	a	
Driver Mechanic, Groundman-Experienced	10.275	1.40	38+1.00	a	
All Pipe type Cable Installations, Maintenance jobs or Projects					
Journeyman Lineman	13.70	1.40	38+1.00	a	
Certified Lineman Welder	14.385	1.40	38+1.00	a	
Cable Splicer	15.07	1.40	38+1.00	a	
Groundman Equipment Operator	13.70	1.40	38+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	38+1.00	a	
Groundman Truck Drivers	10.96	1.40	38+1.00	a	
Groundman	10.275	1.40	38+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday.

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
DECISION NO. PA80-3010 MOD. NO. 2 (45 FR 23270 - April 4, 1980) Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford & Venango Cos., Pa.	\$13.88	5%	7%+.95		.02
CHANGE: Boilermakers Zone 1	12.05	.75	1.00		.01
Bricklayers & Stonemasons Zone 1	13.20	.75	.95		.05
Zone 2	11.35	.75	1.00		.01
Zone 5	12.971	.90	2.00		.01
Zone 6					
Carpenters & Soft Floor Layers Zone 1	11.50	6%	8%	10%	1%
Zone 2	11.25	6%	8%	10%	1 1/2%
Cement Masons Zone 1	13.26	.93	2.13		
Zone 2	11.95	9%	7%		
Electricians Zone 1	13.35	.55	3%+.50	.60	.10
Zone 3	14.25	.75	3%+1.00		1/2%
Ironworkers: Zone 1	13.11	.975	2.575		.07
Zone 5	12.75	.975	1.665		.04
LABORERS: Zone 1					
Class I	10.97	9%	9%		
Class II	11.10	9%	9%		
Class III	11.23	9%	9%		
Class IV	11.48	9%	9%		
Class V	11.65	9%	9%		
Zone II					
Class I	10.51	9%	9%		
Class II	10.585	9%	9%		
Class III	10.61	9%	9%		
Class IV	10.66	9%	9%		
Class V	10.76	9%	9%		
Class VI	11.01	9%	9%		
Class VII	11.06	9%	9%		

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
DECISION NO. PA79-3009 MOD. NO. 7 (44 FR 26518 - May 4, 1979) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania	\$13.88	.83	3%+.83		13/4%
CHANGE: Electricians: Zone 1 Commercial Residential up to and including 4 stories Philadelphia County Bucks, Montgomery & Delaware Counties,	13.17	.76	3%+.76		.06
Zone 2	10.74	.71	3%+.83		
Plasterers: All other work: Zone 1	12.96	.93	1.65		.01
Zone 2	10.81				.01

DECISION NO. PASO-3010 -
MOD. NO. 2, CONT'D.

PLUMBERS & STEAMFITTERS (CONT'D.)

Zone 4
POWER EQUIPMENT OPERATORS:

- Class I
- Class I-A
- Class I-B
- Class I-C
- Class II
- Class III
- Class III-A
- Class IV
- Class V
- Class VI
- Class VI-A
- Class VI-B
- Class VI-C
- Roofers
- Zone 2
- Sprinkler Fitters
- Sheet metal workers
- Zone 2

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
11.00	9%	8%			
11.25	9%	8%			
11.80	9%	8%			
10.97	9%	9%			
11.06	9%	9%			
11.36	9%	9%			
11.44	9%	9%			
11.23	9%	9%			
11.57	9%	9%			
11.23	9%	9%			
11.44	9%	9%			
7.79	12%	10%			
8.21	12%	10%			
7.70	12%	10%			
8.12	12%	10%			
15.40	.45	3%			3/8%
9.24	.45	3%			3/8%
10.78	.45	3%			3/8%
12.42	.90	1.90			.01
12.14	6.5%	6%	25%		1/2%
12.19	.85	1.55			.01
13.10	6%	10%			.5%
14.05					.08
14.26	.70	1.30			.15
8.98	.95	1.30			.15
13.75	.95	1.30			.15

LABORERS (CONT'D)

Zone III

- Class 1
- Class 2
- Class 3
- Class 4
- Class I
- Class II
- Class III
- Class IV
- Class V
- Class VI
- Class VII
- Class VIII

LANDSCAPING:

- Zone I
- Class I
- Class II
- Zone II
- Class I
- Class II

Line Construction:

- Zone I
- Class I
- Class II
- Class III
- Marble Setters
- Zone 4
- Millwrights
- Plasterers
- Zone 3
- Zone 4

Piledrivermen

Plumbers & Steamfitters:

- Zone I
- Zone 3
- Contracts under \$10,000
- Contracts over \$10,000

DECISION NO. AL80-1091 (cont'd)

SUPERSEDEAS DECISION

STATE: Alabama
 COUNTY: Jefferson, Shelby, & St. Clair
 DATE: Date of Publication

Supersedes Decision No.: AL79-1140 dated November 23, 1979 in 44 FR 67303
 DESCRIPTION OF WORK: Building Construction Projects (does not include residential construction consisting of single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Bricklayers	\$11.83	.50	.55		.12
Carpenters	10.93	.70	.40		.09
Cement Masons	8.35		3%+.40		½ of 1%
Electricians	13.05	.55	.80	a	.005
Glaziers	10.48	.95	.82		.06
Ironworkers	12.51	.60	.70		
Painters	11.55	.60			.10
Plasterers & Pipefitters	10.53	.73	1.00		.09
Roofers	12.20	.79	.30		.10
Sheet Metal Workers	9.95	.79	1.07		.09
Sprinkler Fitters	11.88	.85	1.20		
Tile Setters	12.80	.85	.60		
Truck Drivers	10.70				
	6.06				

FOOTNOTE:

a. Paid Holidays include New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving Day, and Christmas Day.

LABORERS:

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
GROUP A	\$ 7.75	.40	.50		.03
GROUP B	7.69	.40	.50		.03
GROUP C	7.63	.40	.50		.03
GROUP D	7.57	.40	.50		.03
GROUP E	8.03	.40	.50		.03
GROUP F	8.55	.40	.50		.03
GROUP G	8.43	.40	.50		.03
GROUP H	8.48	.40	.50		.03
GROUP I	8.38	.40	.50		.03
GROUP J	8.21	.40	.50		.03
GROUP K	9.29	.40	.50		.03

GROUP A Air of electrical tool operators and asphalt rakers
 GROUP B Vibrator operators, chain saw operators, operators of mechanical equipment which replaces wheelbarrows of buggies, power mowers, mortar mixers, pipe layers, concrete and clay and muckers.
 GROUP C Plasterers' tenders and hod carriers
 GROUP D Mason tenders, building laborers
 GROUP E Burners on demolition, wagon drill operators and tunnel laborers
 GROUP F Powderman
 GROUP G Caisson-driller (10' Dia)
 GROUP H Tunnel miner
 GROUP I Pneumatic concrete gun operator and nozzle man
 GROUP J Chuck tender
 GROUP K Oxagon operator

SUPERSEDES DECISION

STATE: Colorado
 COUNTY: Statewide
 DECISION NUMBER: CO80-5126
 DATE: Date of Publication
 Supersedes Decision No. CO80-5101 dated February 1, 1980, in 45 FR 7443

DESCRIPTION OF WORK: Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments			Education end/or Appr. Tr.
		H & W	Pensions	Vacation	
GROUP A	\$11.19	.60	.50		.10
GROUP B	10.58	.60	.50		.10
GROUP C	9.36	.60	.50		.10
GROUP D	12.00	.60	.50		.10
GROUP E	11.18	.60	.50		.10
GROUP F	9.51	.60	.50		.10

GROUP A
 Asphalt plant, boom tractor, bulldozer, cableways, core driller, compressors (2 or more), crane-derrick-dragline, dinky locomotive, dredges, fork lift, front end loader, gradall, heavy duty mechanic, hoist (1 drum or more), mixers, push tractor, scrapers, shovels, trenching machine, (and all similar equipment), winch trucks, motor graders, concrete pump, piledriver, rotary drill

GROUP B
 Air compressor (over 125), asphalt spreaders, blade graders (pull type), boat operator, conveyor (2 or more up to 4), crawler tractor, distributors, (bituminous surface), farm tractors, finishing machine, pumps over 4 inches, rollers, welding machine (4 or more)

GROUP C
 Air compressor (125 & under), oilers-firemen, conveyor (1 tended by oiler), pumps (under 4 inches), welding machines (3 or under)

STEEL ERECTION
 GROUP D
 Crane, dragline, derricks, hoist, piledrivers winch truck, fork lift, tower cranes, climbing cranes, cherry picker, mechanics, locomotives, tug boat

GROUP E
 Tractors, welding machine, gas or diesel driven welding machine (4 or more), air compressors over 125 (2 or less), power generating units (gas or diesel)

GROUP F
 Gas or diesel driven welding machine (3 or less), air compressor 125 and under (2 or less), oiler, fireman, small boat

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

	Basic Hourly Rates	Fringe Benefits Payments			Education end/or Appr. Tr.
		H & W	Pensions	Vacation	
CARPENTERS:*					
Carpenters:	\$10.52	\$1.00	\$1.00	.95	.07
Zone 1	11.02	1.00	1.00	.95	.07
Zone 2	10.72	1.00	1.00	.95	.07
Zone 3	11.22	1.00	1.00	.95	.07
Underground Carpenters:					
Zone 1	10.82	1.00	1.00	.95	.07
Zone 2	10.87	1.00	1.00	.95	.07
Zone 3	10.76	.59	1.25	.30	.13
Zone 4	11.26	.59	1.25	.30	.13
Working on creosoted coated lumber or other toxic materials, Sawmen continuously assigned to 1 1/2 HP saw at job site High work 35' above ground or above permanent floor or deck	14.25	.70	38+1.25		3/108
CEMENT MASONS:*	14.50	.70	38+1.25		3/108
Zone 1					
Zone 2					
ELECTRICIANS:*					
Area 1:	14.00	.75	38+.25		18
Electricians	14.25	.75	38+.25		18
Cable Splicers					
Area 2:					
Electricians	13.64	.72	38+1.00		18
Cable Splicers	15.00	.72	38+1.00		18
Area 3:					
Zone 1:	14.47	.72	38+1.00		18
Electricians	15.83	.72	38+1.00		18
Cable Splicers					
Zone 2:					
Electricians	15.02	.72	38+1.00		18
Cable Splicers	16.38	.72	38+1.00		18
Zone 3:					
Electricians	15.71	.72	38+1.00		18
Cable Splicers	17.07	.72	38+1.00		18

*See AREA and ZONE Descriptions - Pages 4, 5, and 6

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$12.11	.75	\$1.15		.07
12.71	.75	1.15		.07
9.57	.75	.50		.04
10.07	.75	.50		.04
10.57	.75	.50		.04
11.07	.75	.50		.04
10.44	.75	.50		.04
11.19	.75	.50		.04
10.94	.75	.50		.04
11.69	.75	.50		.04

PAINTERS:*

- Area 1:
 - Brush
 - Spray, Swing Stage
- Area 2:
 - Brush
 - Steel
 - Spray
 - Steel Spray
- Area 3:
 - Brush
 - Spray
 - Steel
 - Steel Spray

*See AREA Descriptions - Page 6

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$16.39	.72	38+1.00		1 1/8
17.75	.72	38+1.00		1 1/8
11.00	.72	38+1.00		1 1/8
13.90	.75	38+.65		.015
12.35	1.04	1.25		.12
13.91	.45	38+.50		3/48
13.01	.45	38+.50		3/48
12.94	.45	38+.50		3/48
10.99	.45	38+.50		3/48
10.99	.45	38+.50		3/48
9.81	.45	38+.50		3/48
9.04	.45	38+.50		3/48

ELECTRICIANS: * (Cont'd)

- Area 3: (Cont'd)
 - Zone 5:
 - Electricians
 - Cable Splicers
 - Electricians on electrical contracts less than \$20,000 in Zones 4 and 5
 - Area 4:
 - Electricians
- IRONWORKERS:
 - Structural, Ornamental, and Reinforcing
- LINE CONSTRUCTION:
 - Cable Splicers
 - Journeyman Lineman;
 - Cableman
 - Journeyman Lineman
 - Line Equipment Maintenance Man
 - Line Equipment Operator,

- Class 1:
 - Crawler Equipment, Wire equipment pullers, Tensioners, Cranes, over 8 tons, Heavy Pole Trucks (such as diesel, twin screws), All Bucket Trucks - 75 ft. reach and over and Backhoes
- Line Equipment Operators,
- Class 2:
 - Trenchers under 4 ft. depth, Hydro Cranes, under 8 tons, Bobcats, Trucks under 3 tons, C.T.M. classification
- Groundman

*See AREA and ZONE Descriptions - Page 6

ZONE DESCRIPTIONS

CEMENT MASONS:

Counties entirely within Zone 1:

Alamosa
Archuleta
Bent
Boulder
Chaffee
Clear Creek
Conejos
Costilla
Crowley

Huerfano
Jefferson
La Plata
Larimer
Logan
Mesa
Montezuma
Morgan

Otero
Phillips
Prowers
Pueblo
Rio Grande
Sedgwick
Teller
Weld

Counties entirely within Zone 2:

Baca
Jackson
Cheyenne
Dolores
Grand
Gunnison
Hinsdale

Moffat
Ouray
Park
Pitkin
Rio Blanco
Routt

Saguache
San Juan
San Miguel
Summit
Yuma

Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose, and Washington Counties which are included within Zone 1, as follows:

All of Adams, Arapahoe, Elbert, and Las Animas Counties lying west of the Township Line between R59W and R60W of the 7th Guide Meridian West; and all of Eagle County lying west of the Township Line between R80W and R81W of the 10th Guide Meridian West. All of Montrose County lying East of said Township Line of the New Mexico Principal Meridian and all of Washington County lying North of the 40°00'00" Latitude Base Line

Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose, and Washington Counties which are included within Zone 2, as follows:

All of Adams, Arapahoe, Elbert, and Las Animas Counties lying East of the Township Line between R59W and R60W of the 7th Guide Meridian West, and all of Eagle County lying East of the Township Line between R80W and R81W of the 10th Guide Meridian West and all of Montrose County except that part lying Northerly of the North Line between R11W and R12W, said point being East of said Township Line of the New Mexico Principal Meridian and all of Washington County lying South of the 40°00'00" Latitude Base Line

ZONE DESCRIPTIONS

CARPENTERS:

Counties entirely within Zone 1:

Gilpin
Huerfano
Jefferson
La Plata
Lake
Larimer
Las Animas
Logan
Mesa
Montezuma

Morgan
Otero
Phillips
Prowers
Pueblo
Rio Grande
Sedgwick
Teller
Weld

Counties entirely within Zone 2:

Baca
Jackson
Cheyenne
Dolores
Grand
Gunnison
Hinsdale

Routt
San Juan
San Miguel
Summit
Yuma

Legal description of the portions of Montrose, Saguache, and Washington Counties which are included within Zone 1, as follows:

All of Montrose County lying Northerly of the North Line of Ouray County and said North Line extended to the Township Line between R11W and R12W, said part being East of said Township Line of the New Mexico Principal Meridian and the Eastern portion of Saguache County; from Highway #285 to the Town of Saguache, and Highway #114 to the County Line, and all of Washington County lying North of the 40°00'00" Latitude Base Line

Legal description of the portions of Montrose, Saguache and Washington Counties which are included within Zone 2, as follows:

All of Montrose County except that part lying Northerly of the North Line of Ouray County and said North Line extended West to the Township Line between R11W and R12W, said point being East of said Township Line of the New Mexico Principal Meridian and the Western portion of Saguache County; from Highway #285 to town of Saguache and Highway #114 to County Line, and all of Washington County lying South of the 40°00'00" Latitude Base Line.

ZONE DESCRIPTIONS (Cont'd)

ELECTRICIANS:

Area 1: Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Logan, Morgan, Phillips, Sedgwick, Summit, Washington, Weld, and Yuma Counties

Area 2: Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, San Juan, and San Miguel Counties

Area 3: Alamosa, Archuleta, Baca, Bent, Chaffee, Crowley, Custer, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo, Rio Grande, and Saguache Counties:

- Zone 1: Within 12 miles from Pueblo Main Post Office
- Zone 2: 12 to 20 miles from Pueblo Main Post Office
- Zone 3: 20 to 30 miles from Pueblo Main Post Office
- Zone 4: 32 to 50 miles from Pueblo Main Post Office
- Zone 5: 50 miles and over from Pueblo Main Post Office

Area 4: Cheyenne, Elbert, El Paso, Kit Carson, Lincoln, Park, and Teller Counties

PAINTERS:

Area 1: Adams, Arapahoe, Boulder, Clear Creek, Delta, Denver, Douglas, Eagle, Elbert, Garfield, Gilpin, Grand, Gunnison, Jackson, Jefferson, Lake, Larimer, Logan, Mesa, Moffat, Montrose, Morgan; Park County (northern half); Phillips, Pitkin, Rio Blanco, Routt, Sedgwick, Summit, Washington, and Weld Counties

Area 2: Baca, Bent, Crowley, Custer, Huerfano, Kiowa, Las Animas, Otero, Prowers, and Pueblo Counties

Area 3: Archuleta, Chaffee, Cheyenne, Dolores, El Paso, Fremont, Hinsdale, Kit Carson, La Plata, Lincoln, Mineral, Montezuma, Ouray; Park County (southern half); Rio Grande, Saguache, San Juan, San Miguel, and Teller Counties

LABORERS:

ZONE 1

ZONE 2

Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
\$ 8.65	\$ 9.15	.59	.70	.25	.05	
8.75	9.25	.59	.70	.25	.05	
9.05	9.55	.59	.70	.25	.05	
9.20	9.70	.59	.70	.25	.05	
9.40	9.90	.59	.70	.25	.05	
(Tunnels)						
8.65	9.15	.59	.70	.25	.05	
9.55	10.05	.59	.70	.25	.05	
9.65	10.15	.59	.70	.25	.05	
9.73	10.23	.59	.70	.25	.05	
9.80	10.30	.59	.70	.25	.05	
10.70	11.20	.59	.70	.25	.05	

(Shafts, Raises, Missile Silos and all underground work other than Tunnels)

9.65	10.15	.59	.70	.25	.05
9.80	10.30	.59	.70	.25	.05
9.90	10.40	.59	.70	.25	.05
10.18	10.68	.59	.70	.25	.05
10.28	10.78	.59	.70	.25	.05
10.83	11.33	.59	.70	.25	.05

Zone 1: The area encompassed by 15 driving miles from the Main Post Office at Craig, Steamboat Springs, and Meeker. Also, included are all other Counties not outlined in Zone 2.

Zone 2: The Counties of Jackson, Moffat, Rio Blanco and Routt.

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LABORERS

Group 1: Minimum Labor, including Caissons to 8'; Carrying Reinforcing Rods; Work on Cross Culverts, connections and side drains in connection with highway work, whether corrugated metal or concrete pipe; Fence Erectors; Metal Mesh; Dowel Bars; Tie Bars and Chairs in concrete paving; Flagman; Nursery Man including seeding, mulching and planting of trees, shrubs and flowers; Stake Chaser; Gabion Baskets and Reno Mattresses; pipe plants and yards, stringing of pipe or skids, handling and signaling on pipe line work

Group 2: Chuck Tenders, Nippers, Core, and Diamond Drill Tenders, Powdermen Tenders; Hot Asphalt Labor, Rakers, Bostenders, Asphalt Curb Machines, Potmen (not mechanical); Multi-Plate Culvert Pipe; Air, gas and electrical tool operators; Barco Hammers; Spaders; electric hammers; Air Tampers; Cutting Torch on demolition work; Caissons 8' to 12'; Cofferdams; Power operated Concrete Buggies; Operators or concrete saws on pavement (other than Gang Saws); Timber and Chain Saws; Stresser or Stretcherman on Post Tension Prestressed Concrete on or off jobsite; Tool Room Man and Checkers; Cement Finisher Tender; Sand Blaster, Sand Blaster Helper; Concrete processing material; Monitor; Spotters; Signalmen; Dumpmen; Transverse Concrete Conveyor Operator; Mechanical Grouters; Boring Machine (air hydraulic); Automatic Concrete Power Curbing Machine; Jack Hammer; Vibrators; Paving Breakers; Frost proofing; Any Laborer performing bridge work over 40' above the ground or above a floor and working from a Bos'n Chair; Swing Stage, Life Belt or Block and Tackle as safety requirement. (All lines and safety belts used shall be of a type approved by State and Federal Laws); Gunniting and Shotcrete Tenders; Caissons over 12'; Scalers; Timbermen, underpinning and shoring; Form-setters and/or Stringmen or roads, highways, streets and airport runways; Distribution, placing and hooking of landing mats; Bull Float (hand operated) and Center Expansion Machines; Grade Checkers if required by employer; Pipe Wrappers; Dopers; Jeep Holiday Detector Men, Bandage Makers; Laborers working in Trenches on all pipe lines, sewer, water, gas, oil, telephone conduit, Pen Stock, Siphones, drainage lines, Caulkers, Yarners, Fine Graders, air, gas, electric and hydraulic tools, Boring Machines, Hydraulic Jacks, Drills, Tampers, and similar operated tools; wiping of Joint Concrete Pipe, inside and out; Labor applicable to pipe coating or wrapping, plants and yards; Enamelers of pipe, inside and out

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LABORERS (Cont'd)

Group 3: Powdermen and Blasters; Gunnite Nozzlemen; Shotcrete Operator; Pipe Layer on truck pipe lines in connection with highway work; Relining Pipe; Mixer Man; Pipelayer; Hydro-broom

Group 4: Wagon Drills and Air Tracks; Jack Hammer Operators in Caissons over 12'; Bellers and Stemmen; Licensed Powdermen; Diamond and Core Drills powered by air

Group 5: Any work, other than on bridges, performed by Laborers working from a Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle as a safety requirement. All lines and safety belts used shall be of a type approved by State and Federal Laws; Pugs and Galleys in Dams

(TUNNELS)

Group 1: Outside Labor

Group 2: Minimum Tunnel Labor, Dry Houseman

Group 3: Cable or Hose Tenders, Chuck Tenders, Concrete Laborers, Dumpmen, Whirley Pump Operators

Group 4: Tenders on Shotcrete, Gunniting and Sand Blasting; Tenders, Core and Diamond Drills; Pot Tenders

Group 5: Cement Finisher Tender, applying concrete processing materials

Group 6: Collapsible Form Movers and Setters, Miners, Machine Men and Bit Grinders, Nippers, Powdermen and Blasters, Reinforcing Steel Setters, Timbermen (steel or wood tunnel support, including the placement of sheeting when required) and all cutting and welding that is incidental to the Miner's work; Tunnel Liner Plate Setters; Vibrator Men, internal and external; Unloading, stopping and starting of Moran Agitator Cars; Diamond and Core Drill Operators; Cement Finisher (underground); Shotcrete Operator; Gunnite Nozzlemen, Sand Blasters, Pump Concrete Placement Men

LABORERS (Cont'd)
 (Shafts, Raises, Missile Silos and all Underground Work
 other than Tunnels)

Group 1: Laborers, Topmen, Bottommen and Cagers

Group 2: Chucktenders, Concrete Laborers, Whirley Pump
 Operators

Group 3: Tenders in Shotcrete Gunitting and Sand Blasting;
 Tenders on Core and Diamond Drills; Pot Tenders; Cement
 Finisher Tenders, applying concrete processing materials

Group 4: Diamond and Core Drill Operators; Cement Finisher,
 (underground); Gunitte Nozzlemen; Shotcrete Operators; Sand
 Blasters and Pump Concrete Placement Men

Group 5: Any employee performing work underground from a
 Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle
 as a safety requirement. All lines and safety belts used
 shall be of a type approved by State and Federal Laws

Group 6: Collapsible Form Movers and Setters, Miners, Ma-
 chine Men and Bit Grinders, Nippers, Powdermen and Blasters,
 Reinforcing Steel Setters, Timbermen (steel or wood tunnel
 support, including the placement of sheeting when required)
 and all cutting and welding that is incidental to the Miner's
 work; Liner Plate Setters; Vibrator Men, internal and external

Basic Hourly Rates	Basic Hourly Rates	Zone 1	Zone 2	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Education and/or Appr. Tr.
\$ 9.75							
10.10	\$10.50			.93	\$1.10	.55	.12
10.45	10.85			.93	1.10	.55	.12
10.60	11.20			.93	1.10	.55	.12
10.75	11.35			.93	1.10	.55	.12
10.90	11.50			.93	1.10	.55	.12
	11.65			.93	1.10	.55	.12
9.90	10.65			.93	1.10	.55	.12
10.25	11.00			.93	1.10	.55	.12
10.35	11.10			.93	1.10	.55	.12
10.60	11.35			.93	1.10	.55	.12
10.75	11.50			.93	1.10	.55	.12
11.15	11.90			.93	1.10	.55	.12

POWER EQUIPMENT OPERATORS
 (Other than for work in
 Tunnels, Shafts and
 Raises)

Group 1
 Group 2
 Group 3
 Group 4
 Group 5
 Group 6

(For work in Tunnels,
 Shafts, and Raises)

Group 1
 Group 2
 Group 3
 Group 4
 Group 5
 Group 6

*See Zone Descriptions
 following Truck Drivers
 classifications

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POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator, smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more Light Plants, Welding Machines, Generator, single unit Conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments; Rodman, Chainman, Grade Checker

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable; Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevator Graders, equipment lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; Single unit portable Crusher, with or without Washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welding; Winch on truck; Instrument Man

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer, over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer Mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without Washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

Group 5: Cable operated power Shovels, Draglines, Clamshells, and Backhoes, over 5 cu. yds.; Crane, over 50 tons, carrier mounted; Derrick; Electric Rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers - single bowl including Pups, 40 cu. yds. and Tandem Bowls and over

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POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 6: Cableway; Climbing Tower Crane; Crawler or Truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For Work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

TRUCK DRIVERS

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits, Payments			Education and/or Appr. Tr.
			H & W	Pensions	Vacation	
	ZONE 1	ZONE 2				
Group 1	\$ 9.36	\$9.86	.94	.70	.40	
Group 2	9.46	9.96	.94	.70	.40	
Group 3	9.56	10.06	.94	.70	.40	
Group 4	9.61	10.11	.94	.70	.40	
Group 5	9.66	10.16	.94	.70	.40	
Group 6	9.71	10.21	.94	.70	.40	
Group 7	9.76	10.26	.94	.70	.40	
Group 8	9.81	10.31	.94	.70	.40	
Group 9	9.91	10.41	.94	.70	.40	
Group 10	9.96	10.46	.94	.70	.40	
Group 11	10.06	10.56	.94	.70	.40	
Group 12	10.21	10.71	.94	.70	.40	
Group 13	10.26	10.76	.94	.70	.40	
Group 14	10.36	10.86	.94	.70	.40	
Group 15	10.46	10.96	.94	.70	.40	
Group 16	10.56	11.06	.94	.70	.40	
Group 17	10.66	11.16	.94	.70	.40	
Group 18	10.86	11.36	.94	.70	.40	

*See Zone Descriptions following Truck Drivers' classifications

TRUCK DRIVERS

- Group 1: Pickups; Scalemen; Checkers; Spotters; Dumpmen
- Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehouse Men; Washers; Greasemen; Servicemen; Ambulance Drivers
- Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack; Tandem Axle; Battery Men; Mechanics; Tenders; Material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus
- Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle
- Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease
- Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination
- Group 7: Multi-purpose Truck; Speciality and Hoisting
- Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, electric or similar; Truck Drivers; Dumptor type Youngbuggy, Jumbo and similar type equipment
- Group 9: Truck Driver, Snow Plow
- Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds. to and including 15 cu. yds.
- Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.
- Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.
- Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Fireman
- Group 14: Mechanic
- Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.
- Group 16: Heavy Duty Diesel, Mechanics, Body Men, Welders or Combination Men
- Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.
- Group 18: Dump Trucks, over 104 cu. yds.

SUPERSEDES DECISION

STATE: Kentucky
 COUNTY: *See Below
 DECISION NO.: KY80-1102
 DATE: Date of Publication
 Supersedes Decision Number: KY79-1071, dated April 20, 1979 in 44 FR 23736
 DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (includes single family homes and apartments up to and including 4 stories).

* Butler, Henderson, Hopkins, Logan, McLean, Muhlenberg Todd, Union, & Webster Counties, Kentucky.

	Basic Hourly Rate:	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
AIR CONDITIONING & HEATING	\$5.28				
MECHANICS	5.97				
BRICKLAYERS	5.37				
CARPENTERS	5.79				
CEMENT MASONS	5.75				
DRYWALL FINISHERS	5.64				
DRYWALL HANGERS	6.23				
ELECTRICIANS	5.21				
INSULATION INSTALLERS					
LABORERS:					
Unskilled	3.97				
Mason Tenders	4.61				
PAINTERS	5.13				
PLUMBERS & PIPEFITTERS	5.58				
ROOFERS	5.22				
SHEET METAL WORKERS	5.39				
SOFT FLOOR LAYERS	4.94				
TILE SETTERS	5.44				
TRUCK DRIVERS	3.97				
WELDERS - Rate for craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.60				
Bulldozer	6.05				
Motor Grader	8.02				

Unlisted classifications needed for work not included within the scope of award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

DECISION NO. CO80-5126

ZONE DESCRIPTIONS

POWER EQUIPMENT OPERATORS and TRUCK DRIVERS:

Counties entirely within Zone 1:

Alamosa Custer Huerfano Otero
 Archuleta Delta Jefferson Phillips
 Bent Denver La Plata Prowers
 Boulder Douglas Larimer Pueblo
 Chaffee El Paso Logan Rio Grande
 Clear Creek Fremont Mesa Sedgwick
 Conejos Garfield Montezuma Teller
 Costilla Gilpin Morgan Weld
 Crowley

Counties entirely within Zone 2:

Baca Jackson Saguache
 Cheyenne Kiowa San Juan
 Dolores Kit Carson San Miguel
 Grand Lake Park Summit
 Gunnison Lincoln Rio Blanco Yuma
 Hinsdale Mineral Routt

Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose, and Washington Counties which are included within Zone 1, as follows:

All of Adams, Arapahoe, Elbert, and Las Animas Counties lying west of the Township Line between R59W and R60W of the 7th Guide Meridian West; and all of Eagle County lying west of the Township Line between R80W and R81W of the 10th Guide Meridian West. All of Montrose County lying east of said Township Line of the New Mexico Principal Meridian and all of Washington County lying north of the 40°00'00" Latitude Base Line

Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose, and Washington Counties which are including within Zone 2, as follows:

All of Adams, Arapahoe, Elbert, and Las Animas Counties lying east of the Township Line between R59W and R60W of the 7th Guide Meridian West, and all of Eagle County lying East of the Township Line between R80W and R81W of the 9th Guide Meridian West, and all of Montrose County except that part lying Northerly of the North Line between R11W and R12W, said point being East of said Township Line of the New Mexico Principal Meridian and all of Washington County lying South of the 40°00'00" Latitude Base Line

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

TRUCK DRIVERS

Group 1: Pickups; Scalemen; Checkers; Spotters; Dumpmen
 Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehouse Men; Washers; Greasemen; Servicemen; Ambulance Drivers
 Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack; Tandem Axle; Battery Men; Mechanics; Tenders; Material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus
 Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle
 Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease
 Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination
 Group 7: Multi-purpose Truck; Speciality and Hoisting
 Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, electric or similar; Truck Drivers; Dumptor type Youngbuggy, Jumbo and similar type equipment
 Group 9: Truck Driver, Snow Plow
 Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds. to and including 15 cu. yds.
 Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.
 Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.
 Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman
 Group 14: Mechanic
 Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.
 Group 16: Heavy Duty Diesel, Mechanics, Body Men, Welders or Combination Men
 Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.
 Group 18: Dump Trucks, over 104 cu. yds.

TRUCK DRIVERS

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			Education and, et Appr. Tr.
			H & W	Pensions	Vacation	
Group 1	9.36	10.21				
Group 2	9.46	10.31	.94	.70	.40	
Group 3	9.56	10.41	.94	.70	.40	
Group 4	9.61	10.46	.94	.70	.40	
Group 5	9.66	10.56	.94	.70	.40	
Group 6	9.71	10.66	.94	.70	.40	
Group 7	9.76	10.76	.94	.70	.40	
Group 8	9.81	10.86	.94	.70	.40	
Group 9	9.91	10.96	.94	.70	.40	
Group 10	9.96	11.06	.94	.70	.40	
Group 11	10.06	11.16	.94	.70	.40	
Group 12	10.21	11.36	.94	.70	.40	
Group 13	10.26		.94	.70	.40	
Group 14	10.36		.94	.70	.40	
Group 15	10.46		.94	.70	.40	
Group 16	10.56		.94	.70	.40	
Group 17	10.66		.94	.70	.40	
Group 18	10.86		.94	.70	.40	

*see Zone Descriptions following Truck Drivers' classifications

STATE: Kentucky
 DECISION NO.: KY80-1102
 Supersedes Decision Number: KY79-1071, dated April 20, 1979 in 44 FR 23736
 DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (includes single family homes and apartments up to and including 4 stories).

COUNTIES: *See Below
 DATE: Date of Publication

* Butler, Henderson, Hopkins, Logan, McLean, Muhlenberg, Todd, Union, & Webster Counties, Kentucky.

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$5.28				
5.97				
5.37				
5.79				
5.75				
5.64				
6.23				
5.21				
3.97				
4.61				
5.13				
5.58				
5.22				
5.39				
4.94				
5.44				
3.97				
5.60				
6.05				
8.02				

AIR CONDITIONING & HEATING
 MECHANICS
 BRICKLAYERS
 CARPENTERS
 CEMENT MASONS
 DRYWALL FINISHERS
 DRYWALL HANGERS
 ELECTRICIANS
 INSULATION INSTALLERS
 LABORERS:
 Unskilled
 Mason Tenders
 PAINTERS
 PLUMBERS & PIPEFITTERS
 ROOFERS
 SHEET METAL WORKERS
 SOFT FLOOR LAYERS
 TILE SETTERS
 TRUCK DRIVERS

WELDERS - Rate for craft
 POWER EQUIPMENT OPERATORS:
 Backhoe
 Bulldozer
 Motor Grader

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

ZONE DESCRIPTIONS

POWER EQUIPMENT OPERATORS and TRUCK DRIVERS:

Countries entirely within Zone 1:
 Alamosa
 Archuleta
 Bent
 Boulder
 Chaffee
 Clear Creek
 Conejos
 Costilla
 Crowley
 Custer
 Delta
 Denver
 Douglas
 El Paso
 Fremont
 Garfield
 Gilpin
 Huerfano
 Jefferson
 La Plata
 Larimer
 Logan
 Mesa
 Montezuma
 Morgan
 Otero
 Phillips
 Prowers
 Pueblo
 Rio Grande
 Sedgwick
 Teller
 Weld

Countries entirely within Zone 2:
 Baca
 Cheyenne
 Dolores
 Grand
 Gunnison
 Hinsdale
 Jackson
 Kiowa
 Kit Carson
 Lake
 Lincoln
 Mineral
 Moffat
 Ouray
 Park
 Pitkin
 Rio Blanco
 Routt
 Saguache
 San Juan
 San Miguel
 Summit
 Yuma

Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose, and Washington Counties which are included within Zone 1, as follows:

All of Adams, Arapahoe, Elbert, and Las Animas Counties lying west of the Township Line between R59W and R60W of the 7th Guide Meridian West; and all of Eagle County lying west of the Township Line between R80W and R81W of the 10th Guide Meridian West. All of Montrose County lying east of said Township Line of the New Mexico Principal Meridian and all of Washington County lying north of the 40'00"00" Latitude Base Line

Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose, and Washington Counties which are including within Zone 2, as follows:

All of Adams, Arapahoe, Elbert, and Las Animas Counties lying east of the Township Line between R59W and R60W of the 7th Guide Meridian West, and all of Eagle County lying East of the Township Line between R80W and R81W of the 9th Guide Meridian West, and all of Montrose County except that part lying Northerly of the North Line between R11W and R12W, said point being East of said Township Line of the New Mexico Principal Meridian and all of Washington County lying South of the 40'00"00" Latitude Base Line

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

DECISION NO. NY80-3054

SUPERSEDEAS DECISION

STATE: New York COUNTY: Jefferson
 DATE: Date of Publication
 Supersedes Decision No. NY80-3015 dated February 15, 1980 in 45 FR 10566
 DESCRIPTION OF WORK: Building (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Construction Projects.

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Asbestos Workers	13.83	.90	.93		.06
Bricklayers & Cement Masons	12.97	.70	1.00	a	
Carpenters	9.60	.87	.90	b	.005
Millwrights	11.95	.55	3%+.78		
Electricians	12.80	.75			.01
Glaziers	9.55	.50			
Ironworkers					
Antwerp, Philadelphia, Leray, Wilna & Champion	12.17	1.11	1.02		.04
Remainder of County	12.38	.77	1.70		.10
Laborers, Unskilled	6.76				
Laborers, Power Tool	7.75	.55	.90		
Painters	7.90	.25	.45		
Plasterers	12.97	.70	1.00	a	
Plumbers, Pipefitters & Steamfitters	10.80	.92	.50		.05
Roofers	5.00				
Sheet Metal Workers	12.55	1.01	.44		.08
Sprinkler Fitters	14.52	.85	1.20		.08
Tile Setters	12.97	.70	1.00	a	
Truck Drivers	5.06				
Power Equipment Operators:					
Backhoe	10.20				
Bulldozer	10.04	.55	.60	.40	
Crane	12.78	1.05	.75	c	.15
Loader	11.78	1.05	.75	c	.15
Fork Lift	9.53	.95	.60		.10

FOOTNOTES:

- a. Paid Holidays: Memorial Day, Independence Day, and Labor Day provided the employee has been on the payroll 5 days prior to the holiday and reports to work the day following the holiday.
- b. Paid Holidays: Memorial Day, Labor Day and Thanksgiving Day provided the employee was on the payroll the week before the holiday or on the payroll the week after the holiday.
- c. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day, provided the employee has worked 5 consecutive working days before and the working day after the holiday.

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
HEAVY AND HIGHWAY CONSTRUCTION					
Asbestos Workers	13.83	.90	.93		.06
Boilermakers	13.50	1.175	1.0%		.03
Bricklayers	12.97	.70	1.00	a	
Carpenters & Piledrivers	11.23	.55	.90		.025
Cement Masons	10.90	.70	.90		
Electricians	12.80	.75	3%+.78		.8%
Cable Splicers	13.05	.75	3%+.78		.8%
Ironworkers:					
Antwerp, Philadelphia, Leray, Wilna & Champion:					
Structural, Ornamental, Reinforcing, Machinery					
Movers, Rodmen, Riggers, Fence Erectors & Stone Derricks	12.17	1.11	1.02		.04
Sheeters	12.42	1.11	1.02		.04
Sheeters, Bucker-up	12.295	1.11	1.02		.04
Remainder of County:					
Structural, Ornamental, Reinforcing, Machinery					
Movers, Rodmen, Riggers, Fence Erectors & Stone Derricks	12.38	.77	1.70		.10
Sheeters	12.63	.77	1.70		.10
Sheeters, Bucker-up	12.50	.77	1.70		.10
Painters:					
Brush	9.85	.80	.45		
Spray	10.35	.80	.45		

FOOTNOTES:

- a. Paid Holidays: Memorial Day, Independence Day, and Labor Day provided the employee had been on the payroll 5 days prior to the holiday and reports to work the day following the holiday.

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LABORERS: HEAVY & HIGHWAY CONSTRUCTION

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
9.14	.60	1.20	a	.15
9.34	.60	1.20	a	.15
9.54	.60	1.20	a	.15
9.74	.60	1.20	a	.15

PAID HOLIDAY:
 A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
 a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS A
 Laborers, drill helpers, flagmen, outboard and hand boats.

CLASS B
 Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op., on asphalt paver, water pump op. (1/2" and single diaphragm), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
 All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
 Blasters, form setter, stone or granite curb setters.

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POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
13.00	1.25	1.25	a	.15
12.25	1.25	1.25	a	.15
11.84	1.25	1.25	a	.15
10.68	1.25	1.25	a	.15
9.65	1.25	1.25	a	.15

MASTER MECHANIC
 GROUP I
 GROUP II
 GROUP III
 GROUP IV

PAID HOLIDAYS:
 A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
 a. Paid Holidays: A through F, providing the employee works the day before and the day after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

GROUP I - Automated concrete spreader (CMI), automatic fine grader, backhoe, (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker, (over 5 tons capacity) concrete pump (8" or over) crane, cranes and derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose hydraulically operated) (gradall or similar), fork lift (factory rated 15 ft. and over), front end loader (4 c.y. and over), head tower (saerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), pile-driver, power garder, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt-type loader, truck crane, tunnel shovel.

GROUP II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill (truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure-boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION (CONT'D)
 GROUP II (Cont'd) - to clean screen or to maintain the equipment, he shall be an oiler), locomotive, maintenance engineer/grease-man/welder, mixer (for stabilized base self-propelled), motorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.
 GROUP III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity; or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunnite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

GROUP IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), light plants, mulching machine, oiler, parapet-concrete or pavement grinder, power broom (towed), power heaterman, rewin-ius widener, shell winder, steam cleaner, tractor.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CLASS 1	9.78	1.11	.85	a	
CLASS 2	9.83	1.11	.85	a	
CLASS 3	9.88	1.11	.85	a	
CLASS 4	10.03	1.11	.85	a	
CLASS 5	10.18	1.11	.85	a	

PAID HOLIDAYS:
 A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

TRUCK DRIVERS: HEAVY & HIGHWAY CONSTRUCTION

CLASS 1 - Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser.

CLASS 2 - Tandems, batch trucks, mechanics and dispatcher.

CLASS 3 - Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumper type vehicles, truck mechanic.

CLASS 4 - Specialized earth moving equipment-euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5 - Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

LINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Electrical Overhead & Underground Distribution Work	11.35	1.40	3%+1.00	a		
Journeyman Lineman & Technician	15.07	1.40	3%+1.00	a		
Cable Splicer	10.215	1.40	3%+1.00	a		
Groundman Digging Machine Operator, Groundman Dynamite	9.08	1.40	3%+1.00	a		
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.6475	1.40	3%+1.00	a		
Groundman Truck Driver (Tractor Trailer)	8.5121	1.40	3%+1.00	a		
Driver Mechanic, Groundman - Experienced	13.00	1.40	3%+1.00	a		
All Overhead Transmission Line Work and Lighting for Athletic Fields	11.70	1.40	3%+1.00	a		
Journeyman Lineman & Technician	10.40	1.40	3%+1.00	a		
Groundman Digging Machine Operator, Groundman Dynamite Man	11.05	1.40	3%+1.00	a		
Groundman Mobile Equipment Operator, Mechanic First Class	9.75	1.40	3%+1.00	a		
Groundman Truck Driver (Tractor Trailer Unit)	13.70	1.40	3%+1.00	a		
Driver Mechanic, Groundman - Experienced	15.07	1.40	3%+1.00	a		
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems	12.33	1.40	3%+1.00	a		
Journeyman Lineman & Technician	10.96	1.40	3%+1.00	a		
Cable Splicer	11.645	1.40	3%+1.00	a		
Groundman Digging Machine Operator, Groundman Dynamite Man	10.275	1.40	3%+1.00	a		
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver						
Groundman Truck Driver (Tractor Trailer Unit)						
Driver Mechanic, Groundman - Experienced						

LINE CONSTRUCTION CONT'D

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
All Pipe type Cable Installations	13.70	1.40	3%+1.00	a		
Maintenance Jobs or Projects	14.385	1.40	3%+1.00	a		
Journeyman Lineman	15.07	1.40	3%+1.00	a		
Certified Lineman Welder	13.70	1.40	3%+1.00	a		
Cable Splicer	11.645	1.40	3%+1.00	a		
Groundman Equipment Operator	10.96	1.40	3%+1.00	a		
Groundman Truck Driver (Tractor Trailer Unit)	10.275	1.40	3%+1.00	a		
Groundman Truck Drivers						
Groundman						

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Virginia
 COUNTIES: Amelia, Brunswick, Charles City, Chesterfield, Dinwiddie, Goochland, Hanover, Henrico, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince George and the city of Richmond

DECISION NO.: VA80-3051
 Supersedes Decision No. VA78-3072 dated October 13, 1978, 43 FR 47444.

DESCRIPTION OF WORK: Highway Construction

VA80-3051 Con't

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 4.55				
5.67				
4.42				
5.43				
7.04				
4.90				
5.50				
6.16				
5.02				
6.28				
5.00				
3.83				
5.65				
5.78				
4.96				
5.68				
7.44				
5.00				
4.30				
4.25				
4.95				
5.26				
5.47				
5.08				
6.04				
6.05				
6.25				
5.62				
4.89				
5.18				
5.70				
5.70				

ASPHALT RAKER
 CARPENTER, STRUCTURE
 CARPENTER HELPER, STRUCTURE
 CONCRETE FINISHER
 ELECTRICIAN
 FORM SETTER
 GUARDRAIL/FENCE ERECTOR
 IRON WORKER, REINF.
 IRON WORKER, REINF. HELPER
 IRON WORKER, STRUCTURAL
 IRON WORKER, STRUCTURAL, HELPER
 LABORER, UNSKILLED
 LANDSCAPE WORKER
 MECHANIC
 MECHANIC HELPER
 PAINTER
 PAINTER, BRIDGE
 PILE DRIVER LEADSMAN
 PIPE LAYER
 ASPHALT DISTRIBUTOR OPERATOR
 ASPHALT PAVER OPERATOR
 BACKHOE OPERATOR
 BULLDOZER OPERATOR (UTILITY)
 CONCRETE PAVING MACHINE OPERATOR
 CRANE, DERRICK, DRAGLINE OPERATOR (1YD. & UNDER)
 CRANE, DERRICK, DRAGLINE OPERATOR (OVER 1 YD.)
 DRILL OPERATOR
 LOADER OPERATOR (2 YDS. & UNDER)
 LOADER OPERATOR (OVER 2 YDS)
 MOTOR GRADER OPERATOR (FINE GRADE)
 MOTOR GRADER OPERATOR (ROUGH GRADE)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
4.65				
5.07				
4.78				
4.21				
4.10				
4.40				
4.89				
4.58				
4.75				
4.36				
4.24				
4.33				
4.10				
4.10				

OILER GREASER
 PILE DRIVER OPERATOR
 PLANT OPERATOR
 POWER TOOL OPERATOR
 ROLLER OPERATOR (ROUGH)
 ROLLER OPERATOR (FINISH)
 SCRAPER PAN OPERATOR
 STONE SPREADER OPERATOR
 TRACTOR OPERATOR (CRAWLER)
 TRACTOR OPERATOR (UTILITY)
 TRUCK DRIVER, HEAVY DUTY (7 C.Y. & UNDER)
 TRUCK DRIVER, HEAVY DUTY (OVER 7 C.Y.)
 TRUCK DRIVER (MULTI-REAR AXLE)
 TRUCK DRIVER (SINGLE-REAR AXLE)

SUPERSEDES DECISION

STATE: VIRGINIA

COUNTIES: Bedford, Botetourt, Carroll, Craig, Floyd, Franklin, Giles, Henry, Montgomery, Patrick, Pulaski & Roanoke. The Cities of Bedford, Galax, Martinsville, Radford, Roanoke & Salem

DECISION NO. VA80-3053
 Supersedes Decision No. VA79-3055 dated December 21, 1979 in 44 FR 75911
 DATE: Date of Publication
 DESCRIPTION OF WORK: Highway Construction Projects.

VA80-3053

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$ 4.04					
5.48					
4.00					
5.14					
4.00					
6.53					
3.50					
4.31					
6.57					
4.00					
6.57					
4.00					
4.00					
4.00					
3.52					
4.21					
8.75					
5.90					
3.88					
4.25					
5.00					
4.00					
4.00					
4.50					
5.29					
5.20					
5.75					
5.31					
6.00					
5.10					
4.69					
4.90					
5.46					
5.00					
4.64					

ROLLER OPERATOR (ROUGH)
 ROLLER OPERATOR (FINISH)
 SCRAPER PAN OPERATOR
 SHOVEL OPERATOR (1 YD. & UNDER)
 SHOVEL OPERATOR (OVER 1 YD.)
 STONE SPREADER OPERATOR
 TRACTOR OPERATOR (UTILITY)
 TRUCK DRIVER, HEAVY DUTY (7 C.Y. & UNDER)
 TRUCK DRIVER, HEAVY DUTY (OVER 7 C.Y.)
 TRUCK DRIVER (MULTI-REAR AXLE)
 TRUCK DRIVER (SINGLE-REAR AXLE)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(iii)).

SUPERSEDES DECISION

STATE: Wisconsin

COUNTIES: Green Lake, Marquette, Waupaca, Waushara, & Winnebago

DECISION NO.: WI80-2077
Supersedes Decision No.: WI78-2131 dated October 27, 1978 in 43 FR 50364

DATE: Date of Publication

DECISION NO. WI80-2077

DESCRIPTION OF WORK: Building Construction (excluding single family homes and four stories).

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- a. Holidays: A through F.
- b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years, and 6% of regular rate for employee who has worked less than 5 years.

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
ASBESTOS WORKERS	12.36	.95	.50	1.00	.10	
BOILERMAKERS	12.87	1.275	1.00		.05	
BRICKLAYERS & STONEMASONS	10.55	.75	.70		.05	
CARPENTERS	11.67	.60	.80		.05	
CEMENT MASONS	10.05	.75	.70		.05	
ELECTRICIANS	11.64	.55	3%	8%	1 1/8%	
ELEVATOR CONSTRUCTORS:						
Constructors	12.13	1.045	.69	a+b	.03	
Helpers	8.49	1.045	.69	a+b	.03	
Helpers (Prob.)	50%JR					
IRONWORKERS:						
Extreme east part of Co. Inc. Lake Winnebago, Menasha, & Neenah	11.36	1.30	1.00	1.21	.15	
Remainder of County	12.31	1.25	1.00		.07	
LATHERS	9.82	.75	1.40		.03	
MILLWRIGHTS	12.07	.60	.80		.05	
PAINTERS:						
Brush & Structural Steel	10.25	.85	.25		.03	
Spray & Sanblasting	10.75	.85	.25		.03	
PILEDRIVERS	12.07	.60	.80		.05	
PLASTERERS	10.55	.75	.70		.05	
PLUMBERS & STEAMFITTERS:						
Waupaca and Townships of Menasha & Neenah	12.70	1.00	1.00		.04	
Remainder of Counties	11.33	.80	1.25	1.00	.03	
ROOFERS	9.18	.75	.60	.40		
SHEET METAL WORKERS	11.31	.80	.60	1.45	.04	
SOFT FLOOR LAYERS	11.67	.60	.80		.05	
TERRAZZO WORKERS	10.55	.75	.70		.05	
TILE SETTERS	10.55	.75	.70		.05	

DECISION NO. WI80-2077

BUILDING CONSTRUCTION

LABORERS:

- CLASS I
- CLASS II
- CLASS III

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$8.90	.55	.45		.03
9.00	.55	.45		.03
9.15	.55	.45		.03

CLASS I - Construction laborers, form stripper, form oiler, form cleaner, dumpmen, pit men, building wrecker, plumbers laborer, motorized buggy operator, concrete laborer, air spade and chipping hammer, drag tender and signal man, concrete pump and nozzle man, bituminous worker

CLASS II - Plasterer tender, hod carrier, dry cement handler, kettlemen, vibrator operator, slacking line, tile setter-helper, core drill operator

CLASS III - Jackhammer operator, drill, gunnite, burner on wrecking, air operated concrete breaker, sheeting driver, power tamper, fork lift operator, jumping jack, terrazzo worker, mortar and plaster mixer, creosote worker, bob cat operator, sand blaster, welder, mud jack operator, precast erector, bituminous raker and luteman

DECISION NO. WI80-2077

POWER EQUIPMENT OPERATORS

- GROUP I
- GROUP II
- GROUP III
- GROUP IV
- GROUP V
- GROUP VI

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$12.02	1.05	.90		.05
11.77	1.05	.90		.05
11.47	1.05	.90		.05
11.37	1.05	.90		.05
10.96	1.05	.90		.05
10.62	1.05	.90		.05

POWER EQUIPMENT OPERATORS' CLASSIFICATIONS DEFINITIONS

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scrapper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and launch

SUPERSEDES DECISION

STATE: Wisconsin COUNTY: Kenosha
 DECISION NO.: WI80-2079 DATE: Date of Publication
 Supersedes Decision No.: WI78-2135 dated October 27, 1978 in
 43 FR 50368
 DESCRIPTION OF WORK: Building Construction (Including Residential)

DECISION NO. WI80-2077

POWER EQUIPMENT OPERATORS' CLASSIFICATIONS DEFINITIONS (Cont'd)

GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt Plants), Air Compressor (300 CFM or over)
 GROUP VI - Generators over 150KW Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, forklift (12' and under)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	\$13.30	1.05	1.15	1.50	.14
BOILERMAKERS	12.87	1.275	1.00	.60	.05
BRICKLAYERS & STONEMASONS	11.55	.70	.80	.60	.07
CARPENTERS	11.40	.55	1.00	.50	.05
CEMENT MASONS (BUILDING)	10.61	.60	.85	.50	.01
ELECTRICIANS	13.62	.51	3%	.45	1 3/4%
ELEVATOR CONSTRUCTORS:					
Constructors	13.24	1.045	.69	a+b	.03
Helpers	9.27	1.045	.69	a+b	.03
Helpers' (Prob.)	50%JR				
IRONWORKERS: Structural, Ornamental, & Reinforcing	12.06	1.30	2.50	1.21	.15
MILLWRIGHTS	11.66	.55	1.00		.05
LATHERS	9.63	.60	1.95		
PAINTERS:					
Brush & Roller	10.375	.55	.70		
Structural Steel	10.525	.55	.70		
Spray	11.22	.55	.70		
Swing Stage	10.575	.55	.70		
PILEDRIVERMEN	11.48	.55	1.00		.05
PLASTERERS	11.10	.60	.85		
PLUMBERS & STEAMFITTERS	12.37	.80	.87	.98	.02
ROOFERS	11.12	.60	.55		
SOFT FLOOR LAYERS-Resilient floor layers	11.40	.55	1.00	.50	.05
TERRAZZO WORKERS	12.01	1.20	1.20	.50	.17
TILE SETTERS	10.08	.70	.80	.60	.07
SHEET METAL WORKERS	11.74	.60	.99	1.15	.09

WELDERS - receive rate prescribed for operation to which welding is incidental

DECISION NO. WI80-2079

POWER EQUIPMENT OPERATOR CLASSIFICATIONS:

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Calsson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Travelling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type) having over 8-inch bucket)

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tamper-Compactors (riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering Machine Operator, Sced Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 150KW Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (slip form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, forklift (12' and under)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

DECISION NO. WI80-2079

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- a. Holiday, A through F
- b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

BUILDING CONSTRUCTION

LABORERS

Laborers, Mason Tenders
Plaster Tender
Air, electric & gas tool operator
Jack hammer, fork lift, buggies

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
	\$8.80	.75	.85	1.00	
	8.95	.75	.85	1.00	
	9.10	.75	.85	1.00	
	9.50	.75	.85	1.00	
GROUP I	\$12.02	1.05	1.10		.05
GROUP II	11.77	1.05	1.10		.05
GROUP III	11.47	1.05	1.10		.05
GROUP IV	11.37	1.05	1.10		.05
GROUP V	10.96	1.05	1.10		.05
GROUP VI	10.62	1.05	1.10		.05

POWER EQUIPMENT OPERATORS

GROUP I
GROUP II
GROUP III
GROUP IV
GROUP V
GROUP VI

SUPERSEDEAS DECISION

COUNTIES: Langlade, Lincoln, & Marathon

DATE: Date of Publication

WI78-2137 dated October 27, 1978 in

Supersedes Decision No.: WI80-2081

DESCRIPTION OF WORK: Building Construction, (excluding single

apartments up to and including

family homes and

four stories).

STATE: Wisconsin

DECISION NO.: WI80-2081

Supersedes Decision No.: WI78-2137

DESCRIPTION OF WORK: Building Construction, (excluding single

apartments up to and including

family homes and

four stories).

DECISION NO. WI80-2081

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 8% of regular hourly rate to vacation pay credit for employer who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

b. Holidays: A through F

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
ASBESTOS WORKERS	\$12.36	.95	.50	1.00	.10	
BOILERMAKERS	12.87	1.275	1.00		.05	
BRICKLAYERS & STONEMASONS	10.55	.75	.70		.05	
CARPENTERS:						
Carpenters	11.67	.60	.80		.05	
Millwrights & Piledriver-men	12.07	.60	.80		.05	
CEMENT MASONS	10.05	.75	.70		.05	
ELECTRICIANS	12.54	.55	3%	8%	1/8%	
ELEVATOR CONSTRUCTORS:						
Constructors	12.13	1.045	.69	a+b	.03	
Helpers	8.49	1.045	.69	a+b	.03	
50&JR						
IRONWORKERS: Structural, Ornamental, & Reinforcing	12.31	1.25	1.00		.07	
LABORERS:						
Laborers	8.90	.55	.45		.03	
Air tool op. (jackhammer, vibrator)	9.15	.55	.45		.03	
Mason tender, Concrete worker & Mortar mixers	9.00	.55	.45		.03	
LATHERS:						
Southeastern corner of County	9.82	.75	1.40		.03	
Western 1/2 of County	12.00					
Remainder of County	10.44	.75	.75	.17		
PAINTERS:						
Brush	10.50		.50			
Spray	11.50		.50			
PLASTERERS	10.55	.75	.70		.05	
PLUMBERS	12.01	.65	.65	1.25		
ROOFERS	10.00					
SHEET METAL WORKERS	12.31	.75	.60		.06	
SOFT FLOOR LAYERS - Resilient floor layers	11.67	.60	.80		.05	
STEAMFITTERS	12.01	.65	.65	1.25		
TERRAZZO WORKERS	10.30	.75	.70		.05	
TILE SETTERS	10.30	.75	.70		.05	

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
GROUP I	\$12.02	1.05	.90		.05
GROUP II	11.77	1.05	.90		.05
GROUP III	11.47	1.05	.90		.05
GROUP IV	11.37	1.05	.90		.05
GROUP V	10.96	1.05	.90		.05
GROUP VI	10.62	1.05	.90		.05

WELDERS - receive rate prescribed for operation to which welding is incidental

SUPERSEDES DECISION

STATE: Wyoming
 COUNTY: Statewide
 DECISION NUMBER: WY80-5127
 DATE: Date of Publication
 Supersedes Decision No. WY79-5108 dated March 16, 1979, in 44 FR 16349

DESCRIPTION OF WORK: Highway Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CARPENTERS	\$ 9.29	.50			
CEMENT MASONS	9.95	.50			
IRONWORKERS:					
Structural	9.36				
Reinforcing	8.81	.50	1.25		
PAINTERS:					
Brush and Spray	8.18				
LINE CONSTRUCTION:					
All work over 34.5 KV all work on steel towers and/or multiple wood structures, all cross country underground communications work, and all motor traffic controlling, streets and highway lighting:					
Cable Splicer	11.00	.45	38+.25		4/10%
Linemen	10.00	.45	38+.25		4/10%
Equipment Operators	9.01	.45	38+.25		4/10%
Groundmen	7.37	.45	38+.25		4/10%
All work 34.5 KV and under:					
Lineman	10.00	.45	38+.25		4/10%
Line Equipment Operator	8.62	.45	38+.25		4/10%
Groundman	7.37	.45	38+.25		4/10%

WELDERS-receive rate prescribed for craft performing operation to which welding is incidental

WELDERS-receive rate prescribed for craft performing operation to which welding is incidental

DECISION NO. W180-2081 (Cont'd)
 POWER EQUIPMENT OPERATOR CLASSIFICATIONS:

- GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Trailing Cranes (Bridge Type), Concrete Raver (over 27E), Concrete Spreader and Distributor
- GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Raver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket)
- GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (145 or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)
- GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors (riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and launch)
- GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt plants), Air Compressor (300 CFM or over)
- GROUP VI - Generators over 150KW Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, forklift (12' and under)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 6.03				

LABORERS

Group 1:
 Axeman and hand faller;
 Concrete Worker (wet or dry); Concrete Workers (curing and drying);
 Dumpman; Erector and Installer (including the installation and erection of fences, snow fences, guard rails, median rails, median posts, signs and right-of-way marker);
 Form Stripper; General Labor; Heater Tender; Material Handler (lumber, rods, cement, concrete);
 Nozzlemans, air and water; Pre-watering, pre-wetting and pre-irrigation (all work); Rip Rap Man; Sandblaster Pot Tender; Signal Men; Grade Concrete, etc.; Scissor Man or Hopper Man; Stake Jumper for equipment; Tar and Asphalt Pot Tender; Wrecking and demolition

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 6.13				

LABORERS (Cont'd)

Group 2:
 Asphalt Raker and Tamper; Bin Wall Installer; Bituminous Curb Builder; Cement Mason or Finisher Tender; Chuck Tender; Form Setter (paving); Hand Operated Vibratory Roller; Landscaper; Mortar Man on stone riprap; Operator of pneumatic, electric, gas tamper and similar mechanical tools; Pipe Setter (corrugated culvert pipe sectional, multiplate and similar type); Pipe Setter; Pipe-layer (non-metallic); Pipewrapper; Power type concrete buggy (push or ride); Power Saw Operator (clearing); Vibrator - concrete

Group 3:
 Concrete Saw; Gunite. Nozzlemans; High Scaler (using air tools from Bos'n Chair, Swing Stage, Lift Belt or Block and Tackle, shall receive \$.20 per hour more than the classified rate); Jackhammer and Pavement Breaker; Sandblaster Nozzlemans; Sewer Pipe Installer (non-metallic), clay, concrete, etc. (Caulker, Collarman, Joints, Mortarman, Rigger, Jacker)

6.28

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LABORERS (Cont'd)

Group 4:
Powderman and Blaster;
Wagon Drill, Air-trac,
Diamond and other drills
for blasting powder or
grouting

Group 5:
Tunnel and Underground
Work:
Brakeman; Swamper; Vib-
rator Man

Bull Gang; Dumpman;
Mucker; Trackman

Miners (drillers)
Machine Men; Timbermen;
Steelmen; Drill Doctor;
Form Setter and Mover;
Spader; Tuggers spilling
and/or Caisson Workers;
Powderman; Jackhammer-
men; Finishers

Nipper; Chucktender;
Topman; Toplander

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 6.55				
6.51				
6.35				
6.78				
6.62				

POWER EQUIPMENT OPERATORS:

- Group 1
- Group 2
- Group 3
- Group 4
- Group 5
- Group 6
- Group 7
- Group 8
- Group 9
- Group 10
- Group 11
- Group 12
- Group 13
- Group 14
- Group 15
- Group 16
- Group 17

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 8.54	.50	.35		
8.59	.50	.35		
8.64	.50	.35		
8.68	.50	.35		
8.71	.50	.35		
8.76	.50	.35		
8.80	.50	.35		
8.82	.50	.35		
8.93	.50	.35		
8.99	.50	.35		
9.01	.50	.35		
9.19	.50	.35		
9.23	.50	.35		
9.30	.50	.35		
9.36	.50	.35		
9.53	.50	.35		
9.87	.50	.35		

POWER EQUIPMENT OPERATORS

Group 1: Auger Machine Operator (post holes, etc.); Batch Bin Weighman, Scissorman or Hopperman; Brakeman; Crusher Oiler; Oiler Utility; Screed Operator; Tractor Operators (Farm, Crawler or wheel type, 60 HSP - drawbar) or less with or without use of power attachments, except for use of Backhoe or Bucket

Group 2: Broom Operators, self-propelled; Cableway Signalman (Bellboy); Concrete Saw (self-propelled); Fireman; Power Loader, belt and bucket type

Group 3: Air Compressor over 315 cu. ft. capacity; Chip Spreader Operator; Form Grader Operator; Joint Machine Operator; Longitudinal Float Operator; Mixer Operator Concrete (under one yard); Roller Operators (self-propelled pneumatic, rubber tired, sheep foot vibratory or combination type); Tire Repairman

Group 4: Pump Operator (all others)

Group 5: Conveyor Belt Operator; Fork Lift and Lumber Stacker; Screening Plant Operator

Group 6: A-Frame Truck; Tractor Operators (farm, crawler or wheel type, over 60 HSP - drawbar) without use of power attachments

Group 7: Oiler, Lead Utility

Group 8: Gunnite and Grout Machine Operator; Mulching Machine Operator; Oil Distributor

Group 9: Front End Loader (up to and including 1½ cu. yds.); Pavement Breakers, Hydro-tamper and similar type machines; Pumps, well points

Group 10: Hoist Operator (one drum)

Group 11: Haulage Motorman and Industrial type Motorman; Motor Patrol Operator (all others); Pump Operator (in tunnels, shafts, raises); Hydro type Cranes (up to 15 tons)

POWER EQUIPMENT OPERATORS - (Cont'd)

Group 12: Air Compressor, two or more machines or tunnels, shafts, raises or Plant Operator; Asphalt Plant Operator; Bituminous Laydown Machine Operator; CMI Machine or similar; Concrete Batch Plant; Concrete Finish Machine Operator; Concrete Multi Blade Span Saw (Hunt process or similar); Concrete Spreader and Paver Operator; Crusher Operator; Drilling Machine, integrated (Core, Rotary, Caisson, Diamond); Elevating Grader; Front End Loader (over 1½ cu. yds.); Jumbo Form Operator; Mixer Operator, base course pug mill type; Mixer Bituminous Operator (travel plant); Mixer Operator Concrete (over one yard); Motor Patrol Operator (finish); Mucking Machine Operator (all types); Pneumatic Guns; Pumpcrete Operator; Roller Operator (Tandem steel wheel, three axle or three wheel); Scraper Equipment (all types); Shovels, Draglines, Cranes, Pile-drivers, all truck mounted cranes (manufacturers' rating) up to 3½ yds., all attachments; Hydro type cranes (15 tons and over); Shuttle Car Operator; Subgrade Machine Operator (power); Tractor Operator, all with use of power attachments and including Pushcat, Dozer, Tournadozer, etc. (The use of power attachments shall not include disk, pulling or rollers, and similar unskilled actions); Trenching Machine Operator; Wash Plant Operator

Group 13: Welder, Machine Doctor

Group 14: Hoist Operator (two or more drums, shafts or raises); Repairman; Mechanics; Machine Doctors, Welders; Heavy Duty Mechanic, Machine Doctor

Group 15: Cableway Operators; Mixer Dual Drum; Cranes, (Whirley, Gantry, Stiffleg, Overhead traveling)

Group 16: Shovels, Draglines, Cranes, Piledrivers, all truck mounted cranes (manufacturer's rating) 3½ yds. to 7 cu. yds.; all attachments; Wheel Excavator Operator

Group 17: Shovels, Draglines, Cranes, Piledrivers, all truck mounted Cranes, (manufacturer's rating) 7 cu. yds. and over, all attachments

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Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 6.93	.50			
6.98	.50			
7.13	.50			
7.23	.50			
7.73	.50			
7.73	.50			
7.83	.50			
7.88	.50			
7.93	.50			
7.98	.50			
6.93	.50			
6.98	.50			

TRUCK DRIVERS

Pickup Truck Drivers (when used for hauling)
 Dump Truck Drivers (water level capacity box):
 7 cu. yds. and less
 Over 7 cu. yds. to and including 10 cu. yds.
 Over 10 cu. yds. to and including 13 cu. yds.
 Over 13 cu. yds. to and including 20 cu. yds.
 Over 20 cu. yds. to and including 25 cu. yds.
 Over 25 cu. yds. to and including 30 cu. yds.
 Over 30 cu. yds. to and including 35 cu. yds.
 Over 35 cu. yds. to and including 40 cu. yds.
 Over 40 cu. yds. to and including 45 cu. yds.
 Over 45 cu. yds. (to be negotiated prior to use)

Snow Plow Truck Drivers (the cu. yd. rate of the truck driver classification):

Pilot Car Drivers
 Gravel Spreader

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Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 6.98	.50			
7.13	.50			
7.23	.50			
7.73	.50			
6.98	.50			
6.98	.50			
7.73	.50			
7.23	.50			
7.23	.50			
7.23	.50			
6.98	.50			
7.13	.50			
7.23	.50			
7.33	.50			
7.43	.50			
7.13	.50			

TRUCK DRIVERS: (Cont'd)

Flat Rack Material Truck Drivers:
 Less than 2 tons
 2 tons to 5 tons
 Over 5 tons
 Low Boy and Tandem Axle Float Drivers
 Gang Truck Drivers
 Stringing Truck Drivers:
 Single axle type truck
 Multiple axle type truck, semi
 Winch Trailer Truck Drivers (cable and hoist)
 Utility Winch Truck Drivers
 "A" Frame Truck Drivers
 Warehousemen, Partsmen
 Material Checkers
 Transit Mix or Wet Mix Truck Drivers:
 Less than 5 cu. yds.; single axle
 Over 5 cu. yds. to and including 10 cu. yds.; Tandem axle
 Over 10 cu. yds.
 Power Broom Drivers and/or Operator

TRUCK DRIVERS: (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Water Truck Drivers: 2500 gallons or less (straight truck)	\$ 6.98	.50			
2500 gallons or less (semi truck)	7.13	.50			
Over 2500 gallons to and including 3600 gallons	7.23	.50			
Over 3600 gallons (straight truck)	7.33	.50			
Over 3600 gallons (semi truck)	7.43	.50			
Heavy Duty (Euclids, electric or semilar type)	7.73	.50			
Fuel Service Truck Drivers	6.98	.50			
Greasemen, Tireman, Service Men	6.98	.50			
Truck Mechanics (shop and Field): Field Mechanics	7.93	.50			

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

[FR Doc. 80-27079 Filed 9-4-80; 8:45 am]

BILLING CODE 4510-27-C

Federal Register

**Friday
September 5, 1980**

Part IV

Department of Agriculture

Federal Grain Inspection Service

**Assignment of Official Agency
Geographic Area; Illinois**

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Official Agency Geographic Area; Assignment of Geographic Area to the Alton Grain Inspection Department, Alton, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Alton Grain Inspection Department, Alton, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT:

J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

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

Alton Grain Inspection Department (the "Agency"), 145 West Broadway, Alton, Illinois 62002, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on September 28, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the *Federal Register* (44

FR 2636). One comment was received. The Illinois Department of Agriculture commented that it had discontinued servicing applicants in that portion of Calhoun County previously serviced by the Illinois Department of Agriculture several years ago and did not wish to make it part of its permanent geographic boundaries. Since the Agency was and is presently servicing applicants in some of Calhoun County, it was decided with the concurrence of both agencies, to add the remaining part of Calhoun County to the Agency's geographic area.

After due consideration of all relevant matters and information available to the U.S. Department of Agriculture, the geographic area assigned to this Agency is as follows: the area within Illinois in the Counties of Calhoun, Jersey, and Madison, west to State Route 4 and north of Interstate 70 and Interstate 270.

The above has been restated to utilize county names for clarification purposes and does not alter the geographic area as originally proposed in any way, except for the addition of part of Calhoun County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C., on September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27231 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Bloomington Grain Inspection Department Bloomington, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Bloomington Grain Inspection Department, Bloomington, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT:

J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this action. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

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

Bloomington Grain Inspection Department (the "Agency"), 1700 W. Olive Street, P.O. Box 817, Bloomington, Illinois 61701, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on October 20, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the *Federal Register* (44 FR 2635). Two comments were received. The Agency and Decatur Grain Inspection Inc., indicated the Agency has been and is presently providing service to the Pillsbury Co., elevator at Wapella, Illinois. This location had been proposed as part of the Decatur Agency's geographic area. Also, information was received from the Agency through the FGIS Peoria Field

Office, that Farm Service, Arrowsmith, Illinois, and East Lincoln Farmers Grain Co., Lincoln, Illinois, located within the Agency's proposed geographic area have been and are presently being serviced by Gibson City Grain Inspection Department and Springfield Grain Inspection, respectively.

Accordingly, after review of this information with the involved official agencies and with their consent, the Pillsbury Co., elevator at Wapella has been added to the Agency's geographic area, and the other two locations have been listed as exceptions for service for this Agency.

After due consideration of all relevant matters and information available to the U.S. Department of Agriculture, the geographic area assigned to this Agency is as follows:

Bounded: on the North by State Route 18 from State Route 26 east to U.S. Route 51; U.S. Route 51 south to State Route 17; State Route 17 east to Livingston County; the Livingston County line east to ICG Railroad line;

Bounded: on the East by the ICG Railroad line southeast to Pontiac; a straight line running north and south from Pontiac south through Arrowsmith to the southern McLean County line;

Bounded: on the South by the southern McLean County line; the eastern Logan County line south to State Route 10; State Route 10 west to State Route 121; and

Bounded: on the West by State Route 121 north to Interstate 74; Interstate 74 northwest to State Route 116; State Route 116 north to State Route 26; State Route 26 north to State Route 18.

The above has been restated in part for clarification purposes and does not alter the geographic area as originally proposed except as indicated below.

In addition, the following location which is outside of the foregoing contiguous geographic area and is to be serviced by the Agency shall be considered as part of the Agency's geographic area: Pillsbury Co., Wapella, Illinois, in De Witt County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by:

Gibson City Grain Inspection Department, Gibson City, Illinois; Farm Service, Arrowsmith, Illinois, in McLean County; and

Springfield Grain Inspection Department, Springfield, Illinois; East Lincoln Farmers Grain Co., Lincoln, Illinois, in Logan County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and

where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27232 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Cairo Grain Inspection Agency, Cairo, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Cairo Grain Inspection Agency, Cairo, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT:

J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to

implement Executive Order 12044, and has been classified as "not significant."

Cairo Grain Inspection Agency (the "Agency"), 4007 Sycamore Street, Cairo, Illinois 62914, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on August 31, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the *Federal Register* (44 FR 2637). One comment was received. The Illinois Department of Agriculture indicated that two locations (Twin County Service at Jacob, Illinois, and Jones Ridge, Illinois), situated within the Agency's proposed geographic area have been and are presently being serviced by the Illinois Department of Agriculture. Accordingly, after review of this information with the involved official agencies, and with their concurrence, these two locations are added as exceptions for service to the Agency's geographic area.

After due consideration of all relevant matters and information available to the U.S. Department of Agriculture, the geographic area assigned to the Agency is as follows:

In Illinois, the area shall be bounded on the North by State Route 150 from the Mississippi River north to State Route 3; State Route 3 southeast to State Route 149; State Route 149 east to State Route 13; State Route 13 southeast to U.S. Route 51; U.S. Route 51 south to Union County;

In Illinois, the area shall also include the following counties: Alexander, Johnson, Massac, Pulaski, and Union;

In Kentucky, the area shall include the following counties: Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Livingston, Lyon, Marshall, McCracken, and Trigg; and

In Tennessee, the area shall include the following counties: Benton, Dickson, Henry, Houston, Humphreys, Lake, Montgomery, Steward, and Weakley.

Exceptions to the foregoing geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by the Illinois Department of Agriculture: Twin County Service at

Jacob, Illinois, and Jones Ridge, Illinois, in Jackson County.

In addition, the following locations which are outside the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Hopkinsville Elevator Company, Inc., Hopkinsville, Kentucky, and the L & N Railroad siding five miles southeast of Hopkinsville along Alternate U.S. Route 41, in Christian County.

These locations have been restated to more accurately describe the locations by listing the elevator site and railroad siding serviced rather than by general reference to the city, town, or other area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: September 2, 1980.

Neil E. Porter,
Acting Director, Compliance Division.

[FR Doc. 80-27228 Filed 9-4-80; 8:45 am]
BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Champaign-Danville Grain Inspection Departments, Inc., Danville, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Champaign-Danville Grain Inspection Departments, Inc., Danville, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT:

J. T. Abshier, Director, Compliance

Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250 (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this action. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

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

Champaign-Danville Grain Inspection Departments, Inc. (the "Agency"), 527 East Main Street, Danville, Illinois 61832, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on September 15, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the Federal Register (44 FR 2638). One comment was received, that a location within the Agency's proposed contiguous geographic area, had been and is presently being serviced by Titus Grain Inspection, Inc. After review of this matter with all affected parties, it was mutually agreed that the York Richland Grain Elevator, Inc., in Earl Park, Indiana, would be made an exception to the Agency's geographic area. Also, additional information was received from the FGIS Peoria Field Office that another agency (Kankakee Grain Inspection Bureau, Inc.), was also providing service to a location within the Agency's proposed area. After discussing this matter with both agencies it was decided, with their consent, to eliminate Herscher, Illinois, and some surrounding area from the

Agency's geographic boundary. Because of this, the northern boundaries were changed in part making the Northern Iroquois County line part of the northern boundary instead of State Route 115.

After due consideration of all relevant information available to the United States Department of Agriculture, the geographic area assigned to this agency is as follows:

Bounded: on the North by the Iroquois County line east to Illinois State Route 1; Illinois State Route 1 south to U.S. Route 24; U.S. Route 24 east into Indiana to U.S. Route 41;

Bounded: on the East by U.S. Route 41 south to the southern Fountain County line; the Fountain County line west to Vermilion County;

Bounded: on the South by U.S. Route 36 west into Illinois, to the eastern Douglas County line; the eastern Douglas and Coles County lines; the southern Coles County line; and

Bounded: on the West by the western Coles and Douglas County lines; the western Champaign County line north to Interstate 72; Interstate 72 southwest to the Piatt County line; the western Piatt County line; the southern McLean County line west to a point 10 miles west of the western Champaign County line; a straight line running north and south from this point north to U.S. Route 136; U.S. Route 136 east to Interstate 57; Interstate 57 north to the northern Champaign County line; the western Vermilion and Iroquois County line.

The above has been restated to utilize county lines where possible for clarification purposes and does not alter the geographic area as originally proposed except as indicated above.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Moultrie Grain Association, Caldwell, Illinois, in Moultrie County; Tabor and Company, Weedman Grain Company, and Pacific Grain Company, Farmer City, Illinois, in De Witt County; Moultrie Grain Association, Lovington, Illinois, in Moultrie County; Monticello Grain Company, Monticello, Illinois, in Piatt County; and Gillespie Grain Company, Pittwood, Illinois, in Iroquois County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by:

Paris Illinois Grain Inspection, Paris, Illinois; Cargill, Inc., Dana, Indiana, in Vermilion County; Miller Grain Company, Newman, Illinois, in Douglas County; and Miller Grain Company, Oakland, Illinois, in Coles County;

Schneider Inspection Service, Inc., Lowell, Indiana; Tidewater Grain Company, Ford Iroquois Supply and Service, and Summer Elevator, Sheldon, Illinois, in Iroquois County; and

Titus Grain Inspection, Inc., West Lafayette, Indiana; Boswell Grain Company, Boswell Indiana, in Benton County; Dunn Grain, Dunn, Indiana, in Benton County; York Richland Grain Elevator Inc., Earl Park, Indiana, in Benton County; and Raub Grain Company, Raub, Indiana, in Benton County.

These locations have been restated to more accurately describe the locations by listing the elevator sites serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250 (202) 447-8525.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27230 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to Decatur Grain Inspection, Inc., Decatur, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Decatur Grain Inspection, Inc., Decatur, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance

Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this action. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

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

Decatur Grain Inspection, Inc. (the "Agency"), 3434 East Wabash Avenue, Decatur, Illinois 62521, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on November 13, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the *Federal Register* (44 FR 2646). Two written comments were received. The Agency and Bloomington Grain Inspection indicated that the Bloomington Agency has been and is presently providing service to the Pillsbury Co., elevator at Wapella, Illinois. This location had been proposed as part of the Agency's geographic area. Also, information was received from the agency through the FGIS Peoria Field Office, that Chestervale Elevator Co., Chestervale, Illinois, and Stonington Coop Grain Company, Stonington, Illinois, situated within the Agency's proposed geographic area have been and are presently being serviced by Springfield Grain Inspection Department. Accordingly, after review of this information, and with the concurrence of the involved official agencies, the three locations were added

as exceptions for service to the Agency's geographic area.

After due consideration of all relevant matters and information available to the U.S. Department of Agriculture, the geographic area assigned to the Agency is as follows:

Bounded: on the North by the northern and eastern De Witt County lines; the eastern Macon County line south to Interstate 72; Interstate 72 northeast to the eastern Piatt County line;

Bounded: on the East by the eastern Piatt, Moultrie, and Shelby County lines;

Bounded: on the South by the southern Shelby County line; a straight line running along the southern Montgomery County line west to State Route 18 to a point one mile northeast of Irving, Illinois; and

Bounded: on the West by a straight line from the southern boundary northeast to Stonington, Illinois, on State Route 48; a straight line from Stonington northwest to Elkhart, Illinois, on Interstate 55; a straight line from Elkhart northeast to the west side of Beason, Illinois, on State Route 10; State Route 10 east to De Witt County; the western De Witt County line.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by:

Bloomington Grain Inspection, Bloomington, Illinois; Pillsbury Co., Wapella, Illinois, in De Witt County;

Champaign-Danville Grain Inspection Departments, Inc., Danville, Illinois; Moultrie Grain Association, Caldwell, Illinois, in Moultrie County; Tabor and Company, Weedman Grain Company, and Pacific Grain Company, Farmer City, Illinois, in De Witt County;

Moultrie Grain Association, Lovington, Illinois, in Moultrie County; Monticello Grain Company, Monticello, Illinois, in Piatt County;

Illinois Department of Agriculture Springfield, Illinois; Sigel Elevator Company, Inc., Sigel, Illinois, in Shelby County; and

Springfield Grain Inspection Department, Springfield, Illinois; Chestervale Elevator Co., Chestervale, Illinois, in Logan County; Stonington Coop Grain Company, Stonington, Illinois, in Christian County.

These locations have been restated to more accurately describe the locations by listing the elevator site serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In

addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870, (7 U.S.C. 79))

Done in Washington, D.C., on: September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27233 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Paris Ill., Grain Inspection, Paris, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Paris Illinois Grain Inspection, Paris, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT:

J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this action. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

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

Paris Illinois Grain Inspection (the "Agency"), 1020 North Central Avenue,

Paris, Illinois 61944, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on August 25, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the *Federal Register* (44 FR 2643). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed.

The geographic area assigned to the Agency is:

Bounded: on the North by U.S. Route 36 from the western Edgar County line east across the Illinois-Indiana State line to the western Parke County line; the northern Parke and Putnam County lines;

Bounded: on the East by the eastern Putnam, Owen, and Greene County lines;

Bounded: on the South by the southern Greene County line, the southern Sullivan County line west to U.S. Route 41 (150); U.S. Route 41 (150) south to U.S. Route 50; U.S. Route 50 west across the Indiana-Illinois State line to Illinois State Route 33; Illinois State Route 33 north and west to the western Crawford County line; and

Bounded: on the West by the western Crawford and Clark County lines; the western Edgar County line north to U.S. Route 36.

The above has been restated to utilize county lines where possible for clarification purposes and does not alter the geographic area as originally proposed in any way.

Locations outside of the foregoing contiguous geographic area, but also to be serviced by the Agency and considered as part of the Agency's geographic area include: Cargill, Inc., Dana, Indiana, in Vermillion County; Miller Grain Company, Newman, Illinois, in Douglas County; and Miller Grain Company, Oakland, Illinois, in Coles County.

An exception to this geographic area is the following location situated inside the Agency's area which has been and will continue to be serviced by the

Illinois Department of Agriculture: Huisinger Grain, Inc., Casey, Illinois, in Clark County.

These locations have been restated to more accurately describe the locations by listing the elevator sites serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27227 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Quincy Grain Inspection and Weighing Service, Quincy, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Quincy Grain Inspection and Weighing Service, Quincy, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT:

J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement

describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

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

The Quincy Grain Inspection and Weighing Service (the "Agency"), 902 South 6th Street, P.O. Box 755, Quincy, Illinois 62301, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on August 25, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the *Federal Register* (44 FR 2644). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed.

The geographic area assigned to the Agency is:

In Illinois, the area shall include the following counties: Adams and Brown.

Exceptions to this geographic area are the following locations inside the area which have been and will continue to be serviced by Keokuk Grain Inspection Service, Inc., Keokuk, Iowa: Ursa Farmers Coop., Meyer, Illinois; and Ursa Farmers Coop., Ursa, Illinois, in Adams County. These have been restated to more accurately describe the locations by listing the elevator sites serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection

services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27226 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Springfield Grain Inspection Department, Springfield, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Springfield Grain Inspection Department, Springfield, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

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

Springfield Grain Inspection Department (the "Agency"), 1301 North

15th Street, Springfield, Illinois 62702, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on September 11, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the *Federal Register* (44 FR 2645). No comments were received. However, information was received from the FGIS Peoria Field Office, that four locations serviced by the Agency had been inadvertently listed in several nearby agencies' proposed geographic boundaries. Accordingly, after review of this information and with the concurrence of the involved official agencies, these four locations (East Lincoln Farmers Grain Co., Lincoln, Illinois proposed in Bloomington Grain Inspection Department's area; Chestervale Elevator Co., Chestervale, Illinois, and Stonington Coop Grain Company, Stonington, Illinois, both proposed in Decatur Grain Inspection, Inc.'s, area; and OK Grain Co., Litchfield, Illinois, proposed in the Illinois Department of Agriculture's area) have been added to the Agency's proposed geographic area.

After due consideration of all relevant matters and information available to the United States Department of Agriculture, the geographic area assigned to the Agency is as follows:

Bounded: on the North by the northern Schuyler, Cass, and Menard County lines; the western Logan County line north to State Route 10; State Route 10 east to the west side of Beason;

Bounded: on the East by a straight line from the west side of Beason southwest to Elkhart on Interstate 55; a straight line from Elkhart southeast to Stonington on State Route 48; a straight line from Stonington southwest to Irving on State Route 16;

Bounded: on the South by State Route 16 west to Interstate 55; a straight line from the junction of Interstate 55 and State Route 16 northwest to the junction of State Route 111 and the Morgan County line; the southern Morgan and Scott County lines; and

Bounded: on the West by the western Scott, Morgan, Cass, and Schuyler County lines.

The above has been restated to utilize county lines where possible for classification purposes and does not alter the geographic area as originally proposed in any way.

In addition, the following locations which are outside the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Chesterville Elevator Co., Chesterville, Illinois, in Logan County; Pillsbury Co., Florence, Illinois, in Pike County; East Lincoln Farmers Grain Co., Lincoln, Illinois, in Logan County; OK Grain Co., Litchfield, Illinois, in Montgomery County; and Stonington Coop Grain Co., Stonington, Illinois, in Christian County. These have been restated to more accurately describe the locations by listing the elevator sites serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27229 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Illinois Department of Agriculture, Springfield, Ill.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the

Illinois Department of Agriculture, Springfield, Illinois, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT:

J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

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

Illinois Department of Agriculture (the "Agency"), Emmerson Building, Illinois State Fairgrounds, Springfield, Illinois 62706, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on November 13, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the *Federal Register* (44 FR 2634). Two comments were received. The Agency commented that it had discontinued servicing applicants in that portion of Calhoun County previously serviced by the Agency several years ago, and did not wish to make it part of its permanent geographic boundaries. Since a nearby agency (Alton Grain Inspection Department, Inc.) was already providing service to applicants in some of the County, it was decided, with the concurrence of both agencies,

to delete that portion of Calhoun County from the Agency's geographic area.

Also, the Agency indicated that it has been and is presently providing service to Twin County Service, at Jacob, Illinois, and Jones Ridge, Illinois. These two points had been proposed as part of Cairo Grain Inspection Agency's geographic area. Accordingly, after review of this information with the two agencies and with their concurrence, these locations have been added to the Agency's geographic area.

Additionally, the FGIS Peoria Field Office indicated that OK Grain Co., Litchfield, Illinois, situated within the Agency's proposed geographic area, had been and is presently serviced by Springfield Grain Inspection Department. After review of this situation with the affected agencies, and with their concurrence, this location has been made an exception to the Agency's geographic area.

After due consideration of all relevant matters and information available to the U.S. Department of Agriculture the geographic area assigned to the Agency is as follows:

The Northern section of the area shall be:

Bounded: on the North by the northern Stephenson, Winnebago, Boone, and McHenry County lines; the northern Lake County line east to Interstate 94;

Bounded: on the East by Interstate 94 south to Interstate 294; Interstate 294 south to Interstate 55; Interstate 55 southwest to the Southern Dupage County line;

Bounded: on the South by the southern Dupage, Kendall, Dekalb, and Lee County lines; and

Bounded: on the West by the western Lee, Ogle, and Stephenson County lines.

The Southern Section shall be:

Bounded: on the North by the northern Pike and Greene County lines; the northern Macoupin County line east to State Route 111; a straight line from junction of State Route 111 and the Macoupin County line southeast to the junction of Interstate 55 and State Route 16; State Route 16 east-northeast to a point approximately one mile northeast of Irving, Illinois; a straight line from this point to the northern Fayette County line; the northern Fayette, Effingham, and Cumberland County lines; the northern and eastern Jasper County lines south to State Route 33; State Route 33 east-southeast to U.S. Route 50; U.S. Route 50 east to the eastern Lawrence County line;

Bounded: on the East by the eastern Lawrence, Wabash, Edwards, White, Gallatin, Hardin, and Pope County lines;

Bounded: on the South by the southern Pope and Williamson County

lines; the southern Jackson County line west to U.S. Route 51; U.S. Route 51 north to State Route 13; State Route 13 northwest to State Route 149; State Route 149 west to State Route 3; State Route 3 northwest to State Route 51; State Route 51 south to the Mississippi River; and

Bounded: on the West by the Mississippi River north to Interstate 270; Interstate 270 east to Interstate 70; Interstate 70 east to State Route 4; State Route 4 north to Macoupin county; the southern and western Macoupin, Greene, and Pike County lines.

The above has been restated to utilize county lines where possible for clarification purposes and does not alter the geographic area as originally proposed in any way.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Huisinga Grain, Inc., Casey, Illinois, in Clark County; Twin County Service at Jacob, Illinois, and Jones Ridge, Illinois, in Jackson County; Leland Farmers Company, Leland, Illinois, in La Salle County; and Sigel Elevator Company, Inc., Sigel, Illinois, in Shelby County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by Springfield Grain Inspection Department, Springfield, Illinois; Pillsbury Co., Florence, Illinois, in Pike County; and OK Grain Company, Litchfield, Illinois, in Montgomery County.

These locations have been restated to more accurately describe the locations by listing the elevator site serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

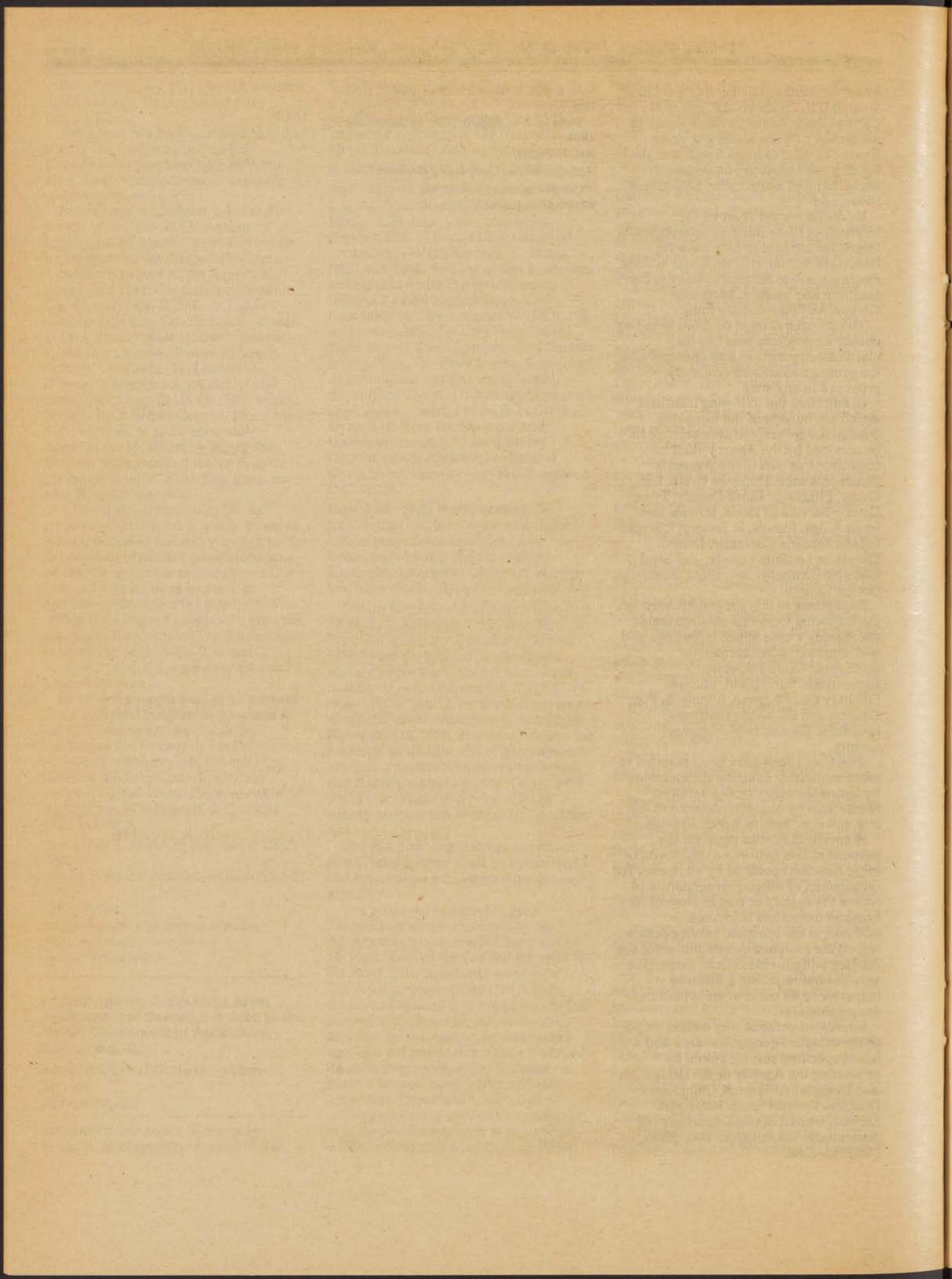
Done in Washington, D.C., on September 2, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-27234 Filed 9-4-80; 8:45 am]

BILLING CODE 3410-02-M



Register Federal Register

Friday
September 5, 1980

Part V

Department of Health and Human Services

Public Health Service

Grants to Health Systems Agencies; Discretionary Funding

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 122

Grants To Health Systems Agencies; Discretionary Funding

AGENCY: Public Health Service, HHS.

ACTION: Interim regulations with request for comments.

SUMMARY: These regulations set forth rules governing the award of additional funds under section 1516 of the Public Health Service Act, as amended by Pub. L. 96-79, to health systems agencies to assist those agencies in meeting certain extraordinary expenses which would not otherwise be covered by their health planning grants. Interested persons are invited to comment on these regulations. Following consideration of the comments received, the Secretary will publish an analysis of the comments and will revise these regulations if appropriate.

DATES: These regulations are effective September 5, 1980. To be considered, comments must be received on or before November 4, 1980. All comments received will be available for public inspection and copying at the above address between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday (Federal holidays excepted).

ADDRESS: Interested persons may submit written comments and recommendations concerning these regulations to: Colin C. Rorrie, Jr., Ph.D., Director, Bureau of Health Planning, 3700 East-West Highway, Room 6-22, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Lee Teets, Chief, Grants and Contracts, Administration Branch, Bureau of Health Planning, 3700 East-West Highway, Room 5-50, Hyattsville, Maryland 20782, (301) 436-6107

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services, is amending 42 CFR Part 122, Subpart C, by adding a new § 122.204A entitled "Discretionary funding." This new section implements section 1516(d)(2) of the Public Health Service Act, ("the Act") as amended by the Health Planning and Resources Development Amendments of 1979 (Pub. L. 96-79). Section 1516(d)(2) authorizes the Secretary to use not more than five percent of the funds appropriated for grant awards to health systems agencies ("HSAs") for any fiscal year to assist HSAs in meeting extraordinary expenses which would not otherwise be

covered by the amount of their grants awarded under section 1516(b) of the Act.

Although the Secretary is authorized to set aside up to five percent of the amount appropriated for grants to HSAs to assist these agencies in meeting extraordinary expenses, she has determined that not more than \$1.7 million (1.4% of the appropriation) can be made available for discretionary funding during the current Federal fiscal year. This amount was determined consistent with the congressional intent that award of these additional funds not result in a reduction of per capita funding of HSAs from the previous fiscal year. (See S. Rep. No. 96-420, 96th Cong., 1st Sess., 62 (1979).)

Eligibility. The Secretary has determined that, depending upon the availability of discretionary funds, any fully designated HSA which serves (1) a large geographic area, (2) an interstate health service area, and/or (3) a large medically underserved population is eligible to apply for additional funds under section 1516(d)(2) of the Act.

The Secretary has determined that only fully designated agencies will be eligible to apply for discretionary funds because of the limited amount of those funds and her view that such funds should be awarded to those HSAs which are performing all of the functions required under the statute and regulations. The Secretary further notes, however, that regulations are currently being developed to govern the funding of conditionally designated HSAs and will address the issue of funding for extraordinary expenses incurred by those agencies.

Although the Secretary realizes that there may be other categories which could be added to these regulations, the three above-listed categories have been selected because (1) they are specifically identified in section 1516(d)(2) as examples of the types of factors which are likely to generate extraordinary expenses, and (2) statements made by HSAs during several regional meetings held to discuss Pub. L. 96-79 urged that these three categories should be given priority consideration. One other category was specifically mentioned in the statute as an example of an area which should be considered for possible funding. This category consisted of the development and implementation of innovative health planning techniques. For this fiscal year, however, discretionary funds are not proposed to be awarded in this area due to the limited amount of funds available and the time involved in developing appropriate criteria, soliciting,

evaluating, rating and funding projects of this type.

Because of the congressional directive that the discretionary funds be "promptly distributed," and for the reasons stated above, the Secretary has determined that public participation in the rulemaking process prior to the adoption of these regulations is impracticable and contrary to the public interest. The public is invited, however, to submit comments on these regulations in an effort to determine whether the three selected categories should be revised or expanded for future fiscal year appropriations. The Secretary is soliciting comments particularly on the amounts of discretionary funds that should be allocated to innovative planning techniques and the types of innovative planning techniques that should be funded.

Large geographic areas: Eligibility for additional funding under this category is based on two factors: size and population density. The regulations set out below state that an HSA will be considered eligible for additional funding if (1) it covers 20,000 square miles or more or (2) it covers 10,000-19,999 square miles and has a population density of less than 50 persons per square mile. In the case of areas which cover 20,000 square miles or more, those whose population density is less than 50 persons per square mile are eligible to receive a larger additional amount than those whose population density is 50 or more persons per square mile.

The Secretary has predetermined the large geographic areas eligible for discretionary funding based upon factors used in determining whether to grant population waivers under section 1511(a)(3) of the Public Health Service Act (See *Guidelines for Designation of Health Service Areas*, February 1975, Bureau of Health Planning and Resources Development). The amount of additional funds to be awarded is based on the findings made in a study conducted for the Bureau of Health Planning on "Funding Adequacy and Staffing Needs in Health Systems Agencies," March 1978. This study suggested that a maximum of \$50,000 to \$70,000 in additional funds be awarded to HSAs serving "large geographic areas," and particularly encouraged additional funds for HSAs serving a "large geographic area with low population." The amount of additional costs associated with a large geographic area ranged from a low of approximately \$19,000 to a high of over \$300,000.

Because of the limited availability of funds for this discretionary program,

coupled with the fact that HSAs with large populations are more capable of meeting their expenses under the population-based section 1516(c) formula than are HSAs with smaller populations, the Secretary has determined that for the current fiscal year (1) HSAs which serve areas of 20,000 square miles or more and which have a population density of less than 50 persons per square mile will be eligible to receive \$15,000 in additional funds to meet their extraordinary expenses; (2) HSAs which serve 20,000 square miles or more and which have a population density of 50 or more persons per square mile will be eligible to receive \$7,500; and (3) HSAs which serve areas of 10,000-19,999 square miles and which have a population density of less than 50 persons per square mile will be eligible to receive \$7,500. A total of approximately \$750,000 will be allocated for this purpose this fiscal year.

Interstate HSAs: The regulations set out below provide that HSAs whose health service areas include portions of two or more States will be eligible to receive additional funds to assist them in meeting extraordinary expenses associated with their interstate status.

A study conducted by the Bureau of Health Planning in 1978 on "Extraordinary Costs of Interstate HSAs" indicated that on the average these HSAs incurred approximately \$22,000 a year in additional costs related to their interstate status. The amount of additional costs ranged from a low of approximately \$7,500 to a high of over \$50,000. Because of the limited funds available, however, the Secretary has determined that during this fiscal year, HSAs whose health service areas include portions of two or more States will be eligible to receive \$7,500 to assist them in meeting their extraordinary expenses, unless the agency requests a lesser amount. A total of approximately \$115,000 will be allocated for this purpose this fiscal year.

Large medically underserved populations: The regulations provide that HSAs serving areas with a medically underserved population of at least 25 percent of the population of the area or 250,000 persons, whichever is less, will be eligible to receive additional funds. For purposes of this regulation, medically underserved populations will be those designated by the Secretary under 42 CFR 51c.102(e).

The population threshold of 25 percent or 250,000, whichever is less, was established by examining the medically underserved populations in existing health service areas. All but a very few HSAs have some medically underserved populations within their health service

areas. In roughly one-half of the health service areas, 25 percent or 250,000 or more of the population is medically underserved; and those health service areas account for more than 75 percent of the total medically underserved population in the country. Because only \$1.7 million is available for discretionary funding this fiscal year, and because approximately \$900,000 will be required for funding related to large geographic areas and interstate HSAs, only approximately \$800,000 will be available for HSAs serving medically underserved areas. Therefore, the Secretary has determined to limit eligibility to those HSAs serving a health service area where the medically underserved population constitutes at least 25 percent of that area's total population or 250,000, whichever is less. Some 90-odd HSAs, with medically underserved populations totalling over 40 million, are eligible under the latter test. The Secretary has therefore determined that each HSA which serves such a population is eligible to receive two cents for each person in a medically underserved population within its health service area, unless the agency requests a lesser amount. Clearly, the amounts that those HSAs eligible for such funding could usefully expend to improve, expand, and accelerate their planning and implementation efforts aimed specifically at enhancing the availability of ambulatory and other health care services to their medically underserved populations, far exceed two cents per capita.

Accordingly, Title 42, Code of Federal Regulations, is amended by the addition of a new § 122.204A to Part 122, as set forth below.

Dated: August 28, 1980.

Charles Miller,

Acting Assistant Secretary for Health.

Approved: September 2, 1980.

Patricia Roberts Harris,
Secretary.

§ 122.204A Discretionary funding.

In addition to the grant award under § 122.204(a), the Secretary may, under the circumstances set forth below, award a fully designated HSA an amount determined under paragraph (c) of this section to assist it in meeting extraordinary expenses which would not otherwise be covered under the grant award.

(a) Eligibility.

(1) Any fully designated agency which (i) serves a large geographic health service area, or (ii) whose health service area is located in portions of two or more States, or (iii) serves a health service area with a medically

underserved population of at least 25 percent of the population of the area or 250,000 persons, whichever is less, is eligible to apply for additional funds under this subpart to assist in meeting the extraordinary expenses associated with these three characteristics.

(2) For purposes of this subparagraph, (i) medically underserved populations will be those designated by the Secretary under 42 CFR 51c.102(e), and (ii) an agency will be considered to serve a large geographic health service area if the area covers (A) 20,000 square miles or more, or (B) 10,000-19,999 square miles and has a population density of less than 50 persons per square mile.

(b) *Application.* Eligible agencies may apply for these additional funds by submitting PHS Form 5161-1.

(c) *Amount.* The amount of additional funds to be awarded under this section is as follows:

(1) An agency described in paragraph (a)(1)(i) of this section will receive in fiscal year 1980 (i) \$15,000 if it serves a health service area which covers 20,000 square miles or more and has a population density of less than 50 persons per square mile; (ii) \$7,500 if it serves a health service area which covers 20,000 square miles or more and has a population density of 50 or more persons per square mile, or (iii) \$7,500 if it serves a health service area which covers 10,000-19,999 square miles and has a population density of less than 50 persons per square mile, unless the agency requests a lesser amount.

(2) An agency described in paragraph (a)(1)(ii) of this section will receive in fiscal year 1980 \$7,500 unless the agency requests a lesser amount.

(3) An agency described in paragraph (a)(1)(iii) of this section will receive in fiscal year 1980 an amount equal to the product of two cents and the medically underserved population of the health service area, unless the agency requests a lesser amount.

[FR Doc. 80-27452 Filed 9-3-80; 2:05 pm]

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Reader Aids

Federal Register

Vol. 45, No. 174

Friday, September 5, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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- 523-3408 Automation
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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/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

Rules Going Into Effect Today**INTERIOR DEPARTMENT**

Surface Mining Reclamation and Enforcement Office—

- 52306 8-6-80 / Permanent regulatory program; performance bonding

JUSTICE DEPARTMENT

Attorney General—

- 52145 8-6-80 / Establishment of Office of Small and Disadvantaged Business Utilization

Rules Going Into Effect Saturday, September 6, 1980**CIVIL AERONAUTICS BOARD**

- 53358 8-11-80 / Charter trips and special services; removal of limitations on off-route and cargo charters
- 53364 8-11-80 / Charter trips by foreign air carriers; removal of limitations on cargo charters
- 53363 8-11-80 / Terms, conditions, and limitations of certificates to engage in charter air transportation; removal of limitations on cargo charters
- 53365 8-11-80 / Terms, conditions, and limitations of foreign air carrier permits authorizing charter transportation only; removal of limitations on cargo charters

List of Public Laws

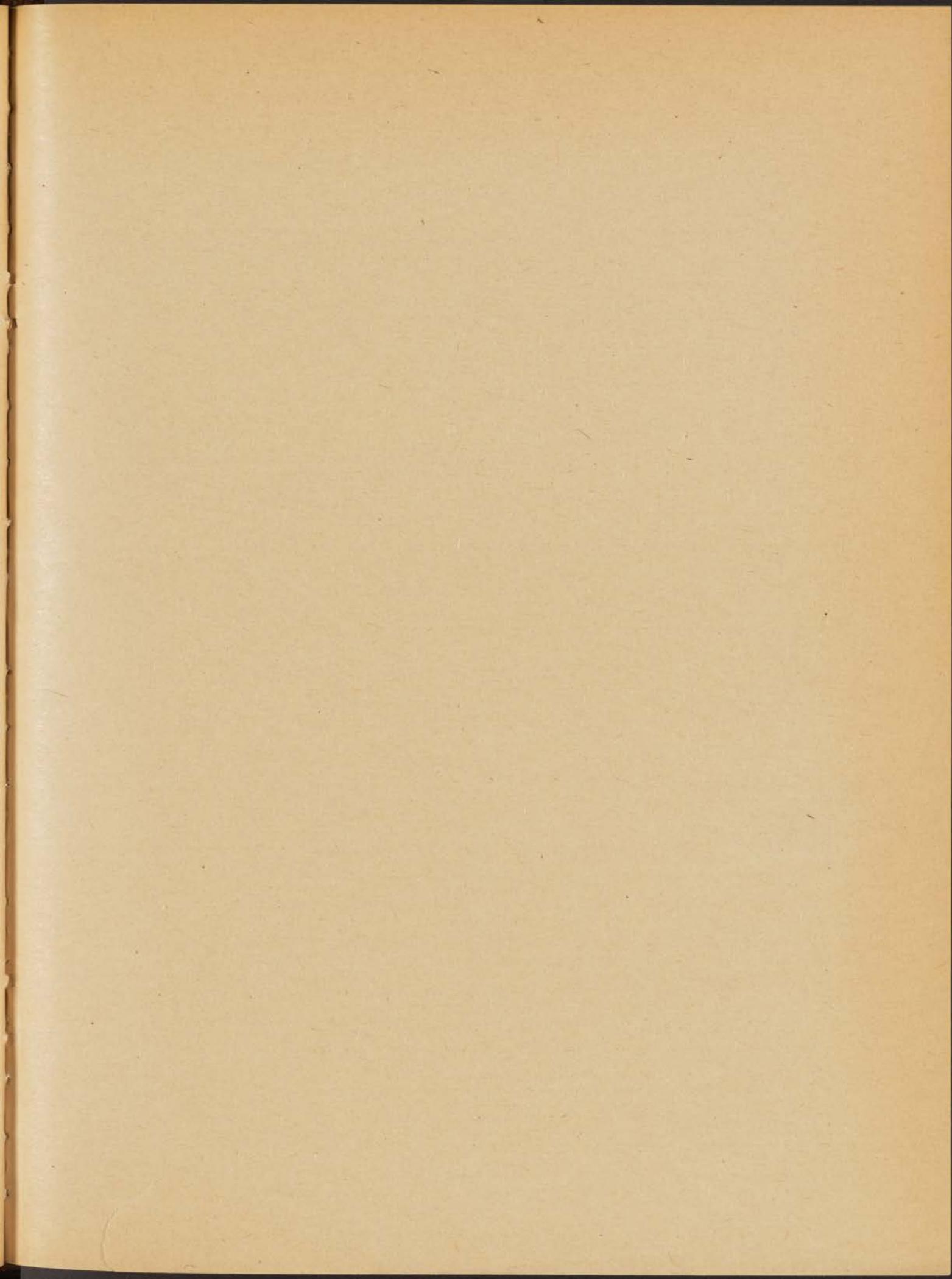
Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

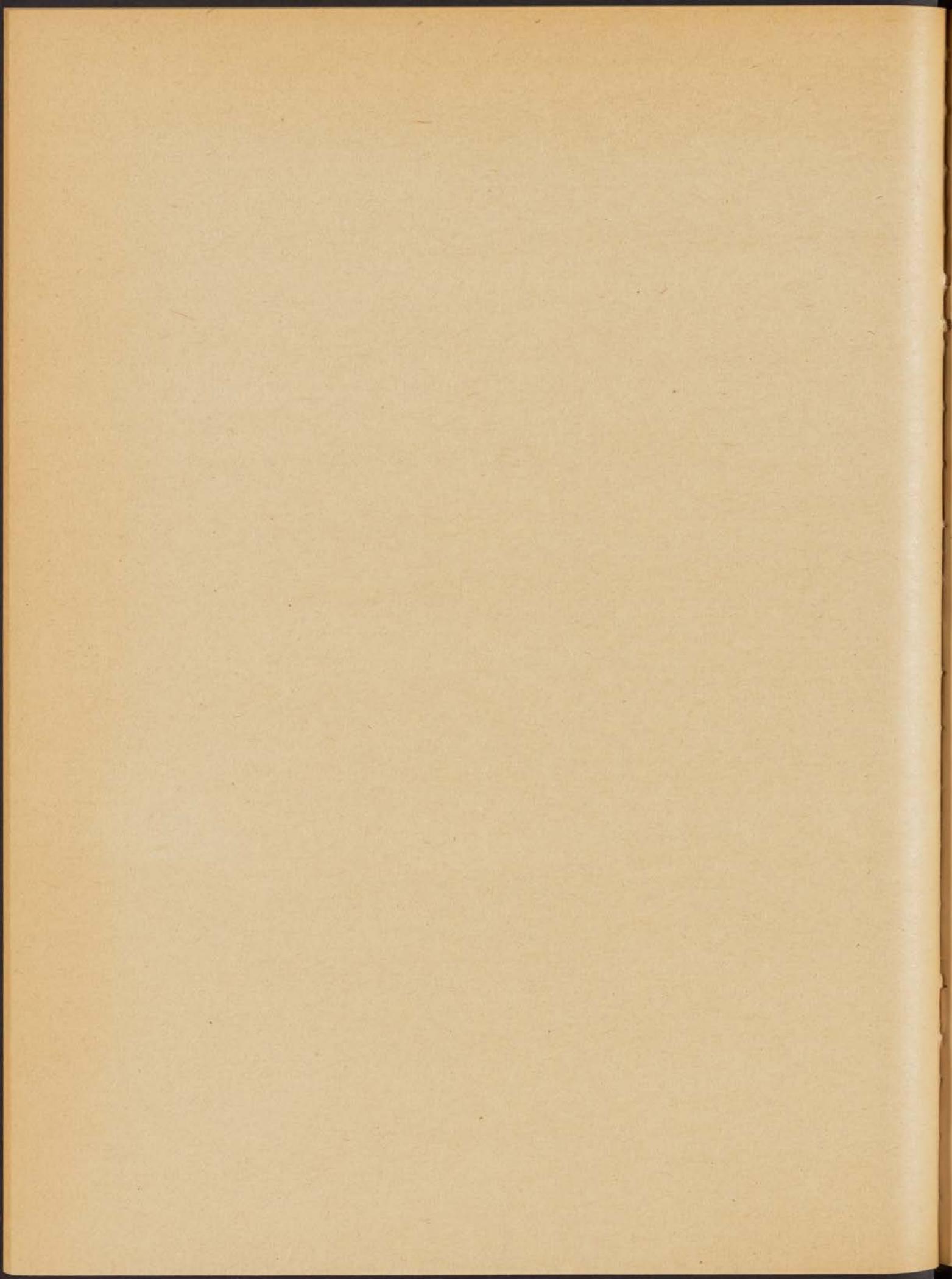
Last Listing September 3, 1980

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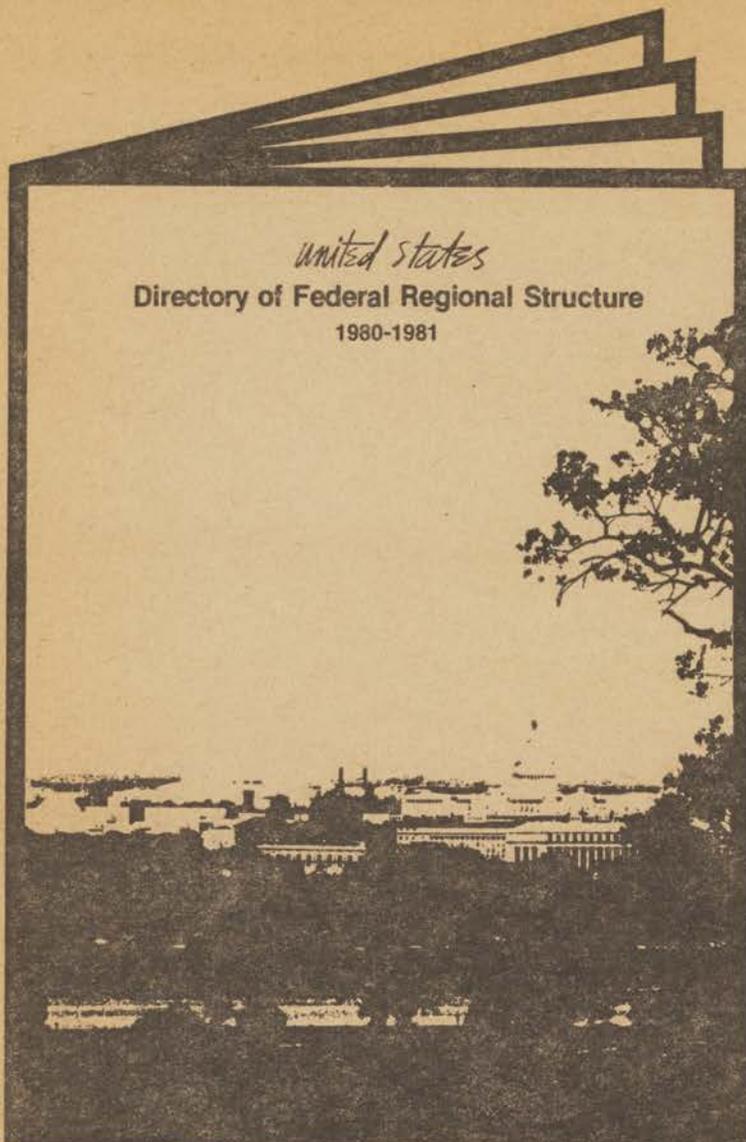
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